

SENATE BILL REPORT

ESHB 2058

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, APRIL 5, 1991

**Brief Description:** Clarifying the application of the statute of limitations to actions based on childhood sexual abuse.

**SPONSORS:** 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).

**HOUSE JUDICIARY COMMITTEE**

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** Do pass as amended.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, L. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

**Staff:** Susan Carlson (786-7418)

**Hearing Dates:** April 5, 1991

**BACKGROUND:**

In 1988, the Legislature created a civil statute of limitations for childhood sexual abuse cases. It provides that child sexual abuse actions must be commenced within three years of the alleged act or three years of the time the victim discovered or reasonably should have discovered the injury or condition caused by the act. The three years only begins to run when the victim turns eighteen years of age. This legislation was passed following the Washington Supreme Court case of Tyson v. Tyson which held that the discovery rule, which tolls the statute of limitations until the plaintiff discovers or reasonably should have discovered a cause of action, did not apply when the victim had blocked the incident from conscious memory during the period of the statute of limitations. The plaintiff in the Tyson case sought damages from her father for sexual abuse which occurred when she was a child. Therapy at the age of 26 triggered recollection of the abuse and the lawsuit was commenced a year later.

It is suggested that the discovery rule should be applicable to victims of childhood sexual abuse who repress the memory of the abuse or are unable to connect the abuse to any injury until after the statute of limitations has run.

**SUMMARY:**

The Legislature finds that childhood sexual abuse is pervasive, traumatic to the victim, and victims may repress memories of the incident or be unable to connect it to any injury until after the statute of limitations has run. It is the intent of the Legislature to explicitly reverse the Washington Supreme Court decision in the Tyson case.

The statute of limitations in a childhood sexual abuse civil case is extended to three years from the time that the victim discovered or reasonably should have discovered the injury caused by the sexual abuse, in those cases when a victim is aware of the act but has not discovered or manifested the injury for which the claim is brought until more than three years after the act.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**SUMMARY OF PROPOSED SENATE AMENDMENT:**

A cause of action for injury from childhood sexual abuse may be commenced within three years of the time the victim discovered that the act caused the injury for which the claim is brought.

**TESTIMONY FOR:**

Victims should have three years from the time they realize the full impact of their injuries from childhood sexual abuse in which to commence a cause of action.

**TESTIMONY AGAINST:** None

**TESTIFIED:** PRO: Bob Dawson, NW Women's Law Center; Jeanne, Sue, Lee, victims of childhood sexual abuse