

# SENATE BILL 134

D3, D4

(PRE-FILED)

11r0787  
CF HB 263

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By: **Senators Hettleman, Corderman, Elfreth, Feldman, and Young**

Requested: September 30, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of altering the definition of “sexual abuse”; altering the statute of  
4 limitations in certain civil actions relating to child sexual abuse; repealing a certain  
5 definition; repealing a statute of repose for certain civil actions relating to child  
6 sexual abuse; providing for the retroactive application of this Act under certain  
7 circumstances; making the provisions of this Act severable; and generally relating to  
8 child sexual abuse.

9 BY repealing and reenacting, with amendments,  
10 Article – Courts and Judicial Proceedings  
11 Section 5–117  
12 Annotated Code of Maryland  
13 (2020 Replacement Volume)

14 BY repealing  
15 Chapter 12 of the Acts of the General Assembly of 2017  
16 Section 2 and 3

17 BY repealing  
18 Chapter 656 of the Acts of the General Assembly of 2017  
19 Section 2 and 3

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

22 **Article – Courts and Judicial Proceedings**

23 5–117.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1            [(a) (1) In this section the following words have the meanings indicated.

2                    (2) “Alleged perpetrator” means the individual alleged to have committed  
3 the specific incident or incidents of sexual abuse that serve as the basis of an action under  
4 this section.

5                    (3) “Sexual abuse” has the meaning stated in § 5–701 of the Family Law  
6 Article.]

7            (A) **IN THIS SECTION, “SEXUAL ABUSE” MEANS ANY ACT THAT INVOLVES:**

8                    (1) **AN ADULT ALLOWING OR ENCOURAGING A CHILD TO ENGAGE IN:**

9                            (I) **OBSCENE PHOTOGRAPHY, FILMS, POSES, OR SIMILAR**  
10 **ACTIVITY;**

11                            (II) **PORNOGRAPHIC PHOTOGRAPHY, FILMS, POSES, OR**  
12 **SIMILAR ACTIVITY; OR**

13                            (III) **PROSTITUTION;**

14                    (2) **INCEST;**

15                    (3) **RAPE;**

16                    (4) **SEXUAL OFFENSE IN ANY DEGREE; OR**

17                    (5) **UNNATURAL OR PERVERTED SEXUAL PRACTICES.**

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

20                    (1) At any time before the victim reaches the age of majority; or

21                    (2) Subject to subsections (c) and (d) of this section, within the later of:

22                            (i) 20 years after the date that the victim reaches the age of  
23 majority; or

24                            (ii) 3 years after the date that the defendant is convicted of a crime  
25 relating to the alleged incident or incidents under:

26                                    1. § 3–602 of the Criminal Law Article; or

27                                    2. The laws of another state or the United States that would  
28 be a crime under § 3–602 of the Criminal Law Article.

1 (c) In an action brought under this section more than 7 years after the victim  
2 reaches the age of majority, damages may be awarded against a person or governmental  
3 entity that is not the alleged perpetrator of the sexual abuse only if:

4 (1) The person or governmental entity owed a duty of care to the victim;

5 (2) The person or governmental entity employed the alleged perpetrator or  
6 exercised some degree of responsibility or control over the alleged perpetrator; and

7 (3) There is a finding of gross negligence on the part of the person or  
8 governmental entity.

9 (d) In no event may an action for damages arising out of an alleged incident or  
10 incidents of sexual abuse that occurred while the victim was a minor be filed against a  
11 person or governmental entity that is not the alleged perpetrator more than 20 years after  
12 the date on which the victim reaches the age of majority] **MAY BE FILED AT ANY TIME.**

### 13 **Chapter 12 of the Acts of 2017**

14 [SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be  
15 construed to apply retroactively to revive any action that was barred by the application of  
16 the period of limitations applicable before October 1, 2017.]

17 [SECTION 3. AND BE IT FURTHER ENACTED, That the statute of repose under  
18 § 5–117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to  
19 apply both prospectively and retroactively to provide repose to defendants regarding  
20 actions that were barred by the application of the period of limitations applicable before  
21 October 1, 2017.]

### 22 **Chapter 656 of the Acts of 2017**

23 [SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be  
24 construed to apply retroactively to revive any action that was barred by the application of  
25 the period of limitations applicable before October 1, 2017.]

26 [SECTION 3. AND BE IT FURTHER ENACTED, That the statute of repose under  
27 § 5–117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to  
28 apply both prospectively and retroactively to provide repose to defendants regarding  
29 actions that were barred by the application of the period of limitations applicable before  
30 October 1, 2017.]

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
32 apply retroactively to revive any action that was barred by the application of the period of  
33 limitations applicable before October 1, 2021, if the action is filed before October 1, 2023.

1           SECTION 3. AND BE IT FURTHER ENACTED, That, if any provision of this Act or  
2 the application thereof to any person or circumstance is held invalid for any reason in a  
3 court of competent jurisdiction, the invalidity does not affect other provisions or any other  
4 application of this Act that can be given effect without the invalid provision or application,  
5 and for this purpose the provisions of this Act are declared severable.

6           SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2021.