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DELAWARE STATE SENATE
144th GENERAL ASSEMBLY

SENATE BILL NO. 29

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE BY REMOVING THE STATUTE OF LIMITATIONS FOR CIVIL SUITS RELATING TO CHILD SEXUAL ABUSE AND ADDING RELATED PROVISIONS REGARDING SUCH SUITS.

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

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

“§8145. Civil suits for damages based upon sexual abuse of a minor by an adult.

(a) A cause of action based upon the sexual abuse of a minor by an adult may be filed in the Superior Court of this State at any time following the commission of the act or acts that constituted the sexual abuse. A civil cause of action for sexual abuse of a minor shall be based upon sexual acts that would constitute a criminal offense under the Delaware Code.

(b) For a period of two years following the effective date of this bill, victims of child sexual abuse that occurred in this State who have been barred from filing suit against their abusers by virtue of the expiration of the former civil statute of limitations, shall be permitted to file those claims in the Superior Court of this State. If the person committing the act of sexual abuse against a minor was employed by an institution, agency, firm, business, corporation, or other public or private legal entity that owned a duty of care to the victim, or the accused and the minor were engaged in some activity over which the legal entity had some degree of

responsibility or control, damages against the legal entity shall be awarded under this subsection only if there is a finding of gross negligence on the part of the legal entity

(c) A person against whom a suit is filed may recover attorney's fees where the Court determines that a false accusation was made with no basis in fact and with malicious intent. A verdict in favor of the accused shall not be the sole basis for a determination that an accusation was false. The Court must make an independent finding of an improper motive to award attorneys' fees under this section."

Section 2. This bill shall be known as the "Child Victim's Act".

Section 3. If any provision of this act or the applications thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which shall be given effect without the invalid provision or application; and, to that end, the provisions of this act are declared to be severable.

SYNOPSIS

This Bill repeals the statute of limitations in civil suits relating to child sexual abuse cases and provides a two-year "window" in which victims can bring a civil action in cases previously barred by the current statute.

Author: Senator Peterson