



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1733

Introduced 2/9/2007, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

735 ILCS 5/13-202.2

from Ch. 110, par. 13-202.2

Amends the Code of Civil Procedure. Provides that a victim of childhood sexual abuse has 2 years from the effective date of the amendatory Act to file an action for any claim arising out of childhood sexual abuse, and that the 2-year period applies regardless of when the abuse occurred and regardless of the expiration of any limitation period. States that: it is the intent of the General Assembly that the change to the limitation period is necessary to protect children from sexual abuse and the aftermath of such abuse; the interest in preventing and remedying childhood sexual abuse must prevail over any rights that perpetrators of childhood sexual abuse or those that protect them have in civil courts; and that justice, fairness, and public policy require that the changes should apply retroactively to all actions that have not been adjudicated as time barred. Applies to actions pending on the effective date of the amendatory Act and to those filed on or after that date. Effective January 1, 2008.

LRB095 11112 AJ0 31445 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 13-202.2 as follows:

6 (735 ILCS 5/13-202.2) (from Ch. 110, par. 13-202.2)

7 Sec. 13-202.2. Childhood sexual abuse.

8 (a) In this Section:

9 "Childhood sexual abuse" means an act of sexual abuse that
10 occurs when the person abused is under 18 years of age.

11 "Sexual abuse" includes but is not limited to sexual
12 conduct and sexual penetration as defined in Section 12-12 of
13 the Criminal Code of 1961.

14 (b) Notwithstanding any other provision of law, an action
15 for damages for personal injury based on childhood sexual abuse
16 must be commenced within 10 years of the date the limitation
17 period begins to run under subsection (d) or within 5 years of
18 the date the person abused discovers or through the use of
19 reasonable diligence should discover both (i) that the act of
20 childhood sexual abuse occurred and (ii) that the injury was
21 caused by the childhood sexual abuse. The fact that the person
22 abused discovers or through the use of reasonable diligence
23 should discover that the act of childhood sexual abuse occurred

1 is not, by itself, sufficient to start the discovery period
2 under this subsection (b). Knowledge of the abuse does not
3 constitute discovery of the injury or the causal relationship
4 between any later-discovered injury and the abuse.

5 (c) If the injury is caused by 2 or more acts of childhood
6 sexual abuse that are part of a continuing series of acts of
7 childhood sexual abuse by the same abuser, then the discovery
8 period under subsection (b) shall be computed from the date the
9 person abused discovers or through the use of reasonable
10 diligence should discover both (i) that the last act of
11 childhood sexual abuse in the continuing series occurred and
12 (ii) that the injury was caused by any act of childhood sexual
13 abuse in the continuing series. The fact that the person abused
14 discovers or through the use of reasonable diligence should
15 discover that the last act of childhood sexual abuse in the
16 continuing series occurred is not, by itself, sufficient to
17 start the discovery period under subsection (b). Knowledge of
18 the abuse does not constitute discovery of the injury or the
19 causal relationship between any later-discovered injury and
20 the abuse.

21 (c-5) Notwithstanding any limitation period contained in
22 this Section, a victim of childhood sexual abuse shall have 2
23 years from the effective date of this amendatory Act of the
24 95th General Assembly to file an action for any claim arising
25 out of childhood sexual abuse. This 2-year period shall apply
26 regardless of when the abuse occurred and regardless of the

1 expiration of any limitation period.

2 (d) The limitation periods under subsection (b) do not
3 begin to run before the person abused attains the age of 18
4 years; and, if at the time the person abused attains the age of
5 18 years he or she is under other legal disability, the
6 limitation periods under subsection (b) do not begin to run
7 until the removal of the disability.

8 (d-1) The limitation periods in subsection (b) do not run
9 during a time period when the person abused is subject to
10 threats, intimidation, manipulation, or fraud perpetrated by
11 the abuser or by any person acting in the interest of the
12 abuser.

13 (e) This Section applies to actions pending on the
14 effective date of this amendatory Act of 1990 as well as to
15 actions commenced on or after that date. The changes made by
16 this amendatory Act of 1993 shall apply only to actions
17 commenced on or after the effective date of this amendatory Act
18 of 1993. The changes made by this amendatory Act of the 93rd
19 General Assembly apply to actions pending on the effective date
20 of this amendatory Act of the 93rd General Assembly as well as
21 actions commenced on or after that date.

22 (f) It is the intent of the General Assembly that this
23 amendatory Act of the 95th General Assembly changing the
24 limitation period is necessary in order to protect children
25 from sexual abuse and the aftermath of such abuse including the
26 inability to recognize the abuse, the injuries of the abuse and

1 the causal connection between the abuse and the injuries. The
2 interest in preventing and remedying childhood sexual abuse is
3 paramount to the General Assembly and the citizens of Illinois
4 and must prevail over any rights that perpetrators of childhood
5 sexual abuse or those that protect them have in civil courts.
6 Having considered and balanced the rights and interests of the
7 victims of childhood sexual abuse as well as the rights and
8 interests of the perpetrators of such abuse and those who
9 protect them, the General Assembly has determined that justice,
10 fairness, and public policy require that this amendatory Act of
11 the 95th General Assembly should be applied retroactively to
12 all cases and actions, except those cases that have been fully
13 and finally adjudicated by the courts, including all appeals,
14 as time barred on or before the effective date of this
15 amendatory Act of the 95th General Assembly.

16 (g) The changes made by this amendatory Act of the 95th
17 General Assembly apply to actions pending on the effective date
18 of this amendatory Act of the 95th General Assembly as well as
19 actions commenced on or after that date.

20 (Source: P.A. 93-356, eff. 7-24-03.)

21 Section 99. Effective date. This Act takes effect January
22 1, 2008.