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By: Delegates McHale and Menes

Introduced and read first time: January 27, 2003

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 Sexual Abuse of a Minor - Time Limitations on Filing Civil Actions

- 3 FOR the purpose of providing that a pending criminal prosecution for sexual abuse of
- 4 a minor shall extend in a certain manner the period of limitations for filing a
- 5 civil action arising from sexual abuse of the minor under certain circumstances;
- 6 providing that a person may file a civil action arising from sexual abuse of a
- 7 minor within a certain period after the final disposition of a criminal
- 8 prosecution for sexual abuse of the minor under certain circumstances; defining
- 9 certain terms; providing for the application and construction of this Act; and
- 10 generally relating to altering the time limitations for filing certain civil actions
- arising from sexual abuse of a minor under certain circumstances.
- 12 BY repealing and reenacting, without amendments,
- 13 Article Courts and Judicial Proceedings
- 14 Section 5-101
- 15 Annotated Code of Maryland
- 16 (2002 Replacement Volume)
- 17 BY repealing and reenacting, with amendments,
- 18 Article Courts and Judicial Proceedings
- 19 Section 5-201(a)
- 20 Annotated Code of Maryland
- 21 (2002 Replacement Volume)
- 22 BY adding to
- 23 Article Courts and Judicial Proceedings
- 24 Section 5-206
- 25 Annotated Code of Maryland
- 26 (2002 Replacement Volume)
- 27 BY repealing and reenacting, without amendments,
- 28 Article Criminal Law
- 29 Section 3-602

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- **HOUSE BILL 165** 1 Annotated Code of Maryland (2002 Volume) 2 3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 4 MARYLAND, That the Laws of Maryland read as follows: 5 **Article - Courts and Judicial Proceedings** 6 5-101. 7 A civil action at law shall be filed within three years from the date it accrues 8 unless another provision of the Code provides a different period of time within which 9 an action shall be commenced. 10 5-201. 11 (a) [When] SUBJECT TO THE PROVISIONS OF § 5-206 OF THIS SUBTITLE, 12 WHEN a cause of action subject to a limitation under Subtitle 1 of this title or Title 3, 13 Subtitle 9 of this article accrues in favor of a minor or mental incompetent, that 14 person shall file [his] THE PERSON'S action within the lesser of three years or the 15 applicable period of limitations after the date the disability is removed. 16 5-206. 17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS 18 INDICATED. 19 "DATE OF THE FINAL DISPOSITION OF THE CRIMINAL PROSECUTION" 20 MEANS THE DATE OF THE LAST TO OCCUR OF THE FOLLOWING: 21 (I) THE FINAL JUDGMENT OF A TRIAL COURT; 22 THE FINAL DISPOSITION OF AN APPEAL OR REVIEW IN A COURT (II)23 OF THE STATE; OR THE EXPIRATION OF TIME FOR FILING AN APPEAL OR PETITION 24 (III)25 FOR REVIEW. "SEXUAL ABUSE" HAS THE MEANING STATED IN § 3-602 OF THE 26 27 CRIMINAL LAW ARTICLE. THIS SECTION APPLIES TO THE TIME LIMITATIONS UNDER THIS TITLE 28 (B) 29 FOR FILING A CIVIL ACTION, REGARDLESS OF THE THEORY OF RECOVERY, IF THE 30 CAUSE OF ACTION ARISES FROM SEXUAL ABUSE OF A MINOR.
- 32 A MINOR UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE:
- 33 (1) THE TIME DURING WHICH THE CRIMINAL PROSECUTION IS PENDING

IF THE STATE BEGINS A CRIMINAL PROSECUTION FOR SEXUAL ABUSE OF

34 MAY NOT BE COMPUTED AS PART OF THE PERIOD WITHIN WHICH A CIVIL ACTION

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1 THAT ARISES FROM THE SAME OR SUBSTANTIALLY SIMILAR FACTS AS THE CRIMINAL

2	2 PROSECUTION IS REQUIRED TO BE FILED; AND						
5	(2) FROM THE DATE OF THE FINAL DISPOSITION OF THE CRIMINAL PROSECUTION, A PERSON MAY FILE A CIVIL ACTION, THAT ARISES FROM THE SAME OR SUBSTANTIALLY SIMILAR FACTS AS THE CRIMINAL PROSECUTION, WITHIN THE LONGER OF:						
7 8	FILING THI	E CIVIL	(I) ACTION		EMAINING PERIOD PROVIDED UNDER THIS TITLE FOR		
9			(II)	1 YEAR	.		
10 11	(0) (D) FOR THE PURPOSES OF ITEM (C)(1) OF THIS SECTION, THE TIME DURING 11 WHICH A CRIMINAL PROSECUTION IS PENDING SHALL BE COMPUTED:						
12		(1)	FROM 7	THE DA	TE OF THE FIRST TO OCCUR OF THE FOLLOWING:		
13			(I)	THE ISS	SUANCE OF A WARRANT OR SUMMONS;		
14			(II)	THE RE	TURN OF AN INDICTMENT;		
15			(III)	THE FII	LING OF A CRIMINAL INFORMATION; OR		
16 17	(IV) THE DEFENDANT'S FIRST APPEARANCE IN A COURT IN THE CRIMINAL PROSECUTION; AND						
18 19	PROSECUT	(2) ΓΙΟΝ.	UNTIL	THE DA	TE OF THE FINAL DISPOSITION OF THE CRIMINAL		
20	O Article - Criminal Law						
21	3-602.						
22	(a)	(1)	In this section the following words have the meanings indicated.				
23		(2)	"Family	member'	has the meaning stated in § 3-601 of this subtitle.		
24 25	subtitle.	(3)	"Househ	old mem	ber" has the meaning stated in § 3-601 of this		
26 27	or exploitati	(4) on of a m	(i) ninor, wh		abuse" means an act that involves sexual molestation sical injuries are sustained or not.		
28			(ii)	"Sexual	abuse" includes:		
29				1.	incest;		
30				2.	rape;		
31				3.	sexual offense in any degree;		

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1	4. sodomy; and
2	5. unnatural or perverted sexual practices.
	(b) (1) A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause sexual abuse to the minor.
6 7	(2) A household member or family member may not cause sexual abuse to a minor.
8 9	(c) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years.
10 11	(d) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for:
12 13	(1) any crime based on the act establishing the violation of this section; or
14 15	(2) a violation of § 3-601 of this subtitle involving an act of abuse separate from sexual abuse under this section.
	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any case filed before the effective date of this Act.
19	SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect