

SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Gardner

- 1 Amend printed bill, page 2, strike lines 4 through 10 and substitute:
"SECTION 1. In Colorado Revised Statutes, 13-80-103.7, **amend**
2 (1), (2), and (3.5)(a); **repeal** (3), (4), and (5); and **add** (6) as follows:
13-80-103.7. General limitation of actions - sexual misconduct
3 **- twenty years - definition.** (1) (a) Notwithstanding any other statute of
4 limitations specified in this ARTICLE 80, or any other provision of law that
5 can be construed to reduce the statutory period set forth in this section,
6 any civil action based on ~~a sexual assault or a sexual offense against a~~
7 ~~child~~ SEXUAL MISCONDUCT shall be commenced within ~~six~~ TWENTY years
8 after a disability has been removed for a person under disability, as such
9 term is defined in subsection (3.5) of this section, or within ~~six~~ TWENTY
10 years after a cause of action accrues, whichever occurs later, and not
11 thereafter. ~~Nothing in this section shall be construed to extend the~~
12 ~~statutory period with respect to vicarious liability.~~".
- 15 Page 3, strike lines 1 through 6.
- 16 Page 4, strike lines 10 through 27 and substitute:
(3.5) (a) For the purpose of this section, "person under disability"
17 means any person who is a minor under eighteen years of age, a person
18 who has been declared mentally incompetent, or a person under other
19 legal disability and who does not have a legal guardian. "Person under
20 disability" also includes a victim of a sexual assault when the victim is in
21 a special relationship with the perpetrator of the assault or is a victim of
22 a sexual offense against a child or is a victim who is residing in an
23 institutional facility, such as a nursing home, regional center, or
24 residential facility for the treatment and care of persons with a behavioral
25 or mental health disorder or for the care of persons with intellectual and
26 developmental disabilities and where the victim is psychologically or
27 emotionally unable to acknowledge the assault or offense and the
28 resulting harm. For the purpose of this subsection (3.5), "special
29 relationship" means a relationship between the victim and the perpetrator
30 of the sexual assault which is a confidential, trust-based relationship, such
31 as attorney-client, doctor-patient, psychotherapist-patient,
32 minister-parishioner, teacher-student, or familial relationship. It is the
33 intent of the general assembly to leave in place the ~~six-year~~
34 TWENTY-YEAR limitation for adults subjected to a sexual assault except
35 in the situations described in this subsection (3.5)(a) in which the victim
36 is in a special relationship with the perpetrator of the assault. In the
37 circumstances in which a victim is in a special relationship with the

1 perpetrator of the assault or is a victim of a sexual offense against a child
2 or a victim who is residing in an institutional facility, such as a nursing
3 home, regional center, or residential facility for the treatment and care of
4 persons with a behavioral or mental health disorder or for the care of
5 persons with intellectual and developmental disabilities and where the
6 victim is psychologically or emotionally unable to acknowledge the
7 assault or offense and the resulting harm, the ~~six-year~~ TWENTY-YEAR
8 limitation is tolled until the disability is removed. For the purpose of this
9 section, where the plaintiff is a victim of a series of sexual assaults or
10 sexual offenses against a child, the plaintiff need not establish which act
11 of a series of acts caused the plaintiff's injury, and the statute of
12 limitations set forth in this section commences with the last in the series
13 of acts, subject to the provisions of this section regarding disability.
14 However, as elements of the cause of action, a person under disability
15 who is psychologically or emotionally unable to acknowledge the assault
16 or offense and the resulting harm has the burden of proving that the
17 assault or offense occurred and that he or she was actually
18 psychologically or emotionally unable to acknowledge the assault or
19 offense and the resulting harm.".

20 Strike page 5.

21 Page 6, strike lines 1 through 18.

22 Page 7, strike lines 14 through 22.

23 Rerumber succeeding sections accordingly.

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