

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 2**Special Session No. 1 of
2023-2024

INTRODUCED BY ROZZI AND N. NELSON, FEBRUARY 21, 2023

REFERRED TO THE COMMITTEE TO PROVIDE JUSTICE TO OTHERWISE BARRED
VICTIMS OF CHILDHOOD SEXUAL ABUSE, FEBRUARY 21, 2023

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in limitation of time,
3 further providing for infancy, insanity or imprisonment; in
4 matters affecting government units, further providing for
5 exceptions to sovereign immunity and for exceptions to
6 governmental immunity; and making a repeal.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 5533(b) of Title 42 of the Pennsylvania
10 Consolidated Statutes is amended and the section is amended by
11 adding subsections to read:

12 § 5533. Infancy, insanity or imprisonment.

13 * * *

14 (b) Infancy.--

15 (1) [(i)] If an individual entitled to bring a civil
16 action is an unemancipated minor at the time the cause of
17 action accrues, the period of minority shall not be
18 deemed a portion of the time period within which the
19 action must be commenced. Such person shall have the same

1 time for commencing an action after attaining majority as
2 is allowed to others by the provisions of this
3 subchapter.

4 [(ii) As used in this paragraph, the term "minor"
5 shall mean any individual who has not yet attained 18
6 years of age.]

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

14 (i.1) If an individual entitled to bring a civil
15 action arising from sexual abuse is at least 18 and less
16 than 24 years of age at the time the cause of action
17 occurs, the individual shall have until attaining 30
18 years of age to commence an action for damages regardless
19 of whether the individual files a criminal complaint
20 regarding the sexual abuse.

21 [(ii) For the purposes of this paragraph, the term
22 "sexual abuse" shall include, but not be limited to, the
23 following sexual activities between an individual who is
24 23 years of age or younger and an adult, provided that
25 the individual bringing the civil action engaged in such
26 activities as a result of forcible compulsion or by
27 threat of forcible compulsion which would prevent
28 resistance by a person of reasonable resolution:

29 (A) sexual intercourse, which includes
30 penetration, however slight, of any body part or

1 object into the sex organ of another;

2 (B) deviate sexual intercourse, which includes
3 sexual intercourse per os or per anus; and

4 (C) indecent contact, which includes any
5 touching of the sexual or other intimate parts of the
6 person for the purpose of arousing or gratifying
7 sexual desire in either person.

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

11 (c) Temporary window to file claims.--Notwithstanding
12 subsection (b) or any other provision of law to the contrary,
13 for an individual entitled to bring a civil action arising from
14 sexual abuse if the individual was under 18 years of age at the
15 time the cause of action accrued, and if the limitation period
16 for that cause of action has expired, the civil action is
17 revived and the individual shall have an additional period of
18 two years from the effective date of this subsection to commence
19 an action.

20 (d) Definitions.--As used in this section, the following
21 words and phrases shall have the meanings given to them in this
22 subsection unless the context clearly indicates otherwise:

23 "Forcible compulsion." As defined in 18 Pa.C.S. § 3101
24 (relating to definitions).

25 "Minor." An individual who has not yet attained 18 years of
26 age.

27 "Sexual abuse." The term shall include, but not be limited
28 to, the following sexual activities between an individual who is
29 23 years of age or younger and an adult, provided that the
30 individual bringing the civil action engaged in such activities

1 as a result of forcible compulsion or by threat of forcible
2 compulsion which would prevent resistance by a person of
3 reasonable resolution:

4 (1) sexual intercourse, which includes penetration,
5 however slight, of any body part or object into the sex organ
6 of another;

7 (2) deviate sexual intercourse, which includes sexual
8 intercourse per os or per anus; and

9 (3) indecent contact, which includes any touching of the
10 sexual or other intimate parts of the person for the purpose
11 of arousing or gratifying sexual desire in either person.

12 Section 2. Sections 8522(b)(10) and 8542(b)(9) of Title 42
13 are amended to read:

14 § 8522. Exceptions to sovereign immunity.

15 * * *

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

20 * * *

21 (10) Sexual abuse.--The following shall apply:

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

27 (ii) This paragraph shall apply retroactively to a
28 cause of action that arose prior to the effective date of
29 this subparagraph and prospectively to a cause of action
30 that arises after the effective date of this

1 subparagraph.

2 § 8542. Exceptions to governmental immunity.

3 * * *

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

7 * * *

8 (9) Sexual abuse.--The following shall apply:

9 (i) Conduct which constitutes an offense enumerated
10 under section 5551(7) (relating to no limitation
11 applicable) if the injuries to the plaintiff were caused
12 by actions or omissions of the local agency which
13 constitute negligence.

14 (ii) This paragraph shall apply retroactively to a
15 cause of action that arose prior to the effective date of
16 this subparagraph and prospectively to a cause of action
17 that arises after the effective date of this
18 subparagraph.

19 * * *

20 Section 3. This act shall apply as follows:

21 (1) The addition of 42 Pa.C.S. § 5533(c) shall apply to
22 revive an action that was barred by an existing statute of
23 limitations on the effective date of this section.

24 (2) The amendment of 42 Pa.C.S. §§ 8522 (b)(10) and 8542
25 (b)(9) shall apply retroactively to an action where the
26 limitations period has not expired prior to the effective
27 date of this section.

28 (3) The amendment of 42 Pa.C.S. §§ 8522(b)(10) and 8542
29 (b)(9) shall apply to an action subject to 42 Pa.C.S. §
30 5533(c) that was barred by an existing statute of limitations

1 on the effective date of this section.

2 Section 4. Nothing in this act shall permit the application
3 of the addition of 42 Pa.C.S. § 5533(c) to an action:

4 (1) that is subject to a final judgment which, on the
5 effective date of this section, is not subject to appeal; or

6 (2) that, on the effective date of this section, has
7 been nonjudicially resolved in its entirety by the parties,
8 in a form which is enforceable.

9 Section 4.1. The Supreme Court of Pennsylvania shall have
10 extraordinary jurisdiction to hear a challenge to or to render a
11 declaratory judgment concerning the constitutionality of this
12 act. The Supreme Court of Pennsylvania may take action as it
13 deems appropriate, consistent with the Supreme Court retaining
14 jurisdiction over the matter, to find facts or to expedite a
15 final judgment in connection with the challenge or request for
16 declaratory relief.

17 Section 4.2. The provisions of this act are nonseverable. If
18 any provision of this act or its application to any person or
19 circumstance is held invalid, the remaining provisions or
20 applications of this act are void.

21 Section 5. Repeals are as follows:

22 (1) The General Assembly declares that the repeal under
23 paragraph (2) is necessary to effectuate the amendment of 42
24 Pa.C.S. §§ 8522(b)(10) and 8542(b)(9).

25 (2) Section 10(3)(ii) of the act of November 26, 2019
26 (P.L.641, No.87), is repealed insofar as the section applies
27 to 42 Pa.C.S. §§ 8522(b)(10) and 8542(b)(9).

28 Section 6. This act shall take effect immediately.