

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2023 REGULAR SESSION
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Amend printed copy of **SB 229/HCS 1**

On page 11, after line 18, insert the following:

"➔Section 5. KRS 413.249 is amended to read as follows:

(1) As used in this section:

(a) "Childhood sexual assault or 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 or felony in:

1. KRS Chapter 510;
2. KRS 529.040 when the defendant advances or profits from the prostitution of a minor;
3. KRS 529.100 when the offense involves commercial sexual activity;
4. KRS 529.110 when the offense involves commercial sexual activity;
5. KRS 530.020 or 530.064(1)(a);
6. KRS Chapter 531 involving a minor or depiction of a minor; or
7. KRS 506.010 or 506.030 for attempt to commit or solicitation to commit any of the offenses described in subparagraphs 1. to 6. of this paragraph.

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 or abuse;

Amendment No. HFA

Rep. Rep. Lisa Willner

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRD Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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- (b) "Entity" means a firm, partnership, company, corporation, trustee, association, or any private or public entity, including the Commonwealth, a city, county, urban-county, consolidated local government, unified local government, or charter county government, or any of their agencies, departments, or any KRS 58.180 nonprofit nonstock corporation; and
- (c) "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 assault or abuse **is not subject to a period of limitation and may be commenced at any time**~~[shall be brought before whichever of the following periods last expires:~~
- (a) ~~Within ten (10) years of the commission of the act or the last of a series of acts by the same perpetrator;~~
- (b) ~~Within ten (10) years of the date the victim knew, or should have known, of the act;~~
- (c) ~~Within ten (10) 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 assault or abuse.~~
- (3) ~~The time periods set forth in subsection (2) of This section shall apply to a civil action for recovery of damages for injury or illness] against:;~~
- (a) A person alleged to have committed the act of childhood sexual assault or abuse; or
- (b) An entity that owed a duty of care to the plaintiff, where a wrongful or negligent act by an employee, officer, director, official, volunteer, representative, or agent of the entity was a legal cause of the childhood sexual assault or abuse that resulted in the injury to the plaintiff.
- (3)**~~(4) [If a complaint is filed alleging that an act of childhood sexual assault or abuse occurred more than ten (10) years prior to the date that the action is commenced,]The complaint shall be 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.

~~(4)(5)~~ A victim of childhood sexual assault or abuse shall not have a cause of action against a third party, unless the third party failed to act as a reasonable person or entity in complying with their duties to the victim. ~~[If a victim of childhood sexual assault or abuse has a cause of action under this section, the cause of action shall be commenced within the time period set forth in subsection (2) of this section.]~~

- ~~(5)(6)~~ (a) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for excluding evidence regarding childhood sexual assault or abuse or the cause thereof when an exception to the Kentucky Rules of Evidence is met, in any judicial proceeding. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding childhood sexual assault or abuse.
- (b) As used in paragraph (a) of this subsection, the clergy-penitent privilege is limited to information received solely through confidential communications with a clergy

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member, privately or in a confessional setting, when in the course of the discipline or practice of the clergy member's church, denomination, or organization, he or she is authorized or accustomed to hearing those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

- ~~(6)~~(7) (a) As was its intention with the passage of 2017 Ky. Acts ch. 114, sec. 2, the General Assembly hereby states that the amendments enacted in 2017 Ky. Acts ch. 114, sec. 2 shall be applied retroactively to actions accruing before its effective date of June 29, 2017. This section is a remedial statute which is to be given the most liberal interpretation to provide remedies for victims of childhood sexual assault or abuse.
- (b) Notwithstanding any provision of law to the contrary, any claim for childhood sexual assault or abuse that was barred as of March 23, 2021, because the applicable statute of limitations had expired is hereby revived, and the action may be brought if commenced within five (5) years of the date on which the applicable statute of limitations expired."