

SENATE BILL 575

E2

71r1592

By: **Senator Brochin**

Introduced and read first time: February 2, 2007

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Child Sexual Abuse – Statute of Limitations**

3 FOR the purpose of providing that a certain statute of limitations does not apply
4 during a certain period for a person with a certain certificate; authorizing a
5 certain person to obtain a certain certificate for certain civil actions relating to
6 child sexual abuse filed by a certain victim; requiring certain information in a
7 certificate for certain civil actions relating to child sexual abuse to be provided
8 in statements by an attorney and a licensed mental health practitioner;
9 authorizing claims for damages to be filed under this Act for a certain period of
10 time for certain claims that would otherwise be barred under certain
11 circumstances; providing for the termination of this Act; and generally relating
12 to civil actions and child sexual abuse.

13 BY repealing and reenacting, with amendments,
14 Article – Courts and Judicial Proceedings
15 Section 5–117
16 Annotated Code of Maryland
17 (2006 Replacement Volume)

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

20 **Article – Courts and Judicial Proceedings**

21 5–117.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this section, "sexual abuse" has the meaning stated in § 5-701 of the
2 Family Law Article.

3 (b) An action for damages arising out of an alleged incident or incidents of
4 sexual abuse that occurred while the victim was a minor shall be filed [within]:

5 (1) **WITHIN 7 years of the date that the victim attains the age of**
6 **majority; OR**

7 (2) **BEFORE DECEMBER 31, 2008, IF THE VICTIM, REGARDLESS**
8 **OF AGE, HAS A CERTIFICATE OF MERIT UNDER SUBSECTION (C) OF THIS**
9 **SECTION.**

10 (c) **AN INDIVIDUAL MAY OBTAIN A CERTIFICATE OF MERIT FROM THE**
11 **INDIVIDUAL'S ATTORNEY AND MENTAL HEALTH PRACTITIONER IN ACCORDANCE**
12 **WITH SUBSECTION (D) OF THIS SECTION.**

13 (d) **A CERTIFICATE OF MERIT SHALL:**

14 (1) **BE EXECUTED BY THE ATTORNEY FOR THE VICTIM AND A**
15 **LICENSED MENTAL HEALTH PRACTITIONER SELECTED BY THE VICTIM; AND**

16 (2) **INCLUDE THE FOLLOWING:**

17 (i) **A STATEMENT BY THE ATTORNEY FOR THE VICTIM THAT**
18 **THE ATTORNEY HAS:**

19 1. **REVIEWED THE FACTS OF THE CASE;**

20 2. **CONSULTED WITH A MENTAL HEALTH**
21 **PRACTITIONER LICENSED TO PRACTICE IN THE STATE WHO IS FAMILIAR WITH**
22 **THE RELEVANT FACTS AND ISSUES INVOLVED WITH THE ACTION AND NOT A**
23 **PARTY TO THE ACTION; AND**

24 3. **CONCLUDED AS A RESULT OF THE REVIEW AND**
25 **CONSULTATION THAT THERE IS A REASONABLE AND MERITORIOUS CAUSE FOR**
26 **THE FILING OF THE ACTION; AND**

27 (ii) **A STATEMENT BY THE LICENSED MENTAL HEALTH**
28 **PRACTITIONER SELECTED BY THE VICTIM THAT THE PRACTITIONER:**

1 1. **IS LICENSED TO PRACTICE AND PRACTICES IN**
2 **THE STATE;**

3 2. **IS NOT TREATING AND HAS NOT TREATED THE**
4 **VICTIM;**

5 3. **HAS INTERVIEWED THE VICTIM AND HAS**
6 **KNOWLEDGE ABOUT THE VICTIM'S ACTION FOR DAMAGES; AND**

7 4. **HAS CONCLUDED AS A RESULT OF THE**
8 **CONSULTATION THAT THERE IS A REASONABLE BASIS TO BELIEVE THAT THE**
9 **VICTIM IN THE ACTION HAD BEEN SUBJECT TO SEXUAL ABUSE WHEN THE**
10 **VICTIM WAS A MINOR.**

11 **(E) ON WRITTEN REQUEST MADE BY THE ATTORNEY FOR A VICTIM WHO**
12 **IS UNABLE TO OBTAIN A STATEMENT UNDER SUBSECTION (C) OF THIS SECTION**
13 **BEFORE THE END OF DECEMBER 31, 2008, AND A FINDING OF GOOD CAUSE BY**
14 **THE COURT, A COURT MAY GRANT AN EXTENSION FOR UP TO 30 DAYS TO OBTAIN**
15 **THE STATEMENT.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That any claim for damages
17 arising out of an alleged incident or incidents of sexual abuse that occurred while the
18 victim was a minor that would otherwise be barred as of January 1, 2008, solely
19 because the statute of limitations specified in § 5-117(b) of the Courts and Judicial
20 Proceedings Article in effect before the enactment of this Act has expired, is revived
21 under this Act, and a cause of action may be commenced within 1 year of January 1,
22 2008.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2007. This Act shall remain effective for a period of 1 year and 3 months
25 and, at the end of December 31, 2009, with no further action required by the General
26 Assembly, this Act shall be abrogated and of no further force and effect.