

HOUSE BILL 641

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HB 1214/15 – HRU

7lr1991

By: **Delegates C. Wilson, Angel, Atterbeary, Aumann, Bromwell, Buckel, Chang, Fennell, Folden, Hornberger, C. Howard, Jalisi, McCray, McMillan, Moon, Morgan, Patterson, and Sophocleus**

Introduced and read first time: February 1, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Child Sexual Abuse – Statute of Limitations and Limitation of**
3 **Damages**

4 FOR the purpose of extending the statute of limitations in certain civil actions relating to
5 child sexual abuse; providing that a certain statute of limitations does not apply
6 during a certain period for a person with a certain certificate of merit obtained from
7 the person's attorney and a licensed psychiatrist or psychologist; requiring certain
8 information in a certificate of merit for certain civil actions relating to child sexual
9 abuse to be provided in statements by an attorney and a licensed psychiatrist or
10 psychologist; authorizing a court to grant an extension for an attorney to provide a
11 certificate of merit under certain conditions; requiring a court to dismiss an action if
12 a certain certificate of merit is not filed within a certain period; authorizing claims
13 for damages to be filed under this Act for a certain period of time for certain claims
14 that would otherwise be barred under certain circumstances; limiting awards for
15 damages in certain civil actions authorized under certain provisions of this Act;
16 providing for the effective date of certain provisions of this Act; providing for the
17 termination of certain provisions of this Act; and generally relating to civil actions
18 and child sexual abuse.

19 BY repealing and reenacting, with amendments,
20 Article – Courts and Judicial Proceedings
21 Section 5–117
22 Annotated Code of Maryland
23 (2013 Replacement Volume and 2016 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
25 That the Laws of Maryland read as follows:

26 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 5-117.

2 (a) In this section, "sexual abuse" has the meaning stated in § 5-701 of the Family
3 Law Article.

4 (b) An action for damages arising out of an alleged incident or incidents of sexual
5 abuse that occurred while the victim was a minor shall be filed [within 7]:

6 (1) WITHIN 32 years of the date that the victim attains the age of majority;
7 OR

8 (2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, ON OR BEFORE
9 DECEMBER 31, 2018, IF THE VICTIM, REGARDLESS OF AGE, FILES A CERTIFICATE OF
10 MERIT UNDER SUBSECTION (C) OF THIS SECTION.

11 (c) (1) FOR PURPOSES OF SUBSECTION (B)(2) OF THIS SECTION, A
12 VICTIM SHALL OBTAIN A CERTIFICATE OF MERIT FROM THE VICTIM'S ATTORNEY
13 AND A PSYCHIATRIST OR PSYCHOLOGIST IN ACCORDANCE WITH THIS SUBSECTION.

14 (2) A CERTIFICATE OF MERIT SHALL INCLUDE:

15 (i) A STATEMENT BY THE ATTORNEY FOR THE VICTIM THAT
16 THE ATTORNEY HAS:

17 1. REVIEWED THE FACTS OF THE ALLEGED INCIDENT OR
18 INCIDENTS OF SEXUAL ABUSE;

19 2. CONSULTED WITH A PSYCHIATRIST OR
20 PSYCHOLOGIST LICENSED TO PRACTICE IN THE STATE WHO IS FAMILIAR WITH THE
21 RELEVANT FACTS AND ISSUES INVOLVED WITH THE ALLEGED INCIDENT OR
22 INCIDENTS OF SEXUAL ABUSE AND WHO WILL NOT BE A PARTY TO THE ACTION; AND

23 3. CONCLUDED AS A RESULT OF THE REVIEW AND
24 CONSULTATION THAT THERE IS A REASONABLE AND MERITORIOUS CAUSE FOR THE
25 FILING OF THE ACTION; AND

26 (ii) A STATEMENT BY A LICENSED PSYCHIATRIST OR
27 PSYCHOLOGIST SELECTED BY THE VICTIM THAT THE PSYCHIATRIST OR
28 PSYCHOLOGIST:

29 1. IS LICENSED TO PRACTICE AND PRACTICES IN THE
30 STATE;

1 2. **IS NOT TREATING AND HAS NOT TREATED THE VICTIM;**

2 3. **HAS INTERVIEWED THE VICTIM; AND**

3 4. **HAS CONCLUDED AS A RESULT OF THE INTERVIEW**
4 **THAT THERE IS A REASONABLE BASIS TO BELIEVE THAT THE VICTIM HAD BEEN**
5 **SUBJECT TO SEXUAL ABUSE WHEN THE VICTIM WAS A MINOR.**

6 **(D) (1) AN ATTORNEY FOR A VICTIM MAY FILE AN ACTION FOR DAMAGES**
7 **UNDER SUBSECTION (B)(2) OF THIS SECTION WITHOUT FILING A CERTIFICATE OF**
8 **MERIT IF:**

9 **(I) THE VICTIM IS UNABLE TO OBTAIN THE CERTIFICATE OF**
10 **MERIT BEFORE THE END OF DECEMBER 31, 2018, AND MAKES A WRITTEN REQUEST**
11 **OF THE COURT FOR AN EXTENSION OF UP TO 30 DAYS; AND**

12 **(II) THE COURT FINDS GOOD CAUSE AND GRANTS THE**
13 **EXTENSION OF UP TO 30 DAYS TO OBTAIN THE CERTIFICATE OF MERIT.**

14 **(2) IF THE ATTORNEY DOES NOT FILE THE CERTIFICATE OF MERIT**
15 **WITH THE COURT WITHIN THE EXTENSION PERIOD GRANTED BY THE COURT, THE**
16 **COURT SHALL DISMISS THE ACTION.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
18 as follows:

19 **Article – Courts and Judicial Proceedings**

20 5–117.

21 (a) In this section, “sexual abuse” has the meaning stated in § 5–701 of the Family
22 Law Article.

23 (b) An action for damages arising out of an alleged incident or incidents of sexual
24 abuse that occurred while the victim was a minor shall be filed within [7] **32** years of the
25 date that the victim attains the age of majority.

26 SECTION 3. AND BE IT FURTHER ENACTED, That any claim for damages arising
27 out of an alleged incident or incidents of sexual abuse that occurred while the victim was a
28 minor that would otherwise be barred as of January 1, 2018, solely because the statute of
29 limitations specified in § 5–117(b) of the Courts and Judicial Proceedings Article in effect
30 before the enactment of this Act has expired, is revived under this Act, and a cause of action
31 may be commenced within the year beginning January 1, 2018, through the end of
32 December 31, 2018.

1 SECTION 4. AND BE IT FURTHER ENACTED, That:

2 (a) An award for damages in an action authorized under Section 3 of this Act may
3 not exceed \$1,000,000 in addition to medical expenses and reasonable attorney's fees.

4 (b) (1) In a jury trial, the jury may not be informed of the limitation
5 established under subsection (a) of this section.

6 (2) If the jury awards an amount for damages, including noneconomic or
7 punitive damages, that exceeds the limitation established under subsection (a) of this
8 section, the court shall reduce the amount to conform to the limitation.

9 SECTION 5. AND BE IT FURTHER ENACTED, That Sections 1, 3, and 4 of this
10 Act shall take effect October 1, 2017. Sections 1, 3, and 4 of this Act shall remain effective
11 for a period of 1 year and 4 months and, at the end of January 31, 2019, with no further
12 action required by the General Assembly, Sections 1, 3, and 4 of this Act shall be abrogated
13 and of no further force and effect.

14 SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
15 effect on the taking effect of the termination provision specified in Section 5 of this Act.

16 SECTION 7. AND BE IT FURTHER ENACTED, That, subject to the provisions of
17 Sections 5 and 6 of this Act, this Act shall take effect October 1, 2017.