

JAN 17 2020

A BILL FOR AN ACT

RELATING TO CHILDHOOD SEXUAL ABUSE.

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

1 SECTION 1. The legislature finds that survivors of
2 childhood sexual abuse often do not divulge the truth about
3 their experiences until they reach adulthood. The delay may
4 stem from fear, disbelief, anger, helplessness, anxiety,
5 embarrassment, or other feelings that are not the survivors'
6 fault.

7 For example, USA Gymnastics team doctor Lawrence Gerard
8 Nassar's first public accuser, who was fifteen years old when
9 she was assaulted, did not come forward until sixteen years
10 later, when she was thirty-one. Although many other survivors
11 remained silent even longer, Nassar was accused of sexually
12 assaulting at least two hundred fifty girls and young women over
13 a period of thirty years. He was ultimately convicted of
14 multiple counts of sexual assault and possession of child
15 pornography.

16 The legislature further finds that some studies have
17 estimated that between sixty and eighty per cent of childhood



1 sexual abuse survivors withhold disclosure of their abuse until
2 adulthood. The average delay is approximately twenty years,
3 while some survivors delay disclosure for up to fifty years.

4 Hawaii law currently requires that a lawsuit alleging
5 childhood sexual abuse be filed within eight years of a survivor
6 of childhood sexual abuse turning eighteen, or three years after
7 discovering that an injury or illness during adulthood was
8 caused by childhood sexual abuse. Under these limitations, many
9 survivors of childhood sexual abuse may be barred from seeking
10 civil redress in the courts.

11 Accordingly, the purpose of this Act is to amend statutory
12 limitations on the time periods in which a survivor of childhood
13 sexual abuse may file a civil action and to specify the remedies
14 available in civil cases arising from the sexual abuse of a
15 minor.

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 section 657-7 or any other law to the
19 contrary, [~~except as provided under subsection (b), no~~] an
20 action for recovery of damages based on physical, psychological,
21 or other injury or condition suffered by a minor arising from



1 the sexual abuse of the minor by any person [shall] may be
2 commenced [~~against the person who committed the act of sexual~~
3 ~~abuse more than:~~

4 ~~(1) Eight years after the eighteenth birthday of the minor~~
5 ~~or the person who committed the act of sexual abuse~~
6 ~~attains the age of majority, whichever occurs later,~~
7 ~~or~~

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

14 A civil cause of action for the sexual abuse of a minor
15 shall be based upon sexual acts that constituted or would have
16 constituted a criminal offense under part V or VI of chapter
17 707.

18 (b) [~~For a period of eight years after April 24, 2012, a~~
19 ~~victim of child sexual abuse that occurred in this State may~~
20 ~~file a claim in a circuit court of this State against the person~~
21 ~~who committed the act of sexual abuse if the victim is barred~~



1 ~~from filing a claim against the victim's abuser due to the~~
2 ~~expiration of the applicable civil statute of limitations that~~
3 ~~was in effect prior to April 24, 2012.]~~

4 Monetary relief for claims brought under this section shall
5 not include punitive damages. At its discretion, the court may
6 order restorative justice measures, including victim impact
7 panels, victim impact classes, or community service.

8 (c) A claim may [~~also~~] be brought under this [~~subsection~~]
9 section against a legal entity if:

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

15 (2) The person who committed the act of sexual abuse and
16 the victim were engaged in an activity over which the
17 legal entity had a degree of responsibility or
18 control.

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



S.B. NO. 2316

1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

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S.B. NO. 2316

Report Title:

Childhood Sexual Abuse; Civil Actions; Statute of Limitations;
Remedies

Description:

Amends statutory limitations on the time period in which a survivor of childhood sexual abuse may file a civil suit. Provides that the monetary relief under this section shall not include punitive damages. Permits the court to order restorative justice measures, if deemed appropriate.

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