

ASSEMBLY, No. 3608

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED OCTOBER 23, 2006

Sponsored by:
Assemblyman NEIL M. COHEN
District 20 (Union)

SYNOPSIS

Extends the statute of limitations for certain sexual abuse cases.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain civil actions alleging sexual abuse and
2 supplementing Title 2A of the New Jersey Statutes.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. (New section) a. Notwithstanding the provisions of
8 N.J.S.2A:14-2, a civil action brought pursuant to section 1 of
9 P.L.1992, c.109 (C.2A:61B-1), section 1 of P.L.1959, c.90
10 (C.2A:53A-7) or P.L.2005, c. 264 (C.2A:53A-7.4 and 2A:53A-7.5)
11 for causes of action as set forth in subsection b. of this section
12 which would otherwise be barred on or before January 1, 2007,
13 solely because the applicable statute of limitations has expired, is
14 revived and may be commenced within one year immediately
15 following January 1, 2007. As of January 1, 2008 these claims may
16 not be brought under the provisions of this act.

17 b. The provisions of this section shall apply to any of the
18 following causes of action:

19 (1) where a person committed an act of sexual abuse against
20 another; or

21 (2) where a person or entity knew, or had reason to know, of
22 any unlawful sexual conduct by an employee, agent, servant or
23 volunteer and failed to take reasonable steps, and to implement
24 reasonable safeguards, to avoid acts of unlawful sexual conduct in
25 the future by that person, including but not limited to preventing or
26 avoiding placement of that person in a function or environment in
27 which contact with children is an inherent part of that function or
28 environment. For purposes of this section, providing or requiring
29 counseling is not sufficient, in and of itself, to constitute a
30 reasonable step or reasonable safeguard.

31 c. This section shall not apply to either of the following:

32 (1) Any claim that has been litigated to finality on the merits in
33 any court of competent jurisdiction prior to or on January 1, 2007.
34 Termination of a prior action on the basis of the statute of
35 limitations does not constitute a claim that has been litigated to
36 finality on the merits.

37 (2) Any written, compromised settlement agreement which has
38 been entered into between a plaintiff and a defendant where the
39 plaintiff was represented by an attorney who was admitted to the
40 practice of law in this State at the time of the settlement, and the
41 plaintiff signed the agreement.

42 d. The provisions of this section shall apply to all pending
43 claims, including any action which has been filed with a court but
44 not yet dismissed, settled or finally adjudicated as of the effective
45 date of this act.

46 e. Nothing in this section limits the availability of causes of
47 action permitted under this section including causes of action
48 against persons or entities other than the alleged perpetrator of the

1 abuse.

2 f. Nothing in this section shall be construed to establish any rule,
3 or alter any existing rule, with respect to the burden of proof and
4 weight of evidence.

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6 2. This act shall take effect immediately.

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STATEMENT

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11 Under the current provisions of N.J.S.A.2A:14-2 an action for
12 recovery of damages for personal injury must be commenced within
13 two years of the date the cause of action accrues.

14 Under the provisions of N.J.S.A.2A:61B-1 an action for damages
15 for suffered as a result of childhood sexual abuse must be
16 commenced within two years of the date the plaintiff discovers or
17 reasonably should have discovered that the psychological injury or
18 illness was caused by sexual abuse.

19 This bill would supplement the current law to provide victims of
20 childhood sexual abuse who would have otherwise been barred on
21 or before January 1, 2007 from bring an action, solely because the
22 statute of limitations had expired, with a one-year window of
23 opportunity to bring a civil action. The bill provides that these
24 claims may not be brought after January 1, 2008.

25 Under the provisions of the bill the victim could bring a civil
26 action against the person who committed the act or against a person
27 or entity who knew or had reason to know of any unlawful sexual
28 conduct by an employee, agent, servant or volunteer and who failed
29 to take reasonable steps, and to implement reasonable safeguards, to
30 avoid acts of unlawful sexual conduct in the future by that person,
31 including, but not limited to, preventing or avoiding placement of
32 that person in a function or environment in which contact with
33 children is an inherent part of that function or environment. The bill
34 provides that providing or requiring counseling is not sufficient, in
35 and of itself, to constitute a reasonable step or reasonable safeguard.

36 The provisions of the bill would not apply to any claim that has
37 been litigated to finality on the merits in any court of competent
38 jurisdiction prior to or on January 1, 2007 or to any claim which has
39 been settled. The bill provides that termination of a prior action on
40 the basis of the statute of limitations does not constitute a claim that
41 has been litigated to finality on the merits.