

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 962 Session of 2019

INTRODUCED BY ROZZI, GREGORY, BRIGGS, KINSEY AND HANBIDGE, MARCH 27, 2019

SENATOR BAKER, JUDICIARY, IN SENATE, AS AMENDED, NOVEMBER 18, 2019

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 ~~Pennsylvania Consolidated Statutes, in limitation of time,~~ <--
3 PENNSYLVANIA CONSOLIDATED STATUTES, REFORMING REMEDIES FOR <--
4 VICTIMS OF SEXUAL ABUSE:

5 IN LIMITATION OF TIME, further providing for six months
6 limitation, for infancy, insanity or imprisonment, for no
7 limitation applicable and ~~for other offenses; and, in matters~~ <--
8 ~~affecting government~~ FOR OTHER OFFENSES; <--

9 IN MATTERS AFFECTING GOVERNMENT units, further providing
10 for exceptions to sovereign immunity, for limitations on
11 damages in actions against Commonwealth parties, for
12 exceptions to governmental immunity and for limitations on
13 damages in actions against local parties; AND <--

14 IN SENTENCING ALTERNATIVES, PROVIDING FOR COUNSELING
15 SERVICES FOR VICTIMS OF SEXUAL ABUSE.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 5522 of Title 42 of the Pennsylvania
19 Consolidated Statutes is amended by adding a subsection to read:

20 § 5522. Six months limitation.

21 * * *

22 (c) Exception.--This section shall not apply to any civil

1 action or proceeding brought under section 8522(b)(10) (relating
2 to exceptions to sovereign immunity) or 8542(b)(9) (relating to
3 exceptions to governmental immunity).

4 Section 2. Section 5533(b)(2)(i) of Title 42 is amended to
5 read:

6 § 5533. Infancy, insanity or imprisonment.

7 * * *

8 (b) Infancy.--

9 * * *

10 (2) (i) If an individual entitled to bring a civil
11 action arising from childhood sexual abuse is under 18
12 years of age at the time the cause of action accrues, the
13 individual shall have a period of [12] 37 years after
14 attaining 18 years of age in which to commence an action
15 for damages regardless of whether the individual files a
16 criminal complaint regarding the childhood sexual abuse.

17 * * *

18 Section 3. Section 5551 of Title 42 is amended by adding a
19 paragraph to read:

20 § 5551. No limitation applicable.

21 A prosecution for the following offenses may be commenced at
22 any time:

23 * * *

24 (7) An offense under any of the following provisions of
25 18 Pa.C.S. (relating to crimes and offenses), or a conspiracy
26 or solicitation to commit an offense under any of the
27 following provisions of 18 Pa.C.S. if the offense results
28 from the conspiracy or solicitation, if the victim was under
29 18 years of age at the time of the offense:

30 Section 3011(b) (relating to trafficking in

1 individuals).

2 Section 3012 (relating to involuntary servitude) as
3 it relates to sexual servitude.

4 Section 3121 (relating to rape).

5 Section 3122.1 (relating to statutory sexual
6 assault).

7 Section 3123 (relating to involuntary deviate sexual
8 intercourse).

9 Section 3124.1 (relating to sexual assault).

10 Section 3124.2 (relating to institutional sexual
11 assault).

12 Section 3125 (relating to aggravated indecent
13 assault).

14 Section 4302 (relating to incest).

15 Section 4. Section 5552(b.1) and (c)(3) of Title 42 are
16 amended to read:

17 § 5552. Other offenses.

18 * * *

19 (b.1) Major sexual offenses.--[A] Except as provided in
20 section 5551(7) (relating to no limitation applicable), a
21 prosecution for any of the following offenses under Title 18
22 must be commenced within 12 years after it is committed:

23 Section 3121 (relating to rape).

24 Section 3122.1 (relating to statutory sexual assault).

25 Section 3123 (relating to involuntary deviate sexual
26 intercourse).

27 Section 3124.1 (relating to sexual assault).

28 Section 3124.2 (relating to institutional sexual
29 assault).

30 Section 3125 (relating to aggravated indecent assault).

1 Section 4302 (relating to incest).

2 Section 6312 (relating to sexual abuse of children).

3 (c) Exceptions.--If the period prescribed in subsection (a),
4 (b) or (b.1) has expired, a prosecution may nevertheless be
5 commenced for:

6 * * *

7 (3) Any sexual offense committed against a minor who is
8 less than 18 years of age any time up to the later of the
9 period of limitation provided by law after the minor has
10 reached 18 years of age or the date the minor reaches [50] 55
11 years of age. As used in this paragraph, the term "sexual
12 offense" means a crime under the following provisions of
13 Title 18 [(relating to crimes and offenses):

14 Section 3011(b) (relating to trafficking in
15 individuals).

16 Section 3012 (relating to involuntary servitude) as
17 it relates to sexual servitude.

18 Section 3121 (relating to rape).

19 Section 3122.1 (relating to statutory sexual
20 assault).

21 Section 3123 (relating to involuntary deviate sexual
22 intercourse).

23 Section 3124.1 (relating to sexual assault).

24 Section 3125 (relating to aggravated indecent
25 assault).] or a conspiracy or solicitation to commit an
26 offense under any of the following provisions of Title 18
27 if the offense results from the conspiracy or
28 solicitation:

29 Section 3126 (relating to indecent assault).

30 Section 3127 (relating to indecent exposure).

1 [Section 4302 (relating to incest).]

2 Section 4304 (relating to endangering welfare of
3 children).

4 Section 6301 (relating to corruption of minors).

5 Section 6312(b) (relating to sexual abuse of
6 children).

7 Section 6320 (relating to sexual exploitation of
8 children).

9 * * *

10 Section 5. Section 8522(b) of Title 42 is amended by adding
11 a paragraph to read:

12 § 8522. Exceptions to sovereign immunity.

13 * * *

14 (b) Acts which may impose liability.--The following acts by
15 a Commonwealth party may result in the imposition of liability
16 on the Commonwealth and the defense of sovereign immunity shall
17 not be raised to claims for damages caused by:

18 * * *

19 (10) Sexual abuse.--Conduct which constitutes an offense
20 enumerated under section 5551(7) (relating to no limitation
21 applicable) if the injuries to the plaintiff were caused by
22 actions or omissions of the Commonwealth party which
23 constitute negligence.

24 Section 6. Section 8528(c) (5) of Title 42 is amended and the
25 section is amended by adding a subsection to read:

26 § 8528. Limitations on damages.

27 * * *

28 (c) Types of damages recoverable.--Damages shall be
29 recoverable only for:

30 * * *

1 (5) Property losses, except that property losses shall
2 not be recoverable in claims brought pursuant to section
3 8522(b)(5) (relating to [potholes and other dangerous
4 conditions] exceptions to sovereign immunity).

5 (d) Exclusions.--This section shall not apply to damages
6 awarded under section 8522(b)(10).

7 Section 7. Section 8542(b) of Title 42 is amended by adding
8 a paragraph to read:

9 § 8542. Exceptions to governmental immunity.

10 * * *

11 (b) Acts which may impose liability.--The following acts by
12 a local agency or any of its employees may result in the
13 imposition of liability on a local agency:

14 * * *

15 (9) Sexual abuse.--Conduct which constitutes an offense
16 enumerated under section 5551(7) (relating to no limitation
17 applicable) if the injuries to the plaintiff were caused by
18 actions or omissions of the local agency which constitute
19 negligence.

20 * * *

21 Section 8. Section 8553 of Title 42 is amended by adding a
22 subsection to read:

23 § 8553. Limitations on damages.

24 * * *

25 (e) Exclusions.--This section shall not apply to damages
26 awarded under section 8542(b)(9) (relating to exceptions to
27 governmental immunity).

28 SECTION 8.1. TITLE 42 IS AMENDED BY ADDING A SECTION TO

<--

29 READ:

30 § 9730.3. COUNSELING SERVICES FOR VICTIMS OF SEXUAL ABUSE.

1 (A) ELIGIBILITY.--

2 (1) SUBJECT TO SUBSECTION (B), THE OFFICE SHALL PROVIDE,
3 FOR AN INDIVIDUAL WHO IS A DIRECT VICTIM OF SEXUAL ABUSE,
4 COUNSELING SERVICES RELATED TO THE SEXUAL ABUSE. PAYMENT
5 SHALL BE MADE TO THE HEALTH CARE PROVIDER THAT PROVIDES THE
6 SERVICES FROM THE CRIME VICTIM'S COMPENSATION FUND.

7 (2) ELIGIBILITY UNDER PARAGRAPH (1) IS NOT AFFECTED BY
8 AN ADVERSE DETERMINATION UNDER SECTIONS 704(C) OR 707(A) OF
9 THE ACT OF NOVEMBER 24, 1998 (P.L.882, NO.111), KNOWN AS THE
10 CRIME VICTIMS ACT.

11 (B) VALUE OF SERVICES.--

12 (1) THE TOTAL VALUE OF SERVICES UNDER SUBSECTION (A) (1)
13 SHALL NOT EXCEED:

14 (I) \$5,000 IF THE INDIVIDUAL WAS, AT THE TIME OF THE
15 SEXUAL ABUSE, 18 YEARS OF AGE OR OLDER; AND

16 (II) \$10,000 IF THE INDIVIDUAL WAS, AT THE TIME OF
17 THE SEXUAL ABUSE, UNDER 18 YEARS OF AGE.

18 (2) THE VALUE OF SERVICES UNDER SUBSECTION (A) (1) SHALL
19 BE REDUCED BY THE AMOUNT OF ANY OF THE FOLLOWING PAYMENTS
20 RECEIVED OR TO BE RECEIVED BY THE INDIVIDUAL FOR COUNSELING
21 SUBJECT TO SUBSECTION (A) AS A RESULT OF THE SEXUAL ABUSE:

22 (I) PAYMENT BY THE INDIVIDUAL WHO COMMITTED THE
23 SEXUAL ABUSE.

24 (II) PAYMENT UNDER AN INSURANCE PROGRAM OR A HEALTH
25 AND WELFARE PROGRAM. THIS SUBPARAGRAPH INCLUDES A PROGRAM
26 MANDATED BY LAW.

27 (III) PAYMENT UNDER A CONTRACT OF INSURANCE IN WHICH
28 THE INDIVIDUAL IS THE BENEFICIARY.

29 (IV) PAYMENT FROM PUBLIC FUNDS.

30 (V) PAYMENT UNDER A PENSION PROGRAM. THIS

1 SUBPARAGRAPH INCLUDES A PROGRAM PROVIDING FOR DISABILITY
2 OR SURVIVOR'S BENEFITS.

3 (VI) PAYMENT BY A PARTY ALLEGED TO BE RESPONSIBLE IN
4 WHOLE OR IN PART FOR THE SEXUAL ABUSE, WITHOUT REGARD TO
5 THE PARTY'S CRIMINAL CULPABILITY.

6 (VII) PAYMENT MADE UNDER THE CRIME VICTIMS ACT.

7 (C) COOPERATION.--

8 (1) HEALTH CARE PROVIDERS AND INSURERS SHALL RESPOND IN
9 WRITING TO A REQUEST BY THE OFFICE FOR INFORMATION RELATED TO
10 THIS SECTION WITHIN 30 DAYS OF RECEIPT OF THE REQUEST.

11 (2) COMMONWEALTH AGENCIES SHALL COOPERATE WITH THE
12 OFFICE FOR INFORMATION RELATED TO THIS SECTION.

13 (3) A PERSON THAT FAILS TO RESPOND TO A REQUEST UNDER
14 PARAGRAPH (1) SHALL BE SUBJECT TO A PENALTY OF NOT MORE THAN
15 \$50 PER DAY, UP TO AND INCLUDING THE DATE OF COMPLIANCE. THE
16 OFFICE SHALL ENFORCE THIS PARAGRAPH. THE OFFICE MAY UTILIZE
17 REVENUE UNDER THIS PARAGRAPH TO IMPLEMENT THIS SECTION OR TO
18 ASSIST LOCAL VICTIM SERVICE AGENCIES.

19 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
20 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
21 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

22 "DIRECT VICTIM." AN INDIVIDUAL AGAINST WHOM A CRIME HAS BEEN
23 COMMITTED OR ATTEMPTED AND WHO AS A DIRECT RESULT OF THE
24 CRIMINAL ACT OR ATTEMPT SUFFERS PHYSICAL OR MENTAL INJURY.

25 "HEALTH CARE PROVIDER." A PERSON LICENSED, CERTIFIED OR
26 APPROVED BY THE COMMONWEALTH TO PROVIDE HEALTH CARE OR
27 PROFESSIONAL MEDICAL SERVICES.

28 "OFFICE." THE OFFICE OF VICTIMS' SERVICES.

29 "SEXUAL ABUSE." CONDUCT WHICH WOULD CONSTITUTE AN OFFENSE
30 UNDER ANY OF THE FOLLOWING PROVISIONS OF 18 PA.C.S. (RELATING TO

1 CRIMES AND OFFENSES) :

2 SECTION 3011(B) (RELATING TO TRAFFICKING IN INDIVIDUALS).

3 SECTION 3012 (RELATING TO INVOLUNTARY SERVITUDE) AS IT
4 RELATES TO SEXUAL SERVITUDE.

5 SECTION 3121 (RELATING TO RAPE).

6 SECTION 3122.1 (RELATING TO STATUTORY SEXUAL ASSAULT).

7 SECTION 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL
8 INTERCOURSE).

9 SECTION 3124.1 (RELATING TO SEXUAL ASSAULT).

10 SECTION 3124.2 (RELATING TO INSTITUTIONAL SEXUAL
11 ASSAULT).

12 SECTION 3125 (RELATING TO AGGRAVATED INDECENT ASSAULT).

13 SECTION 3126 (RELATING TO INDECENT ASSAULT).

14 SECTION 3127 (RELATING TO INDECENT EXPOSURE).

15 SECTION 4302 (RELATING TO INCEST).

16 SECTION 6312 (RELATING TO SEXUAL ABUSE OF CHILDREN).

17 Section 9. The provisions of this act are severable. If any
18 provision of this act is held invalid, the invalidity shall not
19 affect other provisions or applications of this act which can be
20 given effect without the invalid provision or application.

21 Section 10. This act shall apply as follows:

22 (1) The amendment or addition of 42 Pa.C.S. §§ 5533(b)

23 (2) (i), 5551(7) and 5552(b.1) and (c) (3) shall not be applied
24 to revive an action which has been barred by an existing
25 statute of limitations on the effective date of this section.

26 (2) The amendment of 42 Pa.C.S. § 5533(b) (2) (i) shall
27 apply retroactively to civil actions where the limitations
28 period has not expired prior to the effective date of this
29 section.

30 ~~(3) The amendment or addition of the following~~

<--

1 ~~provisions shall apply retroactively, including to civil~~
2 ~~actions where the limitation period has expired prior to the~~
3 ~~effective date of this section:~~

4 ~~(i) 42 Pa.C.S. § 5522(c).~~

5 ~~(ii) 42 Pa.C.S. § 8522(b)(10).~~

6 ~~(iii) 42 Pa.C.S. § 8528(d).~~

7 ~~(iv) 42 Pa.C.S. § 8542(b)(9).~~

8 ~~(v) 42 Pa.C.S. § 8553(e).~~

9 ~~Section 11. This act shall take effect as follows:~~

10 ~~(1) This section shall take effect immediately.~~

11 ~~(2) The remainder of this act shall take effect upon the~~
12 ~~first passage of House Bill No. 963, Printer's No. 1130~~
13 ~~(2019), by both chambers of the General Assembly.~~

14 (3) THE ADDITION OF 42 PA.C.S. §§ 5522(C), 8522(B)(10), <--
15 8528(D), 8542(B)(9) AND 8553(E) SHALL APPLY AS FOLLOWS:

16 (I) PROSPECTIVELY, TO A CAUSE OF ACTION WHICH ARISES
17 ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

18 (II) RETROACTIVELY, TO A CAUSE OF ACTION IF THE
19 CAUSE OF ACTION AROSE BEFORE THE EFFECTIVE DATE OF THIS
20 SECTION. NOTHING IN THIS SUBPARAGRAPH SHALL DO ANY OF THE
21 FOLLOWING:

22 (A) REVIVE A CAUSE OF ACTION AS TO WHICH THE
23 LIMITATION PERIOD HAS EXPIRED PRIOR TO THE EFFECTIVE
24 DATE OF THIS SECTION.

25 (B) PERMIT THE APPLICATION OF THE ADDITION OF 42
26 PA.C.S. §§ 5522(C), 8522(B)(10), 8528(D), 8542(B)(9)
27 AND 8553(E) TO A CLAIM:

28 (I) THAT IS SUBJECT TO A FINAL JUDGMENT
29 WHICH, ON THE EFFECTIVE DATE OF THIS SECTION, IS
30 NOT SUBJECT TO APPEAL; OR

1 (II) THAT, ON THE EFFECTIVE DATE OF THIS
2 SECTION, HAS BEEN NONJUDICIALLY RESOLVED IN ITS
3 ENTIRETY BY THE PARTIES, IN A FORM WHICH IS
4 ENFORCEABLE.

5 SECTION 11. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

6 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
7 IMMEDIATELY:

8 (I) SECTION 10 OF THIS ACT.

9 (II) THIS SECTION.

10 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT UPON
11 FIRST PASSAGE OF HOUSE BILL NO. 963, PRINTER'S NO. 1130
12 (2019), BY BOTH CHAMBERS OF THE GENERAL ASSEMBLY OR
13 IMMEDIATELY, WHICHEVER IS LATER.