

House Bill 418

By: Representatives Anulewicz of the 42nd, Kendrick of the 93rd, Oliver of the 82nd, Wilson of the 80th, Carter of the 92nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To provide greater protections for individuals who have suffered from childhood sexual
2 abuse; to amend Article 2 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated,
3 relating to specific periods of limitation, so as to extend the statute of limitations for
4 childhood sexual abuse under certain circumstances; to clarify existing law; to provide for
5 claims against persons and public and private entities; to provide for definitions; to provide
6 for retroactive claims for childhood sexual abuse under certain conditions; to provide for
7 automatic repeal; to provide for a short title; to provide for related matters; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Child Victim Act of 2019."

12 **SECTION 2.**

13 Article 2 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated, relating to
14 specific periods of limitation, is amended by revising Code Section 9-3-33.1, relating to
15 actions for childhood sexual abuse, as follows:

16 "9-3-33.1.

17 (a)(1) As used in this subsection, the term 'childhood sexual abuse' means any act
18 committed by the defendant against the plaintiff which occurred when the plaintiff was
19 under 18 years of age and which would be in violation of:

20 (A) Rape, as prohibited in Code Section 16-6-1;

21 (B) Sodomy or aggravated sodomy, as prohibited in Code Section 16-6-2;

22 (C) Statutory rape, as prohibited in Code Section 16-6-3;

23 (D) Child molestation or aggravated child molestation, as prohibited in Code
24 Section 16-6-4;

25 (E) Enticing a child for indecent purposes, as prohibited in Code Section 16-6-5;

- 26 (F) Pandering, as prohibited in Code Section 16-6-12;
- 27 (G) Pandering by compulsion, as prohibited in Code Section 16-6-14;
- 28 (H) Solicitation of sodomy, as prohibited in Code Section 16-6-15;
- 29 (I) Incest, as prohibited in Code Section 16-6-22;
- 30 (J) Sexual battery, as prohibited in Code Section 16-6-22.1; or
- 31 (K) Aggravated sexual battery, as prohibited in Code Section 16-6-22.2.
- 32 (2) Notwithstanding Code Section 9-3-33 and except as provided in subsection ~~(d)~~ (e)
- 33 of this Code section as it existed on June 30, ~~2017~~ 2021, any civil action for recovery of
- 34 damages suffered as a result of childhood sexual abuse committed before July 1, 2015,
- 35 shall be commenced on or before the date the plaintiff attains the age of ~~23~~ 55 years.
- 36 (b)(1) As used in this subsection, the term 'childhood sexual abuse' means any act
- 37 committed by the defendant against the plaintiff which occurred when the plaintiff was
- 38 under 18 years of age and which would be in violation of:
- 39 (A) Trafficking a person for sexual servitude, as prohibited in Code Section 16-5-46;
- 40 (B) Rape, as prohibited in Code Section 16-6-1;
- 41 (C) Statutory rape, as prohibited in Code Section 16-6-3, if the defendant was 21 years
- 42 of age or older at the time of the act;
- 43 (D) Aggravated sodomy, as prohibited in Code Section 16-6-2;
- 44 (E) Child molestation or aggravated child molestation, as prohibited in Code
- 45 Section 16-6-4, unless the violation would be subject to punishment as provided in
- 46 paragraph (2) of subsection (b) of Code Section 16-6-4 or paragraph (2) of
- 47 subsection (d) of Code Section 16-6-4;
- 48 (F) Enticing a child for indecent purposes, as prohibited in Code Section 16-6-5, unless
- 49 the violation would be subject to punishment as provided in subsection (c) of Code
- 50 Section 16-6-5;
- 51 (G) Incest, as prohibited in Code Section 16-6-22;
- 52 (H) Aggravated sexual battery, as prohibited in Code Section 16-6-22.2; or
- 53 (I) Part 2 of Article 3 of Chapter 12 of Title 16.
- 54 (2)(A) Notwithstanding Code Section 9-3-33, any civil action for recovery of damages
- 55 suffered as a result of childhood sexual abuse committed on or after July 1, 2015, shall
- 56 be commenced:
- 57 (i) On or before the date the plaintiff attains the age of ~~23~~ 55 years; or
- 58 (ii) Within ~~two~~ four years from the date that the plaintiff knew or had reason to know
- 59 of such abuse and that such abuse resulted in injury to the plaintiff as established by
- 60 competent medical or psychological evidence.
- 61 (B) When a plaintiff's civil action is filed after the plaintiff attains the age of ~~23~~ 55
- 62 years but within ~~two~~ four years from the date that the plaintiff knew or had reason to

63 know of such abuse and that such abuse resulted in injury to the plaintiff, the court shall
 64 determine from admissible evidence in a pretrial finding when the discovery of the
 65 alleged childhood sexual abuse occurred. The pretrial finding required under this
 66 subparagraph shall be made within six months of the filing of the civil action.

67 (c)(1) As used in this subsection, the term:

68 (A) 'Entity' means an institution, agency, firm, business, corporation, or other public
 69 or private legal entity.

70 (B) 'Person' means the individual alleged to have committed the act of childhood
 71 sexual abuse.

72 (2) If a civil action for recovery of damages suffered as a result of childhood sexual
 73 abuse is commenced pursuant to division (b)(2)(A)(i) of this Code section and if the
 74 person was a volunteer or employee of an entity that owed a duty of care to the plaintiff,
 75 or the person and the plaintiff were engaged in some activity over which such entity had
 76 control, damages against such entity shall be awarded under this Code section only if by
 77 a preponderance of the evidence there is a finding of negligence on the part of such
 78 entity.

79 (3) If a civil action for recovery of damages suffered as a result of childhood sexual
 80 abuse is commenced pursuant to division (b)(2)(A)(ii) of this Code section and if the
 81 person was a volunteer or employee of an entity that owed a duty of care to the plaintiff,
 82 or the person and the plaintiff were engaged in some activity over which such entity had
 83 control, damages against such entity shall be awarded under this Code section only if by
 84 a preponderance of the evidence there is a finding that there was gross negligence on the
 85 part of such entity, that the entity knew or should have known of the alleged conduct
 86 giving rise to the civil action, and that such entity failed to take remedial action.

87 (d) Reserved.

88 (e)(1) As used in this subsection, the terms 'entity' and 'person' shall have the same
 89 meaning as set forth in subsection (c) of this Code section.

90 (2) For a period of two years following July 1, 2019, a plaintiff of any age who was time
 91 barred from filing a civil action against any person or entity for injuries resulting from
 92 childhood sexual abuse due to the expiration of the statute of limitations in effect on
 93 June 30, 2019, shall be allowed to file such action, thereby reviving those civil actions
 94 which had lapsed or technically expired under the law in effect on June 30, 2019.

95 (3) The revival of a claim as provided in paragraph (2) of this subsection shall not apply
 96 to:

97 (A) Any claim that has been litigated to finality on the merits in a court of competent
 98 jurisdiction prior to July 1, 2019. Termination of a prior civil action on the basis of the

99 expiration of the statute of limitations shall not constitute a claim that has been litigated
100 to finality on the merits; and
101 (B) Any written settlement agreement which has been entered into between a plaintiff
102 and a defendant when the plaintiff was represented by an attorney who was admitted
103 to practice law in this state at the time of the settlement, and the plaintiff signed such
104 agreement.
105 (4) This subsection shall stand repealed on July 1, 2021."

106 **SECTION 3.**
107 All laws and parts of laws in conflict with this Act are repealed.