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# A BILL FOR AN ACT

RELATING TO SEXUAL VIOLENCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that child sexual abuse  
2 is extremely prevalent and that most children who are survivors  
3 of sexual abuse do not immediately disclose the fact that they  
4 were abused. In the United States, one in five girls and one in  
5 twenty boys is a victim of child sexual abuse and studies show  
6 that between sixty and eighty per cent of survivors withhold  
7 disclosure. Of those who delay disclosure until adulthood, the  
8 average delay has been found to be approximately twenty years,  
9 with some survivors delaying up to fifty years. As children are  
10 most vulnerable to sexual abuse between the ages of seven and  
11 thirteen, the average age at which delayed disclosure in  
12 adulthood occurs would be approximately between twenty-seven to  
13 thirty-three years of age.

14           The legislature further finds that there are many reasons  
15 children delay disclosing sexual abuse. These reasons range  
16 from their particular stage of cognitive development, limited  
17 capacity to understand what happened, confusion about their



1 feelings, and limited ability to adequately express complaints,  
 2 to the fact that a majority of survivors know the perpetrator  
 3 and may fear retaliation or harmful impacts on their family or  
 4 community. Moreover, when survivors disclose the abuse, they  
 5 may also be subjected to negative, silencing, and re-  
 6 traumatizing reactions by the recipients of the disclosure.  
 7 Therefore, the fact that a survivor may have disclosed the  
 8 survivor's abuse does not mean that the survivor had a  
 9 meaningful opportunity to seek justice at the time of  
 10 disclosure.

11 Accordingly, the purpose of this Act is to repeal the  
 12 statute of limitations for child sexual abuse, thus aligning the  
 13 law with the reality that survivors of child sexual abuse are  
 14 often unable to disclose the abuse and seek justice until they  
 15 are well into adulthood.

16 SECTION 2. Section 657-1.8, Hawaii Revised Statutes, is  
 17 amended by amending subsections (a) and (b) to read as follows:

18 "(a) Notwithstanding section 657-7 or any law to the  
 19 contrary, [~~except as provided under subsection (b), no~~] an  
 20 action for recovery of damages based on physical, psychological,  
 21 or other injury or condition suffered by a minor arising from



1 the sexual abuse of the minor by any person [~~shall~~] may be  
2 commenced [~~against the person who committed the act of sexual~~  
3 ~~abuse more than:~~

4 ~~(1) Eight years after the eighteenth birthday of the minor~~  
5 ~~or the person who committed the act of sexual abuse~~  
6 ~~attains the age of majority, whichever occurs later,~~  
7 ~~or~~

8 ~~(2) Three years after the date the minor discovers or~~  
9 ~~reasonably should have discovered that psychological~~  
10 ~~injury or illness occurring after the minor's~~  
11 ~~eighteenth birthday was caused by the sexual abuse,~~  
12 ~~whichever comes later.] at any time.~~

13 A civil cause of action for the sexual abuse of a minor  
14 shall be based upon sexual acts that constituted or would have  
15 constituted a criminal offense under part V or VI of chapter  
16 707.

17 (b) [~~For a period of eight years after April 24, 2012, a~~  
18 ~~victim of child sexual abuse that occurred in this State may~~  
19 ~~file a claim in a circuit court of this State against the person~~  
20 ~~who committed the act of sexual abuse if the victim is barred~~  
21 ~~from filing a claim against the victim's abuser due to the~~



1 ~~expiration of the applicable civil statute of limitations that~~  
2 ~~was in effect prior to April 24, 2012.]~~

3 A claim may also be brought under this ~~[subsection]~~ section  
4 against a legal entity if:

- 5 (1) The person who committed the act of sexual abuse  
6 against the victim was employed by an institution,  
7 agency, firm, business, corporation, or other public  
8 or private legal entity that owed a duty of care to  
9 the victim; or
- 10 (2) The person who committed the act of sexual abuse and  
11 the victim were engaged in an activity over which the  
12 legal entity had a degree of responsibility or  
13 control.

14 Damages against the legal entity shall be awarded under  
15 this subsection only if there is a finding of gross negligence  
16 on the part of the legal entity."

17 SECTION 3. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on July 1, 2019.



**Report Title:**

Sexual Violence; Child Sexual Abuse; Civil Action; Statute of Limitations

**Description:**

Repeals the civil statute of limitations for child sexual abuse.  
(SD1)

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