

Superseded 3/23/2015

78B-2-308 Civil actions for sexual abuse of a child.

- (1) As used in this section:
 - (a) "Child" means a person under 18 years of age.
 - (b) "Discovery" means when a person knows or reasonably should know that the injury or illness was caused by the intentional or negligent sexual abuse.
 - (c) "Injury or illness" means either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.
 - (d) "Molestation" means touching the anus, buttocks, or genitalia of any child, the breast of a female child younger than 14 years of age, or otherwise taking indecent liberties with a child, or causing a child to take indecent liberties with the perpetrator or another, with the intent to arouse or gratify the sexual desire of any person.
 - (e) "Negligently" means a failure to act to prevent the child sexual abuse from further occurring or to report the child sexual abuse to law enforcement when the adult who could act knows or reasonably should know of the child sexual abuse and is the victim's parent, stepparent, adoptive parent, foster parent, legal guardian, ancestor, descendant, brother, sister, uncle, aunt, first cousin, nephew, niece, grandparent, stepgrandparent, or any person cohabiting in the child's home.
 - (f) "Person" means an individual who was intentionally or negligently sexually abused. It does not include individuals whose claims are derived through another individual who was sexually abused.
 - (g) "Sexual abuse" means acts or attempted acts of sexual intercourse, sodomy, or molestation directed towards a child.
- (2) A person shall file a civil action for intentional or negligent sexual abuse suffered as a child:
 - (a) within four years after the person attains the age of 18 years; or
 - (b) if a person discovers sexual abuse only after attaining the age of 18 years, that person may bring a civil action for such sexual abuse within four years after discovery of the sexual abuse, whichever period expires later.
- (3) The victim need not establish which act in a series of continuing sexual abuse incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse.
- (4) The knowledge of a custodial parent or guardian may not be imputed to a person under the age of 18 years.
- (5) A civil action may be brought only against a living person who intentionally perpetrated the sexual abuse or negligently permitted the sexual abuse to occur.