

House Bill 605 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives Spencer of the 180th, Oliver of the 82nd, Brockway of the 102nd, Frye of the 118th, Rakestraw of the 19th, and others

A BILL TO BE ENTITLED
AN ACT

1 To provide greater protections for individuals who have suffered from childhood sexual
2 abuse; to amend Code Section 9-3-33.1 of the Official Code of Georgia Annotated, relating
3 to actions for childhood sexual abuse, so as to extend the statute of limitations for actions for
4 childhood sexual abuse under certain circumstances; to provide for retroactive claims for
5 childhood sexual abuse under certain circumstances; to clarify existing law; to revise and
6 provide for definitions; to provide for a short title; to provide for related matters; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Hidden Predator Act of 2018."

11 **SECTION 2.**

12 Code Section 9-3-33.1 of the Official Code of Georgia Annotated, relating to actions for
13 childhood sexual abuse, is amended by revising paragraph (2) of and adding a new paragraph
14 to subsection (b), by revising subsection (c), and by adding subsection (d) as follows:

15 "(2)(A) Notwithstanding Code Section 9-3-33, any civil action for recovery of damages
16 suffered as a result of childhood sexual abuse committed on or after July 1, 2015, shall
17 be commenced:

18 (i) On or before the date the plaintiff attains the age of 23 years; or

19 (ii) Within ~~two~~ four years from the date that the plaintiff knew or had reason to know
20 of such abuse and that such abuse resulted in injury ~~to the plaintiff~~ as established by
21 competent medical or psychological evidence.

22 (B) When a plaintiff's civil action is filed after the plaintiff attains the age of 23 years
23 but within ~~two years from the date that the plaintiff knew or had reason to know of such~~
24 ~~abuse and that such abuse resulted in injury to the plaintiff~~ the time period described
25 in division (b)(2)(A)(ii) of this Code section, the court shall determine from admissible

26 evidence in a pretrial finding ~~when~~ the date upon which the discovery of the alleged
 27 childhood sexual abuse occurred and whether the civil action was timely filed under
 28 this Code section. The pretrial finding required under this subparagraph shall be made
 29 within six months of the filing of the civil action.

30 (3) Notwithstanding Code Section 9-3-33, a plaintiff who is between the age of 23 and
 31 38 years may bring a civil action for recovery of damages suffered as a result of
 32 childhood sexual abuse committed on or after July 1, 2018.

33 (c)(1) As used in this subsection, the term:

34 (A) 'Entity' means an institution, agency, firm, business, corporation, or other public
 35 or private legal entity organization.

36 (B) 'Person' means the individual alleged to have committed the act of childhood
 37 sexual abuse.

38 (2) If a civil action for recovery of damages suffered as a result of childhood sexual
 39 abuse is commenced pursuant to division (b)(2)(A)(i) of this Code section and if the
 40 person was a volunteer or employee of an entity that owed a duty of care to the plaintiff,
 41 or the person and the plaintiff were engaged in some activity over which such entity had
 42 control, damages against such entity shall be awarded under this Code section only if by
 43 a preponderance of the evidence there is a finding of negligence on the part of such
 44 entity.

45 (3) If a civil action for recovery of damages suffered as a result of childhood sexual
 46 abuse is commenced pursuant to division (b)(2)(A)(ii) or paragraph (3) of subsection (b)
 47 of this Code section and if the person was a volunteer or employee of an entity that owed
 48 a duty of care to the plaintiff, or the person and the plaintiff were engaged in some
 49 activity over which such entity had control, damages against such entity shall be awarded
 50 under this Code section only if by a preponderance of the evidence there is a finding ~~that~~
 51 there was of gross negligence on the part of such entity, that the entity knew or should
 52 have known of the alleged conduct giving rise to the civil action, and that such entity
 53 failed to take remedial action.

54 (d) Reserved."

55 SECTION 3.

56 Said Code section is further amended by adding a new subsection to read as follows:

57 "(e)(1) As used in this subsection, the term:

58 (A) 'Entity' means an institution, agency, firm, business, corporation, or other public
 59 or private legal organization; provided, however, that such term shall not include the
 60 individual members or owners of an unincorporated association.

61 (B) 'Person' means the individual alleged to have committed the act of childhood
62 sexual abuse.

63 (C) 'Responsibility for the care' means:

64 (i) The person was a volunteer or employee of an entity that owed a duty of care to
65 the plaintiff; or

66 (ii) The person and the plaintiff were engaged in some activity over which an entity
67 had control.

68 (2) For a period of one year following July 1, 2018, plaintiffs of any age who were time
69 barred from filing a civil action for recovery of damages suffered as a result of childhood
70 sexual abuse due to the expiration of the statute of limitations in effect on June 30, 2018,
71 shall be allowed to file such actions, which had lapsed or technically expired under the
72 law in effect on June 30, 2018, against an entity when such entity had a responsibility for
73 the care of the plaintiff, such entity knew or should have known of the alleged conduct
74 giving rise to the civil action, and such entity intentionally or with conscious indifference
75 concealed evidence of such conduct. For a plaintiff filing under this paragraph, damages
76 against such entity may be awarded only if the plaintiff proves by clear and convincing
77 evidence that such entity intentionally or with conscious indifference concealed evidence
78 of such conduct.

79 (3) On and after July 1, 2019, notwithstanding Code Section 9-3-33, and in addition to
80 the extended periods of limitations provided by this Code section, when an entity had a
81 responsibility for the care of the plaintiff, any civil action for recovery of damages
82 suffered as a result of childhood sexual abuse shall be commenced within one year from
83 the date the plaintiff discovered evidence that such entity intentionally or with conscious
84 indifference concealed evidence of such abuse."

85 **SECTION 4.**

86 All laws and parts of laws in conflict with this Act are repealed.