



SPONSOR: Rep. Lavelle & Rep. Valihura & Sen. Peterson & Sen. Copeland;
Spence, Lee, Atkins, Buckworth, Carey, Cathcart, Ewing, Hocker,
Hudson, Lofink, Maier, Miro, Outten, Stone, Ulbrich, Wagner; Sens.
Blevins, Bunting, Sokola, Sorenson, Cloutier, Connor, Simpson

HOUSE OF REPRESENTATIVES

143rd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 450

AN ACT TO AMEND TITLE 10, CHAPTER 81 OF THE DELAWARE CODE BY ENLARGING THE STATUTE OF LIMITATIONS FOR SUITS FOR DAMAGES DUE TO PERSONAL INJURIES THAT WERE CAUSED BY SEXUAL ABUSE OF A CHILD BY AN ADULT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 WHEREAS, persons sexually abused as children are traumatized and suffer long term emotional effects of such abuse; and
2 WHEREAS, once the victim becomes an adult, the abuser is often beyond the reach of civil law in Delaware due to the
3 State's two-year statute of limitations; and

4 WHEREAS, studies have shown that abusers are often persons in positions of trust in relation to children; and

5 WHEREAS, to protect the children of this State, it is necessary to make available every deterrent to those who would
6 cause such harm and to provide the ability to obtain monetary damages from abusers to help every victim recover.

7 NOW THEREFORE:

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

9 Section 1. Chapter 81 of Title 10 of the Delaware Code is hereby amended by adding thereto the following new § 8145
10 which shall read as follows:

11 "§ 8145. Civil action based on childhood sexual abuse.

12 (a) No action to recover damages for childhood sexual abuse shall be brought after the expiration of twenty-
13 five (25) years from the date the victim attains the age of majority.

14 (b) A person injured as a result of childhood sexual abuse need not establish which act or acts in a series of
15 continuing sexual abuse or sexual exploitation caused such injury, whether physical or emotional.

16 (c) As used in this section, 'childhood sexual abuse' means any act that was, or would have been, a violation
17 of the following statutes: Title 11 of the Delaware Code, § § 763, 764, 765, 767, 768, 769, 770, 771,
18 772, 773, 776, 778, 779, 780, 1108 or 1112A or any similar sexual crimes with a child victim that were
19 of similar effect at the time the act was committed. If a defendant in a civil action was convicted of any
20 of the crimes listed above, and if the act or acts for which the plaintiff seeks damages are those that

21 constituted the criminal offense, then proof of such conviction shall conclusively establish in the civil
22 action that the defendant committed such act or acts.

23 (d) As used in this section, 'age of majority' means the age of majority established by § 701 of Title 1 of the
24 Delaware Code.

25 (e) Any law of this State to the contrary notwithstanding, this section shall apply to the State and political
26 subdivisions of the State, including school districts, and to any public officer or employee of the State or
27 of a political subdivision of the State, including school districts. In a civil action brought to recover
28 damages based on childhood sexual abuse, neither the State, nor any political subdivision of the State,
29 including school districts, shall not be entitled to the privileges and immunities provided in Chapter 40 of
30 this Title. This section shall apply to causes of action for childhood sexual abuse that arise on or after
31 August 1, 2006. Nothing in this section shall be construed to apply retroactively to revive any action that
32 prior to August 1, 2006, was barred by operation of the applicable statute of limitations. Any cause of
33 action for childhood sexual abuse that as of August 1, 2006, is not barred by the applicable statute of
34 limitations, shall be governed by the extended limitations period provided by this section.”.

35 Section 2. The effective date of this Act shall be August 1, 2006.

36 Section 3. The provisions of this Act are severable, and if any provision is held null or void by a court of law, the
37 remaining portions shall continue in full force and effect.

SYNOPSIS

This Bill provides victims of childhood sexual abuse longer time in which to sue for civil damages for childhood sexual abuse as a deterrent to perpetrators of these crimes and those who shelter them. Institutions will exercise greater caution when placing persons in positions of trust and authority over children when the consequence for failing to do so may be a potential lawsuit. Perpetrators of sexual exploitation of young teens will find the possibility of the loss of large sums of money a deterrent to such behavior.

This Bill expands the scope of the applicable statute of limitations in Delaware from two (2) years to twenty-five (25) years of the date the victim attains the age of majority, which currently is 18 years of age.

The Sections of the Delaware Code enumerated in the Act cover the following crimes:

- sexual harassment (11 Del. C. § 763),
- indecent exposure (11 Del. C. §§ 764, 765),
- unlawful sexual contact (11 Del. C. §§ 767, 768, 769),
- rape (11 Del. C. §§ 770, 771, 772, 773),
- sexual extortion (11 Del. C. § 776),
- continuous sexual abuse of a child (11 Del. C. § 778),
- dangerous crime against a child (11 Del. C. § 779),
- sexual exploitation of a child (11 Del. C. § 1108),
- sexual solicitation of a child (11 Del. C. § 1112A).

This Bill waives the sovereign immunity for the State of Delaware for civil actions based on childhood sexual abuse and eliminates any qualified immunity of political subdivisions of the State, including school districts, in such cases.