

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

2

SENATE BILL 905*
Judiciary II Committee Substitute Adopted 6/9/93

Short Title: Limitation/Childhood Sexual Abuse.

(Public)

Sponsors:

Referred to:

April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A LIMITATION FOR CIVIL ACTIONS BASED ON
PERSONAL INJURY CAUSED BY CHILDHOOD SEXUAL ABUSE.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 1 of the General Statutes is amended by
adding a new section to read:

"§ 1-15.2. Limitation for survivors of childhood sexual abuse.

(a) A civil action for damages based on personal injury, whether physical or emotional, caused by childhood sexual abuse shall be commenced on or before the plaintiff's thirtieth birthday. No action may be commenced under this section after the plaintiff's twenty-first birthday if the defendant is deceased. Any such action filed after the plaintiff's twenty-first birthday shall be abated if the defendant is declared incompetent.

(b) If such action is commenced after the plaintiff's twenty-first birthday, proof of childhood sexual abuse shall be by clear, cogent, and convincing evidence.

(c) The plaintiff shall not be required to establish which specific act in a series of acts of childhood sexual abuse caused the injury that is the subject of the action, nor shall the plaintiff be required to establish the specific date of any particular act of childhood sexual abuse. Further, the doctrine of parental immunity shall not be available as a defense in an action based on personal injury, whether physical or emotional, caused by childhood sexual abuse committed by a parent against the parent's child.

1 (d) As used in this section, 'childhood sexual abuse' means conduct that
2 constitutes one or more of the following acts committed against a victim; provided,
3 however, that at the time of the act, or at the time of the first act in a series of acts, the
4 victim is less than 16 years of age and the defendant is 18 years of age or more and at
5 least seven years older than the victim:

6 (1) Vaginal or anal intercourse;

7 (2) Cunnilingus, fellatio or anilingus;

8 (3) Penetration, however slight, by any object into the genital or anal
9 opening of the victim's body unless the penetration was for accepted
10 medical or hygienic purposes;

11 (4) Masturbation or sexual self-stimulation in the presence of the victim;

12 (5) Any lewd or lascivious act upon or with the body or any part or
13 member of the body of the victim.

14 Childhood sexual abuse also means conduct that induces a victim less than 16 years of
15 age at the time of the act, or at the time of the first act in a series of acts, to perform one
16 or more of these acts on a defendant 18 years of age or more and at least seven years
17 older than the victim, and the victim performs the act upon the defendant.

18 (e) Nothing in this section shall be construed to limit or affect any other right
19 under law."

20 Sec. 2. G.S. 1-52(16) reads as rewritten:

21 "(16) Unless otherwise provided by statute, for personal injury or physical
22 damage to claimant's property, the cause of action, except in causes of
23 actions referred to in ~~G.S. 1-15(e)~~, G.S. 1-15(c) and G.S. 1-15.2, shall
24 not accrue until bodily harm to the claimant or physical damage to his
25 property becomes apparent or ought reasonably to have become
26 apparent to the claimant, whichever event first occurs. Provided that
27 no cause of action shall accrue more than 10 years from the last act or
28 omission of the defendant giving rise to the cause of action."

29 Sec. 3. There is appropriated from the General Fund to the Administrative
30 Office of the Courts the sum of twenty-five thousand dollars (\$25,000) for the 1993-94
31 fiscal year to be used for the cost of conducting a survey of all civil and criminal cases
32 of child sexual abuse filed and now pending in North Carolina. A report of the results
33 of the survey shall be submitted to the General Assembly by April 30, 1994.

34 Sec. 4. Sections 1 and 2 of this act become effective October 1, 1993, and
35 apply to all actions commenced on or after that date. Section 3 of this act becomes
36 effective July 1, 1993.