

Representative Ken Ivory proposes the following substitute bill:

SEXUAL ABUSE STATUTES OF LIMITATION

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses civil statutes of limitation for certain sex crimes.

Highlighted Provisions:

This bill:

- addresses civil statutes of limitation for certain sex crimes; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-2-402, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

78B-2-401, (Renumbered from 78B-2-119, as enacted by Laws of Utah 2022, Chapter 474)

REPEALS:

78B-2-308, as last amended by Laws of Utah 2022, Chapter 430



Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-2-401**, which is renumbered from Section 78B-2-119 is renumbered and amended to read:

Part 4. Civil Actions Arising Out of Criminal Conduct

~~[78B-2-119].~~ **78B-2-401. Statute of limitations for civil actions after criminal proceeding.**

(1) As used in this section:

(a) "Cause of action" means ~~[any]~~ a civil claim that a victim ~~[could]~~ may bring against a defendant for criminal conduct committed against the victim.

(b) "Criminal conduct" means ~~[any]~~ an act that is charged as a felony under:

(i) Title 76, Chapter 5, Offenses Against the Individual, except for a felony offense described in Subsection [78B-2-402\(1\)\(f\)](#); or

(ii) Title 76, Chapter 4, Inchoate Offenses, that is directly related to prohibited conduct under Title 76, Chapter 5, Offenses Against the Individual, except for conduct described in Subsection [78B-2-402\(1\)\(f\)](#).

(c) "Victim" means an individual directly harmed by criminal conduct or the individual's representative.

(2) (a) Notwithstanding any statute of limitations, a victim may bring a cause of action arising out of criminal conduct if:

(i) the defendant to the cause of action was charged by a criminal complaint, indictment, or information for that criminal conduct;

(ii) the cause of action is brought within one year ~~[from]~~ after the day on which a final disposition for the criminal proceeding is issued;

(iii) the cause of action is brought to address any harm resulting from the criminal conduct that was at issue in the criminal proceeding described in Subsection (2)(a)(ii); and

(iv) the applicable statute of limitations that would apply to the conduct at issue in the cause of action did not expire before May 4, 2022.

(b) A defendant does not need to be convicted of the criminal conduct for an individual to bring a cause of action under Subsection (2)(a).

(3) Subsection (2)(a) does not:

- 57 (a) shorten an applicable statute of limitations or an applicable tolling provision;
58 (b) toll or extend an applicable statute of limitations for an action that is brought
59 against an employer or former employer of a defendant described in Subsection (2)(a)(i); or
60 (c) require an insurer to defend or indemnify a defendant for a cause of action that
61 would otherwise be barred if not for Subsection (2)(a).

62 Section 2. Section **78B-2-402** is enacted to read:

63 **78B-2-402. Statute of limitations for civil actions arising out of sexual abuse.**

64 (1) As used in this part:

65 (a) "Cause of action" means a civil claim that a victim may bring against a defendant
66 for sexual abuse committed against the victim.

67 (b) "Child" means an individual under 18 years old.

68 (c) "Discovers" means when an individual knows or should know that sexual abuse
69 occurred.

70 (d) "Negligent sexual abuse" means a failure to act to prevent the sexual abuse of a
71 child from occurring, or to report the sexual abuse of a child, when the individual discovers the
72 sexual abuse and the individual:

73 (i) is the child's parent, stepparent, adoptive parent, foster parent, legal guardian,
74 ancestor, descendant, brother, sister, uncle, aunt, first cousin, nephew, niece, grandparent, or
75 stepgrandparent; or

76 (ii) lives in the same home as the child when the sexual abuse occurs.

77 (e) "Perpetrator" means an individual who commits sexual abuse.

78 (f) "Sexual abuse" means:

79 (i) rape under Section [76-5-402](#);

80 (ii) rape of a child under Section [76-5-402.1](#);

81 (iii) object rape under Section [76-5-402.2](#);

82 (iv) object rape of a child under Section [76-5-402.3](#);

83 (v) forcible sodomy under Section [76-5-403](#);

84 (vi) sodomy on a child under Section [76-5-403.1](#);

85 (vii) sexual abuse of a child under Section [76-5-404.1](#);

86 (viii) aggravated sexual abuse of a child under Section [76-5-404.3](#); or

87 (ix) aggravated sexual assault under Section [76-5-405](#).

88 (g) (i) "Victim" means an individual against whom sexual abuse is committed or
89 allegedly committed.

90 (ii) "Victim" does not include an individual whose claims are derived through another
91 individual against whom sexual abuse is committed or allegedly committed.

92 (2) (a) Notwithstanding other provisions of this code, a victim may bring a cause of
93 action at any time against:

94 (i) a perpetrator of sexual abuse committed or allegedly committed against the victim;
95 or

96 (ii) an individual who would be criminally responsible under Section [76-2-202](#) for
97 sexual abuse committed or allegedly committed against the victim.

98 (b) A victim may only bring a cause of action against an individual for negligent sexual
99 abuse within the later of:

100 (i) four years after the day on which the victim turns 18 years old; or

101 (ii) four years after the day on which the victim discovers the sexual abuse.

102 (3) A victim may bring a cause of action regardless of whether criminal charges are
103 filed or the perpetrator is convicted of sexual abuse.

104 (4) For purposes of establishing the discovery of sexual abuse under Subsection
105 (2)(b)(ii):

106 (a) if there is more than one alleged act of sexual abuse in a cause of action, the date of
107 discovery is computed from the day on which the victim discovers the last alleged act of sexual
108 abuse by the perpetrator; and

109 (b) the discovery of sexual abuse by a custodial parent or guardian may not be imputed
110 to an individual who is a child at the time of the sexual abuse.

111 (5) (a) This section extends the statute of limitations for a cause of action described in
112 Subsection (2) that is not time barred on or before May 3, 2023.

113 (b) This section does not revive a cause of action that is time barred on or before May
114 3, 2023.

115 **Section 3. Repealer.**

116 This bill repeals:

117 Section [78B-2-308](#), **Legislative findings -- Civil actions for sexual abuse of a child --**
118 **Window for revival of time barred claims.**