

1 H.330

2 Introduced by Representatives LaLonde of South Burlington and Grad of

3 Moretown

4 Referred to Committee on

5 Date:

6 Subject: Court procedure; statutes of limitations; civil actions based on

7 childhood sexual abuse

8 Statement of purpose of bill as introduced: This bill proposes to repeal the
9 statute of limitations for civil actions based on childhood sexual abuse, and
10 permit such actions to be brought at any time.

11 An act relating to repealing the statute of limitations for civil actions based
12 on childhood sexual abuse

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 ~~Sec. 1. 12 V.S.A. § 522 is amended to read:~~

15 § 522. ACTIONS BASED ON CHILDHOOD SEXUAL ABUSE

16 (a) A civil action brought by any person for recovery of damages for injury
17 suffered as a result of childhood sexual abuse ~~shall~~ may be commenced ~~within~~
18 ~~six years of~~ at any time after the act alleged to have caused the injury or
19 condition, ~~or six years of the time the victim discovered that the injury or~~
20 ~~condition was caused by that act, whichever period expires later. The victim~~

1 ~~need not establish which act in a series of continuing sexual abuse or~~
2 ~~exploitation incidents caused the injury.~~

3 ~~(b) If a complaint is filed alleging an act of childhood sexual abuse which~~
4 ~~occurred more than six years prior to the date the action is commenced, the~~
5 ~~complaint shall immediately be sealed by the clerk of the court. The complaint~~
6 ~~shall remain sealed until the answer is served or, if the defendant files a motion~~
7 ~~to dismiss under Rule 12(b) of the Vermont Rules of Civil Procedure, until the~~
8 ~~court rules on that motion. If the complaint is dismissed, the complaint and~~
9 ~~any related papers or pleadings shall remain sealed. Any hearing held in~~
10 ~~connection with the motion to dismiss shall be in camera. [Repealed.]~~

11 ~~(c) As used in this section, "childhood sexual abuse" means any act~~
12 ~~committed by the defendant against a complainant who was less than 18 years~~
13 ~~of age at the time of the act and which act would have constituted a violation~~
14 ~~of a statute prohibiting lewd and lascivious conduct, lewd or lascivious~~
15 ~~conduct with a child, sexual assault, or aggravated sexual assault in effect at~~
16 ~~the time the act was committed.~~

17 Sec. 2. APPLICABILITY TO TIME-BARRED ACTIONS

18 A civil action brought by any person for recovery of damages for injury
19 suffered as a result of childhood sexual abuse as defined in 12 V.S.A. § 522(c)
20 that would have been barred by any statute of limitations in effect on June 30,
21 2019, may, notwithstanding any applicable limitations period, be brought in

1 ~~the Civil Division of the Superior Court on or before July 1, 2021, and not~~
2 after. In an action brought pursuant to this section, damages may be awarded
3 against an entity that employed, supervised, or had responsibility for the
4 person allegedly committing the sexual abuse only if there is a finding of gross
5 negligence on the part of the entity.

6 Sec. 3. EFFECTIVE DATE

7 ~~This act shall take effect on July 1, 2019.~~

Sec. 1. 12 V.S.A. § 522 is amended to read:

§ 522. ACTIONS BASED ON CHILDHOOD SEXUAL ABUSE

(a) A civil action brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse shall may be commenced ~~within six years of at any time after the act alleged to have caused the injury or condition, or six years of the time the victim discovered that the injury or condition was caused by that act, whichever period expires later.~~ The victim need not establish which act in a series of continuing sexual abuse or exploitation incidents caused the injury.

(b) If a complaint is filed alleging an act of childhood sexual abuse ~~which occurred more than six years prior to the date the action is commenced,~~ the complaint shall immediately be sealed by the clerk of the court. The complaint shall remain sealed until the answer is served or, if the defendant files a motion to dismiss under Rule 12(b) of the Vermont Rules of Civil Procedure, until the court rules on that motion. If the complaint is dismissed, the complaint and

any related papers or pleadings shall remain sealed. Any hearing held in connection with the motion to dismiss shall be in camera.

(c) As used in this section, “childhood sexual abuse” means any act committed by the defendant against a complainant who was less than 18 years of age at the time of the act and which act would have constituted a violation of a statute prohibiting lewd and lascivious conduct, lewd or lascivious conduct with a child, sexual assault, or aggravated sexual assault in effect at the time the act was committed.

(d) Notwithstanding 1 V.S.A. § 214, this section shall apply retroactively to childhood sexual abuse that occurred prior to the effective date of this act, irrespective of any statute of limitations in effect at the time the abuse occurred. In an action based on childhood sexual abuse that occurred prior to the effective date of this act, damages may be awarded against an entity that employed, supervised, or had responsibility for the person allegedly committing the sexual abuse only if there is a finding of negligence on the part of the entity.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2019.