

## CHAPTER 114

## ( SB 224 )

AN ACT relating to civil actions involving sexual misconduct.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "injury or illness" means either a physical or psychological injury or illness.*
- (2) *A civil action for recovery of damages for an injury or illness suffered as a result of an act or series of acts against a person eighteen (18) years old or older that meets the criteria of KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, 510.140, 510.150, 529.100 where the offense involves commercial sexual activity, 529.110 where the offense involves commercial sexual activity, 530.020, 531.090, or 531.100, shall be brought before whichever of the following periods last expires:*
  - (a) *Within five (5) years of the act or the last of a series of acts by the same perpetrator;*
  - (b) *Within five (5) years of the date the victim knew, or should have known, of the act;*
  - (c) *Within five (5) years upon knowledge or identity of the perpetrator; or*
  - (d) *Within five (5) years of the conviction of a civil defendant for KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, 510.140, 510.150, 529.100 where the offense involves commercial sexual activity, 529.110 where the offense involves commercial sexual activity, 530.020, 531.090, or 531.100.*
- (3) *No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action under this section for redress of an injury or illness.*

➔Section 2. KRS 413.249 is amended to read as follows:

- (1) As used in this section:
  - (a) "Childhood sexual assault" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a felony in KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 529.100 where the offense involves commercial sexual activity, 529.110 where the offense involves commercial sexual activity, 530.020, 530.064, 531.310, or 531.320. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual assault;
  - (b) "Childhood sexual abuse" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a misdemeanor in KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual abuse;
  - (c) "Child" means a person less than eighteen (18) years old; and
  - (d) "Injury or illness" means either a physical or psychological injury or illness.
- (2) A civil action for recovery of damages for injury or illness suffered as a result of childhood sexual abuse or childhood sexual assault shall be brought before whichever of the following periods last expires:
  - (a) Within *ten (10)*~~five (5)~~ years of the commission of the act or the last of a series of acts by the same perpetrator;
  - (b) Within *ten (10)*~~five (5)~~ years of the date the victim knew, or should have known, of the act; ~~or~~
  - (c) Within *ten (10)*~~five (5)~~ years after the victim attains the age of eighteen (18) years; *or*
  - (d) *Within ten (10) years of the conviction of a civil defendant for an offense included in the definition of childhood sexual abuse or childhood sexual assault.*
- (3) If a complaint is filed alleging that an act of childhood sexual assault or childhood sexual abuse occurred more than *ten (10)*~~five (5)~~ years prior to the date that the action is commenced, the complaint shall be

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accompanied by a motion to seal the record and the complaint shall immediately be sealed by the clerk of the court. The complaint shall remain sealed until:

- (a) The court rules upon the motion to seal;
- (b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is dismissed, the complaint and any related papers or pleadings shall remain sealed unless opened by a higher court; or
- (c) The defendant files an answer and a motion to seal the record upon grounds that a valid factual defense exists, to be raised in a motion for summary judgment pursuant to CR 56. The record shall remain sealed by the clerk until the court rules upon the defendant's motion to close the record. If the court grants the motion to close, the record shall remain sealed until the defendant's motion for summary judgment is granted. The complaint, motions, and other related papers or pleadings shall remain sealed unless opened by a higher court.

**Signed by Governor March 27, 2017.**