

HOUSE BILL 302

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Marian Matthews and Daniel A. Ivey-Soto

This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO CHILDHOOD SEXUAL ABUSE; SPECIFYING WHEN THE STATUTE OF LIMITATIONS RUNS FOR VICTIMS OF CHILDHOOD SEXUAL ABUSE; PROVIDING FOR THE REVIVAL OF CERTAIN CLAIMS BEFORE Hf1→**DECEMBER** 31←Hf1 Hf1→**JULY 1**←Hf1, 2021.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 37-1-30 NMSA 1978 (being Laws 1993, Chapter 136, Section 1, as amended) is amended to read:

"37-1-30. ACTION FOR DAMAGES DUE TO CHILDHOOD SEXUAL ABUSE--LIMITATION ON ACTIONS.--

.216892.1AIC February 14, 2020 (3:59pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight↔  
delete = →bold, red, highlight, strikethrough↔

A. An action for damages based on personal injury caused by childhood sexual abuse shall be commenced by a person [~~before the latest of the following dates~~]:

(1) before the first instant of the person's twenty-fourth birthday; [~~or~~]

(2) within three years from the date that a person [~~first disclosed the person's childhood sexual abuse to a licensed medical or mental health care provider in the context of receiving health care from the provider~~] knew or had reason to know of the childhood sexual abuse and that the childhood sexual abuse resulted in an injury to the person, as established by competent medical or psychological testimony; or

(3) at any time, when the personal injury was caused by an agent of a defendant who was provided with substantial power or authority over the lives or livelihood of minor children by the defendant and at the time the personal injury occurred that defendant had a routine practice of negligently hiring, supervising or retaining its agents, regardless of whether those agents were employees or volunteers; and either:

(a) the personal injury occurred in New Mexico; or

(b) the injured person was a resident of New Mexico at the time the personal injury occurred and personal jurisdiction in this state exists against the

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight↔  
delete = →bold, red, highlight, strikethrough↔

defendant who provided the agent with substantial power or authority over the lives or livelihood of minor children.

B. If a defense is raised in a responsive pleading or by motion before the responsive pleading as may be permitted by supreme court rule to an action commenced pursuant to Paragraph (3) of Subsection A of this section, the court shall determine whether clear and convincing evidence exists that the requirements of Paragraph (3) of Subsection A of this section have been met.

[B-] C. As used in this section, "childhood sexual abuse" means [conduct] behavior that, if prosecuted in a criminal matter, would constitute a violation of:

(1) Section 30-9-11 NMSA 1978, regarding criminal sexual penetration of a minor;

(2) Section 30-9-13 NMSA 1978, regarding criminal sexual contact of a minor; or

(3) the Sexual Exploitation of Children Act.

[G-] D. The provisions of this section shall apply to any injury by childhood sexual abuse at any time, including behavior antedating this section or any subsequent amendments, except where a defendant has a vested right, substantive in nature, to be free from suit. The provisions of [Section] Sections 37-1-8 and 37-1-10 NMSA 1978 and any statutes of limitation therein shall not apply to causes of action for childhood sexual abuse."

SECTION 2. TEMPORARY PROVISION--PROVIDING THAT

Hf1→CERTAIN←Hf1 CASES OTHERWISE TIME BARRED MAY BE  
REVIVED.--Hf1→An←Hf1 Hf1→Notwithstanding Subsection D of  
Section 37-1-30 NMSA 1978, an ←Hf1 action for damages based on  
personal injury caused by childhood sexual abuse that would be  
time barred Hf1→as a result←Hf1 Hf1→only because←Hf1 of the  
2017 amendments to Hf1→Paragraph (2) of Subsection A of←Hf1  
Section 37-1-30 NMSA 1978 may be revived notwithstanding any  
statute of limitations to the contrary, provided that the  
action is commenced by a person prior to Hf1→December 31←Hf1  
Hf1→July 1←Hf1, 2021.

SECTION 3. EFFECTIVE DATE.--The effective date of the  
provisions of this act is July 1, 2020.

- 4 -

underscored material = new

[bracketed material] = delete

Amendments: new = →bold, blue, highlight←

delete = →bold, red, highlight, strikethrough←