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H.330

Representative Donahue of Northfield moves that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

§ 522. ACTIONS BASED ON CHILDHOOD SEXUAL ABUSE, SERIOUS BODILY INJURY, OR EMOTIONAL MALTREATMENT

(a) A civil action brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse, serious bodily injury, or emotional maltreatment allegedly committed by the defendant against a complainant who was less than 18 years of age at the time of the alleged act shall may be commenced ~~within six years of 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 at~~ any time. The victim need not establish which act in a series of continuing sexual abuse, ~~or exploitation~~ serious bodily injury, or emotional maltreatment incidents caused the injury.

(b) If a complaint is filed alleging an act of childhood sexual abuse, serious bodily injury, or emotional maltreatment ~~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

1 answer is served or, if the defendant files a motion to dismiss under Rule 12(b)
2 of the Vermont Rules of Civil Procedure, until the court rules on that motion.
3 If the complaint is dismissed, the complaint and any related papers or
4 pleadings shall remain sealed. Any hearing held in connection with the motion
5 to dismiss shall be in camera.

6 (c) As used in this section:

7 (1) “Emotional maltreatment” means a pattern of malicious behavior
8 that results in impaired psychological growth and development.

9 (2) “Serious bodily injury” has the same meaning as in 13 V.S.A.
10 § 1021.

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

17 (d) Notwithstanding 1 V.S.A. § 214, this section shall apply retroactively to
18 childhood sexual abuse, serious bodily injury, or emotional maltreatment that
19 occurred prior to the effective date of this act, irrespective of any statute of
20 limitations in effect at the time the abuse occurred. In an action based on
21 childhood sexual abuse, serious bodily injury, or emotional maltreatment that

1 occurred prior to the effective date of this act, damages may be awarded
2 against an entity that employed, supervised, or had responsibility for the person
3 allegedly committing the sexual abuse, serious bodily injury, or emotional
4 maltreatment only if there is a finding of negligence on the part of the entity.

5 Sec. 2. EFFECTIVE DATE

6 This act shall take effect on July 1, 2019.