

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 578 Session of 2023

INTRODUCED BY MUTH, COLLETT, KEARNEY, SANTARSIERO, L. WILLIAMS, FONTANA, HUGHES, HAYWOOD, COMMITTA, DILLON, CAPPELLETTI, TARTAGLIONE, KANE AND STREET, APRIL 19, 2023

REFERRED TO JUDICIARY, APRIL 19, 2023

AN ACT

1 Amending Titles 23 (Domestic Relations) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in child protective services, further providing for
4 penalties; in limitation of time, further providing for
5 infancy, insanity or imprisonment, for no limitation
6 applicable and for other offenses; in particular rights and
7 immunities, further providing for contracts or agreements for
8 nondisclosure of certain conduct; and, in matters affecting
9 government units, further providing for exceptions to
10 sovereign immunity and for exceptions to governmental
11 immunity.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 6319(b) of Title 23 of the Pennsylvania
15 Consolidated Statutes is amended to read:

16 § 6319. Penalties.

17 * * *

18 (b) Continuing course of action.--[If a]

19 (1) A person's conduct under this section constitutes a
20 continuing course of action if either of the following apply:

21 (i) A person's willful failure under this section to
22 report an individual suspected of child abuse continues

1 while the person knows or has reasonable cause to suspect
2 a child is being subjected to child abuse. [by the same
3 individual, or while the person knows or has reasonable
4 cause to suspect that the same individual continues to
5 have direct contact with children through the
6 individual's employment, program, activity or service,
7 the person commits a felony of the third degree, except
8 that if the child abuse constitutes a felony of the first
9 degree or higher, the person commits a felony of the
10 second degree.]

11 (ii) A person required by this chapter to report a
12 case of suspected child abuse or to make a referral to
13 the appropriate authorities knows or has reasonable cause
14 to believe a person's willful failure under this section
15 may subject a child or additional children to child
16 abuse.

17 (2) An offense under this subsection is a felony of the
18 third degree, except that if the child abuse constitutes a
19 felony of the first degree or higher, the person commits a
20 felony of the second degree.

21 * * *

22 Section 2. Section 5533(b)(2) of Title 42 is amended and the
23 section is amended by adding subsections to read:

24 § 5533. Infancy, insanity or imprisonment.

25 * * *

26 (b) Infancy.--

27 * * *

28 (2) (i) If an individual entitled to bring a civil
29 action arising from sexual abuse is under 18 years of age
30 at the time the cause of action accrues, the individual

1 [shall have a period of 37 years after attaining 18 years
2 of age in which to] may commence an action for damages
3 regardless of whether the individual files a criminal
4 complaint regarding the sexual abuse or the age of the
5 individual.

6 [(i.1) If an individual entitled to bring a civil
7 action arising from sexual abuse is at least 18 and less
8 than 24 years of age at the time the cause of action
9 occurs, the individual shall have until attaining 30
10 years of age to commence an action for damages regardless
11 of whether the individual files a criminal complaint
12 regarding the sexual abuse.]

13 (ii) For the purposes of this paragraph, the term
14 "childhood sexual abuse" shall include, but not be
15 limited to, the following sexual activities between [an
16 individual who is 23 years of age or younger] a minor and
17 an adult, provided that the individual bringing the civil
18 action engaged in such activities as a result of forcible
19 compulsion or by threat of forcible compulsion which
20 would prevent resistance by a person of reasonable
21 resolution:

22 (A) sexual intercourse, which includes
23 penetration, however slight, of any body part or
24 object into the sex organ of another;

25 (B) deviate sexual intercourse, which includes
26 sexual intercourse per os or per anus; and

27 (C) indecent contact, which includes any
28 touching of the sexual or other intimate parts of the
29 person for the purpose of arousing or gratifying
30 sexual desire in either person.

1 (iii) For purposes of this paragraph, "forcible
2 compulsion" shall have the meaning given to it in 18
3 Pa.C.S. § 3101 (relating to definitions).

4 (c) Postinfancy action.--

5 (1) If an individual entitled to bring a civil action
6 arising from sexual abuse is 18 years of age or older at the
7 time the cause of action accrues, the individual may commence
8 an action for damages regardless of whether the individual
9 files a criminal complaint regarding the sexual abuse or the
10 age of the individual.

11 (2) For the purpose of this paragraph, the term "sexual
12 abuse" shall include actions that constitute an offense under
13 the following provisions of 18 Pa.C.S. (relating to crimes
14 and offenses):

15 Section 3011(a) (relating to trafficking in
16 individuals).

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

19 Section 3121 (relating to rape).

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

22 Section 3124.1 (relating to sexual assault).

23 Section 3124.2 (relating to institutional sexual
24 assault).

25 Section 3125 (relating to aggravated indecent
26 assault).

27 Section 4302 (relating to incest).

28 (d) Revival of claims.--The following shall apply:

29 (1) Notwithstanding subsection (b) or any other
30 provision of law, for an individual entitled to bring a civil

1 action arising from childhood sexual abuse where the
2 limitation period has expired, the individual shall have an
3 additional period of two years from the effective date of
4 this subsection to commence an action.

5 (2) Notwithstanding subsection (c) or any other
6 provision of law, for an individual entitled to bring a civil
7 action arising from sexual abuse where the limitation period
8 has expired, the individual shall have an additional period
9 of two years from the effective date of this subsection to
10 commence an action.

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

13 § 5551. No limitation applicable.

14 A prosecution for the following offenses may be commenced at
15 any time:

16 * * *

17 (8) An offense under any of the following provisions of
18 18 Pa.C.S., or a conspiracy or solicitation to commit an
19 offense under any of the following provisions of 18 Pa.C.S.
20 if the offense results from the conspiracy or solicitation,
21 if the victim was 18 years of age or older at the time of the
22 offense:

23 Section 3011(a).

24 Section 3012 as it relates to sexual servitude.

25 Section 3121.

26 Section 3123.

27 Section 3124.1.

28 Section 3124.2.

29 Section 3125.

30 Section 4302.

1 Section 4. Section 5552(b.1) of Title 42 is amended to read:

2 § 5552. Other offenses.

3 * * *

4 (b.1) Major sexual offenses.--Except as provided in section
5 5551(7) or (8) (relating to no limitation applicable), a
6 prosecution for any of the following offenses under Title 18
7 must be commenced within 12 years after it is committed:

8 [Section 3121 (relating to rape).

9 Section 3122.1 (relating to statutory sexual assault).

10 Section 3123 (relating to involuntary deviate sexual
11 intercourse).

12 Section 3124.1 (relating to sexual assault).

13 Section 3124.2 (relating to institutional sexual
14 assault).

15 Section 3125 (relating to aggravated indecent assault).

16 Section 4302 (relating to incest).]

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

18 * * *

19 Section 5. Section 8316.2(a) of Title 42 is amended by
20 adding a paragraph and the section is amended by adding a
21 subsection to read:

22 § 8316.2. Contracts or agreements for nondisclosure of certain
23 conduct.

24 (a) Void provisions.--A provision of an agreement, contract,
25 settlement or similar instrument that does any of the following
26 shall be void and unenforceable:

27 (1) prohibits or attempts to prohibit the disclosure of
28 the name of a person suspected of childhood sexual abuse to
29 law enforcement authorities;

30 (2) suppresses or attempts to suppress information

1 relevant to an investigation by law enforcement authorities
2 into a claim of childhood sexual abuse; [or]

3 (3) impairs or attempts to impair the ability of a
4 person to report a claim of childhood sexual abuse to law
5 enforcement authorities[.]; or

6 (4) impairs or attempts to impair the ability of an
7 individual to publicly disclose a claim of sexual abuse.

8 (a.1) Exception.--An individual may enter into, revise or
9 amend an agreement, contract, settlement or similar instrument
10 to include a provision prohibited under subsection (a) (1) or (4)
11 if the individual who was the victim of sexual abuse requests a
12 provision be included.

13 * * *

14 Section 6. Sections 8522(b)(10) and 8542(b)(9) of Title 42
15 are amended to read:

16 § 8522. Exceptions to sovereign immunity.

17 * * *

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

22 * * *

23 (10) Sexual abuse.--Conduct which constitutes an offense
24 enumerated under section 5551(7) or (8) (relating to no
25 limitation applicable) if the injuries to the plaintiff were
26 caused by actions or omissions of the Commonwealth party
27 which constitute negligence.

28 § 8542. Exceptions to governmental immunity.

29 * * *

30 (b) Acts which may impose liability.--The following acts by

1 a local agency or any of its employees may result in the
2 imposition of liability on a local agency:

3 * * *

4 (9) Sexual abuse.--Conduct which constitutes an offense
5 enumerated under section 5551(7) or (8) (relating to no
6 limitation applicable) if the injuries to the plaintiff were
7 caused by actions or omissions of the local agency which
8 constitute negligence.

9 * * *

10 Section 7. This act shall apply as follows:

11 (1) The amendment or addition of 42 Pa.C.S. §§ 5551(8)
12 and 5552(b.1) shall not be applied to revive an action which
13 has been barred by an existing statute of limitations on the
14 effective date of this section.

15 (2) The amendment or addition of the following
16 provisions shall be applied retroactively to civil actions,
17 including to revive an action which was barred by a statute
18 of limitations prior to the effective date of this section:

19 (i) 42 Pa.C.S. § 5533(d).

20 (ii) 42 Pa.C.S. § 8522(b)(10).

21 (iii) 42 Pa.C.S. § 8542(b)(9).

22 (3) The amendment of 42 Pa.C.S. § 5533(b)(2) shall apply
23 retroactively to civil actions where the limitation period
24 has not expired as of the effective date of this section.

25 Section 8. This act shall take effect as follows:

26 (1) This section shall take effect immediately.

27 (2) The remainder of this act shall take effect in 60
28 days.