

Senate Bill 228

By: Senators Jones of the 25th, Wilkinson of the 50th, Martin of the 9th, Parent of the 42nd,
Jordan of the 6th 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 Article 2 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated,
3 relating to specific periods of limitation, so as to extend the statute of limitations for actions
4 for 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 style="text-align:center">**SECTION 1.**

10 This Act shall be known and may be cited as the "Child Victim Act of 2019."

11 style="text-align:center">**SECTION 2.**

12 Article 2 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated, relating to
13 specific periods of limitation, is amended by revising Code Section 9-3-33.1, relating to
14 actions for childhood sexual abuse, as follows:

15 "9-3-33.1.

16 (a)(1) As used in this subsection, the term 'childhood sexual abuse' means any act
17 committed by the defendant against the plaintiff which occurred when the plaintiff was
18 under 18 years of age and which would be in violation of:

19 (A) Rape, as prohibited in Code Section 16-6-1;

20 (B) Sodomy or aggravated sodomy, as prohibited in Code Section 16-6-2;

21 (C) Statutory rape, as prohibited in Code Section 16-6-3;

22 (D) Child molestation or aggravated child molestation, as prohibited in Code Section
23 16-6-4;

24 (E) Enticing a child for indecent purposes, as prohibited in Code Section 16-6-5;

25 (F) Pandering, as prohibited in Code Section 16-6-12;

26 (G) Pandering by compulsion, as prohibited in Code Section 16-6-14;

27 (H) Solicitation of sodomy, as prohibited in Code Section 16-6-15;

28 (I) Incest, as prohibited in Code Section 16-6-22;

29 (J) Sexual battery, as prohibited in Code Section 16-6-22.1; or

30 (K) Aggravated sexual battery, as prohibited in Code Section 16-6-22.2.

31 (2) Notwithstanding Code Section 9-3-33 and except as provided in subsection (d) of this
 32 Code section as it existed on June 30, ~~2017~~ 2021, any civil action for recovery of
 33 damages suffered as a result of childhood sexual abuse committed before July 1, 2015,
 34 shall be commenced on or before the date the plaintiff attains the age of ~~23~~ 55 years.

35 (b)(1) As used in this subsection, the term 'childhood sexual abuse' means any act
 36 committed by the defendant against the plaintiff which occurred when the plaintiff was
 37 under 18 years of age and which would be in violation of:

38 (A) Trafficking a person for sexual servitude, as prohibited in Code Section 16-5-46;

39 (B) Rape, as prohibited in Code Section 16-6-1;

40 (C) Statutory rape, as prohibited in Code Section 16-6-3, if the defendant was 21 years
 41 of age or older at the time of the act;

42 (D) Aggravated sodomy, as prohibited in Code Section 16-6-2;

43 (E) Child molestation or aggravated child molestation, as prohibited in Code Section
 44 16-6-4, unless the violation would be subject to punishment as provided in paragraph
 45 (2) of subsection (b) of Code Section 16-6-4 or paragraph (2) of subsection (d) of Code
 46 Section 16-6-4;

47 (F) Enticing a child for indecent purposes, as prohibited in Code Section 16-6-5, unless
 48 the violation would be subject to punishment as provided in subsection (c) of Code
 49 Section 16-6-5;

50 (G) Incest, as prohibited in Code Section 16-6-22;

51 (H) Aggravated sexual battery, as prohibited in Code Section 16-6-22.2; or

52 (I) Part 2 of Article 3 of Chapter 12 of Title 16.

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

56 (i) On or before the date the plaintiff attains the age of ~~23~~ 55 years; or

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

60 (B) When a plaintiff's civil action is filed after the plaintiff attains the age of ~~23~~ 55
 61 years but within ~~two~~ four years from the date that the plaintiff knew or had reason to
 62 know of such abuse and that such abuse resulted in injury to the plaintiff, the court shall

63 determine from admissible evidence in a pretrial finding when the discovery of the
 64 alleged childhood sexual abuse occurred. The pretrial finding required under this
 65 subparagraph shall be made within six months of the filing of the civil action.

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

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

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

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

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

86 (d)(1) As used in this subsection, the terms 'entity' and 'person' shall have the same
 87 meaning as set forth in subsection (c) of this Code section.

88 (2) For a period of two years following July 1, 2019, plaintiffs of any age who were time
 89 barred from filing a civil action against any person or entity for injuries resulting from
 90 childhood sexual abuse due to the expiration of the statute of limitations in effect on June
 91 30, 2019, shall be allowed to file such actions, thereby reviving those civil actions which
 92 had lapsed or technically expired under the law in effect on June 30, 2019.

93 (3) The revival of a claim as provided in paragraph (2) of this subsection shall not apply
 94 to:

95 (A) Any claim that has been litigated to finality on the merits in a court of competent
 96 jurisdiction prior to July 1, 2019. Termination of a prior civil action on the basis of the
 97 expiration of the statute of limitations shall not constitute a claim that has been litigated
 98 to finality on the merits; and

99 (B) Any written settlement agreement which has been entered into between a plaintiff
100 and a defendant when the plaintiff was represented by an attorney who was admitted
101 to practice law in this state at the time of the settlement, and the plaintiff signed such
102 settlement.

103 (4) This subsection shall stand repealed effective July 1, 2021."

104 **SECTION 4.**

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