

1 AN ACT relating to childhood sexual assault or abuse.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 413.249 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Childhood sexual assault or abuse" means an act or series of acts against a
6 person less than eighteen (18) years old and ~~that~~^{which} meets the criteria
7 defining a misdemeanor or felony in:

- 8 1. KRS Chapter 510;
- 9 2. KRS 529.040 when the defendant advances or profits from the
10 prostitution of a minor;
- 11 3. KRS 529.100 when the offense involves commercial sexual activity;
- 12 4. KRS 529.110 when the offense involves commercial sexual activity;
- 13 5. KRS 530.020 or 530.064(1)(a);
- 14 6. KRS Chapter 531 involving a minor or depiction of a minor; or
- 15 7. KRS 506.010 or 506.030 for attempt to commit or solicitation to commit
16 any of the offenses described in subparagraphs 1. to 6. of this paragraph.

17 No prior criminal prosecution or conviction of the civil defendant for the act
18 or series of acts shall be required to bring a civil action for redress of
19 childhood sexual assault or abuse;

20 (b) "Entity" means a firm, partnership, company, corporation, trustee, association,
21 or any private or public entity, including the Commonwealth, a city, county,
22 urban-county, consolidated local government, unified local government, or
23 charter county government, or any of their agencies, departments, or any KRS
24 58.180 nonprofit nonstock corporation; and

25 (c) "Injury or illness" means either a physical or psychological injury or illness.

26 (2) A civil action for recovery of damages for injury or illness suffered as a result of
27 childhood sexual assault or abuse ***is not subject to a period of limitation and may***

1 be commenced at any time~~[shall be brought before whichever of the following~~
 2 ~~periods last expires:~~

3 ~~(a) Within ten (10) years of the commission of the act or the last of a series of~~
 4 ~~acts by the same perpetrator;~~

5 ~~(b) Within ten (10) years of the date the victim knew, or should have known, of~~
 6 ~~the act;~~

7 ~~(c) Within ten (10) years after the victim attains the age of eighteen (18) years; or~~

8 ~~(d) Within ten (10) years of the conviction of a civil defendant for an offense~~
 9 ~~included in the definition of childhood sexual assault or abuse.~~

10 ~~(3) The time periods set forth in subsection (2) of This section shall apply to a civil~~
 11 ~~action for recovery of damages for injury or illness] against:[:]~~

12 (a) A person alleged to have committed the act of childhood sexual assault or
 13 abuse; or

14 (b) An entity that owed a duty of care to the plaintiff, where a wrongful or
 15 negligent act by an employee, officer, director, official, volunteer,
 16 representative, or agent of the entity was a legal cause of the childhood sexual
 17 assault or abuse that resulted in the injury to the plaintiff.

18 ~~(3) [(4)] [If a complaint is filed alleging that an act of childhood sexual assault or~~
 19 ~~abuse occurred more than ten (10) years prior to the date that the action is~~
 20 ~~commenced,]The complaint shall be accompanied by a motion to seal the record~~
 21 ~~and the complaint shall immediately be sealed by the clerk of the court. The~~
 22 ~~complaint shall remain sealed until:~~

23 (a) The court rules upon the motion to seal;

24 (b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is
 25 dismissed, the complaint and any related papers or pleadings shall remain
 26 sealed unless opened by a higher court; or

27 (c) The defendant files an answer and a motion to seal the record upon grounds

1 that a valid factual defense exists, to be raised in a motion for summary
2 judgment pursuant to CR 56. The record shall remain sealed by the clerk until
3 the court rules upon the defendant's motion to close the record. If the court
4 grants the motion to close, the record shall remain sealed until the defendant's
5 motion for summary judgment is granted. The complaint, motions, and other
6 related papers or pleadings shall remain sealed unless opened by a higher
7 court.

8 ~~(4)~~~~(5)~~ A victim of childhood sexual assault or abuse shall not have a cause of action
9 against a third party, unless the third party failed to act as a reasonable person or
10 entity in complying with their duties to the victim. ~~[If a victim of childhood sexual~~
11 ~~assault or abuse has a cause of action under this section, the cause of action shall be~~
12 ~~commenced within the time period set forth in subsection (2) of this section.]~~

13 ~~(5)~~~~(6)~~ (a) Neither the husband-wife nor any professional-client/patient privilege,
14 except the attorney-client and clergy-penitent privilege, shall be a ground for
15 excluding evidence regarding childhood sexual assault or abuse or the cause
16 thereof when an exception to the Kentucky Rules of Evidence is met, in any
17 judicial proceeding. This subsection shall also apply in any criminal
18 proceeding in District or Circuit Court regarding childhood sexual assault or
19 abuse.

20 (b) As used in paragraph (a) of this subsection, the clergy-penitent privilege is
21 limited to information received solely through confidential communications
22 with a clergy member, privately or in a confessional setting, when in the
23 course of the discipline or practice of the clergy member's church,
24 denomination, or organization, he or she is authorized or accustomed to
25 hearing those communications, and under the discipline, tenets, customs, or
26 practices of his or her church, denomination, or organization, has a duty to
27 keep those communications secret.

- 1 ~~(6)~~~~(7)~~ (a) As was its intention with the passage of 2017 Ky. Acts ch. 114, sec. 2,
2 the General Assembly hereby states that the amendments enacted in 2017 Ky.
3 Acts ch. 114, sec. 2 shall be applied retroactively to actions accruing before its
4 effective date of June 29, 2017. This section is a remedial statute which is to
5 be given the most liberal interpretation to provide remedies for victims of
6 childhood sexual assault or abuse.
- 7 (b) Notwithstanding any provision of law to the contrary, any claim for childhood
8 sexual assault or abuse that was barred as of March 23, 2021, because the
9 applicable statute of limitations had expired is hereby revived, and the action
10 may be brought if commenced within five (5) years of the date on which the
11 applicable statute of limitations expired.