

The House Committee on Judiciary offers the following substitute to HB 109:

A BILL TO BE ENTITLED  
AN ACT

1 To provide greater protections for individuals who have suffered from childhood sexual  
2 abuse; to amend Code Section 9-3-33.1 of the Official Code of Georgia Annotated, relating  
3 to actions for childhood sexual abuse, so as to extend the statute of limitations for actions for  
4 childhood sexual abuse under certain circumstances; to clarify existing law; to revise and  
5 provide for definitions; to provide for retroactive claims for childhood sexual abuse under  
6 certain circumstances; to provide for a short title; to provide for related matters; to repeal  
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Child Victim Protection Act of 2021."

11 **SECTION 2.**

12 Code Section 9-3-33.1 of the Official Code of Georgia Annotated, relating to actions for  
13 childhood sexual abuse, is amended by revising paragraph (2) of and adding a new paragraph  
14 to subsection (b), by revising subsection (c), and by adding a new subsection to read as  
15 follows:

H. B. 109 (SUB)

16       "(2)(A) Notwithstanding Code Section 9-3-33, any civil action for recovery of damages  
17       suffered as a result of childhood sexual abuse committed on or after July 1, 2015, shall  
18       be commenced:

19       (i) On or before the date the plaintiff attains the age of ~~23~~ 52 years; or  
20       (ii) Within ~~two~~ four years from the date that the plaintiff knew or had reason to know  
21       of such abuse and that such abuse resulted in injury to the plaintiff as established by  
22       competent medical or psychological evidence.

23       (B) When a plaintiff's civil action is filed after the plaintiff attains the age of ~~23~~ 52  
24       years but within ~~two years from the date that the plaintiff knew or had reason to know~~  
25       ~~of such abuse and that such abuse resulted in injury to the plaintiff~~ the time period  
26       described in division (b)(2)(A)(ii) of this Code section, the court shall determine from  
27       admissible evidence in a pretrial finding ~~when~~ the date upon which the discovery of the  
28       harm from the alleged childhood sexual abuse occurred and whether the civil action  
29       was timely filed under this Code section. The pretrial finding required under this  
30       subparagraph shall be made within six months of the filing of the civil action.

31       (c)(1) As used in this subsection, the term:

32       (A) 'Entity' means an institution, agency, firm, business, corporation, or other public  
33       or private legal ~~entity~~ organization.

34       (B) 'Person' means the individual alleged to have committed the act of childhood  
35       sexual abuse.

36       (2) If a civil action for recovery of damages suffered as a result of childhood sexual  
37       abuse is commenced pursuant to division (b)(2)(A)(i) of this Code section and if the  
38       person was a volunteer or employee of an entity that owed a duty of care to the plaintiff,  
39       or the person and the plaintiff were engaged in some activity over which such entity had  
40       control, damages against such entity shall be awarded under this Code section only if by  
41       a preponderance of the evidence there is a finding of negligence on the part of such  
42       entity.

43 (3) If a civil action for recovery of damages suffered as a result of childhood sexual  
44 abuse is commenced pursuant to division (b)(2)(A)(ii) of this Code section and if the  
45 person was a volunteer or employee of an entity that owed a duty of care to the plaintiff,  
46 or the person and the plaintiff were engaged in some activity over which such entity had  
47 control, damages against such entity shall be awarded under this Code section only if by  
48 a preponderance of the evidence there is a finding ~~that there was~~ of gross negligence on  
49 the part of such entity, that the entity knew or should have known of the alleged conduct  
50 giving rise to the civil action, and that such entity failed to take remedial action.

51 (d)(1) As used in this subsection, the term:

52 (A) 'Entity' means an institution, agency, firm, business, corporation, or other public  
53 or private legal organization.

54 (B) 'Person' means the individual alleged to have committed the act of childhood  
55 sexual abuse.

56 (2) For a period of one year following July 1, 2021, plaintiffs of any age who were time  
57 barred from filing a civil action for recovery of damages suffered as a result of childhood  
58 sexual abuse due to the expiration of the statute of limitations in effect on June 30, 2021,  
59 shall be allowed to file such actions, which had lapsed or technically expired under the  
60 law in effect on June 30, 2021. Such actions shall be permitted to be filed against:

61 (A) A person alleged to have committed the act of childhood sexual abuse; or

62 (B) An entity that owed a duty of care to the plaintiff, and the entity knew:

63 (i) Of an act of childhood sexual abuse against the plaintiff by a volunteer or  
64 employee and the entity intentionally allowed that abuse to continue; or

65 (ii) That a volunteer or employee of the entity who committed an act of childhood  
66 sexual abuse against the plaintiff had committed a previous act of childhood sexual  
67 abuse against another and the entity intentionally or fraudulently harbored, concealed,  
68 or withheld information about the prior act, contributing to the plaintiff's injury.

69 (3) For purposes of subparagraph (B) of paragraph (2) of this subsection:

70 (A) An action against an entity shall not include actions or inactions occurring before  
71 July 1, 1973;

72 (B) A plaintiff may recover damages against an entity only if the plaintiff proves by  
73 clear and convincing evidence the elements required by subparagraph (B) of  
74 paragraph (2) of this subsection; and

75 (C) When an entity is an unincorporated association, the individual members or owners  
76 of it shall not be personally liable for the action of such association."

77 **SECTION 4.**

78 All laws and parts of laws in conflict with this Act are repealed.