

1 AN ACT relating to childhood sexual assault or abuse.

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

3 ➔Section 1. KRS 413.249 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Childhood sexual assault or abuse" means an act or series of acts against a  
6 person less than eighteen (18) years old and ~~that~~<sup>which</sup> meets the criteria  
7 defining a misdemeanor or felony in:

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

17 No prior criminal prosecution or conviction of the civil defendant for the act  
18 or series of acts shall be required to bring a civil action for redress of  
19 childhood sexual assault or abuse;

20 (b) "Entity" means a firm, partnership, company, corporation, trustee, association,  
21 or any private or public entity, including the Commonwealth, a city, county,  
22 urban-county, consolidated local government, unified local government, or  
23 charter county government, or any of their agencies, departments, or any KRS  
24 58.180 nonprofit nonstock corporation; and

25 (c) "Injury or illness" means either a physical or psychological injury or illness.

26 (2) A civil action for recovery of damages for injury or illness suffered as a result of  
27 childhood sexual assault or abuse **is not subject to a period of limitations and may**

1 be commenced at any time~~[shall be brought within ten (10) years after the victim~~  
2 ~~attains the age of eighteen (18) years.~~

3 ~~(3) The time period set forth in subsection (2) of this section shall apply to a civil~~  
4 ~~action for recovery of damages for injury or illness] against:~~

5 (a) A person alleged to have committed the act of childhood sexual assault or  
6 abuse; or

7 (b) An entity that owed a duty of care to the plaintiff, where a wrongful or  
8 negligent act by an employee, officer, director, official, volunteer,  
9 representative, or agent of the entity was a legal cause of the childhood sexual  
10 assault or abuse that resulted in the injury or illness to the plaintiff.

11 ~~(3)~~~~(4)~~ The complaint shall be accompanied by a motion to seal the record and the  
12 complaint shall immediately be sealed by the clerk of the court. The complaint shall  
13 remain sealed until:

14 (a) The court rules upon the motion to seal;

15 (b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is  
16 dismissed, the complaint and any related papers or pleadings shall remain  
17 sealed unless opened by a higher court; or

18 (c) The defendant files an answer and a motion to seal the record upon grounds  
19 that a valid factual defense exists, to be raised in a motion for summary  
20 judgment pursuant to CR 56. The record shall remain sealed by the clerk until  
21 the court rules upon the defendant's motion to close the record. If the court  
22 grants the motion to close, the record shall remain sealed until the defendant's  
23 motion for summary judgment is granted. The complaint, motions, and other  
24 related papers or pleadings shall remain sealed unless opened by a higher  
25 court.

26 ~~(4)~~~~(5)~~ A victim of childhood sexual assault or abuse shall not have a cause of action  
27 against a third party, unless the third party failed to act as a reasonable person or

1           entity in complying with their duties to the victim.

2   ~~(5)~~~~(6)~~ (a) Neither the husband-wife nor any professional-client/patient privilege,  
3           except the attorney-client and clergy-penitent privilege, shall be a ground for  
4           excluding evidence regarding childhood sexual assault or abuse or the cause  
5           thereof when an exception to the Kentucky Rules of Evidence is met, in any  
6           judicial proceeding. This subsection shall also apply in any criminal  
7           proceeding in District or Circuit Court regarding childhood sexual assault or  
8           abuse.

9           (b) As used in paragraph (a) of this subsection, the clergy-penitent privilege is  
10          limited to information received solely through confidential communications  
11          with a clergy member, privately or in a confessional setting, when in the  
12          course of the discipline or practice of the clergy member's church,  
13          denomination, or organization, he or she is authorized or accustomed to  
14          hearing those communications, and under the discipline, tenets, customs, or  
15          practices of his or her church, denomination, or organization, has a duty to  
16          keep those communications secret.

17   ~~(6)~~~~(7)~~ (a) As was its intention with the passage of 2017 Ky. Acts ch. 114, sec. 2,  
18          the General Assembly hereby states that the amendments enacted in 2017 Ky.  
19          Acts ch. 114, sec. 2 shall be applied retroactively to actions accruing before its  
20          effective date of June 29, 2017. This section is a remedial statute which is to  
21          be given the most liberal interpretation to provide remedies for victims of  
22          childhood sexual assault or abuse.

23          (b) Notwithstanding any provision of law to the contrary, any claim for childhood  
24          sexual assault or abuse that was barred as of March 23, 2021, because the  
25          applicable statute of limitations had expired is hereby revived, and the action  
26          may be brought if commenced within five (5) years of the date on which the  
27          applicable statute of limitations expired.