
Judiciary Committee

HB 1040

Title: An act relating to removing the statute of limitations on childhood sexual abuse civil cases.

Brief Description: Removing the statute of limitations on childhood sexual abuse civil cases.

Sponsors: Representatives O'Brien, Schoesler, Dickerson, Chandler, Kagi, Talcott, Kenney, Morris, Veloria, Chase, Rockefeller, Benson, Campbell, Sullivan and Darneille.

Brief Summary of Bill

- Removes the statute of limitations for civil cases based on childhood sexual abuse.

Hearing Date: 1/21/03

Staff: Aaron Anderson (786-7119), Edie Adams (786-7180).

Background:

Statutes of limitations in civil cases set the amount of time a plaintiff may wait to commence an action following an injurious act or harm. Historically, courts and legislatures identify two basic reasons for these time limits:

1. To encourage plaintiffs to bring actions while reliable evidence is still available for use in a trial, and
2. To protect potential defendants from uncertainty regarding potential litigation.

The balance between the availability of redress for victims and the blocking of stale claims varies, depending on the type of action. In Washington, statutes of limitations for various civil actions include: one year for certain claims against police officers; 10 years for past due child support; three years for wrongful death; and no limit for actions brought for the benefit of the state.

Certain actions allow for a rule of "discovery" when determining when the statute of limitations begins running. This rule recognizes that in some cases, such as medical malpractice and childhood sexual abuse, the victim may not know of the harm caused by the defendant until after the statute of limitations has technically expired. Originally a

court-made rule, some statutes now codify this exception.

For childhood sexual abuse, current law sets the statute of limitations for civil actions for damages at the later of three dates:

1. Three years from the commission of the act,
2. Three years from the time the victim discovered or reasonably should have discovered the injury or the condition was caused by the sexual abuse,
3. Three years from the time that the victim discovered or reasonably should have discovered that the act caused the injury for which the claim is brought.

None of these periods begins until a child turns eighteen, and claims may be brought by either the child or the child's parents.

When interpreting the limitations on actions, courts read the provision as causing the statute of limitations to begin to run when the abuse victim discovers the nexus, or connection, between sexual abuse and later problems or injuries. Courts have recognized that this discovery may be delayed by a number of factors uniquely related to childhood sexual abuse, including repressed memories, multiple personalities, or post-traumatic stress disorder.

In interpreting this statute broadly in favor of plaintiffs, courts cite the extensive findings of the legislature in enacting a 1991 amendment to the statute. These findings include: that sexual abuse is a pervasive problem in our society; that childhood sexual abuse is traumatic, causing long-lasting damage; that victims may repress abuse for many years and be unable to connect this abuse with later injuries; and that despite awareness of abuse, serious reactions to the abuse may develop years later.

Courts have determined that this section applies to claims against the perpetrator of sexual abuse, as well as claims of negligence against parties who failed to protect the child, such as schools, churches, parents, and others having a special relationship with the child.

Summary of Bill:

Civil actions based on childhood sexual abuse may be brought at any time, as there is no statute of limitations applied to such actions. These actions include claims by victims or their parents against both perpetrators of abuse and those persons having a special relationship with the child whose negligence allows the abuse to occur.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.