S T A T E O F N E W Y O R K

2796

2011-2012 Regular Sessions

I N A S S E M B L Y

January 20, 2011

Introduced by M. of A. GABRYSZAK, GALEF, PHEFFER, PAULIN, CUSICK, HIKIND, TITUS -- Multi-Sponsored by -- M. of A. ABBATE, BING, MAGEE, P. RIVERA, ROBINSON, SWEENEY, TOWNS -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law and the civil practice law and rules, in relation to extending the statute of limitations for childhood sexual abuse or exploitation

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (f) of subdivision 3 of section 30.10 of the criminal procedure law, as separately amended by chapters 3 and 320 of the laws of 2006, is amended to read as follows:

(f) For purposes of a prosecution involving a [sexual] SEX offense as defined in article one hundred thirty of the penal law, other than a sexual offense delineated in paragraph (a) of subdivision two of this section, committed against a child less than eighteen years of age, incest in the first, second or third degree as defined in sections 255.27, 255.26 and 255.25 of the penal law committed against a child less than eighteen years of age, or use of a child in a sexual performance as defined in section 263.05 of the penal law, A FELONY CONSPIRACY TO COMMIT ONE OF THESE CRIMES UNDER ARTICLE ONE HUNDRED FIVE OF THE PENAL LAW OR A FELONY FOR HINDERING THE PROSECUTION OF ONE OF THESE CRIMES PURSUANT TO SECTION 205.60 OF THE PENAL LAW, the period of limitation shall not begin to run until the child has reached the age of eighteen or the offense is reported to a law enforcement agency or statewide central register of child abuse and maltreatment, whichever occurs earlier, AND THEREAFTER SUCH PROSECUTION SHALL BE COMMENCED WITHIN FIFTEEN YEARS.

S 2. The civil practice law and rules is amended by adding a new section 214-f to read as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 214-F. ACTIONS BASED ON CHILDHOOD SEXUAL ABUSE OR EXPLOITATION. 1. ALL CLAIMS OR CAUSES OF ACTION BROUGHT BY ANY PERSON FOR RECOVERY OF DAMAGES FOR INJURY OR CONDITION SUFFERED AS A RESULT OF CHILDHOOD SEXUAL ABUSE OR EXPLOITATION SHALL BE COMMENCED WITHIN FIFTEEN YEARS OF THE ACT ALLEGED TO HAVE CAUSED THE INJURY OR CONDITION.

2. THE INJURED PARTY NEED NOT ESTABLISH WHICH ACT, IN A SERIES OF CONTINUING ACTS OF CHILDHOOD SEXUAL ABUSE OR EXPLOITATION, CAUSED THE INJURY OR CONDITION THAT IS THE SUBJECT OF THE SUIT.

3. AS USED IN THIS SECTION, "CHILDHOOD SEXUAL ABUSE OR EXPLOITATION" MEANS ANY ACT COMMITTED BY THE PERPETRATOR AGAINST THE INJURED PARTY WHICH ACT OCCURRED WHEN THE INJURED PARTY WAS AN INFANT AND WHICH ACT WOULD HAVE BEEN PROSCRIBED BY ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW, OR WHICH ACT WOULD HAVE CONSTITUTED INCEST AS DEFINED IN SECTION 255.25, 255.26 OR 255.27 OF THE PENAL LAW, OR WHICH ACT WOULD HAVE CONSTITUTED THE USE OF A CHILD IN A SEXUAL PERFORMANCE AS DEFINED IN SECTION 263.05 OF THE PENAL LAW, OR WHICH ACT WOULD HAVE VIOLATED ANY PRIOR LAW OF THIS STATE OF SIMILAR EFFECT AT THE TIME THE ACT WAS COMMITTED.

4. THIS SECTION SHALL APPLY TO ALL CAUSES OF ACTION COMMENCED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, REGARDLESS OF WHEN THE CAUSE OF ACTION AROSE.

S 3. This act shall take effect immediately.