

AMENDED IN SENATE APRIL 4, 2013

SENATE BILL

No. 131

Introduced by ~~Senator~~ *Senators Beall and Lara*
(Coauthor: Assembly Member Skinner)

January 24, 2013

An act to amend Section 340.1 of the Code of Civil Procedure, relating to damages.

LEGISLATIVE COUNSEL'S DIGEST

SB 131, as amended, Beall. Damages: childhood sexual abuse: statute of limitations.

Existing law requires that an action for recovery of damages suffered as a result of childhood sexual abuse, as defined, be commenced within 8 years of the date the plaintiff attains the majority or within 3 years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by sexual abuse, whichever occurs later. Existing law provides that certain actions may be commenced on and after the plaintiff's 26th birthday if specified conditions are met.

This bill would recast these provisions of law relating to the recovery of damages in childhood sexual abuse actions. The bill would provide that actions not barred by law in effect prior to January 1, 2014, are not subject to a statute of limitations and that an action for recovery of damages suffered as a result of childhood sexual abuse may be commenced at any time. With regard to an action barred by the law in effect prior to January 1, 2014, the bill would provide that those actions may be commenced within 30 years of the date the plaintiff attains the age of majority or within ~~five~~ 5 years of the date of the fact of the injury and its causal connection to the sexual abuse is first communicated to

the plaintiff by a practicing physician, psychologist, or clinical psychologist, whichever period expires later. The bill would also repeal the requirement that a plaintiff 26 years of age or older at the time the action is filed file a certificate of merit and would repeal other procedural requirements relating to the action.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 340.1 of the Code of Civil Procedure is
2 amended to read:

3 340.1. (a) In an action for recovery of damages suffered as a
4 result of childhood sexual abuse that was not barred by the law in
5 effect prior to January 1, 2014, there shall be no statute of
6 limitations and any of the following actions may be commenced
7 at any time:

8 (1) An action against any person or entity for directly or
9 vicariously committing an act of childhood sexual abuse.

10 (2) An action for liability against any person or entity who owed
11 a duty of care to the plaintiff, where a wrongful or negligent act
12 by that person or entity was a legal cause of the childhood sexual
13 abuse which resulted in injury to the plaintiff.

14 (3) An action for liability against any person or entity where an
15 intentional act by that person or entity was a legal cause of the
16 childhood sexual abuse which resulted in injury to the plaintiff.

17 (b) In an action for recovery of damages suffered as a result of
18 childhood sexual abuse that was barred by the law in effect prior
19 to January 1, 2014, the time for commencement of the action shall
20 be within 30 years of the date the plaintiff attains the age of
21 majority or within five years of the date the fact of the injury and
22 its causal connection to the sexual abuse is first communicated to
23 the plaintiff by a physician, psychologist, or clinical psychologist
24 licensed to practice and practicing within the state, whichever
25 period expires later, for any of the following actions:

26 (1) An action against any person or entity for directly or
27 vicariously committing an act of childhood sexual abuse.

28 (2) An action for liability against any person or entity who owed
29 a duty of care to the plaintiff, where a wrongful or negligent act

1 by that person or entity was a legal cause of the childhood sexual
2 abuse which resulted in injury to the plaintiff.

3 (3) An action for liability against any person or entity where an
4 intentional act by that person or entity was a legal cause of the
5 childhood sexual abuse which resulted in injury to the plaintiff.

6 (c) Any claim for damages that may not be timely commenced
7 under subdivision (a) or ~~subdivision~~ (b), as amended January 1,
8 2014, is revived and a cause of action may be commenced within
9 one year of January 1, 2014. Nothing in this subdivision is intended
10 to alter the applicable statute of limitations for any claim described
11 in subdivision (a) or (b) that is not time barred by the amendments
12 taking effect on January 1, 2014.

13 (d) “Childhood sexual abuse” as used in this section includes
14 any act committed against the plaintiff that occurred when the
15 plaintiff was under ~~the age of~~ 18 years *of age* and that would have
16 been proscribed by Section 266j of the Penal Code; Section 285
17 of the Penal Code; paragraph (1) or (2) of subdivision (b), or of
18 subdivision (c)-, of Section 286 of the Penal Code; subdivision (a)
19 or (b) of Section 288 of the Penal Code; paragraph (1) or (2) of
20 subdivision (b), or subdivision ~~(c)~~ (c), of Section 288a of the
21 Penal Code; subdivision (h), ~~(i)~~ (i), or (j) of Section 289 of the
22 Penal Code; Section 647.6 of the Penal Code; or any prior laws of
23 this state of similar effect at the time the act was committed.

24 (e) Nothing in this section shall be construed to alter the
25 otherwise applicable burden of proof, as defined in Section 115
26 of the Evidence Code, that a plaintiff has in a civil action subject
27 to this section.

28 (f) Nothing in this section is intended to create a new theory of
29 liability.

30 (g) Nothing in this section is intended to alter the decision in
31 *Shirk v. Vista Unified School Dist.*, (2007) 42 Cal.4th 201.

32 (h) Nothing in this section is intended to revive any action or
33 cause of action that has been litigated to finality on the merits in
34 any court of competent jurisdiction prior to January 1, 2014.