

BILL TEXT:

STATE OF NEW YORK

5580

2005-2006 Regular Sessions

IN ASSEMBLY

February 24, 2005

Introduced by M. of A. LAFAYETTE -- read once and referred to the
Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to limita-
tions of time on civil actions to recover damages for injuries caused
by child abuse

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

1 Section 1. The civil practice law and rules is amended by adding a new
2 section 215-a to read as follows:

3 § 215-a. Certain actions to be commenced within one year of discovery.

4 1. In this section, "abused child" shall have the meaning as set forth
5 in subdivision four-b of section three hundred seventy-one of the social
6 services law.

7 2. Notwithstanding the provisions of section two hundred fifteen of
8 this article, the one year period within which a plaintiff who was an
9 abused child shall commence an action to recover damages for personal
10 injury caused by such child abuse shall be computed from the date of
11 discovery of the injury by the plaintiff.

12 3. For the purposes of sections fifty-e and fifty-i of the general
13 municipal law, section thirty-eight hundred thirteen of the education
14 law and the provisions of any general, special or local law or charter
15 requiring as a condition precedent to commencement of an action or
16 special proceeding that a notice of claim be filed or presented within a
17 specified period of time after the claim or action accrued, a claim or
18 action for personal injury caused by child abuse shall be deemed to have
19 accrued on the date of discovery of the injury by the plaintiff.

20 4. Nothing set forth in this section shall be construed to eliminate,
21 limit or otherwise reduce the extension of time to commence an action
22 for infants pursuant to section two hundred eight of this article.

23 5. This section shall be applicable to acts of child abuse committed
24 or discovered on or after July first, two thousand five.

25 § 2. This act shall take effect July 1, 2005.

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

LBD09224-01-5

SPONSORS MEMO:

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

RETRIEVE BILL

BILL NUMBER: A5580

SPONSOR: Lafayette

TITLE OF BILL: An act to amend the civil practice law and rules, in relation to limitations of time on civil actions to recover damages for injuries caused by child abuse

PURPOSE OR GENERAL IDEA OF BILL:

To permit certain actions to be brought by a plaintiff who was an abused child within one year of discovery of the injury by the plaintiff.

SUMMARY OF SPECIFIC PROVISIONS:

The civil practice law and rules is amended by adding a new section 215-d which would allow a plaintiff who was an abused child to bring an action to recover damages within one year of the discovery of the injury by the plaintiff. This remedy is in addition to all other remedies available to the plaintiff. Currently, an adult who discovers that he or she was abused as a child may be barred by the statutes of limitation from bringing an action to recover damages for their personal injury. This legislation would extend the time limitation within which to seek a civil remedy for such injuries to one year from the date of discovery of the injury by the plaintiff.

JUSTIFICATION:

Many victims of child abuse repress their memories of the abuse for many years after reaching adulthood. By the time the abuse is discovered by the victim, their right to bring an action for damages is often barred by the statutes of limitation. This legislation would correct that injustice by allowing such an action to be brought by the victim within one year from the date that the victim discovered the injury. This remedy does not limit any other remedy available to the victim.

PRIOR LEGISLATIVE HISTORY:

1993-1994 (A.10034), 1995-96 (A.1280), 1997-98 (A.2088), 1999-00 (A5754), 2001-02 (A.4140), 2003-04 (A5673).

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

July 1, 2005.
