

HOUSE BILL 974

D3, D4
HB 687/19 – JUD

01r2197

By: **Delegates Wilson, Hettleman, Lopez, Moon, Shetty, ~~and Stewart~~ Stewart, Atterbeary, Conaway, Grammer, J. Lewis, R. Watson, and Williams**

Introduced and read first time: February 5, 2020

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2020

CHAPTER _____

1 AN ACT concerning

2 **Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations**
3 **(Hidden Predator Act of 2020)**

4 FOR the purpose of altering the definition of “sexual abuse”; altering the statute of
5 limitations in certain civil actions relating to child sexual abuse; repealing a certain
6 definition; repealing a ~~statute~~ statute of repose for certain civil actions relating to
7 child sexual abuse; providing for the retroactive application of this Act under certain
8 circumstances; making the provisions of this Act severable; and generally relating to
9 child sexual abuse.

10 BY repealing and reenacting, with amendments,
11 Article – Courts and Judicial Proceedings
12 Section 5–117
13 Annotated Code of Maryland
14 (2013 Replacement Volume and 2019 Supplement)

15 BY repealing
16 Chapter 12 of the Acts of the General Assembly of 2017
17 Section 2 and 3
18 ~~Annotated Code of Maryland~~

19 BY repealing
20 Chapter 656 of the Acts of the General Assembly of 2017
21 Section 2 and 3

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~Annotated Code of Maryland~~

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

Article – Courts and Judicial Proceedings

5–117.

(a) (1) In this section the following words have the meanings indicated.

(2) “Alleged perpetrator” means the individual alleged to have committed the specific incident or incidents of sexual abuse that serve as the basis of an action under this section.

(3) “Sexual abuse” has the meaning stated in § 5–701 of the Family Law Article.]

(A) IN THIS SECTION, “SEXUAL ABUSE” MEANS ANY ACT THAT INVOLVES:

(1) AN ADULT ALLOWING OR ENCOURAGING A CHILD TO ENGAGE IN:

(I) OBSCENE PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY;

(II) PORNOGRAPHIC PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY; OR

(III) PROSTITUTION;

(2) INCEST;

(3) RAPE;

(4) SEXUAL OFFENSE IN ANY DEGREE;

(5) SODOMY; OR

(6) UNNATURAL OR PERVERTED SEXUAL PRACTICES.

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

(1) At any time before the victim reaches the age of majority; or

(2) Subject to subsections (c) and (d) of this section, within the later of:

1 (i) 20 years after the date that the victim reaches the age of
2 majority; or

3 (ii) 3 years after the date that the defendant is convicted of a crime
4 relating to the alleged incident or incidents under:

5 1. § 3–602 of the Criminal Law Article; or

6 2. The laws of another state or the United States that would
7 be a crime under § 3–602 of the Criminal Law Article.

8 (c) In an action brought under this section more than 7 years after the victim
9 reaches the age of majority, damages may be awarded against a person or governmental
10 entity that is not the alleged perpetrator of the sexual abuse only if:

11 (1) The person or governmental entity owed a duty of care to the victim;

12 (2) The person or governmental entity employed the alleged perpetrator or
13 exercised some degree of responsibility or control over the alleged perpetrator; and

14 (3) There is a finding of gross negligence on the part of the person or
15 governmental entity.

16 (d) In no event may an action for damages arising out of an alleged incident or
17 incidents of sexual abuse that occurred while the victim was a minor be filed against a
18 person or governmental entity that is not the alleged perpetrator more than 20 years after
19 the date on which the victim reaches the age of majority] **MAY BE FILED AT ANY TIME.**

20 **Chapter 12 of the Acts of 2017**

21 [SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
22 construed to apply retroactively to revive any action that was barred by the application of
23 the period of limitations applicable before October 1, 2017.]

24 [SECTION 3. AND BE IT FURTHER ENACTED, That the statute of repose under
25 § 5–117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to
26 apply both prospectively and retroactively to provide repose to defendants regarding
27 actions that were barred by the application of the period of limitations applicable before
28 October 1, 2017.]

29 **Chapter 656 of the Acts of 2017**

30 [SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
31 construed to apply retroactively to revive any action that was barred by the application of
32 the period of limitations applicable before October 1, 2017.]

1 **[SECTION 3. AND BE IT FURTHER ENACTED,** That the statute of repose under
 2 § 5–117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to
 3 apply both prospectively and retroactively to provide repose to defendants regarding
 4 actions that were barred by the application of the period of limitations applicable before
 5 October 1, 2017.]

6 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall be construed to
 7 apply retroactively to revive any action that was barred by the application of the period of
 8 limitations applicable before October 1, 2020, if the action is filed before October 1, 2022.

9 **SECTION 3. AND BE IT FURTHER ENACTED,** That, if any provision of this Act or
 10 the application thereof to any person or circumstance is held invalid for any reason in a
 11 court of competent jurisdiction, the invalidity does not affect other provisions or any other
 12 application of this Act that can be given effect without the invalid provision or application,
 13 and for this purpose the provisions of this Act are declared severable.

14 **SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED,** That this Act shall take effect
 15 October 1, 2020.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.