

BILL TEXT:

STATE OF NEW YORK

3397

2005-2006 Regular Sessions

IN ASSEMBLY

February 2, 2005

Introduced by M. of A. EDDINGTON, KOON, GALEF, PHEFFER, PAULIN, POWELL, GORDON, CHRISTENSEN, M. COHEN, CUSICK, L. DIAZ, HIKIND, McENENY, O'DONNELL, TITUS -- Multi-Sponsored by -- M. of A. ABBATE, AUBERTINE, BING, A. COHEN, GREEN, LAFAYETTE, MAGEE, P. RIVERA, ROBINSON, SWEENEY, TOWNS -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law and the civil practice law and rules, in relation to extending the statute of limitations for childhood sexual abuse or exploitation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (f) of subdivision 3 of section 30.10 of the
2 criminal procedure law, as added by chapter 122 of the laws of 1996, is
3 amended to read as follows:

4 (f) For purposes of a prosecution involving a [~~sexual~~] sex offense as
5 defined in article one hundred thirty of the penal law committed against
6 a child less than eighteen years of age, incest as defined in section
7 255.25 of the penal law committed against a child less than eighteen
8 years of age, or use of a child in a sexual performance as defined in
9 section 263.05 of the penal law, a felony conspiracy to commit one of
10 these crimes under article one hundred five of the penal law or a felony
11 for hindering the prosecution of one of these crimes pursuant to section
12 205.60 of the penal law, the period of limitation shall not begin to run
13 until the child has reached the age of eighteen or the offense is
14 reported to a law enforcement agency or statewide central register of
15 child abuse and maltreatment, whichever occurs earlier, and thereafter
16 such prosecution must be commenced within fifteen years.

17 § 2. The civil practice law and rules is amended by adding a new
18 section 214-f to read as follows:

19 § 214-f. Actions based on childhood sexual abuse or exploitation. 1.
20 All claims or causes of action brought by any person for recovery of
21 damages for injury or condition suffered as a result of childhood sexual

EXPLANATION--Matter in italics (underscoring) is new; matter in brackets [~~-~~] is old law to be omitted.

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1 abuse or exploitation shall be commenced within fifteen years of the act
 2 alleged to have caused the injury or condition.

3 2. The injured party need not establish which act, in a series of
 4 continuing acts of childhood sexual abuse or exploitation, caused the
 5 injury or condition that is the subject of the suit.

6 3. As used in this section, "childhood sexual abuse or exploitation"
 7 means any act committed by the perpetrator against the injured party
 8 which act occurred when the injured party was an infant and which act
 9 would have been proscribed by article one hundred thirty of the penal
 10 law, or which act would have constituted incest as defined in section
 11 255.25 of the penal law, or which act would have constituted the use of
 12 a child in a sexual performance as defined in section 263.05 of the
 13 penal law, or which act would have violated any prior law of this state
 14 of similar effect at the time the act was committed.

15 4. This section shall apply to all causes of action commenced on or
 16 after the effective date of this section, regardless of when the cause
 17 of action arose.

18 § 3. This act shall take effect immediately.

SPONSORS MEMO:

**NEW YORK STATE ASSEMBLY
 MEMORANDUM IN SUPPORT OF LEGISLATION
 submitted in accordance with Assembly Rule III, Sec 1(e)**

BILL NUMBER: A3397

SPONSOR: Eddington (MS)

TITLE OF BILL: An act to amend the criminal procedure law and the civil practice law and rules, in relation to extending the statute of limitations for childhood sexual abuse or exploitation

PURPOSE OR GENERAL IDEA OF BILL: This bill will extend the statutes of limitation for sex crimes committed against children in both criminal and civil cases, from five (5) to fifteen (15) years. In addition, as in current law, the period of limitation will be tolled when the child has reached the age of eighteen or the offense is reported to a law enforcement agency or statewide register of child abuse or maltreatment, whichever occurs earlier.

SUMMARY OF SPECIFIC PROVISIONS: Paragraph (f) of subdivision 3 of Sec. 30.10 of the criminal procedure law is amended as follows: a felony conspiracy to commit a crime under article 155 of the penal law or a felony for hindering the prosecution of a crime pursuant to sec. 205.60 of the penal law shall not begin to run until the child has reached the age of eighteen or the offense is reported to a law enforcement agency or statewide registry of child abuse or maltreatment, whichever occurs earlier, and thereafter such prosecution must be commenced within fifteen years. The civil practice law and rules is amended by adding a new subdivision 214-f which provides for all claims or causes of action brought by any person for recovery of damages for injury or condition suffered as a result of childhood sexual abuse or exploitation as defined in section 263.05 of the penal law shall be commenced within fifteen years of the act alleged to have caused the injury or condition.

RETRIEVE BILL

JUSTIFICATION: Recent investigations into numerous allegations of child sexual abuse have shown that young victims are often traumatized by the abhorrent acts committed against them. Prosecution may be hindered because victims are too young or are emotionally unable to come forward to report a person held in trust or to know that what is happening to them is wrong. In many instances the victim's own family members or close family friends are committing such acts. Later in life, after maturing and confronting the terrible nature of these acts perpetrated upon them, these now-adult victims have built up the courage to come forward and report the crimes against them to law enforcement. Only then do they learn that the authorities are powerless to bring their abusers to justice because the applicable statute of limitations has expired and prosecution of child sex offenders is very difficult. For many victims, it is not until they are much older in life that they are able to come forward about the abuse they endured.

Events throughout New York State have shown the need to extend the statute of limitations on such crimes to allow the victims and the state the opportunity for justice. This bill would provide victims and the state the opportunity to hold sex offenders responsible for their acts.

PRIOR LEGISLATIVE HISTORY: 2003-2004: A8767 - Remained in Committee

FISCAL IMPLICATIONS: None

EFFECTIVE DATE: This act shall take effect immediately.
