

HOUSE BILL 642

D3

7lr2570
CF SB 505

By: **Delegates C. Wilson, Angel, Atterbeary, Bromwell, Folden, C. Howard, and Moon**

Introduced and read first time: February 1, 2017

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2017

CHAPTER _____

1 AN ACT concerning

2 **Civil Actions – Child Sexual Abuse – Statute of Limitations and Required**
3 **Findings**

4 FOR the purpose of altering the statute of limitations in certain civil actions relating to
5 child sexual abuse; establishing a statute of repose for certain civil actions relating
6 to child sexual abuse; providing that, in a certain action filed more than a certain
7 number of years after the victim reaches the age of majority, damages may be
8 awarded against a person or governmental entity that is not an alleged perpetrator
9 only under certain circumstances; providing that a certain action is exempt from
10 certain provisions of the Local Government Torts Claims Act; providing that a
11 certain action is exempt from certain provisions of the Maryland Torts Claims Act;
12 defining a certain term; making certain stylistic changes; providing for the
13 application of this Act; and generally relating to child sexual abuse.

14 BY repealing and reenacting, with amendments,
15 Article – Courts and Judicial Proceedings
16 Section 5–117 and 5–304(a)
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2016 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Courts and Judicial Proceedings
21 Section 5–304(b)
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2013 Replacement Volume and 2016 Supplement)

2 BY repealing and reenacting, with amendments,
 3 Article – State Government
 4 Section 12–106(a)
 5 Annotated Code of Maryland
 6 (2014 Replacement Volume and 2016 Supplement)

7 BY repealing and reenacting, without amendments,
 8 Article – State Government
 9 Section 12–106(b)
 10 Annotated Code of Maryland
 11 (2014 Replacement Volume and 2016 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 13 That the Laws of Maryland read as follows:

14 **Article – Courts and Judicial Proceedings**

15 5–117.

16 (a) **(1)** In this section, THE FOLLOWING WORDS HAVE THE MEANINGS
 17 INDICATED.

18 **(2)** “ALLEGED PERPETRATOR” MEANS THE INDIVIDUAL ALLEGED TO
 19 HAVE COMMITTED THE SPECIFIC INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT
 20 SERVE AS THE BASIS OF AN ACTION UNDER THIS SECTION.

21 **(3)** ~~“sexual~~ “SEXUAL abuse” has the meaning stated in § 5–701 of the
 22 Family Law Article.

23 (b) An action for damages arising out of an alleged incident or incidents of sexual
 24 abuse that occurred while the victim was a minor shall be filed [within] ~~AGAINST THE~~
 25 ~~ALLEGED PERPETRATOR OF THE SEXUAL ABUSE:~~

26 **(1)** **AT ANY TIME BEFORE THE VICTIM REACHES THE AGE OF**
 27 **MAJORITY; OR**

28 **(2)** ~~WITHIN~~ **SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION,**
 29 **WITHIN THE LATER OF:**

30 **(i)** **[7] 20 years [of] AFTER** the date that the victim [attains]
 31 **REACHES** the age of majority; **OR**

1 (II) 3 YEARS AFTER THE DATE THAT THE DEFENDANT IS
2 CONVICTED OF A CRIME RELATING TO THE ALLEGED INCIDENT OR INCIDENTS
3 UNDER:

4 1. § 3-602 OF THE CRIMINAL LAW ARTICLE; OR

5 2. THE LAWS OF ANOTHER STATE OR THE UNITED
6 STATES THAT WOULD BE A CRIME UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE.

7 ~~(C) (1) AN ACTION FOR DAMAGES ARISING OUT OF AN ALLEGED~~
8 ~~INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE THE VICTIM~~
9 ~~WAS A MINOR SHALL BE FILED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT~~
10 ~~IS NOT AN ALLEGED PERPETRATOR OF THE SEXUAL ABUSE;~~

11 ~~(I) AT ANY TIME BEFORE THE VICTIM REACHES THE AGE OF~~
12 ~~MAJORITY; OR~~

13 ~~(II) WITHIN 20 YEARS AFTER THE DATE THAT THE VICTIM~~
14 ~~REACHES THE AGE OF MAJORITY.~~

15 ~~(2) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, DAMAGES MAY~~
16 ~~BE AWARDED AGAINST A PERSON OR GOVERNMENTAL ENTITY ONLY ON A~~
17 ~~DETERMINATION BY THE FINDER OF FACT THAT THE PERSON OR GOVERNMENTAL~~
18 ~~ENTITY:~~

19 ~~(I) PRIOR TO THE INCIDENT OR INCIDENTS OF SEXUAL ABUSE~~
20 ~~THAT FORM THE BASIS OF THE ACTION, HAD ACTUAL KNOWLEDGE OF A PREVIOUS~~
21 ~~INCIDENT OR INCIDENTS OF SEXUAL ABUSE; AND~~

22 ~~(II) NEGLIGENCE FAILED TO PREVENT THE INCIDENT OR~~
23 ~~INCIDENTS OF SEXUAL ABUSE THAT FORM THE BASIS OF THE ACTION.~~

24 (C) IN AN ACTION BROUGHT UNDER THIS SECTION MORE THAN 7 YEARS
25 AFTER THE VICTIM REACHES THE AGE OF MAJORITY, DAMAGES MAY BE AWARDED
26 AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT THE ALLEGED
27 PERPETRATOR OF THE SEXUAL ABUSE ONLY IF:

28 (1) THE PERSON OR GOVERNMENTAL ENTITY OWED A DUTY OF CARE
29 TO THE VICTIM;

30 (2) THE PERSON OR GOVERNMENTAL ENTITY EMPLOYED THE
31 ALLEGED PERPETRATOR OR EXERCISED SOME DEGREE OF RESPONSIBILITY OR
32 CONTROL OVER THE ALLEGED PERPETRATOR; AND

1 SECTION 2. AND BE IT FURTHER ENACTED, ~~That this Act shall be construed to~~
 2 ~~apply only prospectively and may not be applied or interpreted to have any effect on or~~
 3 ~~application to any cause of action arising before the effective date of this Act~~ That this Act
 4 may not be construed to apply retroactively to revive any action that was barred by the
 5 application of the period of limitations applicable before October 1, 2017.

6 SECTION 3. AND BE IT FURTHER ENACTED, That the statute of repose under §
 7 5-117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to apply
 8 both prospectively and retroactively to provide repose to defendants regarding actions that
 9 were barred by the application of the period of limitations applicable before October 1, 2017.

10 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
 11 October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.