

# STATE OF NEW YORK

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1854--A

2023-2024 Regular Sessions

## IN ASSEMBLY

January 23, 2023

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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.

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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.