

HOUSE BILL 858

D3

8lr2726

By: **Delegates Bromwell, Anderson, Barve, DeBoy, Gutierrez, and Rudolph**
Introduced and read first time: February 6, 2008
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Child Sexual Abuse – Statute of Limitations and Limitation of**
3 **Damages**

4 FOR the purpose of extending the statute of limitations in certain civil actions relating
5 to child sexual abuse; providing that a certain statute of limitations does not
6 apply during a certain period for a person with a certain certificate of merit
7 obtained from the person’s attorney and a licensed psychiatrist or psychologist;
8 requiring certain information in a certificate of merit for certain civil actions
9 relating to child sexual abuse to be provided in statements by an attorney and a
10 licensed psychiatrist or psychologist; authorizing a court to grant an extension
11 for an attorney to provide a certificate of merit under certain conditions;
12 requiring a court to dismiss an action if a certain certificate of merit is not filed
13 within a certain period; authorizing claims for damages to be filed under this
14 Act for a certain period of time for certain claims that would otherwise be
15 barred under certain circumstances; limiting awards for damages in certain
16 civil actions authorized under certain provisions of this Act; providing for the
17 effective date of certain provisions of this Act; providing for the termination of
18 certain provisions of this Act; and generally relating to civil actions and child
19 sexual abuse.

20 BY repealing and reenacting, with amendments,
21 Article – Courts and Judicial Proceedings
22 Section 5–117
23 Annotated Code of Maryland
24 (2006 Replacement Volume and 2007 Supplement)

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

27 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 5-117.

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

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

6 (1) **WITHIN [7] 32** years of the date that the victim attains the age of
7 majority; **OR**

8 (2) **SUBJECT TO SUBSECTION (D) OF THIS SECTION, ON OR**
9 **BEFORE DECEMBER 31, 2009, IF THE VICTIM, REGARDLESS OF AGE, FILES A**
10 **CERTIFICATE OF MERIT UNDER SUBSECTION (C) OF THIS SECTION.**

11 (c) (1) **FOR PURPOSES OF SUBSECTION (B)(2) OF THIS SECTION, A**
12 **VICTIM SHALL OBTAIN A CERTIFICATE OF MERIT FROM THE VICTIM'S ATTORNEY**
13 **AND A PSYCHIATRIST OR PSYCHOLOGIST IN ACCORDANCE WITH THIS**
14 **SUBSECTION.**

15 (2) **A CERTIFICATE OF MERIT SHALL INCLUDE:**

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

18 1. **REVIEWED THE FACTS OF THE ALLEGED**
19 **INCIDENT OR INCIDENTS OF SEXUAL ABUSE;**

20 2. **CONSULTED WITH A PSYCHIATRIST OR**
21 **PSYCHOLOGIST LICENSED TO PRACTICE IN THE STATE WHO IS FAMILIAR WITH**
22 **THE RELEVANT FACTS AND ISSUES INVOLVED WITH THE ALLEGED INCIDENT OR**
23 **INCIDENTS OF SEXUAL ABUSE AND WHO WILL NOT BE A PARTY TO THE ACTION;**
24 **AND**

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

28 (ii) **A STATEMENT BY A LICENSED PSYCHIATRIST OR**
29 **PSYCHOLOGIST SELECTED BY THE VICTIM THAT THE PSYCHIATRIST OR**
30 **PSYCHOLOGIST:**

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

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

3 **3. HAS INTERVIEWED THE VICTIM; AND**

4 **4. HAS CONCLUDED AS A RESULT OF THE**
5 **INTERVIEW THAT THERE IS A REASONABLE BASIS TO BELIEVE THAT THE VICTIM**
6 **HAD BEEN SUBJECT TO SEXUAL ABUSE WHEN THE VICTIM WAS A MINOR.**

7 **(D) (1) AN ATTORNEY FOR A VICTIM MAY FILE AN ACTION FOR**
8 **DAMAGES UNDER SUBSECTION (B)(2) OF THIS SECTION WITHOUT FILING A**
9 **CERTIFICATE OF MERIT IF:**

10 **(I) THE VICTIM IS UNABLE TO OBTAIN THE CERTIFICATE**
11 **OF MERIT BEFORE THE END OF DECEMBER 31, 2009, AND MAKES A WRITTEN**
12 **REQUEST OF THE COURT FOR AN EXTENSION OF UP TO 30 DAYS; AND**

13 **(II) THE COURT FINDS GOOD CAUSE AND GRANTS THE**
14 **EXTENSION OF UP TO 30 DAYS TO OBTAIN THE CERTIFICATE OF MERIT.**

15 **(2) IF THE ATTORNEY DOES NOT FILE THE CERTIFICATE OF**
16 **MERIT WITH THE COURT WITHIN THE EXTENSION PERIOD GRANTED BY THE**
17 **COURT, THE COURT SHALL DISMISS THE ACTION.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
19 read as follows:

20 **Article – Courts and Judicial Proceedings**

21 5–117.

22 (a) In this section, “sexual abuse” has the meaning stated in § 5–701 of the
23 Family Law Article.

24 (b) An action for damages arising out of an alleged incident or incidents of
25 sexual abuse that occurred while the victim was a minor shall be filed within [7] **32**
26 years of the date that the victim attains the age of majority.

27 SECTION 3. AND BE IT FURTHER ENACTED, That any claim for damages
28 arising out of an alleged incident or incidents of sexual abuse that occurred while the
29 victim was a minor that would otherwise be barred as of January 1, 2009, solely
30 because the statute of limitations specified in § 5–117(b) of the Courts and Judicial
31 Proceedings Article in effect before the enactment of this Act has expired, is revived
32 under this Act, and a cause of action may be commenced within the year beginning
33 January 1, 2009 through the end of December 31, 2009.

1 SECTION 4. AND BE IT FURTHER ENACTED, That:

2 (a) An award for damages in an action authorized under Section 3 of this Act
3 may not exceed \$1,000,000 in addition to medical expenses and reasonable attorney's
4 fees.

5 (b) (1) In a jury trial, the jury may not be informed of the limitation
6 established under subsection (a) of this section.

7 (2) If the jury awards an amount for damages, including noneconomic
8 or punitive damages, that exceeds the limitation established under subsection (a) of
9 this section, the court shall reduce the amount to conform to the limitation.

10 SECTION 5. AND BE IT FURTHER ENACTED, That Sections 1, 3, and 4 of
11 this Act shall take effect October 1, 2008. Sections 1, 3, and 4 of this Act shall remain
12 effective for a period of 1 year and 4 months and, at the end of January 31, 2010, with
13 no further action required by the General Assembly, Sections 1, 3, and 4 of this Act
14 shall be abrogated and of no further force and effect.

15 SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
16 take effect on the taking effect of the termination provision specified in Section 5 of
17 this Act.

18 SECTION 7. AND BE IT FURTHER ENACTED, That, subject to the provisions
19 of Sections 5 and 6 of this Act, this Act shall take effect October 1, 2008.