

FIRST REGULAR SESSION

HOUSE BILL NO. 367

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SEITZ.

1155H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 537.046, RSMo, and to enact in lieu thereof one new section relating to civil actions for vulnerable victims of sexual abuse.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 537.046, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.044, to read as follows:

537.044. 1. As used in this section, the following terms mean:

- (1) "Disabled", a person who is determined by a medical or mental health provider to be legally disabled or medically disabled at the time of the alleged wrongful conduct and was unable to give legal consent;**
- (2) "Minor", a person under eighteen years of age;**
- (3) "Sexual abuse", the commission of one or more of the following acts or offenses:**
 - (a) Rape in the first degree under section 566.030;**
 - (b) Rape in the second degree under section 566.031;**
 - (c) Sodomy in the first degree under section 566.060;**
 - (d) Sodomy in the second degree under section 566.061;**
 - (e) Sexual abuse in the first degree under section 566.100;**
 - (f) Sexual abuse in the second degree under section 566.101;**
 - (g) Sexual conduct with a nursing facility resident or vulnerable person in the first degree under section 566.115;**
 - (h) Sexual conduct with a nursing facility resident or vulnerable person in the second degree under section 566.116;**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 18 (i) Sexual trafficking of a child in the first degree under section 566.210;
- 19 (j) Sexual trafficking of a child in the second degree under section 566.211;
- 20 (k) Sexual exploitation of a minor under section 573.023; or
- 21 (l) Child used in a sexual performance under section 573.200.
- 22 (4) "Sexual contact", any touching of another person with the genitals or any
- 23 touching of the genitals or anus of another person, or the breast of a female person, or
- 24 such touching through the clothing, or causing semen, seminal fluid, or other ejaculate
- 25 to come into contact with another person, for the purpose of arousing or gratifying the
- 26 sexual desire of any person or for the purpose of terrorizing the victim;
- 27 (5) "Sexually explicit conduct", actual or simulated:
- 28 (a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or
- 29 oral-anal, whether between persons of the same or opposite sex;
- 30 (b) Bestiality;
- 31 (c) Masturbation;
- 32 (d) Sadistic or masochistic abuse; or
- 33 (e) Lascivious exhibition of the genitals or pubic area of any person;
- 34 (6) "Vulnerable victim", a person who was disabled, a minor, or both at the time
- 35 he or she was a victim of sexual abuse.
- 36 2. (1) Notwithstanding any provision of law, a vulnerable victim may bring a
- 37 civil action against any party who committed sexual abuse against the vulnerable victim
- 38 or whose tortious conduct caused the vulnerable victim to be a victim of sexual abuse
- 39 before the vulnerable victim reaches fifty-five years of age.
- 40 (2) Notwithstanding any provision of law, a civil action similar to a civil action
- 41 described under subdivision (1) of this subsection, including a cause of action arising
- 42 before, on, or after August 28, 2023, that was barred or dismissed due to a statute of
- 43 limitation shall be revived, and the civil action may be commenced no earlier than six
- 44 months after and no later than thirty months after August 28, 2023.
- 45 3. This section shall not apply to a claim that has been litigated to finality on its
- 46 merits in any court of competent jurisdiction before August 28, 2023.
- 47 4. The court may award actual damages, compensatory damages, punitive
- 48 damages, injunctive relief, or any other appropriate relief in a civil action under this
- 49 section.

~~[537.046. 1. As used in this section, the following terms mean:~~

- 2 (1) ~~"Childhood sexual abuse", any act committed by the defendant~~
- 3 ~~against the plaintiff which act occurred when the plaintiff was under the age of~~
- 4 ~~eighteen years and which act would have been a violation of section 566.030,~~
- 5 ~~566.040, 566.050, 566.060, 566.070, 566.080, 566.090, 566.100, 566.110, or~~
- 6 ~~566.120, or section 568.020;~~

7 (2) ~~"Injury" or "illness", either a physical injury or illness or a~~
8 ~~psychological injury or illness. A psychological injury or illness need not be~~
9 ~~accompanied by physical injury or illness.~~

10 2. ~~Any action to recover damages from injury or illness caused by~~
11 ~~childhood sexual abuse in an action brought pursuant to this section shall be~~
12 ~~commenced within ten years of the plaintiff attaining the age of twenty one or~~
13 ~~within three years of the date the plaintiff discovers, or reasonably should have~~
14 ~~discovered, that the injury or illness was caused by childhood sexual abuse,~~
15 ~~whichever later occurs.~~

16 3. ~~This section shall apply to any action commenced on or after~~
17 ~~August 28, 2004, including any action which would have been barred by the~~
18 ~~application of the statute of limitation applicable prior to that date.]~~

✓