

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4600

BY DELEGATES SKINNER, FLEISCHAUER, PERRY,
GUTHRIE, MILEY, MANCHIN, REYNOLDS, WHITE, P.,
CAMPBELL, ELDRIDGE AND BYRD

[Introduced February 17, 2016; referred to the
committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §55-2-12a, relating to limitations of actions and suits; providing civil actions for
 3 damages due to sexual abuse; and designating this as the "Child Victims Act".

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §55-2-12a, to read as follows:

ARTICLE 2. LIMITATION OF ACTIONS AND SUITS.

§55-2-12a. Actions for damages due to sexual abuse; child victims act.

1 (a) "Sexual abuse" means conduct described in sections two, three, four, seven, eight,
 2 nine and ten, article eight-b, chapter sixty-one of this code.

3 (b) "Person" includes a natural person, corporation, limited liability company, partnership,
 4 organization, association or other entity.

5 (c) An action for damages based on sexual abuse:

6 (1) Must be commenced within six years of the alleged sexual abuse in the case of alleged
 7 sexual abuse of an individual under the age of eighteen years or older;

8 (2) May be commenced at any time in the case of alleged sexual abuse of an individual
 9 under the age of eighteen years, except as provided in subsection (g); and

10 (3) Must be commenced before the plaintiff is twenty-four years of age in a claim against
 11 a natural person alleged to have sexually abused a minor when that natural person was under
 12 fourteen years of age.

13 (d) The plaintiff need not establish which act in a continuous series of sexual abuse acts
 14 by the defendant caused the injury.

15 (e) This section does not affect the suspension of the statute of limitations during a period
 16 of disability.

17 (f) This section applies to an action for damages commenced against a person who was
 18 a cause of the plaintiff's damages either by:

19 (1) Committing sexual abuse against the plaintiff; or

20 (2) Negligence.

21 (g) A claim for vicarious liability or liability under the doctrine of respondeat superior must
22 be commenced within six years of the alleged sexual abuse: *Provided*, That if the plaintiff was
23 under the age of eighteen years at the time of the alleged abuse, the claim must be commenced
24 before the plaintiff is twenty-four years of age. This subsection does not limit the availability of
25 these claims under other law.

26 (h) Except as provided in subsection (i), this section applies to actions that were not time-
27 barred before the effective date of this section.

28 (i) Notwithstanding any other provision of law to the contrary, if an action for an alleged
29 abuse of an individual under the age of eighteen years would otherwise be time-barred under a
30 previous section of this article, or other time limit, an action for damages against a person may be
31 commenced no later than three years following the effective date of this section. This subsection
32 does not apply to a claim for vicarious liability or respondeat superior, but does apply to other
33 claims, including negligence. This section applies to actions pending on or commenced on or
34 after the effective date and may be cited as the "Child Victims Act."

NOTE: The purpose of this bill is to provide civil actions for damages due to sexual abuse. It provides periods of limitations of these actions and suits. And, designates this section as the "Child Victims Act".

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.