

SENATE BILL REPORT

E2SHB 1618

As Reported by Senate Committee On:
Law & Justice, February 15, 2024
Ways & Means, February 26, 2024

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: 1/25/24, 93-0.

Committee Activity: Law & Justice: 3/21/23, 3/22/23 [DP-WM, DNP, w/oRec]; 1/30/24, 2/15/24 [DP-WM].

Ways & Means: 3/30/23; 2/22/24, 2/26/24 [DP].

Brief Summary of Bill

- Eliminates the statute of limitations for recovery of damages as a result of childhood sexual abuse for all intentional actions occurring after June 6, 2024.

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; Padden, Ranking Member; Kuderer, McCune, Pedersen, Salomon, Torres, Valdez, Wagoner and Wilson, L..

Staff: Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

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.

Majority Report: Do pass.

Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Pedersen, Randall, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Staff: Samuel Brown (786-7470)

Background: The statute of limitations for all claims for injuries suffered based on intentional conduct brought by any person for recovery of damages 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 eliminated for all intentional conduct occurring after June 6, 2024.

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

Fiscal Note: Available. New fiscal note requested on February 15, 2024.

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 (Law & Justice) (Regular Session 2023): 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 (Law & Justice): 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 (Law & Justice): No one.

Staff Summary of Public Testimony (Law & Justice) (Regular Session 2024): PRO: Childhood sexual abuse is serious and egregious. We removed the retroactivity clause although it pains me. The bill will fundamentally change the way the state handles

childhood sexual abuse. I filed a civil suit against my rapist that was thrown out due to the statute of limitations. The trauma has a high cost. The current statute is arbitrary and does not line up with what trauma looks like for a child. It took decades to be able to come forward. The passing of time does not make the crime disappear. Shame and emotions are overlooked in legal conversations. Healing should not be on a timeline dictated by the law. The purpose of the statute of limitations was to provide a broad avenue of redress, but a small group of survivors are being penalized for seeking mental health treatment before bringing their lawsuit. This bill will lead to trainings and protect kids who would be sexually abused in the future.

Persons Testifying (Law & Justice): PRO: Representative Darya Farivar, Prime Sponsor; Pennie Saum, Christene Hansen, Skylar Schmitt, Courtney Butler, citizens; Darrell Cochran, Bridget Grotz, Washington State Association for Justice.

Persons Signed In To Testify But Not Testifying (Law & Justice): No one.

Staff Summary of Public Testimony (Ways & Means) (Regular Session 2024): PRO: When I was groomed and raped by my teacher, the district's defenses were all about negating my claim on the basis of the statute of limitations. As a survivor, it took me over a year to be able to discuss this topic with my therapist. When the focus is on the legal statute of limitations issue, it causes the shame the victim feels to be overlooked. It took me a lot and a long time to come forward about how I was abused. When I did, most of the signals I received were about the importance of bringing suit quickly because the statute of limitations was about to run out. Statistics about the number of claims don't account for those who don't speak up or who cannot. This will allow survivors to seek justice on their own terms. The hardest thing is for survivors to find out that their timeline doesn't fit in with the law's timeline. Abuse is emotionally and financially debilitating for survivors. The burden needs to shift to the individual or institution that caused the abuse.

This bill will change how these claims are looked at, making the focus about prevention and for victims and witnesses to speak up when something isn't right. It's time to hold those accountable who committed horrendous, life-altering crimes. We would like to see this made retrospective. No new claims will be brought for at least the next 3 years that couldn't already be brought if this bill is passed. This still gives time to get things right.

CON: We oppose this bill because it doesn't provide a retroactive cause of action. We should see how reported investigations into the Catholic Church unfold and wait until next year before passing this bill. The bill should have a lookback window. Trauma time doesn't operate like chronological time; on average, it takes until age 52 for a victim to come forward.

OTHER: New York opened up a one-year lookback window for victims, and that's a fair way forward. This bill will have marginal benefits for years, if not decades - this isn't good enough. There are no guarantees a court will liberally interpret the discovery rule.

Persons Testifying (Ways & Means): PRO: Sthavir Sumanam; Christene Hansen; Skylar Schmitt; Larry Shannon, Washington State Association for Justice; Elizabeth Hendren, Sexual Violence Law Center; Paula Sardinas, The Purpose Driven Girl.

CON: Timothy LAW, Catholic Accountability Project; Sarah Pearson, Catholic Accountability Project; Peter Isely, Catholic Accountability Project.

OTHER: Cecilie Wathne.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

Staff Summary of Public Testimony (Ways & Means) (Regular Session 2024): PRO: When I was groomed and raped by my teacher, the district's defenses were all about negating my claim on the basis of the statute of limitations. As a survivor, it took me over a year to be able to discuss this topic with my therapist. When the focus is on the legal statute of limitations issue, it causes the shame the victim feels to be overlooked. It took me a lot and a long time to come forward about how I was abused. When I did, most of the signals I received were about the importance of bringing suit quickly because the statute of limitations was about to run out. Statistics about the number of claims don't account for those who don't speak up or who cannot. This will allow survivors to seek justice on their own terms. The hardest thing is for survivors to find out that their timeline doesn't fit in with the law's timeline. Abuse is emotionally and financially debilitating for survivors. The burden needs to shift to the individual or institution that caused the abuse.

This bill will change how these claims are looked at, making the focus about prevention and for victims and witnesses to speak up when something isn't right. It's time to hold those accountable who committed horrendous, life-altering crimes. We would like to see this made retrospective. No new claims will be brought for at least the next 3 years that couldn't already be brought if this bill is passed. This still gives time to get things right.

CON: We oppose this bill because it doesn't provide a retroactive cause of action. We should see how reported investigations into the Catholic Church unfold and wait until next year before passing this bill. The bill should have a lookback window. Trauma time doesn't operate like chronological time; on average, it takes until age 52 for a victim to come forward.

OTHER: New York opened up a one-year lookback window for victims, and that's a fair way forward. This bill will have marginal benefits for years, if not decades - this isn't good enough. There are no guarantees a court will liberally interpret the discovery rule.

Persons Testifying (Ways & Means): PRO: Sthavir Sumanam; Christene Hansen; Skylar Schmitt; Larry Shannon, Washington State Association for Justice; Elizabeth Hendren, Sexual Violence Law Center; Paula Sardinas, The Purpose Driven Girl.

CON: Timothy LAW, Catholic Accountability Project; Sarah Pearson, Catholic

Accountability Project; Peter Isely, Catholic Accountability Project.

OTHER: Cecilie Wathne.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.