

HOUSE BILL REPORT

HB 2395

As Reported by House Committee On:
Judiciary

Title: An act relating to the statute of limitations for childhood sexual abuse civil cases.

Brief Description: Modifying the statute of limitations for childhood sexual abuse civil cases.

Sponsors: Representatives Kirby, Dickerson, Lantz, O'Brien and Kenney.

Brief History:

Committee Activity:

Judiciary: 1/22/04 [DP].

Brief Summary of Bill

- Extends the statute of limitations for childhood sexual abuse to 10 years from the commission of the act, with no change to the "discovery rule" time period.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 7 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Kirby and Newhouse.

Staff: Edie Adams (786-7180).

Background:

Statutes of limitations in civil cases set the amount of time a plaintiff may wait to commence an action following an injurious act or harm. Historically, courts and legislatures identify two basic reasons for these time limits: (1) to encourage plaintiffs to bring actions while reliable evidence is still available for use in a trial; and (2) to protect potential defendants from uncertainty regarding potential litigation.

The statutes of limitations provided for civil actions varies depending on the type of action. In Washington, statutes of limitations for various civil actions include: one year for certain claims against police officers; two years for libel and slander claims; three

years for personal injury claims; six years for actions on written contracts; 10 years for recovery of real property or past due child support; and no limit for actions brought for the benefit of the state.

Certain actions allow for a rule of "discovery" when determining when the statute of limitations begins running. This rule recognizes that in some cases, such as medical malpractice and childhood sexual abuse, the victim may not know of the harm caused by the defendant until after the statute of limitations has technically expired. Originally a court-made rule, some statutes now codify this exception.

For childhood sexual abuse, the statute of limitations for civil actions for damages is the later of three dates:

- Three years from the commission of the act;
- Three years from the time the victim discovered or reasonably should have discovered that the injury or the condition was caused by the sexual abuse; or
- Three years from the time that the victim discovered that the act caused the injury for which the claim is brought.

None of these periods begins until a child turns 18, and claims may be brought by either the child or the child's parents.

Courts interpret the childhood sexual abuse statute of limitations as beginning to run when the abuse victim discovers the nexus, or connection, between sexual abuse and later problems or injuries. Courts have recognized that this discovery may be delayed by a number of factors uniquely related to childhood sexual abuse, including repressed memories, multiple personalities, or post-traumatic stress disorder.

In interpreting this statute broadly in favor of plaintiffs, courts cite the extensive findings of the Legislature in enacting a 1991 amendment to the statute. These findings include: that sexual abuse is a pervasive problem in our society; that childhood sexual abuse is traumatic, causing long-lasting damage; that victims may repress abuse for many years and be unable to connect this abuse with later injuries; and that despite awareness of abuse, serious reactions to the abuse may develop years later.

Courts have determined that this section applies to claims against the perpetrator of sexual abuse, as well as claims of negligence against parties who failed to protect the child, such as schools, churches, parents, and others having a special relationship with the child.

Summary of Bill:

The statute of limitations for childhood sexual abuse is extended to ten years from the

commission of the act. No change is made to the three-year "discovery rule" relating to the childhood sexual abuse statute of limitations. Since the statute of limitations is tolled during minority, this means that a person will have until the age of at least 28 to bring an action for childhood sexual abuse, and potentially longer if the injured person did not discover the connection between the abuse and the injury until after the age of 25.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill provides a good step in the right direction to help provide some justice to persons who are victims of childhood sexual abuse. There is a big difference in the maturity of a person at age 28 in comparison to age 21. At age 21 people often do not have the emotional wherewithal or resources that are necessary to pursue an action. The 10-year period also represents the longest statute of limitations currently available in the law.

Testimony Against: None.

Persons Testifying: Kelvin Burton; and Suzanne Brown-McBride, Washington Coalition of Sexual Assault Project.

Persons Signed In To Testify But Not Testifying: None.