

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse



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There has been persistent media coverage about childhood sexual abuse. In some cases, victims who were sexually abused years ago, have brought civil lawsuits against perpetrators and their affiliated organizations despite the fact that such actions would be time-barred under traditional tort statutes of limitations. For example, recent legislation in Hawaii has paved the way for abuse claims to be brought against the Hollywood director famous for the X-Men movie franchise, for activities that allegedly occurred in 1999 – it is too early to determine whether this claim is viable.



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When claims of childhood sexual abuse began to emerge in the 1980s, the applicable statutes of limitations were the same as for tort claims – generally two to three years after the abuse, with tolling until the victim reached the age of majority and for severe mental incapacity. Subsequent case law and legislative developments have lengthened the limitations periods and delayed accrual of the limitations period until discovery (either discovery of the abuse or discovery of the causal connection between the abuse and the alleged injuries). Many of these legislative enactments are not retroactive, so it should not be assumed that the current law would apply, particularly in cases where the alleged abuse occurred several years prior to the assertion of the claim. Some states, like Illinois, frequently amend the limitations period applicable to childhood sexual abuse, which makes determining the applicable limitations period more difficult.

Other states, such as California and Delaware, had enacted “sunshine” or “windows” legislation that allows claims barred by a previous limitations period to be brought during a specific period following enactment of the legislation. There are currently open “windows” in Hawaii and Minnesota. In some jurisdictions, the limitations periods differ as respects claims against perpetrators versus claims against other potentially liable parties, such as employers. In addition, attorneys for abuse victims have, with limited success, sought to assert equitable estoppel and fraudulent concealment theories in an attempt to toll the limitations periods. So far in 2014, legislation has been considered in nine states for either “windows” legislation or longer limitations periods.

This Compilation sets forth the current law and, where applicable, the legislative history, other case law and legislation and pending legislation.

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### ALABAMA

#### Summary of Current Law

Alabama has not enacted a statute of limitations specific to childhood sexual abuse. Instead, the limitations period for personal injury actions applies, which is the later of: (a) 2 years from age 19; or (b) 2 years from the date of injury. Ala. Code § 6-2-38(l); Ala. Code § 6-2-8(a) (tolling limitations period for minors).

#### Legislative History

Ala. Code § 6-2-38 was enacted in 1975 and is not retroactive.

#### Other

The Alabama legislature has not extended application of the discovery rule to claims of childhood sexual abuse. *Travis v. Ziter*, 681 So. 2d 1348, 1354-1355 (Ala. 1996). In addition, a claim of repressed memories does not toll the limitations period because repressed memory does not fit the definition of “insanity.” *Id.*

#### Pending Legislation

None.

### ALASKA

#### Summary of Current Law

A civil action based on felony sexual abuse of a minor, felony sexual assault or unlawful exploitation of a minor may be commenced at any time. Alaska Stat. § 09.10.065(a).

The limitations period for a civil action based on misdemeanor sexual abuse of a minor is the later of: (a) 3 years from age 18; or (b) 3 years from when the victim discovers, or reasonably should have discovered through the use of reasonable diligence, the act that caused the injury or condition. Alaska Stat. § 09.10.065(b)(1); Alaska Stat. § 09.10.140(b)(setting forth discovery rule provisions); Alaska Stat. § 09.10.140(a) (tolling limitations period for minors).

Alaska Stat. § 09.10.065 became effective on June 6, 2003 and is retroactive to October 1, 2001 for actions that were not time-barred on October 1, 2001. *Catholic Bishop of Northern Alaska v. Does 1-6*, 141 P.3d 719, 724-25 (Alaska 2006).

#### Legislative History

Prior to 2001, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Alaska Stat. § 09.10.070.

#### Other

Not Applicable.

#### Pending Legislation

None.

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### ARIZONA

#### Summary of Current Law

Arizona has not enacted a statute of limitations specific to childhood sexual abuse. Instead, the limitations period for personal injury actions applies, which is the later of: (a) 2 years from age 18; or (b) 2 years from when the victim knows, or with reasonable diligence should know, that the injury is attributable to a particular person's conduct. Ariz. Rev. Stat. Ann. § 12-542; Ariz. Rev. Stat. Ann. § 12-502 (tolling limitations period for minors); *Doe v. Roe*, 955 P.2d 951, 960 (Ariz. 1998).

#### Legislative History

Ariz. Rev. Stat. Ann. § 12-542 was enacted in 1971 and is not retroactive.

#### Other

Arizona tolls the limitations period if a person is of "unsound mind." Ariz. Rev. Stat. Ann. § 12-502.

#### Pending Legislation

None.

### ARKANSAS

#### Summary of Current Law

The limitations period is the later of: (a) 3 years from age 21; or (b) 3 years from the victim's discovery of the effect of the injury attributable to the childhood sexual abuse. Ark. Code Ann. § 16-56-130.

Ark. Code Ann. § 16-56-130 was approved on August 13, 1993 and is not retroactive. AR LEGIS 370(1993). Arkansas is a "vested right" jurisdiction and the legislature may not expand a limitations period that would revive a cause of action already barred by a prior limitations period. *Branch v. Carter*, 933 S.W.2d 806, 808 (Ark. 1996).

#### Legislative History

Prior to 1993, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. Ark. Code Ann. § 16-56-105(3).

#### Other

Not Applicable.

#### Pending Legislation

None.

### CALIFORNIA

#### Summary of Current Law

The limitations period is the later of: (a) 8 years from age 18 or (b) 3 years from the date the victim discovers or reasonably should have discovered that psychological injury or illness occurring after age 18 was caused by the childhood sexual abuse. Cal. Civ. Proc. Code § 340.1(a).

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

A claim based on an intentional act or negligence against a third party must be brought by the victim's 26th birthday unless the third party defendant "knew or had reason to know, or was otherwise on notice, of any unlawful sexual conduct by an employee . . . or agent, and failed to take reasonable steps, and to implement reasonable safeguards, to avoid acts of unlawful sexual conduct in the future by that person", in which case the action must be commenced within 3 years of discovering the injury was caused by the abuse." Cal. Civ. Proc. Code § 340.1(b)(1) and (2). An action may not be brought by an individual over the age of 26 if barred by a prior limitations period, even if the psychological injury was discovered after the effective date of the statute. *Quarry v. Doe*, 272 P.3d 977, 979 (Cal. 2012). The extended limitations period (3 years from discovery) does not apply to vicarious liability claims. There must be some wrongful or negligent action or inaction that was the cause of the childhood sexual abuse. *Quarry v. Doe 1*, No. A12-0048, 2012 WL 3538902, \*3 (Cal. Ct. App. Aug. 17, 2012)

A certificate of merit is required for actions brought by individuals over the age of 26. Cal. Civ. Proc. Code § 340.1(g) and (h).

The statute revived for a period of 1 year, commencing January 1, 2003, any claims permitted to be filed "that would otherwise be barred as of January 1, 2003, solely because the applicable statute of limitations has or had expired." Cal. Civ. Proc. Code § 340.1(c). This did not revive actions that were previously dismissed based by a court on the basis of the statute of limitations. *Perez v. Richard Doe 1*, 146 Cal. App. 4th 171, 189 (Cal. Ct. App. 2006).

The current version of Cal. Civ. Proc. Code § 340.1 became effective January 1, 2003.

### Legislative History

Prior to 1987, § 340.1 required an action to be brought within 1 year from the act of childhood abuse or 1 year from age 18. The common law discovery rule also applied.

From 1987 to 1990, § 340.1 required an action to be brought within the later of: (a) 3 years from the act of childhood abuse or (b) 3 years from age 18. This applied only to actions for childhood sexual abuse against family members. The common law discovery rule also applied.

In 1990, § 340.1 was amended to extend the limitations period to the later of: (a) 8 years from age 18; or (b) 3 years from discovery that the injury was caused by the childhood sexual abuse. The amendment also expanded the statute to apply to all perpetrators, not just family members. The common law discovery rule did not apply to actions commencing after the effective date of the statute.

In 1994, § 340.1 was amended to make the 1990 version of the statute retroactive.

In 1998, § 340.1 was amended to make the 1990 version applicable to perpetrators and non-perpetrators. Claims against non-perpetrators had to be brought by age 26.

In 1999, § 340.1 was amended to make the 1990 version of the statute retroactive.

The legislative history for California was obtained from *Quarry v. Doe 1*, 89 Cal. Rptr. 3d 640, 645 (Cal. Ct. App. 2009).

### Other

The common law discovery rule did not apply to actions commencing after January 1, 1991 as the discovery language had been added to § 340.1 in the 1990 version of the statute. *Quarry v. Doe 1*, 272 P.3d 977, 987 (Cal. 2012).

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Plaintiffs have attempted to creatively plead against third party defendants to get around the age 26 limitation set forth in § 340.1. See e.g., *Doe v. Doe 1*, 208 Cal. App. 4th 1185, 1193-1195 (Cal. App. Ct. 2012) (finding claim not time-barred because it was tolled pursuant to Insurance Section 11583).

The 1998 amendment of § 340.1 that expanded the limitations period for actions against third party defendants until three years from discovery but no later than the victim's 26th birthday, imposed an absolute bar against instituting a lawsuit against third party defendants once the plaintiff reached the age of 26. *Boy Scouts of America National Foundation v. Superior Court*, 141 Cal. Rptr. 3d 819, 828 (Cal. Ct. App. 2012).

§ 340.1 extends the limitations period for individuals over the age 26 only if such action is commenced against a "person." An organization like the Boy Scouts is not a "person." *Boy Scouts of America National Foundation v. Superior Court*, 141 Cal. Rptr. 3d 819, 830-831 (Cal. Ct. App. 2012).

### Pending Legislation

SB 924 was introduced on January 29, 2014. A public hearing on SB 924 occurred on April 26, 2014. The bill passed the Senate on May 28, 2014 and is currently being considered by the Standing Committee on Judiciary.

SB 924 increases the age that an individual may bring a civil action for childhood sexual abuse from 26 to 40 years old. The bill also changes the discovery rule component of the statute. The bill would remove the objective standard language ("discovers or reasonably should have discovered") and allow a plaintiff to file an action within 5 years (previously 3 years) from the date the fact of the psychological injury and its causal connection to the childhood sexual abuse is first communicated to the plaintiff.

SB 926 would apply to both private and public entities and would apply prospectively on January 1, 2015, if passed and signed into law (this is in response to Governor Brown's veto of a similar bill in 2013).

## COLORADO

### Summary of Current Law

The limitations period is the later of: (a) 6 years from age 18; or (b) 6 years from when the victim knows or should have known, through the exercise of reasonable diligence that the injuries were caused by the childhood sexual abuse. Colo. Rev. Stat. Ann. § 13-80-103.7.

The extension of the limitations period does not apply to actions based on vicarious liability. Colo. Rev. Stat. Ann. § 13-80-103.7(1).

An action brought 15 years or more after an individual attains age 18, may only seek damages for medical and counseling treatment and expenses, plus costs and attorney fees. Colo. Rev. Stat. Ann. § 13-80-103.7(3.5)(c).

The statute tolls the limitations period if the victim is under a "disability". A person is under a "disability" if that person is in a "special relationship" with the perpetrator, which includes minister-parishioner relationships. Colo. Rev. Stat. Ann. § 13-80-103.7(3.5)(a).

Colo. Rev. Stat. Ann. § 13-80-103.7 became effective on July 1, 1990 and applies to those claims not time-barred as of July 1, 1990.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### Legislative History

Prior to 1990, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Colo. Rev. Stat. Ann. § 13-80-102(1)(a).

### Other

The limitations period set forth in Colo. Rev. Stat. Ann. § 13-80-103.7 is applicable to perpetrators only. *Sandoval v. Archdiocese of Denver*, 8 P.3d 598, 604 (Colo. Ct. App. 2000). The 2-year limitations period for personal injury actions applies to non-perpetrators. *Id.* at 603-604.

§ 13-80-103.7 does not determine when an action accrues, instead a court will look to § 13-80-108, which is the general statute governing the accrual of actions. *Sailsbery v. Parks*, 983 P.2d 137, 139 (Colo. Ct. App. 1999).

### Pending Legislation

None.

## CONNECTICUT

### Summary of Current Law

The limitations period is 30 years from age 18. Conn. Gen. Stat. Ann. § 52-577d.

The current version of Conn. Gen. Stat. Ann. § 52-577d became effective on May 23, 2002 and is retroactive. CT LEGIS P.A. 02-138.

### Legislative History

From June 20, 1991 to May 23, 2002, § 52-577d required an action to be brought within 17 years of age 18 and was retroactive. CT LEGIS P.A. 02-138; *Roberts v. Caton*, 224 Conn. 483, 493-494 (Conn. 1993).

From June 9, 1986 to June 20, 1991, § 52-577d required an action to be brought within 2 years of age 18 and no action could be brought more than 7 years from the date of the abuse. CT LEGIS 91-240 (1991).

Prior to June 9, 1986, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. Conn. Gen. Stat. Ann. § 52-584.

### Other

§52-577d applies to claims against perpetrators and non-perpetrators. *Doe v. Indian Mountain School, Inc.*, 921 F. Supp. 82, 83 (D. Conn. 1995).

Fraudulent concealment may toll the limitations period. *Martinelli v. Bridgeport Roman Catholic Diocesan Corp.*, 196 F.3d 409, 419 (2d Cir. 1999).

### Pending Legislation

None.

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### DELAWARE

#### Summary of Current Law

An action based on childhood sexual abuse may be commenced at any time. Del. Code Ann. tit. 10, § 8145(a). This applies to actions against perpetrators and to actions for gross negligence against the perpetrator's employer, where the employer owed a duty of care to the victim. Del. Code Ann. tit. 10, § 8145(b).

The statute revived time-barred claims for the 2-year period from July 9, 2007 through July 9, 2009. Del. Code Ann. tit. 10, § 8145(b).

Del. Code Ann. tit. 10, § 8145 became effective on July 9, 2007 and is not retroactive. DE LEGIS 88(2009).

#### Legislative History

Prior to July 9, 2007, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Del. Code Ann. tit. 10, § 8119.

#### Other

Not Applicable.

#### Pending Legislation

None.

### DISTRICT OF COLUMBIA (WASHINGTON DC)

#### Summary of Current Law

The limitations period is the later of: (a) 7 years from age 18; or (b) 3 years from the date the victim knew, or reasonably should have known, of any act constituting childhood sexual abuse. D.C. Code Ann. § 12-301(11).

D.C. Code Ann. § 12-301 became effective on March 25, 2009 and is not retroactive. DC LEGIS 17-368 (2008).

#### Legislative History

Prior to 2009, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. D.C. Code Ann. § 12-301(8). Also, the discovery rule applied to claims involving repressed memories. *Farris v. Compton*, 652 A.2d 49, 54 (D.C. 1994).

#### Other

Not Applicable.

#### Pending Legislation

None.

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### FLORIDA

#### Summary of Current Law

The limitations period is the later of: (a) 7 years from age 18; (b) 4 years after the injured person leaves the dependency of the abuser; or (c) 4 years from discovery of both the injury and the causal relationship between the injury and the childhood sexual abuse. Fla. Stat. Ann. § 95.11(7).

This extended limitations period applies only to intentional torts. Fla. Stat. Ann. § 95.11(7).

Section 7 of Fla. Stat. Ann. § 95.11 was added, and became effective on April 8, 1992 and is not retroactive. FL LEGIS 92-102.

A 4-year limitations period applies to negligent hiring claims. *Doe v. Dorsey*, 683 So. 2d 614, 616 (5th DCA 1996), *abrogated on other grounds*, *Malicki v. Doe*, 814 So. 2d 347 (Fla. 2002).

#### Legislative History

Prior to 1992, an action based on childhood sexual abuse was subject to the 4-year limitations period for negligence actions. Fla. Stat. Ann. § 95.11(3).

#### Other

Florida courts addressing acts of abuse that occurred prior to 1992 have applied the discovery rule to toll the limitations period based on claims that the victim repressed memories of the childhood sexual abuse. *Hearndon v. Graham*, 767 So. 2d 1179, 1186 (Fla. 2000).

#### Pending Legislation

None.

### GEORGIA

#### Summary of Current Law

The limitations period is 5 years from age 18. Ga. Code Ann. § 9-3-33.1(b).

Ga. Code Ann. § 9-3-33.1 was enacted in 1992 and is not retroactive.

#### Legislative History

Prior to 1992, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Ga. Code Ann. § 9-3-33.1

#### Other

The discovery rule does not apply to claims of childhood sexual abuse. *M.H.D. v. Westminster Schools*, 172 F.3d 797, 804 (11th Cir. 1999).

#### Pending Legislation

Georgia H.B. 771 was introduced on January 17, 2014. The bill is being considered by the House Committee on Judiciary Non-Civil.

For childhood sexual abuse that occurred before the effective date of the statute, the limitations period would be 5 years from age 18 (the current limitations period). For childhood sexual abuse committed after the effective date of the statute, an action against the perpetrator must be commenced 10 years from age 18. An action against non-perpetrators must be commenced 5 years from age 18.

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### HAWAII

#### Summary of Current Law

The limitations period is the later of: (a) 8 years from age 18; or (b) 3 years from when the victim discovers, or reasonably should have discovered, that psychological injury or illness was caused by the childhood sexual abuse. Haw. Rev. Stat. § 657-1.8(a). This extension of the limitations period only applies to “the person who committed the act of sexual abuse.” *Id.*

A certificate of merit must be filed by plaintiff’s attorney and include a notarized statement by a mental health professional that provides the facts and opinions relied upon to conclude that there is a reasonable basis to believe that the plaintiff was subject to one or more acts that resulted in physical, psychological, or other injury. Haw. Rev. Stat. § 657-1.8(a).

The statute revived time-barred claims for the 2-year window from April 24, 2012-2014 (which was recently extended to April 24, 2016, see pending legislation below). The window applies to vicarious liability claims based on gross negligence. Haw. Rev. Stat. § 657-1.8(b). The window applies to any legal entity, except “the State or its political subdivisions.” Haw. Rev. Stat. § 657-1.8(b).

Haw. Rev. Stat. § 657-1.8 became effective on April 24, 2012 and is not retroactive except for reviving claims during the 2-year window. Laws 2012, ch. 68, § 1.

#### Legislative History

Prior to April 24, 2012, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. The discovery rule also applied to claims of childhood sexual abuse. *Dulea v. Dappen*, 924 P.2d 196, 201-202 (Haw. 1996), *abrogated on other grounds*, *Hac v. University of Hawaii*, 73 P.3d 46 (Haw. 2003); Haw. Rev. Stat. § 657-7.

#### Other

The limitations period for actions against non-perpetrators is the 2-year limitations period for personal injury actions. Haw. Rev. Stat. § 657-7.

#### Pending Legislation

S. B. 2687 was introduced on January 17, 2014 and approved by the House and Senate on April 29, 2014. The bill was signed into law on June 23, 2014. The law is retroactive to April 23, 2014.

The bill contains a window reviving time-barred claims until April 24, 2016 (which previously expired on April 24, 2014). The extension applies to any claims barred by the applicable limitations period effective prior to April 24, 2012, provided the victim has not yet reached age 55.

The bill also allows claims against public entities to be subject to the extended window reviving time-barred claims.

### IDAHO

#### Summary of Current Law

The limitations period for a civil action against the perpetrator is the later of: (a) 5 years from age 18; or (b) 5 years from when the victim discovers, or reasonably should have discovered that the act, abuse, or exploitation and the injuries were caused by the childhood sexual abuse. Idaho Code Ann. § 6-1704(1).

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

Idaho Code Ann. § 6-1704 became effective on July 1, 1989 and is not retroactive; the discovery language was added effective July 1, 2007 and is not retroactive. ID LEGIS 125 (2007).

### Legislative History

Prior to July 1, 1989, an action against the perpetrator was subject to the 2-year limitations period for personal injury actions. Idaho Code Ann. § 5-219(4).

### Other

The 5-year limitations period does not apply to actions against third parties. *Osborn v. Salinas*, 958 P.2d 1142, 1144 (Idaho 1998); rather, the 2-year limitations period for personal injury actions applies. *Id.*; Idaho Code Ann. § 5-219(4).

The discovery rule did not apply to toll the limitations period in a claim against a diocese where the victim alleged repressed memories of the childhood sexual abuse as there was objectively ascertainable damage at the time of the abuse. *Bonner v. Roman Catholic Diocese of Boise*, 913 P.2d 567, 568 (Idaho 1995).

### Pending Legislation

None.

## ILLINOIS

### Summary of Current Law

An action based on childhood sexual abuse may be commenced at any time. 735 Ill. Comp. Stat. Ann. 5/13-202.2.

The current version of 735 Ill. Comp. Stat. Ann. 5/13-202.2 was effective January 1, 2014 and is not retroactive.

### Legislative History

From 2011 to 2014, § 5/13-202.2 required that an action be commenced within the later of: (a) 20 years from age 18 or (b) 20 years from the date victim discovers or through the use of reasonable diligence should discover both (i) that the act of childhood sexual abuse occurred and (ii) that the injury was caused by the childhood sexual abuse. 2010 Ill. Legis. Serv. P.A. 96-1093.

From 2003 to 2011, § 5/13-202.2 required that an action be commenced within the later of: (a) 10 years from age 18; or (b) 5 years from the date victim discovers or through the use of reasonable diligence should discover both (i) that the act of childhood sexual abuse occurred and (ii) that the injury was caused by the childhood sexual abuse. The limitations period was also tolled during the “time period when the person abused is subject to threats, intimidation, manipulation, or fraud perpetrated by the abuser or by any person acting in the interest of the abuser.” IL LEGIS 93-356 (2003). The statute did not apply retroactively to revive claims barred by previous limitations periods. *Doe A v. Diocese of Dallas*, 234 Ill.2d 393, 410 (Ill. 2009). From 1991 to 2003, § 5/13-202.2 required that an action be commenced within 2 years from the date the victim discovered or through the use of reasonable diligence should have discovered that the act of childhood sexual abuse occurred and that the injury was caused by the childhood sexual abuse. This version of the statute had a 12-year statute of repose so that if a claimant was 30 years old before January 1, 1991 (i.e. had a date of birth of January 1, 1961 or earlier), his claim would be barred. A statute of repose provides a date certain upon which an action no longer exists, regardless of whether the action has accrued by that date. It is a stricter deadline than a statute of limitations because the limitations period cannot be extended by application of the discovery rule or tolled based on fraudulent concealment or a disability. There was an amendment to the 1991 Statute in 1994 that repealed the 12-year statute of repose. In *M.E.H. v. L. H.*, 177 Ill. 2d 207, 218-219 (Ill. 1997), the

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Illinois Supreme Court held that the repeal of the statutory repose period could not operate to revive claims that were barred under the prior version of the statute.

Prior to 1991, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. 735 ILCS § 5/13-202. An action was tolled until age 18. 735 ILCS § 5/13-211. The common law discovery rule also applied. The rule states that a cause of action accrues when the person knows or reasonably should know of an injury and that the injury was wrongfully caused. *Clay v. Kuhl*, 189 Ill. 2d 603, 610 (Ill. 2000).

### Other

Under the common law discovery rule, the limitations period does not begin to run until (i) the party knows or reasonably should know of an injury and (ii) that the injury was wrongfully caused.

The Illinois Supreme Court has held the limitations period begins to run from the time the victim is aware the childhood sexual abuse occurred, even if the full extent of the victim's injuries is unknown. *See e.g., Clay v. Kuhl*, 189 Ill. 2d 603, 610 (2000) (finding claims untimely under common law discovery rule where claimant was aware of the abuse); *Parks v. Kownacki*, 193 Ill.2d 164, 176 (Ill. 2000) (finding limitations period begins to run when the claimant is aware that injuries were sustained and that they were wrongfully caused).

Two recent decisions, one by a downstate appellate court in a case with particularly egregious facts, and the other by a Federal District Court predicting Illinois law, carved out limited exceptions for claims that would be governed by the common law statute of limitations and the former statute of repose. *See Wisniewski v. Diocese of Belleville*, 406 Ill. App. 3d 1119, 1151 (5th Dist. 2011) (finding fraudulent concealment prevented victim from discovering he sustained an injury from abuse that occurred in the 1970s until 2002 and this tolled the statute of repose); *Doe v. Society of the Missionaries of the Sacred Heart, et al.*, No. 11-C-2518, 2012 WL 5499430, \*5-6 (N.D. Ill. Nov. 13, 2012) (holding the limitations period for a victim who suffered abuse in the 1980s was 5 years from the date of discovery because he did not become aware that the acts were abuse until 2006).

For actions prior to the 2003 version of § 5/13-202.2, which codified tolling of the limitations period based on fraudulent concealment, courts recognized that fraudulent concealment may toll the limitations period if the defendant actively misleads the plaintiff. *Clay v. Kuhl*, 189 Ill. 2d 603, 613-614 (Ill. 2000) (finding fraudulent concealment did not apply to toll the limitations period).

### Pending Legislation

None.

## INDIANA

### Summary of Current Law

The limitations period is the later of: (a) 7 years from when the cause of action accrues; or (b) 4 years after the injured person leaves the dependency of the abuser. Ind. Code Ann. § 34-11-2-4 and Ind. Code Ann. § 1-1-4-5(24) (tolling limitations period for minors).

Ind. Code Ann. § 34-11-2-4 became effective on July 1, 2013 and is not retroactive. 2013 Ind. Legis. P.L. 44-213.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### Legislative History

Prior to July 1, 2013, an action based on childhood abuse was subject to the 2-year limitations period for personal injury actions. Ind. Code Ann. § 34-11-2-4(1). Specifically, the limitations period was the later of: (a) 2 years from age 18; or (b) 2 years from the date of discovery. *Id.*

### Other

The discovery rule applies to claims that the victim repressed memories of the childhood sexual abuse. *Doe v. Shults-Lewis Child and Family Services, Inc.*, 718 N.E.2d 738, 746 (Ind. 1999). Proof of the repressed memory requires expert testimony. *Id.*

Fraudulent concealment may toll the limitations period. *Doe v. Shults-Lewis Child and Family Services, Inc.*, 718 N.E.2d 738, 745, 748 (Ind. 1999). To invoke the doctrine, the victim must show that the lack of discovery resulted from a concealment caused by the defendant's deception or breach of duty. *Id.*

### Pending Legislation

None.

## IOWA

### Summary of Current Law

The limitations period for sexual abuse of a "child" is 4 years from discovery of both the injury and the causal relationship between the injury and the childhood sexual abuse. Iowa Code Ann. § 614.8A.

Iowa Code Ann. § 614.8A was approved on May 6, 1990 and is not retroactive. IA LEGIS H.F. 2268(1990).

### Legislative History

Prior to May 6, 1990, an action based on childhood abuse was subject to the 2-year limitations period for personal injury actions. Iowa Code Ann. § 614.1(2). The discovery rule applies to these pre-1990 claims. *Frideres v. Schiltz*, 113 F.3d 897, 898-899 (8th Cir. 1998). The limitations period is tolled until the victim knew or should have known of both the fact of the injury and its cause. *Id.* at 899.

### Other

A "child" is an individual under the age of 14. *Doe v. Cherwitz*, 518 N.W.2d 362, 364 (Iowa 1994).

An action based on childhood sexual abuse suffered from acts by a counselor, therapist or school employee must be brought 5 years from the date the victim was last treated or enrolled in the school. Iowa Code Ann. § 614.1(12).

The discovery rule applies to claims that the victim repressed memories of the childhood sexual abuse. *Claus v. Whyle*, 526 N.W.2d 519, 524 (Iowa 1994).

### Pending Legislation

S.F. 2109 was introduced on February 5, 2014 and passed by the Senate on February 24, 2014. On March 10, 2014, the bill passed the Judiciary Subcommittee.

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The bill would extend the limitations period to 25 years from age 18. The bill also extends the limitations period for childhood sexual abuse that was discovered by a person after attaining age 18, to 25 years from discovery of the injury and the causal relationship between the injury and the childhood sexual abuse.

### KANSAS

#### Summary of Current Law

The limitations period is the later of: (a) 3 years from age 18; or (b) 3 years from the date the victim discovers or reasonably should have discovered that the injury or illness was caused by the childhood sexual abuse. Kan. Stat. Ann. § 60-523(a).

Kan. Stat. Ann. § 60-523 became effective on July 1, 1992 and is retroactive. Kan. Stat. Ann. § 60-523(d); KS LEGIS 307(1992). The statute applies to any action commenced on or after July 1, 1992 including any action barred by an applicable limitations period prior to July 1, 1992. § 60-523(d). The statute, however, does not revive claims that were barred by the 8-year statute of repose that applies to actions commenced by minors. A statute of repose provides a date certain upon which an action no longer exists, regardless of whether the action has accrued by that date. It is a stricter deadline than a statute of limitations because the limitations period cannot be extended by application of the discovery rule or tolled based on fraudulent concealment or a disability, etc. *Ripley v. Tolbert*, 260 Kan. 491, 499, 502 (Kan. 1996); Kan. Stat. Ann. §60-515(a).

#### Legislative History

Prior to 1992, an action based on childhood sexual abuse was subject to the 2-year limitations period applicable to personal injury actions. Kan. Stat. Code Ann. § 60-513.

#### Other

Not Applicable.

#### Pending Legislation

None.

### KENTUCKY

#### Summary of Current Law

The limitations period is the later of: (a) 5 years from age 18; (b) 5 years from the date of the last act of childhood sexual abuse; or (c) 5 years from the date the victim knew, or should have known, of the act of childhood sexual abuse. Ky. Rev. Stat. Ann. § 413.249.

Ky. Rev. Stat. Ann. § 413.249 became effective July 15, 1998 and is retroactive. KY LEGIS 577 (1998).

#### Legislative History

Prior to 1998, an action based on childhood sexual abuse was subject to the 1-year limitations period applicable to personal injury actions. Ky. Rev. Stat. Ann. § 413.140.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### Other

The limitations period is not tolled for fraudulent concealment when there is no evidence of concealment or knowledge of the perpetrator's abuse. *McGinnis v. Roman Catholic Diocese of Covington*, No. 02-CA-001610, 2003 WL 22111094, \*2 (Ky. Ct. App. Sept. 12, 2003). Evidence of concealment does toll the limitations period. *Roman Diocese of Covington v. Selter*, 966 S.W.2d 286, 290 (Ky. Ct. App. 1998).

An action is not tolled based on a claim that victim delayed discovery of the abuse due to post-traumatic stress disorder. *Rigazio v. Archdiocese of Louisville*, 853 S.W.2d 295, 296-297 (Ky. Ct. App. 1993) (finding post-traumatic stress disorder does not necessarily cause a person to be of "unsound mind").

### Pending Legislation

None.

## LOUISIANA

### Summary of Current Law

The limitations period is 10 years from age 21. La. Rev. Stat. Ann. § 9:2800.9(A).

Plaintiffs over the age of 21 at the time of the action must file a certificate of merit executed by plaintiff's attorney and a licensed mental health practitioner. La. Rev. Stat. Ann. § 9:2800.9(B).

La. Rev. Stat. Ann. § 9:2800.9 was approved on June 21, 1993 and is not retroactive. LA LEGIS 694(1993); *G.B.F. v. Keys*, 687 So. 2d 632, 634 (La. Ct. App. 1997).

### Legislative History

Prior to 1992, an action based on childhood sexual abuse was subject to the 1-year limitations for torts. La. Rev. Stat. Ann. § 3492.

### Other

The discovery rule applies to claims of childhood sexual abuse. A victim has one year from the date the victim discovers, or should have discovered the facts upon which his cause of action is based to file the action. *Wimberly v. Gatch*, 635 So. 2d 206, 216-17 (La. 1994). The limitations period is tolled when the defendant prevents the victim from filing suit. *Wimberly v. Gatch*, 635 So. 2d at 216-17.

Louisiana allows Direct Action Lawsuits against Insurers.

### Pending Legislation

None.

## MAINE

### Summary of Current Law

An action based on childhood sexual abuse may be commenced at any time. Me. Rev. Stat. Ann. tit. 14, § 752-C.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

It is unclear if the Maine statute is applicable to both perpetrators and non-perpetrators as the issue has been certified to the Maine Supreme Judicial Court, without a response. *Allen v. Forest*, 257 F. Supp. 2d 276, 280 (D. Me. 2003).

The current version of Me. Rev. Stat. Ann. tit. 14, § 752-C was approved on April 7, 2000 and is not retroactive. ME LEGIS 639 (2000); *Guptill v. Martin*, 228 F.R.D. 62, (D. Me. 2005).

### Legislative History

From 1991 to 2000, § 752-C required an action to be brought within the later of: (a) 12 years after the action accrued; or (b) 6 years from the date the victim discovered or should have discovered the harm. The statute was not retroactive.

From 1989 to 1991, § 752-C required an action to be brought within the later of: (a) 6 years after the action accrued or (b) 3 years from the date the victim discovered or should have discovered the harm. ME LEGIS 551 (1991).

From 1985 to 1989, § 752-C required an action to be brought within 6 years after the action accrued. ME LEGIS 292.

Prior to 1985, an action based on childhood sexual abuse was subject to the 6-year limitations period applicable to torts. Me. Rev. Stat. Ann. tit. 14, § 752. There was no recognized discovery rule. *McAfee v. Cole*, 637 A.2d 463, 466 (Me. 1994).

### Other

Not Applicable.

### Pending Legislation

None.

## MARYLAND

### Summary of Current Law

The limitations period is 7 years from age 18. Md. Code Ann. Cts. & Jud. Proc. § 5-117.

Md. Code Ann., Cts. & Jud. Proc. § 5-117 became effective on October 1, 2003 and is not retroactive. MD LEGIS 360(2003).

### Legislative History

Prior to 2003, an action based on childhood sexual abuse was subject to the 3-year limitations period for torts. Md. Code Ann., Cts. & Jud. Proc. § 5-101.

### Other

A claim that the victim repressed memories of the childhood sexual abuse does not “activate” the discovery rule. *Doe v. Maskell*, 679 A.2d 1087, 1092 (Md. 1996). The court determined that a claim of “repression” was the same as if the victim “forgot” the childhood sexual abuse and therefore the victim had “slumbered on his rights” in not bringing the action within the limitations period. *Id.* at 1090-1091.

### Pending Legislation

None.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### MASSACHUSETTS

#### Summary of Current Law

The limitations period is the later of: (a) 3 years from age 18; or (b) 3 years from when the victim discovered, or reasonably should have discovered that an emotional or psychological injury or condition was caused by the childhood sexual abuse. Mass. Gen. Laws Ann. ch. 260, § 4C.

Mass. Gen. Laws Ann. ch. 260, § 4C was approved on December 17, 1993 and is not retroactive. MA LEGIS 307(1993).

#### Legislative History

Prior to 1993, an action based on childhood sexual abuse was subject to the 3-year limitations period for torts. Mass Gen Laws Ann. ch. 260, § 2A.

#### Other

The discovery rule applies to tort actions against perpetrators and non-perpetrators. *Phinney v. Morgan*, 654 N.E.2d 77, 79 (Mass. App. Ct. 1995).

The standard for discovery is whether and when an objectively reasonable person causally connects his emotional/psychological injury or condition with the childhood sexual abuse. *Clark v. Edison*, 881 F. Supp. 2d 192, 199 (D. Mass. 2012).

#### Pending Legislation

H.B. 1455 was introduced on January 22, 2013 and was referred to the Judiciary Committee. On May 28, 2014, a new draft of H.B. 1455 was introduced (H.B. 4126). The bill was signed into law on June 26, 2014.

The prior version of the bill, H.B. 1455, would have extended the limitations period for actions against perpetrators and non-perpetrators until the victim reached age 55. A person over age 55 could have commenced an action barred by a prior limitations period within 1 year of the effective date of the statute. The extension of the limitations period would have been retroactive.

H. B. 4126 proposes to extend the limitations period to the later of: (a) age 53; or (b) 7 years after discovery that the injury was caused by the abuse for actions against the perpetrator and non-perpetrator (negligent supervision). For actions based on negligent supervision, the extension of the limitations period until age 53 is NOT retroactive and would apply only to acts that first occurred after the effective date of the act while the 7 year discovery rule would apply retroactively, including to those claims barred by prior limitations periods. H.B. 4126 also would eliminate the window legislation proposed in the prior version of the bill.

### MICHIGAN

#### Summary of Current Law

Michigan has not enacted a statute of limitations specific to childhood sexual abuse. Instead, the limitations period for assault/battery or negligence actions applies. The limitations period for assault/battery is 2 years from the injurious act. The limitations period for negligence is the later of: (a) 1 year from age 18; or (b) 3 years from the injurious act. Mich. Comp. Laws Ann. § 600.5805(2) and (10); Mich. Comp. Laws Ann. § 600.5821(1); and Mich. Comp. Laws Ann. § 600.5851 (tolling limitations period for minors).

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### Legislative History

Mich. Comp. Laws Ann. § 600.5805 was enacted on October 1, 1986 and is not retroactive.

### Other

A cause of action accrues at the time the wrong upon which the claim is based was committed, regardless of the time when the damage results. Michigan Comp. Laws Ann. § 600.5827.

The Supreme Court of Michigan found that the common-law discovery rule did not apply to toll the limitations period based on a claim that the victim repressed memories of the childhood sexual. Such memory repression also did not make the victim “insane” for purposes of tolling the limitations period due to a “disability.” *Lemmerman v. Fealk*, 534 N.W.2d 695, 702 (Mich. 1995).

Fraudulent concealment is difficult to apply to actions against third parties as the plaintiff must show the defendant concealed, by an affirmative act or misrepresentation, the existence of plaintiff's claim. Generally, plaintiff is on notice that a claim exists when the childhood sexual abuse occurs. *Doe v. Roman Catholic Archbishop of Archdiocese of Detroit*, 264 Mich.App. 632, 642-643 (Mich. Ct. App. 2004). Mere silence regarding a perpetrator's background does not constitute fraudulent concealment. *Id.* at 645.

### Pending Legislation

None.

## MINNESOTA

### Summary of Current Law

An action for childhood sexual abuse that occurred when the individual was under 18 may be commenced at any time. Minn. Stat. Ann. § 541.073(2)(a).

An action must be brought within 6 years from the sexual abuse if the sexual abuse occurred when the individual was 18 or older. Minn. Stat. Ann. § 541.073(2)(a).

A claim based on vicarious liability/ respondeat superior must be brought within 6 years of the alleged abuse. If the individual was under age 18 at the time of the alleged abuse, the claim must be brought before age 24. Minn. Stat. Ann. § 541.073(4)

The current version of Minn. Stat. Ann. § 541.073 became effective on May 25, 2013 and contains a 3-year window that allows the filing of time-barred claims from May 25, 2013/2016. Minn Stat. Ann. § 541.073(b). This does not include nuisance claims or actions seeking injunctive relief. *Doe 1 v. Archdiocese of St. Paul*, No.62-13-4075, 2013 WL 7218911, \*5 (Minn. Dist. Ct. Dec. 10, 2013).

The revival of time-barred claims only applies to claims for abuse of individuals under the age of 18; the window legislation does not apply to vicarious liability/ respondeat superior claims but does apply to negligence claims. Minn. Stat. Ann. § 541.073(b).

### Legislative History

From May 1991 to May 25, 2013, § 541.073 required an action to be brought within 6 years from the time the victim knew or had reason to know that the injury was caused by the childhood sexual abuse. MN LEGIS 232(1991). The amendment also provided a 1-year window to revive previously time-barred claims for intentional torts, allowing plaintiffs to commence a cause of action until August 1, 1992. *H.D. v. White*, 483 N.W.2d 501, 505 (Minn. App. 1992). An action is tolled until age 18. Minn. Stat. Ann. § 541.15(a)(1).

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

From May 1989 to May 1991, § 541.073 required an action to be commenced within 2 years for intentional torts and 6 years from the time the victim knew or had reason to know that the injury was caused by the childhood sexual abuse for negligence actions. The statute also provided a 1-year window to revive claims barred by prior limitations periods. A plaintiff had to prove by a preponderance of the evidence that he consulted an attorney within 2 years of the time the plaintiff knew or had reason to know that the injury was caused by the childhood sexual abuse. MN LEGIS 190. An action was tolled until age 18. Minn. Stat. Ann. § 541.15(a)(1).

Prior to May 1989, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Minn. Stat. Ann. § 541.07. An action was tolled until age 18. Minn. Stat. Ann. § 541.15(a)(1).

### Other

The delayed discovery rule in the pre-2013 versions of the statute does not apply to vicarious liability claims. *Oelschlager v. Magnuson*, 528 N.W.2d 895, 901 (Minn. Ct. App. 1995); *M.L. v. Magnuson*, 531 N.W.2d 849, 854 (Minn. Ct. App. 1995).

The delayed discovery rule in the pre-2013 versions of the statute applies to individuals who are psychologically, physically, or emotionally unable to recognize that they have been abused. *W.J.L. v. Bugge*, 573 N.W.2d 677, 681-82 (Minn. 1998). Generally, this was when the victim reached age 18. *D.M.S. v. Barber*, 645 N.W.2d 383, 390 (Minn. 2002).

To determine whether a victim had reason to know of sexual abuse for limitations purposes, the objective standard applies to determine whether a reasonable person in the victim's situation should have known of the abuse. *ABC v. Archdiocese of St. Paul and Minneapolis*, 513 N.W.2d 482, 486 (Minn. App. 1994).

Fraudulent concealment may toll the limitations period. *Doe v. Order of St. Benedict*, 836 F.Supp. 2d 872, 876 (D. Minn. 2011). Fraudulent concealment must be an intentional and affirmative concealment of the cause of action. *Dymit v. Independent School District*, No. 03-02663, 2004 WL 2857375, \*5 (Minn. Ct. App. Dec. 14, 2004). The plaintiff must also show that the concealment could not have been discovered with reasonable diligence. *Id.*

The discovery rule applies to claims involving repressed memories. *Bertram v. Poole*, 597 N.W.2d 309, 313 (Minn. Ct. App. 1999).

### Pending Legislation

None.

## MISSISSIPPI

### Summary of Current Law

Mississippi has not enacted a limitations period specific to childhood sexual abuse. Instead, the catch-all limitations period for non-specified actions applies, which is the later of: (a) 3 years from age 18; or (b) 3 years from the injurious act. Miss. Code Ann. § 15-1-49; Miss. Code Ann. 15-1-59 (tolling limitations period for minors).

### Legislative History

Miss. Code Ann. § 15-1-49 was enacted in 1989 and is not retroactive.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### Other

The discovery rule does not apply to sexual abuse claims as there is no latent injury. *Doe v. Roman Catholic Diocese of Jackson*, 947 So. 2d 983, 986 (Miss. Ct. App. 2006).

Fraudulent concealment may toll the limitations period if the plaintiff shows that the defendant affirmatively acted to prevent claimant's discovery of a claim. *Doe v. Roman Catholic Diocese of Jackson*, 947 So. 2d at 986-87.

### Pending Legislation

None.

## MISSOURI

### Summary of Current Law

The limitations period is the later of: (a) 10 years from age 21; or (b) 3 years from when the victim discovered, or reasonably should have discovered that the injury or illness was caused by the childhood sexual abuse. Mo. Ann. Stat. § 537.046(2).

The current version of Mo. Ann. Stat. § 537.046 became effective on August 28, 2004 and is retroactive. The limitations period applies to any action that would have been barred by a previous limitations period prior to that date. Mo. Ann. Stat. § 537.046(3).

### Legislative History

From 1990 to 2004, § 537.046 required an action to be brought within: (a) 5 years from age 18 or (b) 3 years from the date the victim discovers or reasonably should have discovered that the injury or illness was caused by the childhood sexual abuse, whichever occurs later. MO LEGIS H.B. 1370 (1990).

Prior to 1990, an action based on childhood sexual abuse was subject to the 5-year limitations period for personal injury actions. Mo. Ann. Stat. § 516.120.

### Other

The 8th Circuit has determined that §537.046 does not apply to non-perpetrators. *Walker v. Barrett*, 650 F.3d 1198, 1208-1209 (8th Cir. 2011).

The discovery rule applies to claims involving repressed memories, when the repression occurred before the victim had notice both that the wrong occurred and that substantial damage had resulted. *Powel v. Chaminade College Preparatory, Inc., et al.*, 197 S.W.3d 576, 584-585 (Mo. 2006). The limitations period begins to run when the victim for the first time would have "reason to question" the defendant's conduct and would have information sufficient "to place a reasonably prudent person on notice of a potentially actionable injury." *Id.*

### Pending Legislation

H.B. 247 was introduced on January 22, 2013 and the House voted to pass the bill on February 25, 2013. No action has occurred since then.

H.B. 247 would remove the limitations period for any action for damages based on childhood sexual abuse.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### MONTANA

#### Summary of Current Law

The limitations period is the later of: (a) 3 years from the last act of childhood sexual abuse; or (b) 3 years from when the victim discovers or should have discovered that the injury was caused by the act of childhood sexual abuse. Mont. Code Ann. § 27-2-216(1) and (2).

Mont. Code Ann. § 27-2-216 became effective on October 1, 1989 and is retroactive. The Supreme Court affirmed the retroactivity of the statute in *Cosgriffe v. Cosgriffe*, 864 P.2d 776, 779 (Mont. 1993).

#### Legislative History

Prior to 1989, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. Mont. Code Ann. § 27-2-204.

#### Other

The discovery rule applies to negligence claims involving childhood sexual abuse. *Werre v. David*, 913 P.2d 625, 632 (Mont. 1996).

#### Pending Legislation

None.

### NEBRASKA

#### Summary of Current Law

The limitations period is 12 years from age 21. Neb. Rev. Stat. § 25-228.

Neb. Rev. Stat. § 25-228 became effective on July 19, 2012 and is not retroactive.

#### Legislative History

Prior to 2012, an action based on childhood sexual abuse was subject to the 4-year limitations for personal injury actions. Neb. Rev. Stat. § 25-207. The limitations period was suspended until the victim reached age 21. Neb. Rev. Stat. § 25-213.

#### Other

The discovery rule applies to claims of childhood sexual abuse. An action does not accrue until the victim discovers, or through the exercise of reasonable diligence, should have discovered the existence of the injury. *Teater v. State of Nebraska*, 559 N.W.2d 758 (Neb. 1997).

#### Pending Legislation

None.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### NEVADA

#### Summary of Current Law

The limitations period is the later of: (a) 10 years from age 18; or (b) 10 years from when the victim discovers or reasonably should have discovered that his or her injury was caused by the childhood sexual abuse. Nev. Rev. Stat. Ann. § 11.215.

Nev. Rev. Stat. Ann. § 11.215 became effective in 1991 and is not retroactive.

#### Legislative History

Prior to 1991, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Nev. Rev. Stat. Ann. § 11.190(4)(e).

#### Other

Not Applicable.

#### Pending Legislation

None.

### NEW HAMPSHIRE

#### Summary of Current Law

The limitations period is the later of: (a) 12 years from age 18; or (b) 3 years from when the victim discovers, or in the exercise of reasonable diligence, should have discovered the injury and its causal relationship to the childhood sexual abuse. N.H. Rev. Stat. Ann. § 508:4-g.

The current version of N.H. Rev. Stat. Ann. § 508:4-g became effective on January 1, 2009 and is not retroactive.

#### Legislative History

From July 22, 2005 to January 1, 2009, § 508:4-g required an action to be brought within the later of: (a) 7 years from age 18; or (b) 3 years from the time the victim discovers, or in the exercise of reasonable diligence, should have discovered both the injury and its causal relationship to the act complained of. *Michaud v. McAnaney*, No. 06-cv-408, 2007 WL 2790672, \*1-2 (D. N.H. Sept. 25, 2007).

From July 1, 1986 to July 22, 2005, an action based on childhood sexual abuse was subject to the limitations period for personal injury actions, which was 3 years from the time the plaintiff discovers, or in the exercise of reasonable diligence, should have discovered both the injury and its causal relationship to the act complained of. *Conrad v. Hazen*, 665 A.2d 372, 374 (N.H. 1995); N.H. Rev. Stat. Ann. § 508:4.

Prior to July 1, 1986, an action based on childhood sexual abuse was subject to the 6-year limitations period for personal injury actions. *Conrad*, 665 A.2d at 374; N.H. Rev. Stat. Ann. § 508:4. Separately, the common law discovery rule applied to delay the accrual of the cause of action until the plaintiff discovers or in the exercise of reasonable diligence, should have discovered both the fact of the injury and its cause. *Id.*

#### Other

Not Applicable.

#### Pending Legislation

None.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### NEW JERSEY

#### Summary of Current Law

The limitations period is 2 years from reasonable discovery of the injury and its causal relationship to the act of childhood sexual abuse. N.J. Stat. Ann. § 2A:61B-1(b).

The limitations period may be tolled due to the victim's mental state, duress by the defendant, or any other equitable grounds. Such a finding can only be made after the court holds a plenary hearing (Lopez hearing). The court will hear all credible evidence and the Rules of Evidence do not apply, except Rule 403 or claims of privilege. The court may order an independent psychiatric evaluation of the victim. N.J. Stat. Ann. § 2A:61B-1(c).

N.J. Stat. Ann. § 2A:61B-1 was approved on September 24, 1992 and is not retroactive. NJ LEGIS 109(1992).

#### Legislative History

Prior to September 24, 1992, an action based on childhood sexual abuse was subject to the 2-year limitations period applicable to personal injury actions. N.J. Stat. Ann. § 2A:14-2.

#### Other

A county is a "person" and is subject to liability under § 2A:61B-1. *J.H. v. Mercer County Youth Detention Center*, 930 A.2d 1223, 1228-1229 (N.J. Super. Ct. App. Div. 2007).

The discovery rule may apply to a claim that the victim repressed memories of the childhood sexual abuse. *Bryson v. Diocese of Camden*, 909 F. Supp 2d 364, 372 (D. N.J. 2012). The applicability of the discovery rule to a repressed memory claim is subject to a Lopez hearing. *Id.*

An objective standard for discovery is used and applies the perspective of a reasonable person who was subjected to childhood sexual abuse. *R.L. v. Voytac*, 971 A.2d 1074, 1084 (N.J. 2009).

A claim of duress requires analysis under subjective and objective standards. *Smith et al. v. Kelly et al.*, 343 N.J. Super. 480, 500-501 (N.J. Super. Ct. App. Div. 2001). To prevail and toll the limitations period, a plaintiff must show that the defendant actually deprived plaintiff of his freedom of will to file the lawsuit in a timely matter and the duress must have risen to a level that a reasonable person in the plaintiff's situation would have been unable to resist. *Id.*

#### Pending Legislation

The Legislature unsuccessfully attempted to pass legislation during the 2012-2013 session to revise the limitations period. That bill would have extended the limitations period to 30 years after discovery that the childhood sexual abuse caused injury. The bill also contained a provision to revive previously barred claims for the 2-year period following the effective date of the statute.

### NEW MEXICO

#### Summary of Current Law

The limitations period is the later of: (a) age 24; or (b) 3 years from when the victim knew or had reason to know of the childhood sexual abuse and that the abuse resulted in an injury to the person, as established by competent medical or psychological testimony. N.M. Stat. Ann. § 37-1-30(A).

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

The current version of N.M. Stat. Ann. § 37-1-30 became effective on June 16, 1995 NM LEGIS 63 (1995). N.M. Stat. Ann. § 37-1-30 applies to actions not barred by a previous limitations period but not yet filed as of the effective date of the statute. NM LEGIS 63; *Grygorwicz v. Trujillo*, 140 N.M. 129, 135 (N.M. Ct. App. 2006).

### Legislative History

From July 1, 1993 to June 16, 1995, § 37-1-30(A) included a provision that allowed a victim to bring an action 3 years from the date that the victim began receiving treatment from a licensed, competent medical practitioner for the purpose of treating repressed memories. This provision was removed in the 1995 version of the statute. NM LEGIS 136 (1993).

Prior to July 1, 1993, an action based on childhood sexual abuse was subject to the 3 year limitations period for personal injury actions. N.M. Stat. Ann. § 37-1-8.

### Other

A jury may have to determine the date when the victim knew or should have known about the abuse and the resulting injury. *Kevin J. v. Sager*, 999 P.2d 1026, 1031 (N.M. Ct. App. 2006).

### Pending Legislation

None.

## NEW YORK

### Summary of Current Law

The limitations period for a civil action against a perpetrator is 5 years from age 18. The 5-year limitations period may be extended if the perpetrator is criminally convicted. N.Y.C.P.L.R. 213-c; N.Y.C.P.L.R. 213-b.

N.Y.C.P.L.R. 213-c became effective on June 23, 2006 and is not retroactive.

The limitations period for a civil action against a perpetrator's employer or actions based on personal injury is 3 years from age 18. N.Y.C.P.L.R. 214(5); *Green v. Emmanuel African M.E. Church*, 278 A.D.2d 132, 132-133 (N.Y. App. Div. 2000).

N.Y.C.P.L.R. 214 became effective in 1962 and is not retroactive.

### Legislative History

Prior to the enactment of N.Y.C.P.L.R. 213-c, an action based on childhood sexual abuse was subject to the 1-year limitations period for intentional torts against a perpetrator. *Green v. Emmanuel African M.E. Church*, 278 A.D.2d 132, 132-133 (N.Y. App. Div. 2000).

### Other

The discovery rule does not apply in sexual abuse cases. *Matter of N.M. v. Westchester County Health Care Corp.*, 10 A.D.3d 421, 422 (N.Y. App. Div. 2004). The limitations period begins when of the sexual abuse occurs (except the limitations period is tolled for minors until age 18). *Id.*

The limitations period is tolled if the defendant actively prevents the victim from asserting a cause of action by use of deception, concealment, threats or other misconduct. *Doe v. Roe*, No. 001, 799 N.Y.S.2d 160, \*1 (N.Y. Sup. Ct. Dec. 17, 2004). The victim must demonstrate that he or she instituted the action within a reasonable time after the facts giving rise to the estoppel have ceased to be operational. *Id.*; see also *Zimmerman v. Poly Prep County Day School*, 888 F. Supp. 2d 317, 333-334

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

(E.D.N.Y. 2012) (claims against perpetrator's employer not barred because school may have made fraudulent misrepresentations on which the victims relied in deciding not to file suit previously).

### Pending Legislation

On January 9, 2014, Assembly Member Margaret Markey re-introduced legislation she originally proposed on January 9, 2013, which would remove entirely the statute of limitations for sexual abuse of individuals under the age of 18. See Bill A1771-2013. The proposed legislation requires a claimant to file a certificate of merit by a qualified mental health professional acknowledging that there is a reasonable basis that the alleged abuse occurred. The proposed legislation would also revive previously barred claims. Those claims must be filed within one year of the effective date of the statute. The 2013 bill was immediately referred to committee and never voted on during the legislative session. The current 2014 bill was also immediately referred to committee.

## NORTH CAROLINA

### Summary of Current Law

North Carolina has not enacted a statute of limitations specific to childhood sexual abuse. Instead, the limitations period for personal injury actions applies, which is the later of: (a) 3 years from age 18; or (b) 3 years from when the bodily harm becomes apparent or ought reasonably to have become apparent; however, an action may not be brought more than 10 years from the last act. N.C. Gen. Stat. Ann. § 1-52(16); N.C. Gen. Stat. Ann. § 1-17(a)(1) (tolling limitations period for minors).

### Legislative History

N.C. Gen. Stat. Ann. § 1-52 became effective 1945 and it is unclear when Section (16) of N.C. Gen. Stat. Ann. § 1-52 was added; Section (16) dates back to at least to 1991.

### Other

The discovery rule may apply when the defendant's conduct causes extreme emotional distress. *Soderlund v. Koch*, 546 S.E.2d 632, 639 (N.C. Ct. App. 2001). The claim accrues when the emotional distress occurs. *Id.* Severe emotional distress is a disorder diagnosed by professionals trained to do so. *Id.* at 639.

The discovery rule applies to claims that a victim repressed memories of the childhood sexual abuse. *Leonard v. England*, 115 N.C.App. 103, 108 (N.C. Ct. App. 1994).

### Pending Legislation

None.

## NORTH DAKOTA

### Summary of Current Law

The limitations period is 7 years from when the victim knew or reasonably should have known that a potential claim exists resulting from the alleged childhood sexual abuse. N.D. Cent. Code. § 28-01-25.1.

N.D. Cent. Code. § 28-01-25.1 became effective on August 1, 2011 and is not retroactive.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### Legislative History

Prior to August 1, 2011, an action based on childhood sexual abuse was subject to the 6-year limitations period for personal injury actions. N.D. Cent. Code. § 28-01-16(5).

### Other

Not Applicable.

### Pending Legislation

None.

## OHIO

### Summary of Current Law

The limitations period is 12 years from age 18. Ohio Rev. Code Ann. § 2305.111(C).

If the defendant has fraudulently concealed from the victim the facts that form the basis of the claim, the limitations period is tolled until the time the victim discovers or in the exercise of due diligence should have discovered those facts. Ohio Rev. Code Ann. § 2305.111(C).

Ohio Rev. Code Ann. § 2305.111 became effective on August 3, 2006. The statute applies to all civil actions that have never been filed and for which the limitations period applicable to such civil action had not expired as of August 3, 2006. OH LEGIS 97(2006).

### Legislative History

Prior to August 3, 2006, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Ohio Rev. Code Ann. § 2305.10.

### Other

With the enactment of the 2006 version of the statute, the discovery rule no longer applies to claims of repressed memories. *Pratte v. Stewart*, 125 Ohio St. 3d 473, 475-475 (2010), abrogating *Ault v. Jasko*, 637 N.E.2d 870 (Ohio 1994). This is because the 2006 version of the statute contains a tolling provision based on fraudulent concealment but does not contain a tolling provision based on repressed memories. That omission demonstrates the legislature did not intend for claims of repressed memories to toll the limitations period. *Id.* at 484.

### Pending Legislation

None.

## OKLAHOMA

### Summary of Current Law

The limitations period is the later of: (a) 2 years from age 18; (b) 2 years from the last act of childhood sexual abuse; or (c) 2 years from when the victim discovered or reasonably should have discovered that the injury or condition was caused by the act or that the act caused the injury for which the claim is brought. Okla. Stat. Ann. § 95(6).

Okla. Stat. Ann. § 95(6) became effective on September 1, 1992 and is not retroactive. OK LEGIS 356 (1994).

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### Legislative History

Prior to September 1, 1992, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Okla. Stat. Ann. § 95(3).

### Other

The discovery rule may apply to claims that the victim repressed memories of the sexual abuse. *Weathers. v. Fulgenzi*, 884 P.2d 538, 541-542 (Okla. 1994).

### Pending Legislation

None.

## OREGON

### Summary of Current Law

The limitations period is the later of: (a) age 40 if the abuse occurred before age 18; or (b) 5 years from the date when the victim discovers, or with the exercise of reasonable care should have discovered, the causal connection between the injury and the sexual abuse. Or. Rev. Stat. § 12.117(1).

The current version of Or. Rev. Stat. § 12.117 became effective on January 1, 2010 and is not retroactive. OR LEGIS 879 (2009).

### Legislative History

From October 3, 1989 to January 1, 2010, § 12.117 required an action be brought within the later of: (a) 6 years from age 18; or (b) 3 years from the date the injured person discovers or in the exercise of reasonable care should have discovered the injury or the casual connection between the childhood sexual abuse and the injury. No action could be commenced after age 40. The statute was retroactive except as to any judgments that had been entered prior to the effective date. OR LEGIS 932 (1991).

Prior to October 3, 1989, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Or. Rev. Stat. §12.110(1).

### Other

Not Applicable.

### Pending Legislation

None.

## PENNSYLVANIA

### Summary of Current Law

The limitations period is 12 years from age 18. 42 Pa. Cons. Stat. Ann. §5533(b)(2)(i).

42 Pa. Cons. Stat. Ann. §5533 became effective on August 27, 2002 and is not retroactive. PA LEGIS 2002-86.

42 Pa. Cons. Stat. Ann. §5533 applies only to those claims not previously barred under Section 5524. *Bowser v. Guttendorf*, 541 A.2d 377, 379 (Pa. Super. Ct. 1988).

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### Legislative History

Prior to August 27, 2002, an action based on childhood sexual abuse was subject to the 2-year limitations period applicable to personal injury actions. 42 Pa. Cons. Stat. Ann. § 5524.

### Other

The discovery rule does not apply claims that the victim repressed memories of the childhood sexual abuse. *Dalrymple v. Brown*, 701 A.2d 164, 168 (Pa. 1997). The court stated that a repressed memory claim does not fit the objective standard required by the discovery rule as the court only has the “‘memories’ of the plaintiff to rely upon in determining that an actual injury occurred.” *Id.* at 170.

The discovery rule did not apply to toll the limitations period in an action against a diocese, where plaintiffs argued that they only recently realized that the diocese was a possible cause of their injury. The court rejected this argument and stated that the discovery rule did not toll the limitations period because the childhood sexual abuse was always known to plaintiffs, and the injury at issue was the childhood sexual abuse, not the alleged cover-up by the diocese. *Meehan v. Archdiocese of Philadelphia*, 870 A.2d 912, 919 (Pa. Super. Ct. 2005)

Fraudulent concealment does not toll the limitations period unless the defendants affirmatively mislead plaintiffs. Mere silence is not enough. *Id.* at 922.

### Pending Legislation

H.B. 2067 was introduced on March 10, 2014 and was referred to the Judiciary Committee that same day. No activity has occurred since.

H.B 2067 would allow an action for childhood sexual abuse to be commenced at any time. The bill would revive any claims barred by a prior limitations period. A claimant may file such revived claim up to age 50. The window legislation would apply to employers that owed a duty of care to the victim only if there is gross negligence. An action that was previously filed and dismissed because it was filed beyond the applicable statute of limitations may be reopened if certain conditions exist. The bill contemplates exceptions to governmental immunity.

## RHODE ISLAND

### Summary of Current Law

The limitations period for an action against the perpetrator is the later of: (a) 7 years from the last abusive act; or (b) 7 years from when the victim discovered or reasonably should have discovered that the injury or condition was caused by the sexual abuse. R.I. Gen. Laws § 9-1-51(a); R.I. Gen. Laws § 9-1-19 (tolling limitations period for minors).

The current version of R.I. Gen. Laws § 9-1-51 was approved on July 26, 1993 and is not retroactive. RI LEGIS 93-274.

The limitations period for an action against a non-perpetrator is 3 years from the act of negligence. *Ryan v. Roman Catholic Bishop of Providence*, 941 A.2d 174, 181 (R.I. 2008); R.I. Gen. Laws § 9-1-14 (personal injury). The limitations period is tolled until age 18. R.I. Gen. Laws 9-1-19.

R.I. Gen. Laws § 9-1-14 was enacted in 1971.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### Legislative History

From 1992 to 1993, § 9-1-51 required an action to be brought within: (a) 3 years from the abusive act; or (b) 3 years from when the victim discovered or reasonably should have discovered that the injury or condition was caused by the sexual abuse, whichever occurs later. RI LEGIS 93-274; RI LEGIS 92-84.

Prior to 1992, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. *Smith v. O'Connell*, 997 F. Supp. 226, 232 (D. R.I. 1998); R.I. Gen. Laws § 9-1-14.

### Other

A claim that a victim repressed memories of the childhood sexual abuse may toll the limitations period while a victim is “unsound mind.” *Kelly v. Marcantonio*, 678 A.2d 873, 879 (R.I. 1996); R.I. Gen. Laws § 9-1-19. “Unsound mind” means an individual is incompetent or incapable of managing everyday affairs. *Smith v. O'Connell*, 997 F. Supp. 226, 236 (D. R.I. 1998). An evidentiary hearing is required. *Kelly v. Marcantonio*, 678 A.2d 873, 879 (R.I. 1996).

### Pending Legislation

None.

## SOUTH CAROLINA

### Summary of Current Law

The limitations period is the later of: (a) 6 years from age 21; or (b) 3 years from when the victim discovers the injury and the causal relationship between the injury and the childhood sexual abuse. S.C. Code Ann. § 15-3-555.

S.C. Code Ann. § 15-3-555 became effective on August 31, 2001. SC LEGIS 102 (2001) and is not retroactive. *Doe v. Crooks*, 364 S.C. 349, 352 (S.C. 2005) (a newly enacted statute of limitations cannot operate to revive an action for which the limitations period had already expired as it would violate the Due Process clause of the South Carolina Constitution).

### Legislative History

Prior to August 31, 2001, an action based on childhood sexual abuse was subject to the limitations period for personal injury actions. That limitations period is the later of: (a) 3 years from the injury; or (b) 3 years from when the person knew or by the exercise of reasonable diligence should have known that he had a cause of action. S.C. Code Ann. § 15-3-530(5).

### Other

The discovery rule applies to claims that a victim repressed memories of the childhood sexual abuse. The limitations period begins to run on the date a reasonable person in the victim's circumstance was no longer repressing memories of abuse and the resurfacing memories would have put a reasonable person on sufficient notice. *Moriarty v. Garden Sanctuary Church of God*, 534 S.E.2d 672, 676 (S.C. 2000). A repressed memory claim must be corroborated with independent verifiable, objective evidence including expert testimony to prove both the abuse and the repressed memory. *Id.* at 679-680.

### Pending Legislation

None.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### SOUTH DAKOTA

#### Summary of Current Law

The limitations period is the later of: (a) 3 years from age 18; (b) 3 years from the last act of childhood sexual abuse; or (c) 3 years from when the victim discovered or reasonably should have discovered that the injury or condition was caused by the childhood sexual abuse. S.D. Codified Laws § 26-10-25; S.D. Codified Laws § 15-2-22 (tolling limitations period for minors).

A victim who has reached the age of 40 may only recover damages against the perpetrator. S.D. Codified Laws § 26-10-25 (added in 2010, SL 2010 ch. 141 § 1).

S.D. Codified Laws § 26-10-25 was approved on February 28, 1991. SD LEGIS 219 (1991). The statute applies retroactively and may revive time-barred claim. *Stratmeyer v. Stratmeyer*, 567 N.W.2d 220, 224 (S.D. 1997), overruling *Koenig v. Lambert*, 527 N.W.2d 903 (S.D. 1995).

#### Legislative History

Prior to February 28, 1991, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. S.D. Codified Laws § 15-2-14.

#### Other

The discovery rule applies to actions against perpetrators and non-perpetrators. *DeLonga v. Diocese of Sioux Falls*, 329 F. Supp. 2d 1092, 1104 (D. S.D. 2004).

#### Pending Legislation

None.

### TENNESSEE

#### Summary of Current Law

Tennessee has not enacted a statute of limitations specific to childhood sexual abuse. Instead, the limitations period for an action based on personal injury is applicable, which is the later of: (a) 1 year from age 18; or (b) 1 year from the date of injury. Tenn. Code Ann. § 28-3-104; Tenn. Code Ann. § 28-1-106 (tolling limitations period for minors).

#### Legislative History

Tenn. Code Ann. § 28-3-104 was enacted in 1967.

#### Other

The common law discovery rule states that the cause of action accrues and the limitations period begins to run when the injury is discovered, or in the exercise of due care and diligence, the plaintiff should have discovered that he or she has a right of action. *Potts v. Celotex Corp.*, 796 S.W.2d 678, 680 (Tenn. 1990).

Tolling of the limitations period is strictly construed to the period when the victim had no knowledge that the wrong had occurred. *Hunter v. Brown*, 955 S.W.2d 49, 51 (Tenn. 1997). The court declined to address the applicability of repressed memory to sexual abuse cases and left the issue for “another day.” *Id.*

#### Pending Legislation

None.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### TEXAS

#### Summary of Current Law

The limitations period is the later of: (a) 5 years from age 18; or (b) 5 years after the last act of childhood sexual abuse. Tex. Civ. Prac. & Rem. Code Ann. § 16.0045; Tex. Civ. Prac. & Rem. Code Ann. § 16.001 (tolling limitations period for minors).

Tex. Civ. Prac. & Rem. Code Ann. § 16.0045 became effective on September 1, 2007 and is not retroactive. TX LEGIS 593 (2007) (amended statute to add limitations period for childhood sexual abuse).

#### Legislative History

Prior to September 1, 2001, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Tex. Civ. Prac. & Rem. Code Ann. § 16.003.

#### Other

The 5-year limitations period applies to negligence actions against a diocese, rather than the 2-year limitations period applicable to general personal injury actions. *Stephanie M. v. Coptic Orthodox Patriarchate Diocese of the Southern United States*, 362 S.W.3d 656, 660 (Tex. App. 2011).

The discovery rule varies in its application to sexual abuse cases. *Doe v. Linam*, 225 F. Supp. 2d 731, 735-36 (S.D. Tex. 2002). Generally, a cause of action accrues when the wrongful act causes injury, even if the fact of the injury is not discovered until later and all of the damage have not occurred. *S.V. v. R.V.*, 933 S.W.2d 1, 4 (Tex. 1996).

The discovery rule applies in cases where the extent of the injury is inherently undiscoverable and the evidence of injury is objectively verifiable. *Id.* at 6. An injury is inherently undiscoverable if it is by nature unlikely to be discovered within the prescribed limitations period despite due diligence. *Id.* at 7. Objectively verifiable evidence in the context of sexual abuse includes a criminal conviction, confession, contemporaneous records, medical records, photographs. *Id.* at 15. Expert testimony might provide objectively verifiable evidence but the application is fact specific. *Id.*

Fraudulent concealment may toll the limitations period. To prove fraudulent concealment, the plaintiff must demonstrate that the defendant had (1) actual knowledge that a wrong occurred, (2) a duty to disclose the wrong, and (3) a fixed purpose to conceal the wrong. *Doe v. Roman Catholic Archdiocese of Galveston-Houston ex rel. Dinardo*, 362 S.W.3d 803, 810 (Tex. App. 2012).

#### Pending Legislation

None.

### UTAH

#### Summary of Current Law

The limitations period is the later of: (a) 4 years from age 18; or (b) 4 years from when the victim discovers the childhood sexual abuse; the date of discovery may be the last act of childhood sexual abuse. Utah Code Ann. § 78B-2-308(2).

Utah Code Ann. § 78B-2-308 applies to both intentional acts and negligence. Utah Code Ann. § 78B-2-308(3).

Utah Code Ann. § 78B-2-308 became effective in 1992 and is not retroactive. *Colosimo v. Roman Catholic Bishop of Salt Lake City*, 156 P.3d 806, 816 (Utah 2007).

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### Legislative History

Prior to 1992, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. Utah Code Ann. § 78B-2-305. The common law discovery rule also applies. *Olsen v. Hooley*, 865 P.2d 1345, 1348 (Utah 1993).

### Other

Under the discovery rule, a party's cause of action accrues when the plaintiff learns of or in the exercise of reasonable diligence should have learned of, the facts that give rise to the cause of action. *Olsen*, 865 P.2d at 1348.

The discovery rule applies to claims involving repressed memories. *Olsen*, 865 P.2d at 1350.

### Pending Legislation

None.

## VERMONT

### Summary of Current Law

The limitations period is the later of: (a) 6 years from age 18; (b) 6 years after the last act of childhood sexual abuse; or (c) 6 years from when the victim discovered that the injury or condition was caused by the childhood sexual abuse. Vt. Stat. Ann. tit. 12, § 522; Vt. Stat. Ann. tit. 12, § 551 (tolling limitations period for minors).

Vt. Stat. Ann. tit. 12, § 522 became effective in 1989 and is not retroactive.

### Legislative History

Prior to 1989, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. The cause of action accrues on the date of discovery of the injury. Vt. Stat. Ann. tit. 12 § 512.

### Other

The limitations period does not begin to run until the victim has actual knowledge of the childhood sexual abuse. *Barquin v. Roman Catholic Diocese of Burlington, Vermont, Inc.*, 839 F. Supp. 275, 279-280 (D. Vt. 1993).

### Pending Legislation

None.

## VIRGINIA

### Summary of Current Law

The limitations period is the later of: (a) 20 years from age 18; or (b) 20 years from the date a medical professional first communicated to the injured person that the injuries were caused by the childhood sexual abuse. Va. Code Ann. § 8.01-249(6); Va. Code Ann. § 8.01-243(D).

The 20-year limitations period for childhood sexual abuse was approved March 26, 2011, through amendment of Va. Code Ann. § 8.01-243(D). The statute was originally enacted in 1991 and is not retroactive.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### Legislative History

From 1991 to 2011, § 8.01-249 required an action to be brought within: (a) 10 years from age 18; or (b) 10 years from the last act by the perpetrator, whichever occurs later. *Kopalchik v. Catholic Diocese of Richmond*, 645 S.E.2d 439, 440-441 (Va. 2007).

Prior to 1991, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Va. Code Ann. § 8.01-243(A).

### Other

Not Applicable.

### Pending Legislation

None.

## WASHINGTON

### Summary of Current Law

The limitations period is the later of: (a) 3 years from age 18; (b) 3 years from the last act of childhood sexual abuse; (c) 3 years from when the victim discovered or reasonably should have discovered that the injury or condition was caused by the childhood sexual abuse; or (d) 3 years from when the victim discovered that the childhood sexual abuse caused the injury for which the claim is brought. Wash. Rev. Code Ann. § 4.16.340.

Wash. Rev. Code Ann. § 4.16.340 became effective on June 9, 1998 and is retroactive. WA LEGIS 144.

### Legislative History

Prior to an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. Wash. Rev. Code Ann. § 4.16.080(2).

### Other

The statute applies to negligence actions against non-perpetrators who are alleged to have failed to prevent the abuse. *C.J.C. v. Corporation of the Catholic Bishop of Yakima*, 985 P.2d 262, 270 (Wash. 1999).

### Pending Legislation

None.

## WEST VIRGINIA

### Summary of Current Law

West Virginia has not enacted a statute of limitations specific to childhood sexual abuse. Instead the limitations period for personal injury actions is applicable, which is the later of: (a) 2 years from age 19; or (b) 2 years from the injurious act. W. Va. Code Ann. § 55-2-12; W. Va. Code Ann. § 55-2-15 (tolling limitations period for minors).

For abuse that occurred while under the age 18, no action may be brought past age 38 (20 years past the accrual of the cause of action). W. Va. Code Ann. § 55-2-15.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### Legislative History

The effective dates for W. Va. Code Ann. § 55-2-12 and W. Va. Code Ann. § 55-2-15 were not ascertainable and they may have been enacted in 1923.

### Other

The discovery rule applies to tort actions unless there is a clear statutory prohibition to its application. The limitations period begins to run when the plaintiff knows, or by the exercise of reasonable diligence, should know (1) that the plaintiff has been injured; (2) the identity of the entity that injured plaintiff; and (3) that the conduct of that entity has a causal relation to the injury.” Syl. pt. 4, *Gaither v. City Hosp. Inc.*, 487 S.E.2d 901, 903 (W. Va. 1997).

Claims of fraud or fraudulent concealment may toll the limitations period. Application of discovery rule does not require a showing by the plaintiff that some action by the defendant prevented the plaintiff from knowing of the wrong at the time of the injury. *Dunn v. Rockwell*, 225 W.Va. 43, 52 (W. Va. 2009) *overruling Cart v. Marcum*, 423 S.E.2d 644, (W. Va. 1992).

### Pending Legislation

None.

## WISCONSIN

### Summary of Current Law

An action must be filed before the victim attains age 35. Wis. Stat. Ann. § 893.587

Wis. Stat. Ann. § 893.587 became effective on May 1, 2004.

### Legislative History

Prior to May 1, 2004, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. Wis. Stat. Ann. § 893.54.

### Other

Actions for negligent retention and supervision against a diocese must be brought within 3 years of the date of the last incident of childhood sexual abuse. *John Doe 1 v. Archdiocese of Milwaukee*, 734 N.W.2d 827, 839 (Wis. 2007); *John BBB Doe v. Archdiocese of Milwaukee*, 565 N.W.2d 94, 106 (Wis. 1997); *Pritzlaff v. Archdiocese of Milwaukee*, 533 N.W.2d 780, 784 (Wis. 1995). An action is tolled until a victim reaches age 18. Wis. Stat. Ann. § 893.16.

Fraudulent concealment may toll the limitations period. A claim for intentional misrepresentation requires proof that: (1) the defendant made a factual representation; (2) which was untrue; (3) the defendant either made the representation knowing it was untrue or made it recklessly without caring whether it was true or false; (4) the defendant made the representation with intent to defraud and to induce another to act upon it; and, (5) the plaintiff believed the statement to be true and relied on it to his/her detriment. *John Does 1, 2, 3 and Linneman v. Archdiocese of Milwaukee*, 303 Wis. 2d 34, 60-61 (Wis. 2007).

### Pending Legislation

S.B. 225 was introduced on July 9, 2013. The bill failed to pass the Senate on April 8, 2014.

The bill would remove the limitations period for an action based on childhood sexual abuse. The bill would also have revived any cause of action that was barred by a prior limitations period for 2 years following the effective date of the bill.

## Statutes of Limitations for Civil Actions Based on Childhood Sexual Abuse

### WYOMING

#### Summary of Current Law

The limitations period is the later of: (a) 8 years from age 18; or (b) 3 years after discovery. Wyo. Stat. Ann. § 1-3-105(b). Wyo. Stat. Ann. § 1-3-105 was approved March 15, 1993 and is not retroactive. WY LEGIS 215 (1993).

#### Legislative History

Prior to 1993, an action based on childhood sexual abuse was subject to the 4-year limitations period for personal injury actions. Wyo. Stat. Ann. § 1-3-105.

#### Other

The term “discovery” used in Wyo. Stat. Ann. § 1-3-105(b) means that a limitations period does not begin to run until the victim discovered or in the exercise of reasonable diligence should have discovered the injury. *McCreary v. West*, 971 P.2d 974, 981 (Wyo. 1999).

#### Pending Legislation

None.