

JAN 24 2018

A BILL FOR AN ACT

RELATING TO SEXUAL VIOLENCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that child sexual abuse
2 is extremely prevalent and that most children do not immediately
3 disclose the fact that they were abused. In the United States,
4 one in five girls and one in twenty boys is a victim of child
5 sexual abuse, and studies show that between sixty and eighty per
6 cent of survivors withhold disclosure. Of those who delay
7 disclosure until adulthood, the average delay has been found to
8 be approximately twenty years, with some survivors delaying up
9 to fifty years. As children are most vulnerable to sexual abuse
10 between the ages of seven and thirteen, the average age at which
11 delayed disclosure in adulthood occurs would be approximately
12 between twenty-seven to thirty-three years of age.

13 The legislature further finds that there are many reasons
14 children delay disclosing sexual abuse. These reasons range
15 from their particular stage of cognitive development, limited
16 capacity to understand what happened, confusion about their
17 feelings, and limited ability to adequately express complaints,



1 to the fact that a majority of survivors know the perpetrator
2 and may fear retaliation or harmful impacts on their family or
3 community. Moreover, when survivors disclose the abuse, they
4 may also be subjected to negative, silencing, and re-
5 traumatizing reactions by the recipients of the disclosure.
6 Therefore, the fact that a survivor may have disclosed the
7 survivor's abuse does not mean that the survivor had a
8 meaningful opportunity to seek justice at the time of
9 disclosure.

10 Accordingly, the purpose of this Act is to extend the
11 period of time in which survivors may bring otherwise time-
12 barred civil cases against perpetrators, thus aligning the civil
13 statute of limitations with the reality that survivors of child
14 sexual abuse tend to delay disclosing the abuse until they are
15 well into adulthood.

16 SECTION 2. Section 657-1.8, Hawaii Revised Statutes, is
17 amended by amending subsections (a) and (b) to read as follows:

18 "(a) Notwithstanding any law to the contrary, except as
19 provided under subsection (b), no action for recovery of damages
20 based on physical, psychological, or other injury or condition
21 suffered by a minor arising from the sexual abuse of the minor



1 by any person shall be commenced against the person who
2 committed the act of sexual abuse more than:

3 (1) [~~Eight~~] Twenty-two years after the eighteenth birthday
4 of the minor or the person who committed the act of
5 sexual abuse attains the age of majority, whichever
6 occurs later; or

7 (2) [~~Three~~] Ten years after the date the minor discovers
8 or reasonably should have discovered that
9 psychological injury or illness occurring after the
10 age of minor's eighteenth birthday was caused by the
11 sexual abuse,
12 whichever comes later.

13 A civil cause of action for the sexual abuse of a minor
14 shall be based upon sexual acts that constituted or would have
15 constituted a criminal offense under part V or VI of chapter
16 707.

17 (b) For a period of four years after [~~April 24, 2012,~~]
18 July 1, 2018, a victim of child sexual abuse that occurred in
19 this State may file a claim in a circuit court of this State
20 against the person who committed the act of sexual abuse if the
21 victim is barred from filing a claim against the victim's abuser



1 due to the expiration of the applicable civil statute of
2 limitations that was in effect prior to [~~April 24, 2012.~~] July
3 1, 2018.

4 A claim may also be brought under this subsection against a
5 legal entity if:

6 (1) The person who committed the act of sexual abuse
7 against the victim was employed by an institution,
8 agency, firm, business, corporation, or other public
9 or private legal entity that owed a duty of care to
10 the victim; or

11 (2) The person who committed the act of sexual abuse and
12 the victim were engaged in an activity over which the
13 legal entity had a degree of responsibility or
14 control.

15 Damages against the legal entity shall be awarded under
16 this subsection only if there is a finding of gross negligence
17 on the part of the legal entity."

18 SECTION 3. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.



S.B. NO. 2719

1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 2018.

4

INTRODUCED BY:



Michelle Sidani
M.S.



S.B. NO. 2119

Report Title:

Sexual Abuse; Civil Action; Statute of Limitations

Description:

Extends the amount of time from the date an act of child sexual abuse occurred for a victim to bring a civil cause of action.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

