

SENATE BILL 505

D3

7lr2557
CF HB 642

By: Senators Kelley, Young, Benson, Brochin, Conway, Currie, Feldman, Ferguson, Guzzone, Kagan, Kasemeyer, King, Lee, Madaleno, Manno, Mathias, McFadden, Middleton, Miller, Muse, Nathan-Pulliam, Peters, Pinsky, Ramirez, Robinson, Salling, Smith, and Zucker

Introduced and read first time: February 1, 2017

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 2017

CHAPTER _____

1 AN ACT concerning

2 **Civil Actions – Child Sexual Abuse – Statute of Limitations and Required**
3 **Findings**

4 FOR the purpose of altering the statute of limitations in certain civil actions relating to
5 child sexual abuse; establishing a statute of repose for certain civil actions relating
6 to child sexual abuse; providing that, in a certain action filed more than a certain
7 number of years after the victim reaches the age of majority, damages may be
8 awarded against a person or governmental entity that is not an alleged perpetrator
9 only under certain circumstances; providing that a certain action is exempt from
10 certain provisions of the Local Government Torts Claims Act; providing that a
11 certain action is exempt from certain provisions of the Maryland Torts Claims Act;
12 defining a certain term; making certain stylistic changes; providing for the
13 application of this Act; and generally relating to child sexual abuse.

14 BY repealing and reenacting, with amendments,
15 Article – Courts and Judicial Proceedings
16 Section 5–117 and 5–304(a)
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2016 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Courts and Judicial Proceedings

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.



1 Section 5–304(b)
 2 Annotated Code of Maryland
 3 (2013 Replacement Volume and 2016 Supplement)

4 BY repealing and reenacting, with amendments,
 5 Article – State Government
 6 Section 12–106(a)
 7 Annotated Code of Maryland
 8 (2014 Replacement Volume and 2016 Supplement)

9 BY repealing and reenacting, without amendments,
 10 Article – State Government
 11 Section 12–106(b)
 12 Annotated Code of Maryland
 13 (2014 Replacement Volume and 2016 Supplement)

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

16 **Article – Courts and Judicial Proceedings**

17 5–117.

18 (a) **(1)** In this section, THE FOLLOWING WORDS HAVE THE MEANINGS
 19 INDICATED.

20 **(2)** “ALLEGED PERPETRATOR” MEANS THE INDIVIDUAL ALLEGED TO
 21 HAVE COMMITTED THE SPECIFIC INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT
 22 SERVE AS THE BASIS OF AN ACTION UNDER THIS SECTION.

23 **(3)** ~~“sexual~~ “SEXUAL abuse” has the meaning stated in § 5–701 of the
 24 Family Law Article.

25 (b) An action for damages arising out of an alleged incident or incidents of sexual
 26 abuse that occurred while the victim was a minor shall be filed [within] ~~AGAINST THE~~
 27 ~~ALLEGED PERPETRATOR OF THE SEXUAL ABUSE:~~

28 **(1)** AT ANY TIME BEFORE THE VICTIM REACHES THE AGE OF
 29 MAJORITY; OR

30 **(2)** ~~WITHIN~~ SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION,
 31 WITHIN THE LATER OF:

32 **(I)** [7] 20 years [of] AFTER the date that the victim [attains]
 33 REACHES the age of majority; OR

1 (II) 3 YEARS AFTER THE DATE THAT THE DEFENDANT IS
2 CONVICTED OF A CRIME RELATING TO THE ALLEGED INCIDENT OR INCIDENTS
3 UNDER:

4 1. § 3-602 OF THE CRIMINAL LAW ARTICLE; OR

5 2. THE LAWS OF ANOTHER STATE OR THE UNITED
6 STATES THAT WOULD BE A CRIME UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE.

7 ~~(C) (1) AN ACTION FOR DAMAGES ARISING OUT OF AN ALLEGED~~
8 ~~INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE THE VICTIM~~
9 ~~WAS A MINOR SHALL BE FILED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT~~
10 ~~IS NOT AN ALLEGED PERPETRATOR OF THE SEXUAL ABUSE;~~

11 ~~(I) AT ANY TIME BEFORE THE VICTIM REACHES THE AGE OF~~
12 ~~MAJORITY; OR~~

13 ~~(II) WITHIN 20 YEARS AFTER THE DATE THAT THE VICTIM~~
14 ~~REACHES THE AGE OF MAJORITY.~~

15 ~~(2) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, DAMAGES MAY~~
16 ~~BE AWARDED AGAINST A PERSON OR GOVERNMENTAL ENTITY ONLY ON A~~
17 ~~DETERMINATION BY THE FINDER OF FACT THAT THE PERSON OR GOVERNMENTAL~~
18 ~~ENTITY:~~

19 ~~(I) PRIOR TO THE INCIDENT OR INCIDENTS OF SEXUAL ABUSE~~
20 ~~THAT FORM THE BASIS OF THE ACTION, HAD ACTUAL KNOWLEDGE OF A PREVIOUS~~
21 ~~INCIDENT OR INCIDENTS OF SEXUAL ABUSE; AND~~

22 ~~(II) NEGLIGENCE FAILED TO PREVENT THE INCIDENT OR~~
23 ~~INCIDENTS OF SEXUAL ABUSE THAT FORM THE BASIS OF THE ACTION.~~

24 (C) IN AN ACTION BROUGHT UNDER THIS SECTION MORE THAN 7 YEARS
25 AFTER THE VICTIM REACHES THE AGE OF MAJORITY, DAMAGES MAY BE AWARDED
26 AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT THE ALLEGED
27 PERPETRATOR OF THE SEXUAL ABUSE ONLY IF:

28 (1) THE PERSON OR GOVERNMENTAL ENTITY OWED A DUTY OF CARE
29 TO THE VICTIM;

30 (2) THE PERSON OR GOVERNMENTAL ENTITY EMPLOYED THE
31 ALLEGED PERPETRATOR OR EXERCISED SOME DEGREE OF RESPONSIBILITY OR
32 CONTROL OVER THE ALLEGED PERPETRATOR; AND

1 **(3) THERE IS A FINDING OF GROSS NEGLIGENCE ON THE PART OF THE**
 2 **PERSON OR GOVERNMENTAL ENTITY.**

3 **(D) IN NO EVENT MAY AN ACTION FOR DAMAGES ARISING OUT OF AN**
 4 **ALLEGED INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE THE**
 5 **VICTIM WAS A MINOR BE FILED AGAINST A PERSON OR GOVERNMENTAL ENTITY**
 6 **THAT IS NOT THE ALLEGED PERPETRATOR MORE THAN 20 YEARS AFTER THE DATE**
 7 **ON WHICH THE VICTIM REACHES THE AGE OF MAJORITY.**

8 5–304.

9 (a) This section does not apply to an action [against]:

10 **(1) AGAINST** a nonprofit corporation described in § 5–301(d)(23), (24), (25),
 11 (26), (28), or (29) of this subtitle or its employees; **OR**

12 **(2) BROUGHT UNDER § 5–117 OF THIS TITLE.**

13 (b) (1) Except as provided in subsections (a) and (d) of this section, an action
 14 for unliquidated damages may not be brought against a local government or its employees
 15 unless the notice of the claim required by this section is given within 1 year after the injury.

16 (2) The notice shall be in writing and shall state the time, place, and cause
 17 of the injury.

18 **Article – State Government**

19 12–106.

20 (a) This section does not apply to a claim that is:

21 **(1) asserted by cross–claim, counterclaim, or third–party claim; OR**

22 **(2) BROUGHT UNDER § 5–117 OF THE COURTS ARTICLE.**

23 (b) Except as provided in subsection (c) of this section, a claimant may not
 24 institute an action under this subtitle unless:

25 (1) the claimant submits a written claim to the Treasurer or a designee of
 26 the Treasurer within 1 year after the injury to person or property that is the basis of the
 27 claim;

28 (2) the Treasurer or designee denies the claim finally; and

29 (3) the action is filed within 3 years after the cause of action arises.

1 SECTION 2. AND BE IT FURTHER ENACTED, ~~That this Act shall be construed to~~
2 ~~apply only prospectively and may not be applied or interpreted to have any effect on or~~
3 ~~application to any cause of action arising before the effective date of this Act~~ That this Act
4 may not be construed to apply retroactively to revive any action that was barred by the
5 application of the period of limitations applicable before October 1, 2017.

6 SECTION 3. AND BE IT FURTHER ENACTED, That the statute of repose under §
7 5-117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to apply
8 both prospectively and retroactively to provide repose to defendants regarding actions that
9 were barred by the application of the period of limitations applicable before October 1, 2017.

10 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.