SENATE BILL 505

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							(CF HB 642
Bv·	Senators	Kellev.	Benson.	Brochin.	Conway.	Currie.	Feldman.	Ferguson

By: Senators Kelley, Benson, Brochin, Conway, Currie, Feldman, Ferguson, Guzzone, Kagan, Kasemeyer, Lee, Madaleno, Manno, McFadden, Middleton, Miller, Muse, Nathan–Pulliam, Peters, Robinson, Smith, and Zucker Introduced and read first time: February 1, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 Civil Actions - Child Sexual Abuse - Statute of Limitations and Required 3 Findings

FOR the purpose of altering the statute of limitations in certain civil actions relating to
child sexual abuse; providing that, in a certain action, damages may be awarded
against a person or governmental entity that is not an alleged perpetrator only under
certain circumstances; providing that a certain action is exempt from certain
provisions of the Local Government Torts Claims Act; providing that a certain action
is exempt from certain provisions of the Maryland Torts Claims Act; providing for
the application of this Act; and generally relating to child sexual abuse.

- 11 BY repealing and reenacting, with amendments,
- 12 Article Courts and Judicial Proceedings
- 13 Section 5–117 and 5–304(a)
- 14 Annotated Code of Maryland
- 15 (2013 Replacement Volume and 2016 Supplement)
- 16 BY repealing and reenacting, without amendments,
- 17 Article Courts and Judicial Proceedings
- 18 Section 5–304(b)
- 19 Annotated Code of Maryland
- 20 (2013 Replacement Volume and 2016 Supplement)
- 21 BY repealing and reenacting, with amendments,
- 22 Article State Government
- 23 Section 12–106(a)
- 24 Annotated Code of Maryland
- 25 (2014 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, without amendments, 1 $\mathbf{2}$ Article – State Government 3 Section 12–106(b) 4 Annotated Code of Maryland (2014 Replacement Volume and 2016 Supplement) $\mathbf{5}$ 6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows: 7 8 **Article – Courts and Judicial Proceedings** 9 5 - 117. 10 In this section, "sexual abuse" has the meaning stated in § 5–701 of the Family (a) Law Article. 11 12(b) An action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor shall be filed [within] AGAINST THE 1314ALLEGED PERPETRATOR OF THE SEXUAL ABUSE: 15AT ANY TIME BEFORE THE VICTIM REACHES THE AGE OF (1) 16 **MAJORITY; OR** 17(2) WITHIN THE LATER OF: 18 [7] 20 years [of] AFTER the date that the victim [attains] **(I)** 19 **REACHES** the age of majority; **OR** 20**3** YEARS AFTER THE DATE THAT THE DEFENDANT IS **(II)** 21CONVICTED OF A CRIME RELATING TO THE ALLEGED INCIDENT OR INCIDENTS 22**UNDER:** 1. § 3-602 OF THE CRIMINAL LAW ARTICLE; OR 232. 24THE LAWS OF ANOTHER STATE OR THE UNITED 25STATES THAT WOULD BE A CRIME UNDER § 3–602 OF THE CRIMINAL LAW ARTICLE. 26**(C)** (1) AN ACTION FOR DAMAGES ARISING OUT OF AN ALLEGED 27INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE THE VICTIM 28WAS A MINOR SHALL BE FILED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT 29IS NOT AN ALLEGED PERPETRATOR OF THE SEXUAL ABUSE: 30 **(I)** AT ANY TIME BEFORE THE VICTIM REACHES THE AGE OF 31**MAJORITY; OR**

SENATE BILL 505

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SENATE BILL 505

1 WITHIN 20 YEARS AFTER THE DATE THAT THE VICTIM (II) $\mathbf{2}$ **REACHES THE AGE OF MAJORITY.** 3 (2) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, DAMAGES MAY 4 BE AWARDED AGAINST A PERSON OR GOVERNMENTAL ENTITY ONLY ON A $\mathbf{5}$ DETERMINATION BY THE FINDER OF FACT THAT THE PERSON OR GOVERNMENTAL 6 **ENTITY:** 7 **(I) PRIOR TO THE INCIDENT OR INCIDENTS OF SEXUAL ABUSE** 8 THAT FORM THE BASIS OF THE ACTION, HAD ACTUAL KNOWLEDGE OF A PREVIOUS INCIDENT OR INCIDENTS OF SEXUAL ABUSE; AND 9 10 NEGLIGENTLY FAILED TO PREVENT THE INCIDENT OR **(II)** INCIDENTS OF SEXUAL ABUSE THAT FORM THE BASIS OF THE ACTION. 11 125 - 304. 13 (a) This section does not apply to an action [against]: 14(1) AGAINST a nonprofit corporation described in § 5–301(d)(23), (24), (25), 15(26), (28), or (29) of this subtitle or its employees: OR (2) BROUGHT UNDER § 5–117 OF THIS TITLE. 16 17Except as provided in subsections (a) and (d) of this section, an action (b) (1)18for unliquidated damages may not be brought against a local government or its employees 19 unless the notice of the claim required by this section is given within 1 year after the injury. 20(2)The notice shall be in writing and shall state the time, place, and cause of the injury. 2122**Article – State Government** 2312 - 106.24(a) This section does not apply to a claim that is: (1) 25asserted by cross-claim, counterclaim, or third-party claim; OR (2) BROUGHT UNDER § 5–117 OF THE COURTS ARTICLE. 2627(b) Except as provided in subsection (c) of this section, a claimant may not

institute an action under this subtitle unless:

28

SENATE BILL 505

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(2) the Treasurer or designee denies the claim finally; and

(3) the action is filed within 3 years after the cause of action arises.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to 7 apply only prospectively and may not be applied or interpreted to have any effect on or 8 application to any cause of action arising before the effective date of this Act.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect 10 October 1, 2017.