

SENATE BILL REPORT

SB 5811

AS OF FEBRUARY 28, 1991

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

SPONSORS: Senators Nelson and Rasmussen.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Susan Carlson (786-7418)

Hearing Dates: March 4, 1991

BACKGROUND:

In general, the statute of limitations for commencing an action for personal injury is three years. The discovery rule tolls the statute of limitations until a plaintiff discovers or reasonably should have discovered a cause of action. In 1986 the Washington Supreme Court in Tyson v. Tyson held that the discovery rule does not apply where the plaintiff has blocked the incident from conscious memory during the period of the statute of limitations. The plaintiff in the Tyson case sought damages from her father for multiple acts of sexual abuse which occurred when she was a child. Therapy at the age of 26 triggered recollection of the abuse and then the lawsuit was brought within one year.

It is suggested that the discovery rule should be applicable to victims of childhood sexual abuse who repress the memory of the abuse or are unable to connect the abuse to any injury until after the statute of limitations has run.

Some courts have interpreted the language in the statute of limitations for childhood sexual abuse to mean that the time limit to commence action is triggered when injury is suffered. For example, a child may have suffered nightmares at the time of sexual abuse, then repressed memory of the abuse for years afterward. Some courts have found that the nightmares were the injury that triggered running of the statute of limitations. A technical revision to the statute is proposed to address this situation.

SUMMARY:

The Legislature finds that childhood sexual abuse is pervasive, traumatic to the victim, and victims may repress memories of the incident or be unable to connect it to any injury until after the statute of limitations has run. It is the intent of the Legislature to explicitly reverse the Washington Supreme Court decision in the Tyson case.

The statute of limitations for injury suffered as a result of childhood sexual abuse begins to run when the victim discovered or reasonably should have discovered that the act caused injury to the victim.

Appropriation: none

Revenue: none

Fiscal Note: none requested