

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

June 3, 2021

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB21-088 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend reengrossed bill, page 7, line 4, strike "EMPLOYEE" and substitute
- 2 "EMPLOYEE, AGENT,".
- 3 Page 7, line 15, strike "(a)".
- 4 Page 7, line 18, strike "(I)" and substitute "(a)".
- 5 Page 7, line 19, strike "(II)" and substitute "(b)".
- 6 Page 7, line 21, strike "MINOR, AS DESCRIBED" and substitute "MINOR AND
- 7 THE SEXUAL MISCONDUCT OCCURRED WHILE THE VICTIM WAS
- 8 PARTICIPATING IN THE YOUTH-RELATED ACTIVITY OR PROGRAM OPERATED
- 9 OR MANAGED BY THE ORGANIZATION.".
- 10 Page 7, strike line 22.
- 11 Page 7, line 23, strike "(b)" and substitute "(2)".
- 12 Strike pages 8 and 9.
- 13 Page 10, strike lines 1 through 7.
- 14 Page 10, strike line 8 and substitute:

1 **"13-20-1203. Limitation on action - retroactive application."**

2 Page 10, line 9, strike "A" and substitute "NOTWITHSTANDING ANY OTHER
3 PROVISION OF LAW, A".

4 Page 10, lines 10 and 11, strike "BEFORE, ON," and substitute "ON".

5 Page 10, line 12, strike "12." and substitute "12 AT ANY TIME WITHOUT
6 LIMITATION."

7 Page 10, strike lines 13 through 15 and substitute:

8 "(2) A PERSON WHO WAS THE VICTIM OF SEXUAL MISCONDUCT
9 THAT OCCURRED WHEN THE VICTIM WAS A MINOR AND THAT OCCURRED
10 ON OR AFTER JANUARY 1, 1960, BUT BEFORE JANUARY 1, 2022, MAY
11 BRING AN ACTION PURSUANT TO THIS PART 12. AN ACTION DESCRIBED IN
12 THIS SUBSECTION (2) MUST BE COMMENCED BEFORE JANUARY 1, 2025."

13 Page 10, line 20, strike "**damages.**" and substitute "**damages - limitation**
14 **on damages.**".

15 Page 11, after line 1 insert:

16 "(3) THE MAXIMUM AMOUNT THAT MAY BE RECOVERED IN A CLAIM
17 BROUGHT PURSUANT TO THIS PART 12 IS:

18 (a) FOR A CLAIM BROUGHT AGAINST A PUBLIC EMPLOYEE OR
19 PUBLIC ENTITY, AS PROVIDED IN SECTION 13-20-1207; AND

20 (b) FOR ANY OTHER CLAIM, FOUR HUNDRED FIFTY THOUSAND
21 DOLLARS; EXCEPT THAT, IF, UPON A SHOWING BY CLEAR AND CONVINCING
22 EVIDENCE THAT THE DEFENDANT FAILED TO TAKE REMEDIAL ACTION
23 AGAINST A PERSON OR PERSONS THE DEFENDANT KNEW OR SHOULD HAVE
24 KNOWN, BASED ON INFORMATION THAT, AT THE TIME OF THE INCIDENT,
25 WAS IN THE DEFENDANT'S POSSESSION OR WAS PUBLICLY OR READILY
26 AVAILABLE THROUGH COMMONLY USED PRACTICES, POSED A RISK OF
27 SEXUAL MISCONDUCT TO A MINOR AND THAT THE APPLICATION OF SUCH
28 LIMITATION WOULD BE UNFAIR, OR IF THE JURY DETERMINES THAT THE
29 PRESENT VALUE OF PAST AND FUTURE DAMAGES EXCEEDS SUCH
30 LIMITATION, THE COURT MAY AWARD IN EXCESS OF THE LIMITATION THE
31 PRESENT VALUE OF ADDITIONAL PAST AND FUTURE DAMAGES."

32 Page 11, line 7, after "**employees -**" insert "**damages -**".



1 Page 11, strike lines 18 through 20 and substitute:

2 "(c) THE MAXIMUM AMOUNT THAT MAY BE RECOVERED FROM A
3 PUBLIC EMPLOYEE OR PUBLIC ENTITY AS SET FORTH IN SECTION 24-10-114
4 APPLIES TO A CLAIM BROUGHT AGAINST A PUBLIC EMPLOYEE OR PUBLIC
5 ENTITY PURSUANT TO THIS PART 12."

6 Page 13, after line 10 insert:

7 "**SECTION 6. Effective date.** This act takes effect January 1,
8 2022."

9 Renumber succeeding section accordingly.

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