

STATE OF NEW YORK

1854--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil practice law and rules, in relation to removing the statute of limitations in civil actions involving certain child sexual assault offenses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision (b) of section 208 of the civil practice law
2 and rules, as added by chapter 11 of the laws of 2019, is amended to
3 read as follows:

4 (b) Notwithstanding any provision of law which imposes a period of
5 limitation to the contrary and the provisions of any other law pertain-
6 ing to the filing of a notice of claim or a notice of intention to file
7 a claim as a condition precedent to commencement of an action or special
8 proceeding, with respect to all civil claims or causes of action brought
9 by any person for physical, psychological or other injury or condition
10 suffered by such person as a result of conduct which would constitute a
11 sexual offense as defined in article one hundred thirty of the penal law
12 committed against such person who was less than eighteen years of age,
13 incest as defined in section 255.27, 255.26 or 255.25 of the penal law
14 committed against such person who was less than eighteen years of age,
15 or the use of such person in a sexual performance as defined in section
16 263.05 of the penal law, or a predecessor statute that prohibited such
17 conduct at the time of the act, which conduct was committed against such
18 person who was less than eighteen years of age, such action may be
19 commenced, against any party whose intentional or negligent acts or
20 omissions are alleged to have resulted in the commission of said
21 conduct, [~~on or before~~] by the plaintiff or infant plaintiff [~~reaches~~

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

LBD06673-02-4

1 ~~the age of fifty-five years]~~ at any time. In any such claim or action,
2 in addition to any other defense and affirmative defense that may be
3 available in accordance with law, rule or the common law, to the extent
4 that the acts alleged in such action are of the type described in subdivi-
5 sion one of section 130.30 of the penal law or subdivision one of
6 section 130.45 of the penal law, the affirmative defenses set forth,
7 respectively, in the closing paragraph of such sections of the penal law
8 shall apply.

9 § 2. Section 213-c of the civil practice law and rules, as amended by
10 chapter 315 of the laws of 2019, is amended to read as follows:

11 § 213-c. Action by victim of conduct constituting certain sexual
12 offenses. (a) Notwithstanding any other limitation set forth in this
13 article, except as provided in subdivision (b) of section two hundred
14 eight of this article, all civil claims or causes of action brought by
15 any person for physical, psychological or other injury or condition
16 suffered by such person as a result of conduct which would constitute
17 rape in the first degree as defined in section 130.35 of the penal law,
18 or rape in the second degree as defined in subdivision two of section
19 130.30 of the penal law, or rape in the third degree as defined in
20 subdivision one or three of section 130.25 of the penal law, or criminal
21 sexual act in the first degree as defined in section 130.50 of the penal
22 law, or criminal sexual act in the second degree as defined in subdivi-
23 sion two of section 130.45 of the penal law, or criminal sexual act in
24 the third degree as defined in subdivision one or three of section
25 130.40 of the penal law, or incest in the first degree as defined in
26 section 255.27 of the penal law, or incest in the second degree as
27 defined in section 255.26 of the penal law (where the crime committed is
28 rape in the second degree as defined in subdivision two of section
29 130.30 of the penal law or criminal sexual act in the second degree as
30 defined in subdivision two of section 130.45), or aggravated sexual
31 abuse in the first degree as defined in section 130.70 of the penal law,
32 or course of sexual conduct against a child in the first degree as
33 defined in section 130.75 of the penal law may be brought against any
34 party whose intentional or negligent acts or omissions are alleged to
35 have resulted in the commission of the said conduct, within twenty
36 years.

37 (b) Notwithstanding the provisions of subdivision (a) of this section,
38 or any other provision of law to the contrary, all civil claims or caus-
39 es of action brought by any person for physical, psychological or other
40 injury or condition suffered as a result of conduct which would consti-
41 tute a sexual offense as defined in article one hundred thirty of the
42 penal law committed against a child less than eighteen years of age,
43 incest as defined in section 255.25, 255.26 or 255.27 of the penal law
44 committed against a child less than eighteen years of age, or the use of
45 a child in a sexual performance as defined in section 263.05 of the
46 penal law, or a predecessor statute that prohibited such conduct at the
47 time of the act, which conduct was committed against a child less than
48 eighteen years of age, such action may be commenced at any time.

49 (c) Nothing in this section shall be construed to require that a crim-
50 inal charge be brought or a criminal conviction be obtained as a condi-
51 tion of bringing a civil cause of action or receiving a civil judgment
52 pursuant to this section or be construed to require that any of the
53 rules governing a criminal proceeding be applicable to any such civil
54 action.

55 § 3. Section 214-g of the civil practice law and rules, as amended by
56 chapter 130 of the laws of 2020, is amended to read as follows:

§ 214-g. Certain child sexual abuse cases. Notwithstanding any provision of law which imposes a period of limitation to the contrary and the provisions of any other law pertaining to the filing of a notice of claim or a notice of intention to file a claim as a condition precedent to commencement of an action or special proceeding, every civil claim or cause of action brought against any party alleging intentional or negligent acts or omissions by a person for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against a child less than eighteen years of age, which is barred as of the effective date of this section because the applicable period of limitation has expired, and/or the plaintiff previously failed to file a notice of claim or a notice of intention to file a claim, is hereby revived, and action thereon may be commenced not earlier than six months after~~[, and not later than two years and six months after]~~ the effective date of this section. In any such claim or action: (a) in addition to any other defense and affirmative defense that may be available in accordance with law, rule or the common law, to the extent that the acts alleged in such action are of the type described in subdivision one of section 130.30 of the penal law or subdivision one of section 130.45 of the penal law, the affirmative defenses set forth, respectively, in the closing paragraph of such sections of the penal law shall apply; and (b) dismissal of a previous action, ordered before the effective date of this section, on grounds that such previous action was time barred, and/or for failure of a party to file a notice of claim or a notice of intention to file a claim, shall not be grounds for dismissal of a revival action pursuant to this section.

§ 4. This act shall take effect immediately.