
Civil Rights & Judiciary Committee

HB 1618

Brief Description: Concerning the statute of limitations for childhood sexual abuse.

Sponsors: Representatives Farivar, Simmons, Wylie, Berry, Walen, Fosse, Morgan, Macri, Pollet, Doglio, Reed, Caldier and Orwall.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Eliminates the statute of limitations for civil actions based on childhood sexual abuse.
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Hearing Date: 1/31/23

Staff: Yelena Baker (786-7301).

Background:

Statutes of limitations in civil cases set the amount of time a plaintiff may wait to commence an action following an injurious act or harm. Historically, courts and legislatures identify two basic reasons for these time limits: to encourage plaintiffs to bring actions while reliable evidence is still available for use in a trial; and to protect potential defendants from uncertainty regarding potential litigation.

The statutes of limitations provided for civil actions varies depending on the type of action. In Washington, statutes of limitations for various civil actions include: one year for certain claims against police officers; two years for libel and slander claims; three years for personal injury claims; six years for actions on written contracts; and 10 years for recovery of real property or past due child support.

Certain actions allow for a rule of "discovery" when determining when the statute of limitations

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begins to run. This rule recognizes that in some cases, such as medical malpractice and childhood sexual abuse, the victim may not know of the harm caused by the defendant until after the statute of limitations has technically expired. Originally a court-made rule, some statutes now codify this exception.

For childhood sexual abuse, the statute of limitations for civil actions for damages is the later of three dates:

- three years from the commission of the act alleged to have caused the injury or condition;
- three years from the time the victim discovered or reasonably should have discovered that the injury or the condition was caused by the act; or
- three years from the time that the victim discovered that the act caused the injury for which the claim is brought.

None of these periods begins until a child turns 18, and the knowledge of a custodial parent or guardian may not be imputed to a person under the age of 18 years. Additionally, the victim does not need to establish which act in a series of continuing sexual abuse or exploitation caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act of a common scheme or plan of sexual abuse or exploitation by the same perpetrator.

Courts interpret the childhood sexual abuse statute of limitations as beginning to run when the abuse victim discovers the nexus, or connection, between sexual abuse and later problems or injuries. Courts have recognized that this discovery may be delayed by a number of factors uniquely related to childhood sexual abuse, including repressed memories or post-traumatic stress disorder.

In interpreting this statute broadly in favor of plaintiffs, courts cite the extensive findings of the Legislature in enacting a 1991 amendment to the statute. These findings include: that childhood sexual abuse is traumatic, causing long-lasting damage; that victims may repress abuse for many years and be unable to connect this abuse with later injuries; and that despite awareness of abuse, serious reactions to the abuse may develop years later.

Courts have ruled that the childhood sexual abuse statute of limitations applies not just to claims against the perpetrator of sexual abuse, but also to claims of negligence against parties who failed to protect the child, such as schools, state agencies, churches, parents, and others having a special relationship with the child.

Summary of Bill:

The childhood sexual abuse statute of limitations is eliminated. There is no time limit to commence an action based on intentional conduct brought by a person for recovery of damages for injury suffered as a result of childhood sexual abuse.

The elimination of the childhood sexual abuse statute of limitations applies to all claims, causes of actions, and proceedings, regardless of when the claim or cause of action arose.

Appropriation: None.

Fiscal Note: Requested on January 29, 2023.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.