

1 S.99

2 Introduced by Senators Pearson, Ram, Baruth, Brock, Chittenden, Lyons and

3 Sirotkin

4 Referred to Committee on Judiciary

5 Date: February 26, 2021

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

7 childhood physical abuse

8 Statement of purpose of bill as introduced: This bill proposes to repeal the

9 statute of limitations for the civil actions based on childhood physical abuse

10 and 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 physical 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 OR PHYSICAL
16 ABUSE

17 (a) A civil action brought by any person for recovery of damages for injury
18 suffered as a result of childhood sexual or physical abuse may be commenced

19 ~~at any time after the act alleged to have caused the injury or condition. The~~

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

3 (b) If a complaint is filed alleging an act of childhood sexual or physical
4 abuse, the complaint shall immediately be sealed by the clerk of the court.

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

11 (c) As used in this section:

12 (1) ~~“childhood~~ Childhood sexual abuse” means any act committed by
13 the defendant against a complainant who was ~~less than~~ under 18 years of age at
14 the time of the act and which act would have constituted a violation of a statute
15 prohibiting lewd and lascivious conduct, lewd or lascivious conduct with a
16 child, felony sexual exploitation of a minor in violation of 13 V.S.A.
17 § 3258(c), sexual assault, or aggravated sexual assault in effect at the time the
18 act was committed.

19 (2) “Childhood physical abuse” means any act committed by the

20 ~~defendant against a complainant who was under 18 years of age at the time of~~

1 ~~the act and which act would have constituted a violation of a statute~~
2 ~~prohibiting aggravated assault in effect at the time the act was committed.~~

3 (d) Notwithstanding 1 V.S.A. § 214, this section shall apply retroactively to
4 childhood sexual abuse that occurred prior to July 1, 2019, irrespective of any
5 statute of limitations in effect at the time the abuse occurred. In an action
6 based on childhood sexual abuse that would have been barred by any statute of
7 limitations in effect on June 30, 2019, damages may be awarded against an
8 entity that employed, supervised, or had responsibility for the person allegedly
9 committing the sexual abuse only if there is a finding of gross negligence on
10 the part of the entity.

11 (e) Notwithstanding 1 V.S.A. § 214, this section shall apply retroactively to
12 childhood physical abuse that occurred prior to July 1, 2021, irrespective of
13 any statute of limitations in effect at the time the abuse occurred. In an action
14 based on childhood physical abuse that would have been barred by any statute
15 of limitations in effect on June 30, 2021, damages may be awarded against an
16 entity that employed, supervised, or had responsibility for the person allegedly
17 committing the sexual abuse only if there is a finding of gross negligence on
18 the part of the entity.

19 Sec. 2. EFFECTIVE DATE

20 ~~This act shall take effect on July 1, 2021.~~

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

§ 522. ACTIONS BASED ON CHILDHOOD SEXUAL OR PHYSICAL ABUSE

(a) A civil action brought by any person for recovery of damages for injury suffered as a result of childhood sexual or physical abuse may be commenced at any time after the act alleged to have caused the injury or condition. The victim need not establish which act in a series of continuing physical abuse or sexual abuse or exploitation incidents caused the injury.

(b) If a complaint is filed alleging an act of childhood sexual or physical abuse, 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,:

(1) “childhood Childhood sexual abuse” means any act committed by the defendant against a complainant who was ~~less than~~ under 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, felony sexual exploitation of a minor in violation of 13 V.S.A. § 3258(c), sexual assault, or aggravated sexual assault in effect at the time the act was committed.

(2) “Childhood physical abuse” means any act other than an attempt committed by the defendant against a complainant who was under 18 years of age at the time of the act and which act would have constituted a violation of a statute prohibiting aggravated 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 July 1, 2019, irrespective of any statute of limitations in effect at the time the abuse occurred. In an action based on childhood sexual abuse that would have been barred by any statute of limitations in effect on June 30, 2019, 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 gross negligence on the part of the entity.

(e) Notwithstanding 1 V.S.A. § 214, this section shall apply retroactively to childhood physical abuse that occurred prior to July 1, 2021, irrespective of any statute of limitations in effect at the time the abuse occurred. In an action based on childhood physical abuse that would have been barred by any statute of limitations in effect on June 30, 2021, damages may be awarded against an entity that employed, supervised, or had responsibility for the person allegedly committing the physical abuse only if there is a finding of gross negligence on the part of the entity.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2021.