HOUSE BILL REPORT

ESHB 2058

As Passed Legislature

Title: An act relating to application of the statute of limitations to actions based on childhood sexual abuse.

Brief Description: Clarifying the application of the statute of limitations to actions based on childhood sexual abuse.

Sponsor(s): By House Committee on Judiciary (originally sponsored by Representatives Scott, Riley, Paris, H. Myers, Miller, Forner, Belcher, Ludwig, Inslee, Wineberry, Locke, Appelwick, Holland, Roland, Winsley, D. Sommers, Morris, Spanel, R. Johnson and Rasmussen).

Brief History:
Reported by House Committee on:
Judiciary, March 6, 1991, DPS;
Passed House, March 19, 1991, 98-0;
Amended by Senate;
House concurred;
Passed Legislature, 95-0.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: *That Substitute House Bill No. 2058 be substituted therefor, and the substitute bill do pass.* Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Hargrove; Inslee; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; Vance; and Wineberry.

Minority Report: *Do not pass.* Signed by 2 members: Representatives Padden, Ranking Minority Member; and Locke.

Staff: Pat Shelledy (786-7149).

Background: In the 1988 legislative session, the Legislature enacted a statute that extended the statute of limitations for civil actions for damages for injury suffered from childhood sexual abuse to three years from the commission of the act or three years of the time the victim discovered or reasonably should have discovered the injury or the condition was caused by the sexual abuse. The three years only begins to run once the victim turns age 18. The

Legislature passed this statute of limitations following the Washington Supreme Court case in Tyson v. Tyson, which held that the discovery rule, which tolls the statute of limitations until the plaintiff discovers or reasonably should have discovered a cause of action, did not apply in intentional torts when the victim has blocked the incident from memory for the entire time of the statute of limitations.

In addition to the cases in which a victim may suffer injuries, but does not know that the sexual abuse caused the injury due to suppressed memory of the sexual abuse, a victim may remember the sexual abuse but may have a delayed reaction to the abuse and begin to experience significant suffering from the abuse later in life. A victim may have experienced some trauma from the abuse at the time it was occurring, but either was a child at the time, or the trauma was not significant enough to prompt the victim to sue. For example, a child may have experienced stomachaches and nightmares at the time the sexual abuse was occurring, but the victim chooses not to sue for that injury within three years after the victim turns age 18. The victim may have a much more severe reaction later in life, such as marital problems, sexual dysfunction, depression, suicidal tendencies, or extreme fears for safety of the victim's children from sexual abuse. At that time the victim may choose to sue for the abuse upon discovery of the injury. However, in at least one case, the court has held that because the victim was aware of the sexual abuse, and experienced at least some injury from that abuse, i.e., the stomachache, the statute of limitations expired and the victim is foreclosed from suit for the greater injury that developed later in life.

Summary of Bill: The Legislature finds that sexual abuse is a pervasive problem that affects the safety and well-being of many citizens. Childhood sexual abuse is traumatic, and the damage is long-lasting. Victims may not only repress the memory of the abuse for many years after the abuse occurred, but may also be unable to connect being abused with any injury until later in life. Although the victim may be aware of the sexual abuse, more serious reactions to the abuse may develop years later.

When the Legislature extended the statute of limitations for child sexual abuse cases, the Legislature intended at that time to reverse the court's ruling in Tyson v. Tyson. The Legislature also intends that the discovery of minor injuries from sexual abuse shall not trigger the statute of limitations for injuries that were not discovered or did not manifest themselves until years later.

The statute of limitations in a childhood sexual abuse civil case is extended to three years from the time that the victim discovered or reasonably should have discovered that the act caused the injury for which the claim is brought.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Original Bill: Law is necessary to clarify legislative intent to extend statute of limitations in childhood sexual abuse cases. The extended statute of limitations should also exist for cases where a victim has a delayed but serious reaction to earlier abuse.

Testimony Against: None.

Witnesses: Original Bill: Deborah Senn, Northwestern Women's Law Center (pro); Dawn Larsen, Washington Coalition of Sexual Assault Programs (pro); and Mary Ault, Department of Social and Health Services (pro).