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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 540 Session of  
2019

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INTRODUCED BY KEARNEY, COLLETT, MUTH, SANTARSIERO, L. WILLIAMS,  
BLAKE, BREWSTER, COSTA, DINNIMAN, FARNESE, FONTANA, HUGHES,  
LEACH, SCHWANK, STREET, TARTAGLIONE AND A. WILLIAMS,  
APRIL 10, 2019

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REFERRED TO JUDICIARY, APRIL 10, 2019

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AN ACT

1 Amending Titles 23 (Domestic Relations) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, in child protective services, further providing for  
4 penalties; in limitation of time, further providing for six  
5 months limitation, for infancy, insanity or imprisonment, for  
6 no limitation applicable and for other offenses; in  
7 particular rights and immunities, providing for contracts or  
8 agreements for nondisclosure of certain conduct; and, in  
9 matters affecting government units, further providing for  
10 exceptions to sovereign immunity and for exceptions to  
11 governmental immunity.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. Section 6319(b) of Title 23 of the Pennsylvania  
15 Consolidated Statutes is amended to read:

16 § 6319. Penalties.

17 \* \* \*

18 (b) Continuing course of action.--[If a]

19 (1) A person's conduct under this section constitutes a  
20 continuing course of action if either of the following apply:

21 (i) A person's willful failure to report a suspected

1 case of child abuse under [subsection (a)] this section  
2 continues while the person knows or has reasonable cause  
3 to believe the child is [actively] being subjected to  
4 child abuse[, the person commits a misdemeanor of the  
5 first degree, except that if the child abuse constitutes  
6 a felony of the first degree or higher, the person  
7 commits a felony of the third degree.].

8 (ii) A person or official required by this chapter  
9 to report a case of suspected child abuse or to make a  
10 referral to the appropriate authorities knows or has  
11 reasonable cause to believe a person's willful failure  
12 under this section may subject a child or additional  
13 children to child abuse.

14 (2) An offense under this subsection is a felony of the  
15 third degree, except that if the child abuse constitutes a  
16 felony of the first degree or higher, the person commits a  
17 felony of the second degree.

18 \* \* \*

19 Section 2. Section 5522 of Title 42 is amended by adding a  
20 subsection to read:

21 § 5522. Six months limitation.

22 \* \* \*

23 (c) Exception.--This section shall not apply to any civil  
24 action or proceeding brought under section 8522(b)(10) (relating  
25 to exceptions to sovereign immunity) or 8542(b)(9) (relating to  
26 exceptions to governmental immunity).

27 Section 3. Section 5533(b)(2)(i) of Title 42 is amended and  
28 the section is amended by adding subsections to read:

29 § 5533. Infancy, insanity or imprisonment.

30 \* \* \*

1 (b) Infancy.--

2 \* \* \*

3 (2) (i) If an individual entitled to bring a civil  
4 action arising from childhood sexual abuse is under 18  
5 years of age at the time the cause of action accrues, the  
6 individual [shall have a period of 12 years after  
7 attaining 18 years of age in which to] may commence an  
8 action for damages regardless of whether the individual  
9 files a criminal complaint regarding the childhood sexual  
10 abuse or the age of the individual.

11 \* \* \*

12 (c) Postinfancy action.--

13 (1) If an individual entitled to bring a civil action  
14 arising from sexual abuse is 18 years of age or older at the  
15 time the cause of action accrues, the individual may commence  
16 an action for damages regardless of whether the individual  
17 files a criminal complaint regarding the sexual abuse or the  
18 age of the individual.

19 (2) For the purpose of this paragraph, the term "sexual  
20 abuse" shall include actions that constitute an offense under  
21 the following provisions of 18 Pa.C.S. (relating to crimes  
22 and offenses):

23 Section 3011(a) (relating to trafficking in  
24 individuals).

25 Section 3012 (relating to involuntary servitude) as  
26 it relates to sexual servitude.

27 Section 3121 (relating to rape).

28 Section 3123 (relating to involuntary deviate sexual  
29 intercourse).

30 Section 3124.1 (relating to sexual assault).

1           Section 3124.2 (relating to institutional sexual  
2           assault).

3           Section 3125 (relating to aggravated indecent  
4           assault).

5           Section 4302 (relating to incest).

6   (d) Revival of claims.--The following shall apply:

7           (1) Notwithstanding subsection (b) or any other  
8           provision of law, for an individual entitled to bring a civil  
9           action arising from childhood sexual abuse where the  
10           limitation period has expired, the individual shall have an  
11           additional period of two years from the effective date of  
12           this subsection to commence an action.

13           (2) Notwithstanding subsection (c) or any other  
14           provision of law, for an individual entitled to bring a civil  
15           action arising from sexual abuse where the limitation period  
16           has expired, the individual shall have an additional period  
17           of two years from the effective date of this subsection to  
18           commence an action.

19   Section 4. Section 5551 of Title 42 is amended by adding  
20 paragraphs to read:

21 § 5551. No limitation applicable.

22   A prosecution for the following offenses may be commenced at  
23 any time:

24           \* \* \*

25           (7) An offense under any of the following provisions of  
26           18 Pa.C.S. (relating to crimes and offenses), or a conspiracy  
27           or solicitation to commit an offense under any of the  
28           following provisions of 18 Pa.C.S. if the offense results  
29           from the conspiracy or solicitation, if the victim was under  
30           18 years of age at the time of the offense:

1           Section 3011(b) (relating to trafficking in  
2           individuals).

3           Section 3012 (relating to involuntary servitude) as  
4           it relates to sexual servitude.

5           Section 3121 (relating to rape).

6           Section 3122.1 (relating to statutory sexual  
7           assault).

8           Section 3123 (relating to involuntary deviate sexual  
9           intercourse).

10          Section 3124.1 (relating to sexual assault).

11          Section 3124.2 (relating to institutional sexual  
12          assault).

13          Section 3125 (relating to aggravated indecent  
14          assault).

15          Section 4302 (relating to incest).

16          (8) An offense under any of the following provisions of  
17          18 Pa.C.S., or a conspiracy or solicitation to commit an  
18          offense under any of the following provisions of 18 Pa.C.S.  
19          if the offense results from the conspiracy or solicitation,  
20          if the victim was 18 years of age or older at the time of the  
21          offense:

22                Section 3011(a).

23                Section 3012 as it relates to sexual servitude.

24                Section 3121.

25                Section 3123.

26                Section 3124.1.

27                Section 3124.2.

28                Section 3125.

29                Section 4302.

30          Section 5. Section 5552(b.1) and (c)(3) of Title 42 are

1 amended to read:

2 § 5552. Other offenses.

3 \* \* \*

4 (b.1) Major sexual offenses.--[A] Except as provided in  
5 section 5551(7) or (8) (relating to no limitation applicable), a  
6 prosecution for any of the following offenses under Title 18  
7 must be commenced within 12 years after it is committed:

8 [Section 3121 (relating to rape).

9 Section 3122.1 (relating to statutory sexual assault).

10 Section 3123 (relating to involuntary deviate sexual  
11 intercourse).

12 Section 3124.1 (relating to sexual assault).

13 Section 3125 (relating to aggravated indecent assault).

14 Section 4302 (relating to incest).]

15 Section 6312 (relating to sexual abuse of children).

16 (c) Exceptions.--If the period prescribed in subsection (a),  
17 (b) or (b.1) has expired, a prosecution may nevertheless be  
18 commenced for:

19 \* \* \*

20 (3) Any sexual offense committed against a minor who is  
21 less than 18 years of age any time up to the later of the  
22 period of limitation provided by law after the minor has  
23 reached 18 years of age or the date the minor reaches 50  
24 years of age. As used in this paragraph, the term "sexual  
25 offense" means a crime under the following provisions of  
26 Title 18 (relating to crimes and offenses) [:

27 Section 3011(b) (relating to trafficking in  
28 individuals).

29 Section 3012 (relating to involuntary servitude) as  
30 it relates to sexual servitude.

1           Section 3121 (relating to rape).

2           Section 3122.1 (relating to statutory sexual

3           assault).

4           Section 3123 (relating to involuntary deviate sexual

5           intercourse).

6           Section 3124.1 (relating to sexual assault).

7           Section 3125 (relating to aggravated indecent

8           assault).] or a conspiracy or solicitation to commit an

9           offense under any of the following provisions of Title 18

10          if the offense results from the conspiracy or

11          solicitation:

12                Section 3126 (relating to indecent assault).

13                Section 3127 (relating to indecent exposure).

14                [Section 4302 (relating to incest).]

15                Section 4304 (relating to endangering welfare of

16                children).

17                Section 6301 (relating to corruption of minors).

18                Section 6312(b) (relating to sexual abuse of

19                children).

20                Section 6320 (relating to sexual exploitation of

21                children).

22                \* \* \*

23                Section 6. Title 42 is amended by adding a section to read:

24                § 8316.2. Contracts or agreements for nondisclosure of certain

25                conduct.

26                (a) Prohibition.--Except as provided in subsection (b), an

27                individual may not enter into, revise or amend an agreement,

28                contract, settlement or similar instrument that includes a

29                provision that:

30                (1) prohibits or attempts to prohibit the disclosure of

1 the name of an individual suspected of sexual abuse;

2 (2) suppresses or attempts to suppress information  
3 relevant to an investigation by law enforcement authorities  
4 into a claim of sexual abuse;

5 (3) impairs or attempts to impair the ability of an  
6 individual to report a claim of sexual abuse to law  
7 enforcement authorities; or

8 (4) impairs or attempts to impair the ability of an  
9 individual to publicly disclose a claim of sexual abuse.

10 (b) Exception.--An individual may enter into, revise or  
11 amend an agreement, contract, settlement or similar instrument  
12 to include a provision prohibited under subsection (a)(1) or (4)  
13 if the individual who was the victim of sexual abuse requests a  
14 provision be included.

15 (c) Void provisions.--A provision of an agreement, contract,  
16 settlement or similar instrument that is contrary to this  
17 section shall be void and unenforceable.

18 (d) Definitions.--As used in this section, the following  
19 words and phrases shall have the meanings given to them in this  
20 subsection unless the context clearly indicates otherwise:

21 "Childhood sexual abuse." Conduct that is subject to 23  
22 Pa.C.S. Ch. 63 (relating to child protective services) and is  
23 directed toward or against a child, notwithstanding the age of  
24 the child.

25 "Law enforcement authorities." An individual or entity  
26 charged with the enforcement of Federal, State or municipal law.

27 "Sexual abuse." As defined in section 5533(c)(2) (relating to  
28 infancy, insanity or imprisonment). The term shall include  
29 childhood sexual abuse.

30 Section 7. Sections 8522(b) and 8542(b) of Title 42 are

1 amended by adding paragraphs to read:

2 § 8522. Exceptions to sovereign immunity.

3 \* \* \*

4 (b) Acts which may impose liability.--The following acts by  
5 a Commonwealth party may result in the imposition of liability  
6 on the Commonwealth and the defense of sovereign immunity shall  
7 not be raised to claims for damages caused by:

8 \* \* \*

9 (10) Sexual abuse.--Conduct which constitutes an offense  
10 enumerated under section 5551(7) or (8) (relating to no  
11 limitation applicable) if the injuries to the plaintiff were  
12 caused by actions or omissions of the Commonwealth party  
13 which constitute negligence.

14 § 8542. Exceptions to governmental immunity.

15 \* \* \*

16 (b) Acts which may impose liability.--The following acts by  
17 a local agency or any of its employees may result in the  
18 imposition of liability on a local agency:

19 \* \* \*

20 (9) Sexual abuse.--Conduct which constitutes an offense  
21 enumerated under section 5551(7) or (8) (relating to no  
22 limitation applicable) if the injuries to the plaintiff were  
23 caused by actions or omissions of the local agency which  
24 constitute negligence.

25 \* \* \*

26 Section 8. The provisions of this act are severable. If any  
27 provision of this act is held invalid, the invalidity shall not  
28 affect other provisions or applications of this act which can be  
29 given effect without the invalid provision or application.

30 Section 9. This act shall apply as follows:

1           (1) The amendment or addition of 42 Pa.C.S. §§ 5551(7)  
2 and (8) and 5552(b.1) and (c)(3) shall not be applied to  
3 revive an action which has been barred by an existing statute  
4 of limitations on the effective date of this section.

5           (2) The addition of the following provisions shall be  
6 applied retroactively to civil actions, including to revive  
7 an action which was barred by a statute of limitations prior  
8 to the effective date of this section:

9           (i) 42 Pa.C.S. § 5522(c).

10          (ii) 42 Pa.C.S. § 5533(d).

11          (iii) 42 Pa.C.S. § 8522(b)(10).

12          (iv) 42 Pa.C.S. § 8542(b)(9).

13          (3) The amendment of 42 Pa.C.S. § 5533(b)(2)(i) shall  
14 apply retroactively to civil actions where the limitation  
15 period has not expired as of the effective date of this  
16 section.

17 Section 10. This act shall take effect as follows:

18          (1) This section shall take effect immediately.

19          (2) Section 9(2) and (3) of this act shall take effect  
20 in six months.

21          (3) The remainder of this act shall take effect in 60  
22 days.