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ENGROSSED SUBSTITUTE HOUSE BILL 2058

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State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Scott, Riley, Paris, H. Myers, Miller, Forner, Belcher, Ludwig, Inslee, Wineberry, Locke, Appelwick, Holland, Roland, Winsley, D. Sommers, Morris, Spanel, R. Johnson and Rasmussen).

Read first time March 6, 1991.

1 AN ACT Relating to application of the statute of limitations to  
2 actions based on childhood sexual abuse; amending RCW 4.16.340; and  
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Childhood sexual abuse is a pervasive problem that affects the  
7 safety and well-being of many of our citizens.

8 (2) Childhood sexual abuse is a traumatic experience for the victim  
9 causing long-lasting damage.

10 (3) The victim of childhood sexual abuse may repress the memory of  
11 the abuse or be unable to connect the abuse to any injury until after  
12 the statute of limitations has run.

13 (4) The victim of childhood sexual abuse may be unable to  
14 understand or make the connection between childhood sexual abuse and  
15 emotional harm or damage until many years after the abuse occurs.

1 (5) Even though victims may be aware of injuries related to the  
2 childhood sexual abuse, more serious injuries may be discovered many  
3 years later.

4 (6) The legislature enacted RCW 4.16.340 to clarify the application  
5 of the discovery rule to childhood sexual abuse cases. At that time  
6 the legislature intended to reverse the Washington supreme court  
7 decision in *Tyson v. Tyson*, 107 Wn.2d 72, 727 P.2d 226 (1986).

8 It is still the legislature's intention that *Tyson v. Tyson*, 107  
9 Wn.2d 72, 727 P.2d 226 (1986) be reversed, as well as the line of cases  
10 that state that discovery of any injury whatsoever caused by an act of  
11 childhood sexual abuse commences the statute of limitations. The  
12 legislature intends that the earlier discovery of less serious injuries  
13 should not affect the statute of limitations for injuries that are  
14 discovered later.

15 **Sec. 2.** RCW 4.16.340 and 1989 c 317 s 2 are each amended to read  
16 as follows:

17 (1) All claims or causes of action based on intentional conduct  
18 brought by any person for recovery of damages for injury suffered as a  
19 result of childhood sexual abuse shall be commenced within: (a) Three  
20 years of the act alleged to have caused the injury or condition((~~7~~));  
21 or (b) three years of the time the victim discovered or reasonably  
22 should have discovered that the injury or condition was caused by said  
23 act; or (c) three years of the time the victim discovered or reasonably  
24 should have discovered the injury caused by the act, in those cases  
25 when the victim is aware of the act but has not discovered or  
26 manifested the injury for which the claim is brought until more than  
27 three years after the act, whichever period expires later: PROVIDED,  
28 That the time limit for commencement of an action under this section is  
29 tolled for a child until the child reaches the age of eighteen years.

1       (2) The victim need not establish which act in a series of  
2 continuing sexual abuse or exploitation incidents caused the injury  
3 complained of, but may compute the date of discovery from the date of  
4 discovery of the last act by the same perpetrator which is part of a  
5 common scheme or plan of sexual abuse or exploitation.

6       (3) The knowledge of a custodial parent or guardian shall not be  
7 imputed to a person under the age of eighteen years.

8       (4) For purposes of this section, "child" means a person under the  
9 age of eighteen years.

10       (5) As used in this section, "childhood sexual abuse" means any act  
11 committed by the defendant against a complainant who was less than  
12 eighteen years of age at the time of the act and which act would have  
13 been a violation of chapter 9A.44 RCW or RCW 9.68A.040 or prior laws of  
14 similar effect at the time the act was committed.