

HB1087_L.004

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee_____
DateCommittee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB09-1087 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute the following:

3 "SECTION 1. 13-80-108 (1), Colorado Revised Statutes, is
4 amended, and the said 13-80-108 is further amended BY THE
5 ADDITION OF A NEW SUBSECTION to read:

6 **13-80-108. When a cause of action accrues.** (1) Except as
7 provided in subsection ~~(12)~~ SUBSECTIONS (12) AND (14) of this section, a
8 cause of action for injury to person, property, reputation, possession,
9 relationship, or status shall be considered to accrue on the date both the
10 injury and its cause are known or should have been known by the exercise
11 of reasonable diligence.

12 (14) (a) A CAUSE OF ACTION FOR DAMAGES ARISING FROM
13 COMMISSION OF A SEXUAL OFFENSE AGAINST A CHILD SHALL BE
14 CONSIDERED TO ACCRUE ON THE DATE THE SURVIVOR OF THE SEXUAL
15 OFFENSE AGAINST A CHILD IS PSYCHOLOGICALLY AND EMOTIONALLY ABLE
16 TO ACKNOWLEDGE:

17 (I) THAT THE SEXUAL OFFENSE COMMITTED AGAINST HIM OR HER
18 WAS A CRIME;

19 (II) THAT HE OR SHE IS SUFFERING DAMAGES AS AN ADULT THAT
20 ARE ARISING FROM COMMISSION OF THE SEXUAL OFFENSE AGAINST A
21 CHILD; AND

22 (III) THAT THERE IS A CAUSAL RELATIONSHIP BETWEEN THE
23 SEXUAL OFFENSE AGAINST A CHILD COMMITTED AGAINST HIM OR HER AND



1 THE DAMAGES FROM WHICH HE OR SHE IS SUFFERING AS AN ADULT.

2 (b) AS USED IN THIS SUBSECTION (14):

3 (I) "ADULT" MEANS A PERSON WHO IS EIGHTEEN YEARS OF AGE OR
4 OLDER.

5 (II) "CRIME OF SEXUAL OFFENSE AGAINST A CHILD" MEANS AN
6 OFFENSE DEFINED AS "UNLAWFUL SEXUAL BEHAVIOR" PURSUANT TO
7 SECTION 16-22-102 (9), C.R.S., COMMITTED AGAINST A VICTIM WHO IS
8 UNDER EIGHTEEN YEARS OF AGE AT THE TIME OF THE OFFENSE.

9 SECTION 2. 13-80-103.7 (1) and (3.5) (a), Colorado Revised
10 Statutes, are amended to read:

11 **13-80-103.7. General limitation of actions - sexual assault or**
12 **sexual offense against a child - six years.** (1) (a) Notwithstanding any
13 other statute of limitations specified in this article, or any other provision
14 of law that can be construed to reduce the statutory period set forth in this
15 section, any civil action based on a sexual assault ~~or a sexual offense~~
16 ~~against a child~~ shall be commenced within six years after a disability has
17 been removed for a person under disability, as such term is defined in
18 subsection (3.5) of this section, or within six years after a cause of action
19 accrues, whichever occurs later, and not thereafter. Nothing in this
20 section shall be construed to extend the statutory period with respect to
21 vicarious liability.

22 (b) NOTWITHSTANDING ANY OTHER STATUTE OF LIMITATIONS
23 SPECIFIED IN THIS ARTICLE, OR ANY OTHER PROVISION OF LAW THAT CAN
24 BE CONSTRUED TO REDUCE THE STATUTORY PERIOD SET FORTH IN THIS
25 SECTION, ANY CIVIL ACTION BASED ON A SEXUAL OFFENSE AGAINST A
26 CHILD SHALL BE COMMENCED WITHIN SIX YEARS AFTER THE CAUSE OF
27 ACTION ACCRUES AND NOT THEREAFTER.

28 (3.5) (a) For the purpose of this section, "person under disability"
29 means any person who is ~~a minor under eighteen years of age~~, a mental
30 incompetent or a person under other legal disability and who does not
31 have a legal guardian. "Person under disability" also includes a victim of
32 a sexual assault when the victim is in a special relationship with the
33 perpetrator of the assault ~~or is a victim of a sexual offense against a child~~
34 or is a victim who is residing in an institutional facility, such as a nursing

1 home, regional center, or residential facility for the treatment and care of
2 persons with mental illness or for the care of persons with developmental
3 disabilities and where the victim is psychologically or emotionally unable
4 to acknowledge the assault or offense and the harm resulting therefrom.
5 For the purpose of this subsection (3.5), "special relationship" means a
6 relationship between the victim and the perpetrator of the sexual assault
7 which is a confidential, trust-based relationship, such as attorney-client,
8 doctor-patient, psychotherapist-patient, minister-parishioner,
9 teacher-student, or familial relationship. It is the intent of the general
10 assembly to leave in place the six-year limitation for adults subjected to
11 a sexual assault except in the situations described in this paragraph (a) in
12 which the victim is in a special relationship with the perpetrator of the
13 assault. In the circumstances in which a victim is in a special relationship
14 with the perpetrator of the assault ~~or is a victim of a sexual offense~~
15 ~~against a child~~ or a victim who is residing in an institutional facility, such
16 as a nursing home, regional center, or residential facility for the treatment
17 and care of persons with mental illness or for the care of persons with
18 developmental disabilities and where the victim is psychologically or
19 emotionally unable to acknowledge the assault or offense and the harm
20 resulting therefrom, the six-year limitation shall be tolled until the
21 disability is removed. For the purpose of this section, where the plaintiff
22 is a victim of a series of sexual assaults, ~~or sexual offenses against a~~
23 ~~child~~, the plaintiff need not establish which act of a series of acts caused
24 the plaintiff's injury, and the statute of limitations set forth in this section
25 shall commence with the last in the series of acts, subject to the
26 provisions of this section regarding disability. However, as elements of
27 the cause of action, a person under disability who is psychologically or
28 emotionally unable to acknowledge the assault or offense and the harm
29 resulting therefrom shall have the burden of proving that the assault or
30 offense occurred and that such person was actually psychologically or
31 emotionally unable to acknowledge the assault or offense and the harm
32 resulting therefrom.

33 **SECTION 3. Effective date - applicability.** This act shall take
34 effect upon passage and shall apply to causes of action for which the
35 statute of limitations has not yet expired as of said date.

36 **SECTION 4. Safety clause.** The general assembly hereby finds,
37 determines, and declares that this act is necessary for the immediate
38 preservation of the public peace, health, and safety."

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