

SENATE BILL REPORT

2SHB 1618

As Reported by Senate Committee On:
Law & Justice, March 22, 2023

Title: An act relating to providing access to justice for survivors of childhood sexual abuse.

Brief Description: Concerning the statute of limitations for childhood sexual abuse.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Farivar, Simmons, Wylie, Berry, Walen, Fosse, Morgan, Macri, Pollet, Doglio, Reed, Caldier and Orwall).

Brief History: Passed House: 3/2/23, 82-14.

Committee Activity: Law & Justice: 3/21/23, 3/22/23 [DP-WM, DNP, w/oRec].

Brief Summary of Bill

- Removes statute of limitations for recovery of damages as a result of childhood sexual abuse.
- Applies the act retroactively and prospectively.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon, Torres, Valdez, Wagoner and Wilson, L..

Minority Report: Do not pass.

Signed by Senator Padden, Ranking Member.

Minority Report: That it be referred without recommendation.

Signed by Senator McCune.

Staff: Kevin Black (786-7747)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: The statute of limitations for all claims for recovery of damages for injuries suffered based on intentional conduct as a result of childhood sexual abuse is the later of the following periods:

- three years from the act;
- three years from the time the victim discovered or reasonably should have discovered that their injury or condition was caused by the act; or
- three years from the time the victim discovered that the act caused the injury.

The statute of limitations is tolled until the victim reaches the age of 18. Childhood sexual abuse means an act committed against a minor that would have been a sex offense or sexual exploitation of a minor.

The statute of limitations for injuries caused by a sexual offense, assault, or other crimes against an adult is two years. In 2019, legislation removed the statute of limitations in Washington for criminal prosecution of most sexual offenses against children.

Summary of Bill: The statute of limitations for recovery of damages as a result of childhood sexual abuse is removed, eliminating the time limit to bring a claim for damages as a result of childhood sexual abuse, nonsexual physical abuse by the same perpetrator that occurs concurrently with childhood sexual abuse, or sexual abuse that continues beyond the age of majority which is part of a pattern or series of childhood sexual abuse by the same perpetrator.

This act does not eliminate the common law discovery rule for victims of childhood sexual abuse, physical abuse, and exploitation. The act applies retroactively and prospectively.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: Survivors regularly underreport. Fewer still seek justice through the legal system, and those that do face barriers and hurdles. We need more opportunities to support victims, to show that justice is possible, and make this a strategy for prevention. Vermont, Maine, and many other states have similar laws. Delays happen for many reasons, including fear of reprisal and fear of not being taken seriously. Victims were excluded when the removal of the statute of limitations for sexual abuse in criminal cases was not applied retroactively. It's never too late to heal, even if the abuse happened a long time ago. When I was victimized I blamed myself and chose self harm and drug use. It took a long time to be ready to come forward. Due to the statute of limitations,

motions to dismiss are filed for unjust reasons. Victims should be allowed to seek justice when they are ready. Reforming the statute of limitations has been bipartisan in the past. Statutes of limitations allow institutions which have long protected predators to escape legal consequences for their direct knowledge of abuse. Entities purposely hide and secure evidence to escape legal consequences, with the result of more children being abused. Holding institutions responsible will send a message to the institutions which are still concealing harm. We must believe survivors. It took me over a year to broach the topic of my abuse with a trusted therapist while I suffered anxiety and self blame. Learning of the statute of limitations added to my anxiety and distress. It is hard to tell a survivor that their timeline of healing does not fit within the law's timeline. The burden should shift from survivors to perpetrators and the institutions that protected them.

CON: We are concerned about complete abandonment of a statute of limitations. Judges and juries should be able to evaluate claims when the best evidence is available. Retroactivity creates due process issues because records have not been retained about past training practices and other relevant circumstances.

OTHER: We care about these children and victims. There is a better way to do this. In New York and California when claims were resurrected more than 10,000 claims were filed. A more efficient method is to set up a victim's compensation fund for claims made against public entities. Dumping claims into the court system causes diversion of funds to legal fees. Please extend the statute of limitations to age 26 and allow older victims to seek compensation through a compensation fund. Victims will come forward more readily if they don't have to undergo the trauma of telling their story through the court system.

Persons Testifying: PRO: Representative Darya Farivar, Prime Sponsor; Christene Hansen; Michelle Bart, National Women's Coalition Against Violence & Exploitation; Mary Ellen Stone, King County Sexual Assault Resource Center; Renee Williams, National Crime Victim Bar Association; Chris Love, Washington State Association for Justice; Bridget Grotz, Washington State Association for Justice; Skylar Schmitt; Courtney Butler; Riddhi Mukhopadhyay, Sexual Violence Law Center.

CON: Cary Silverman, American Tort Reform Association.

OTHER: Tyna Ek, Washington Schools Risk Management Pool.

Persons Signed In To Testify But Not Testifying: No one.