

ATRA's constitutional arguments have no basis in Vermont law nor in Vermont or federal constitutional law.

To date, 19 states have, in varying degrees, revived expired statute of limitations in child sexual abuse cases, the parallel to S.99. <https://childusa.org/sol/> It is my understanding these statutes have not been found to be unconstitutional, with the exception of Utah where the decision was based on unique state based factors that are not present in the Vermont Constitution.

There is a decision specifically applicable to a retroactive change to an earlier iteration of 12 V.S.A. § 522, the child sex abuse statute of limitations upon which S. 99 is based. *Barquin v. Roman Catholic Diocese of Burlington, Vermont, Inc.*, 839 F. Supp. 275 (D. Vt. 1993) is a decision by the late Second Circuit Judge Fred I. Parker when he was a judge of the U.S. District Court for the District of Vermont. In *Barquin*, Judge Parker found the 1990 amendment to 12 V.S.A. § 522 retroactively extending the statute of limitations for child sexual abuse based upon discovery to be constitutional.

The cases cited by ATRA both are Entry Orders decided on the basis of statutory interpretations, and specifically 1 V.S.A. § 214, which deals with the retroactivity of newly enacted state statutes. Neither was decided on constitutional grounds.

Murray v. Luzenac Corp. (2002-140); 175 Vt. 529; 830 A.2d 1, 2003 VT 37 and *Sanz v. Douglas Collins Construction* (2005-117); 180 Vt. 619; 910 A.2d 914 both only are entry orders by the Vermont Supreme Court in the context of administrative decision by the Vermont Department of Labor and Industry. Both deal with statutes that did not reference the inapplicability of 1 V.S.A. § 214, as does S.99. Consequently, the issue in both cases was whether the legislative enactments ran afoul of 1 V.S.A. § 214. this will not be an issue with S.99 if enacted given the specific reference in S.99 to the inapplicability of 1 V.S.A. § 214.

The Vermont Supreme Court decided *Murray* and *Sanz* based on an interpretation of 1 V.S.A. § 214, not on constitutional grounds.

In addition, the Vermont Supreme Court has had the statute from which S.99 is derived, 12 V.S.A. § 522, before it at least four times since the statute was retroactively amended in 1990. There is nothing in any of the four decisions that suggests that S.99 is unconstitutional. There is case law in the context of a *criminal* case holding that a statute of limitations may not be extended after the statute has expired, however, that is only due to the *ex post facto* clause of the Sixth Amendment to the U.S. Constitution, which is intended to prevent the retroactive application of criminal laws. The Sixth Amendment has no application to civil claims such as those that would be brought if S.99 is enacted as written.

Thank you

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