

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 951 Session of 2021

INTRODUCED BY ROZZI, MARCH 17, 2021

SENATOR BAKER, JUDICIARY, IN SENATE, AS AMENDED, APRIL 21, 2021

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
 2 Pennsylvania Consolidated Statutes, in limitation of time,  
 3 further providing for infancy, insanity or imprisonment; in  
 4 matters affecting government units, further providing for  
 5 exceptions to sovereign immunity and for exceptions to  
 6 governmental immunity; WAIVING SOVEREIGN IMMUNITY AND  
 7 GOVERNMENTAL IMMUNITY; and making a related repeal. <--

8 The General Assembly of the Commonwealth of Pennsylvania  
 9 hereby enacts as follows:

10 Section 1. Section 5533(b) of Title 42 of the Pennsylvania  
 11 Consolidated Statutes is amended and the section is amended by  
 12 adding subsections to read:

13 § 5533. Infancy, insanity or imprisonment.

14 \* \* \*

15 (b) Infancy.--

16 (1) [(i)] If an individual entitled to bring a civil  
 17 action is an unemancipated minor at the time the cause of  
 18 action accrues, the period of minority shall not be  
 19 deemed a portion of the time period within which the  
 20 action must be commenced. Such person shall have the same

1 time for commencing an action after attaining majority as  
2 is allowed to others by the provisions of this  
3 subchapter.

4 [(ii) As used in this paragraph, the term "minor"  
5 shall mean any individual who has not yet attained 18  
6 years of age.]

7 (2) (i) If an individual entitled to bring a civil  
8 action arising from sexual abuse is under 18 years of age  
9 at the time the cause of action accrues, the individual  
10 shall have a period of 37 years after attaining 18 years  
11 of age in which to commence an action for damages  
12 regardless of whether the individual files a criminal  
13 complaint regarding the sexual abuse.

14 (i.1) If an individual entitled to bring a civil  
15 action arising from sexual abuse is at least 18 and less  
16 than 24 years of age at the time the cause of action  
17 occurs, the individual shall have until attaining 30  
18 years of age to commence an action for damages regardless  
19 of whether the individual files a criminal complaint  
20 regarding the sexual abuse.

21 [(ii) For the purposes of this paragraph, the term  
22 "sexual abuse" shall include, but not be limited to, the  
23 following sexual activities between an individual who is  
24 23 years of age or younger and an adult, provided that  
25 the individual bringing the civil action engaged in such  
26 activities as a result of forcible compulsion or by  
27 threat of forcible compulsion which would prevent  
28 resistance by a person of reasonable resolution:

29 (A) sexual intercourse, which includes  
30 penetration, however slight, of any body part or

1 object into the sex organ of another;

2 (B) deviate sexual intercourse, which includes  
3 sexual intercourse per os or per anus; and

4 (C) indecent contact, which includes any  
5 touching of the sexual or other intimate parts of the  
6 person for the purpose of arousing or gratifying  
7 sexual desire in either person.

8 (iii) For purposes of this paragraph, "forcible  
9 compulsion" shall have the meaning given to it in 18  
10 Pa.C.S. § 3101 (relating to definitions).]

11 (c) Temporary window to file claims.--Notwithstanding  
12 subsection (b) or any other provision of law to the contrary,  
13 for an individual entitled to bring a civil action arising from  
14 sexual abuse if the individual was under 18 years of age at the  
15 time the cause of action accrued, and if the limitation period  
16 for that cause of action has expired, the civil action is  
17 revived and the individual shall have an additional period of  
18 two years from the effective date of this subsection to commence  
19 an action. AN AWARD GRANTED TO AN INDIVIDUAL UNDER THIS <--  
20 SUBSECTION MAY NOT BE LIMITED BY A STATUTORY LIMITATION ON  
21 DAMAGES.

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

25 "Forcible compulsion." As defined in 18 Pa.C.S. § 3101  
26 (relating to definitions).

27 "Minor." An individual who has not yet attained 18 years of  
28 age.

29 "Sexual abuse." The term shall include, but not be limited  
30 to, the following sexual activities between an individual who is

1 23 years of age or younger and an adult, provided that the  
2 individual bringing the civil action engaged in such activities  
3 as a result of forcible compulsion or by threat of forcible  
4 compulsion which would prevent resistance by a person of  
5 reasonable resolution:

6 (1) sexual intercourse, which includes penetration,  
7 however slight, of any body part or object into the sex organ  
8 of another;

9 (2) deviate sexual intercourse, which includes sexual  
10 intercourse per os or per anus; and

11 (3) indecent contact, which includes any touching of the  
12 sexual or other intimate parts of the person for the purpose  
13 of arousing or gratifying sexual desire in either person.

14 Section 2. Sections 8522(b)(10) and 8542(b)(9) of Title 42  
15 are amended to read:

16 § 8522. Exceptions to sovereign immunity.

17 \* \* \*

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

22 \* \* \*

23 (10) Sexual abuse.--The following shall apply:

24 (i) Conduct which constitutes an offense enumerated  
25 under section 5551(7) (relating to no limitation  
26 applicable) if the injuries to the plaintiff were caused  
27 by actions or omissions of the Commonwealth party which  
28 constitute negligence.

29 (II) CONDUCT UNDER THE FOLLOWING PROVISIONS OF 18 <--  
30 PA.C.S. (RELATING TO CRIMES AND OFFENSES), OR A

1 CONSPIRACY OR SOLICITATION TO COMMIT AN OFFENSE UNDER  
2 THOSE PROVISIONS OF 18 PA.C.S. IF THE OFFENSE RESULTS  
3 FROM THE CONSPIRACY OR SOLICITATION, IF THE INJURIES TO  
4 THE PLAINTIFF WERE CAUSED BY ACTIONS OR OMISSIONS OF THE  
5 COMMONWEALTH PARTY WHICH CONSTITUTE NEGLIGENCE AND THE  
6 PLAINTIFF WAS AT LEAST 18 YEARS OF AGE AND LESS THAN 24  
7 YEARS OF AGE AT THE TIME THE CONDUCT OCCURRED:

8 (A) SECTION 3012 (RELATING TO INVOLUNTARY  
9 SERVITUDE).

10 (B) SECTION 3121 (RELATING TO RAPE).

11 (C) SECTION 3123 (A) (RELATING TO INVOLUNTARY  
12 DEVIATE SEXUAL INTERCOURSE).

13 (D) SECTION 3124.1 (RELATING TO SEXUAL ASSAULT).

14 (E) SECTION 3124.2 (A), (A.2) AND (A.4) (RELATING  
15 TO INSTITUTIONAL SEXUAL ASSAULT).

16 (F) SECTION 3125 (A) (1), (2), (3), (4), (5) AND  
17 (6) (RELATING TO AGGRAVATED INDECENT ASSAULT).

18 ~~(ii)~~ This paragraph (III) SUBPARAGRAPH (I) shall <--  
19 apply retroactively to a cause of action that arose prior  
20 to the effective date of this subparagraph and  
21 prospectively to a cause of action that arises after the  
22 effective date of this subparagraph.

23 (IV) SUBPARAGRAPH (II) SHALL APPLY PROSPECTIVELY TO <--  
24 A CAUSE OF ACTION THAT ARISES AFTER THE EFFECTIVE DATE OF  
25 THIS SUBPARAGRAPH.

26 § 8542. Exceptions to governmental immunity.

27 \* \* \*

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

1 \* \* \*

2 (9) Sexual abuse.--The following shall apply:

3 (i) Conduct which constitutes an offense enumerated  
4 under section 5551(7) (relating to no limitation  
5 applicable) if the injuries to the plaintiff were caused  
6 by actions or omissions of the local agency which  
7 constitute negligence.

8 (II) CONDUCT UNDER THE FOLLOWING PROVISIONS OF 18 <--  
9 PA.C.S. (RELATING TO CRIMES AND OFFENSES), OR A  
10 CONSPIRACY OR SOLICITATION TO COMMIT AN OFFENSE UNDER  
11 THOSE PROVISIONS OF 18 PA.C.S. IF THE OFFENSE RESULTS  
12 FROM THE CONSPIRACY OR SOLICITATION, IF THE INJURIES TO  
13 THE PLAINTIFF WERE CAUSED BY ACTIONS OR OMISSIONS OF THE  
14 LOCAL AGENCY WHICH CONSTITUTE NEGLIGENCE AND THE  
15 PLAINTIFF WAS AT LEAST 18 YEARS OF AGE AND LESS THAN 24  
16 YEARS OF AGE AT THE TIME THE CONDUCT OCCURRED:

17 (A) SECTION 3012 (RELATING TO INVOLUNTARY  
18 SERVITUDE).

19 (B) SECTION 3121 (RELATING TO RAPE).

20 (C) SECTION 3123(A) (RELATING TO INVOLUNTARY  
21 DEVIATE SEXUAL INTERCOURSE).

22 (D) SECTION 3124.1 (RELATING TO SEXUAL ASSAULT).

23 (E) SECTION 3124.2(A), (A.2) AND (A.4) (RELATING  
24 TO INSTITUTIONAL SEXUAL ASSAULT).

25 (F) SECTION 3125(A) (1), (2), (3), (4), (5) AND  
26 (6) (RELATING TO AGGRAVATED INDECENT ASSAULT).

27 ~~(ii) This paragraph (III) SUBPARAGRAPH (I) shall~~ <--  
28 apply retroactively to a cause of action that arose prior  
29 to the effective date of this subparagraph and  
30 prospectively to a cause of action that arises after the

1 effective date of this subparagraph.

2 (IV) SUBPARAGRAPH (II) SHALL APPLY PROSPECTIVELY TO <--  
3 A CAUSE OF ACTION THAT ARISES AFTER THE EFFECTIVE DATE OF  
4 THIS SUBPARAGRAPH.

5 \* \* \*

6 Section 3. This act shall apply as follows:

7 (1) The addition of 42 Pa.C.S. § 5533(c) shall apply to  
8 AND SHALL revive an action that was barred by an existing <--  
9 statute of limitations on the effective date of this section.

10 (2) The amendment of 42 Pa.C.S. §§ 8522 (b)(10) and 8542  
11 (b)(9) shall apply retroactively to an action where the  
12 limitations period has not expired prior to the effective  
13 date of this section.

14 (3) ~~The~~ EXCEPT FOR THE ADDITION OF 42 PA.C.S. §§ 8522(B) <--  
15 (10)(II) AND (IV) AND 8542(B)(9)(II) AND (IV), THE amendment  
16 of 42 Pa.C.S. §§ 8522(b)(10) and 8542 (b)(9) shall apply to  
17 an action subject to 42 Pa.C.S. § 5533(c) that was barred by  
18 an existing statute of limitations on the effective date of  
19 this section.

20 Section 4. Nothing in this act shall permit the application  
21 of the addition of 42 Pa.C.S. § 5533(c) to an action:

22 (1) that is subject to a final judgment which, on the  
23 effective date of this section, is not subject to appeal; or

24 (2) that, on the effective date of this section, has  
25 been nonjudicially resolved in its entirety by the parties,  
26 in a form which is enforceable.

27 Section 4.1. The Supreme Court of Pennsylvania shall have  
28 extraordinary jurisdiction to hear a challenge to or to render a  
29 declaratory judgment concerning the constitutionality of this  
30 act. The Supreme Court of Pennsylvania may take action as it

1 deems appropriate, consistent with the Supreme Court retaining  
2 jurisdiction over the matter, to find facts or to expedite a  
3 final judgment in connection with the challenge or request for  
4 declaratory relief.

5 SECTION 4.2. THE COMMONWEALTH WAIVES SOVEREIGN IMMUNITY <--  
6 RETROACTIVELY AND A LOCAL AGENCY WAIVES GOVERNMENTAL IMMUNITY  
7 RETROACTIVELY IN ANY ACTION WHERE THE LIMITATIONS PERIOD HAS NOT  
8 EXPIRED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION AND TO AN  
9 ACTION SUBJECT TO 42 PA.C.S. § 5533(C) THAT WAS BARRED BY AN  
10 EXISTING STATUTE OF LIMITATIONS ON THE EFFECTIVE DATE OF THIS  
11 SECTION. SECTION 5522 OF 42 PA.C.S. SHALL NOT APPLY TO AN ACTION  
12 SUBJECT TO 42 PA.C.S. § 5533(C).

13 Section ~~4.2~~ 4.3. The provisions of this act are <--  
14 nonseverable. If any provision of this act or its application to  
15 any person or circumstance is held invalid, the remaining  
16 provisions or applications of this act are void.

17 Section 5. Repeals are as follows:

18 (1) The General Assembly declares that the repeal under  
19 paragraph (2) is necessary to effectuate the amendment of 42  
20 Pa.C.S. §§ 8522(b)(10) and 8542(b)(9).

21 (2) Section 10(3)(ii) of the act of November 26, 2019  
22 (P.L.641, No.87), is repealed insofar as the section applies  
23 to 42 Pa.C.S. §§ 8522(b)(10) and 8542(b)(9).

24 Section 6. This act shall take effect immediately.