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HOUSE BILL 302

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Marian Matthews and Daniel A. Ivey-Soto

AN ACT

RELATING TO CHILDHOOD SEXUAL ABUSE; SPECIFYING WHEN THE STATUTE OF LIMITATIONS RUNS FOR VICTIMS OF CHILDHOOD SEXUAL ABUSE; PROVIDING FOR THE REVIVAL OF CERTAIN CLAIMS BEFORE DECEMBER 31, 2021.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 37-1-30 NMSA 1978 (being Laws 1993, Chapter 136, Section 1, as amended) is amended to read:

"37-1-30. ACTION FOR DAMAGES DUE TO CHILDHOOD SEXUAL ABUSE--LIMITATION ON ACTIONS.--

A. An action for damages based on personal injury caused by childhood sexual abuse shall be commenced by a person ~~[before the latest of the following dates]:~~

(1) before the first instant of the person's twenty-fourth birthday; ~~[or]~~

underscored material = new
~~[bracketed material] = delete~~

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[bracketed material] = delete

1 (2) within three years from the date that a
2 person [~~first disclosed the person's childhood sexual abuse to~~
3 ~~a licensed medical or mental health care provider in the~~
4 ~~context of receiving health care from the provider~~] knew or had
5 reason to know of the childhood sexual abuse and that the
6 childhood sexual abuse resulted in an injury to the person, as
7 established by competent medical or psychological testimony; or

8 (3) at any time, when the personal injury was
9 caused by an agent of a defendant who was provided with
10 substantial power or authority over the lives or livelihood of
11 minor children by the defendant and at the time the personal
12 injury occurred that defendant had a routine practice of
13 negligently hiring, supervising or retaining its agents,
14 regardless of whether those agents were employees or
15 volunteers; and either:

16 (a) the personal injury occurred in New
17 Mexico; or

18 (b) the injured person was a resident of
19 New Mexico at the time the personal injury occurred and
20 personal jurisdiction in this state exists against the
21 defendant who provided the agent with substantial power or
22 authority over the lives or livelihood of minor children.

23 B. If a defense is raised in a responsive pleading
24 or by motion before the responsive pleading as may be permitted
25 by supreme court rule to an action commenced pursuant to

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1 Paragraph (3) of Subsection A of this section, the court shall
2 determine whether clear and convincing evidence exists that the
3 requirements of Paragraph (3) of Subsection A of this section
4 have been met.

5 ~~[B.]~~ C. As used in this section, "childhood sexual
6 abuse" means ~~[conduct]~~ behavior that, if prosecuted in a
7 criminal matter, would constitute a violation of:

8 (1) Section 30-9-11 NMSA 1978, regarding
9 criminal sexual penetration of a minor;

10 (2) Section 30-9-13 NMSA 1978, regarding
11 criminal sexual contact of a minor; or

12 (3) the Sexual Exploitation of Children Act.

13 ~~[G.]~~ D. The provisions of this section shall apply
14 to any injury by childhood sexual abuse at any time, including
15 behavior antedating this section or any subsequent amendments,
16 except where a defendant has a vested right, substantive in
17 nature, to be free from suit. The provisions of ~~[Section]~~
18 Sections 37-1-8 and 37-1-10 NMSA 1978 and any statutes of
19 limitation therein shall not apply to causes of action for
20 childhood sexual abuse."

21 SECTION 2. TEMPORARY PROVISION--PROVIDING THAT CASES
22 OTHERWISE TIME BARRED MAY BE REVIVED.--An action for damages
23 based on personal injury caused by childhood sexual abuse that
24 would be time barred as a result of the 2017 amendments to
25 Section 37-1-30 NMSA 1978 may be revived notwithstanding any

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underscored material = new
~~[bracketed material] = delete~~

1 statute of limitations to the contrary, provided that the
2 action is commenced by a person prior to December 31, 2021.

3 SECTION 3. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2020.

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