



SPONSOR: Rep. Lavelle & Rep. Valihura & Sen. Peterson & Sen. Copeland ;
Reps. Spence, Buckworth, Ewing, Hocker, Hudson, Maier, Miro,
Ulbrich, Wagner; Sens. Blevins, Bunting, Sorenson, Cloutier, Connor,
Simpson, Sokola

HOUSE OF REPRESENTATIVES

143rd GENERAL ASSEMBLY

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.

1 WHEREAS, persons sexually abused as children may not recall the trauma of, or realize the long term emotional effects
2 of, such abuse until long after it occurred; and

3 WHEREAS, once the victim realizes how he or she has been damaged, the abuser is often beyond the reach of civil law in
4 Delaware due to the State's two-year statute of limitations; and

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

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

8 NOW THEREFORE:

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

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

12 "§ 8145. Civil action based on childhood sexual abuse.

13 (a) A civil action brought against any person for committing an act or acts of childhood sexual abuse, or
14 against any entity who owed a duty of care to the plaintiff, for recovery of damages for injury or a
15 condition suffered as a result of the childhood sexual abuse shall be commenced within six (6) years of
16 the act or acts alleged to have caused the injury or condition, or within six (6) years from the time the
17 victim discovered that the injury or condition was caused by the act or acts or the victim recalled the act
18 or acts. The victim need not establish which act or acts in a series of continuing sexual abuse or sexual
19 exploitation caused the injury or condition whether physical or emotional.

- 20 (b) As used in this Section, 'childhood sexual abuse' means any act that was, or would have been, a
21 violation of the following statutes: Title 11 of the Delaware Code, §§ 611, 612, 613, 615, 763, 764, 765,
22 767, 768, 769, 770, 771, 772, 773, 776, 778, 779, 1106, 1108 or 1112A or any similar sexual crimes with
23 a child victim that were of similar effect at the time the act was committed. If the defendant to the civil
24 action was convicted of any of the crimes listed above, proof of a conviction shall be proof positive in
25 the civil action of his or her commission of the act or acts for which the plaintiff seeks to recover
26 damages.
- 27 (c) Notwithstanding any other provision of Delaware law, any claim for damages that would be permitted to
28 be filed pursuant to paragraph (a) that would be barred as of the effective date of this Act because the
29 previously applicable statute of limitations expired, shall be revived by this Act. In such a case, a cause
30 of action may be commenced within two (2) years of August 1, 2006. Nothing in this subdivision shall
31 be construed to alter the applicable statute of limitations period of an action that is not barred as of
32 August 1, 2006, as those victims will be eligible for the extension of time provided by this Act.”.

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

34 Section 3. The provisions of this Act are severable, and if any provision is held null or void by a court of law, the
35 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 six (6) years and makes clear the tolling of the statute starts when the victim, as an adult, recovers memory of the abuse or learns that the abuse is the cause of emotional or physical difficulties he or she has been experiencing.

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

- assault (11 Del. C. §§ 611, 612, 613),
- assault by abuse or neglect (11 Del. C. § 615),
- 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),
- unlawful dealing with a child (11 Del. C. § 1106),
- sexual exploitation of a child (11 Del. C. § 1108),
- sexual solicitation of a child (11 Del. C. § 1112A).