

2019 NY S.B. 2440 (NS)
2019 New York Senate Bill No. 2440, New York Two Hundred Forty-Second Legislative Session

NEW YORK COMMITTEE REPORT

TITLE: Provides for the timeliness of commencing criminal and civil action for sexual offenses committed against children.

VERSION: General

January 26, 2019

Version Date January 26, 2019

Hoyleman, Brad M.

TEXT:

<BILL NUMBER:> S2440

<SPONSOR:> HOYLMAN

<TITLE OF BILL>:

An act to amend the criminal procedure law, in relation to the statute of limitations in criminal prosecution of a sexual offense committed against a child; to amend the civil practice law and rules, in relation to the statute of limitations for civil actions related to a sexual offense committed against a child, reviving such actions otherwise barred by the existing statute of limitations and granting trial preference to such actions; to amend the general municipal law, in relation to providing that the notice of claim provisions shall not apply to such actions; to amend the court of claims act, in relation to providing that the notice of intention to file provisions shall not apply to such actions; to amend the education law, in relation to providing that the notice of claim provisions shall not apply to such actions; and to amend the judiciary law, in relation to judicial training relating to sexual abuse of minors and rules reviving civil actions relating to sexual offenses committed against children

<SUMMARY OF SPECIFIC PROVISIONS>:

Section 1. Amends prospectively the statute of limitations in criminal actions alleging a sexual offense against a child under the age of 18. Currently, certain specified class A and class B felony sexual offenses have no statute of limitations, and for other felony sexual offenses, a five year statute of limitations starts to run when the victim turns 18. For misdemeanors, current law contains a two year statute of limitations, which also starts to run at age 18. This section applies to all sexual offenses against children which have a statute of limitations and increases the start of the statute running by five years to the victim's 23rd birthday.

Section 2. Amends prospectively the statute of limitations in civil actions alleging conduct which would constitute a sexual offense against a child under the age of 18. Under current law, the statute of limitations typically begins to run when the victim turns 18, and the statute of limitations ranges from one year to five years depending on the type of claim being brought. This section, as amended, now permits all civil claims or causes of action brought for physical, psychological or other injury or condition suffered as a result of conduct which would constitute a sexual offense against a child against any party whose intentional or negligent acts or omissions are alleged to have resulted in the commission of that conduct up until the victim reaches 55 years of age. This section explicitly applies notwithstanding any other section of law pertaining to the filing of a notice of claim or a notice of intention to file a claim as a condition precedent to bringing a civil action against a public institution.

Section 3. Allows for time-barred actions in which such conduct is alleged to be revived, and not be barred by any statute of limitation or notice of claim requirement otherwise existing in law. Such revival can only take place within a one year window which commences six months from the effective date of the act. This section explicitly applies notwithstanding any other section of law pertaining to the filing of a notice of claim or a notice of intention to file a claim as a condition precedent to bringing a civil action against a public institution. This section also makes clear that any revived civil actions brought

during the one year window that were previously dismissed due to being time- barred or for failure to file a notice of claim or a notice of intention to file a claim shall not be dismissed on those grounds

Section 4. Establishes a special trial preference for cases which have been revived pursuant to this act.

Sections 5, 6, 7, and 8. Remove notice of claim requirements in actions alleging damages resulting from the commission of certain sexual offenses against governmental entities, thus putting governmental and non-governmental defendants on an equal footing for any civil actions brought after the effective date of this act, including during the one year revival window. Current law, which requires that a notice of claim must first be served prior to commencing such actions, would not apply to these types of actions.

Section 9. Requires the Office of Court Administration to provide training for judges concerning crimes involving the sexual abuse of minors.

Section 10. Requires the Chief Administrator of the courts to promulgate rules concerning the timely adjudication of claims revived pursuant to Section 3.

<JUSTIFICATION>:

New York is one of the worst states in the nation for survivors of child sexual abuse. New York currently requires most survivors to file civil actions or criminal charges against their abusers by the age of 23 at most, long before most survivors report or come to terms with their abuse, which has been estimated to be as high as 52 years old on average. Because of these restrictive statutes of limitations, thousands of survivors are unable to sue or press charges against their abusers, who remain hidden from law enforcement and pose a persistent threat to public safety.

This legislation would open the doors of justice to the thousands of survivors of child sexual abuse in New York State by prospectively extending the statute of limitations to age 28 for charging felony sexual offenses, age 25 for charging misdemeanor sexual offenses, and age 55 for bringing civil actions for physical, psychological or other injury suffered as a result of child sexual abuse against any party whose intentional or negligent acts or omissions are alleged to have resulted in the abuse.

This legislation would also establish a one-year window in which adult survivors of child sexual abuse would be permitted to file civil actions, even if the statute of limitations had already expired or, in the case of civil actions against public institutions, a notice of claim requirement had gone unmet.

Passage of the Child Victims Act will finally allow justice for past and future survivors of child sexual abuse, help the public identify hidden child predators through civil litigation discovery, and shift the significant and lasting costs of child sexual abuse to the responsible parties.

<PRIOR LEGISLATIVE HISTORY>:

S.6575 of 2017-2018 (Hoylman): Died in Codes A.5885-A of 2017-2018 (Rosenthal): Passed Assembly S.63-A of 2015-2016 (Hoylman): Died in Codes (Similar Legislation) A.2872-A of 2015-2016 (Markey): Died in Codes (Similar Legislation) S.6367 of 2014 (Hoylman): Died in Codes (Similar Legislation) A.1771-A of 2013-2014 (Markey): Died in Codes (Similar Legislation) A.10814-B of 2012 (Markey): Died in Codes (Similar Legislation)

<FISCAL IMPACT>:

To be determined.

<EFFECTIVE DATE>: This act shall take effect immediately; except that section nine of this act shall take effect six months after this act shall have become a law; provided, however, that training for cases brought pursuant to section 214-g of the civil practice law and rules, as added by section three of this act, shall commence three months after this act shall have become a law; and section ten of this act shall take effect three months after this act shall have become a law.

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