

2022 Regular Session

HOUSE BILL NO. 402

BY REPRESENTATIVE HUGHES

PRESCRIPTION: Provides relative to the prescriptive period for certain actions for abuse of a minor

1 AN ACT

2 To amend and reenact R.S. 9:2800.9(A)(1), relative to prescription; to provide relative to the
3 prescriptive period for certain civil actions against a person for certain acts
4 committed against a minor; to provide for definitions; to provide for implementation;
5 to provide for an effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:2800.9(A)(1) is hereby amended and reenacted to read as follows:

8 §2800.9. Action against a person for abuse of a minor

9 A.(1) An action against a person for sexual abuse of a minor; or for physical
10 abuse of a minor resulting in permanent impairment or permanent physical injury or
11 scarring does not prescribe. "Abuse" has the same meaning as provided in Children's
12 Code Article 603.

13 * * *

14 Section 2. Any person whose cause of action related to sexual abuse of a minor was
15 barred by liberative prescription shall be permitted to file an action under R.S. 9:2800.9 on
16 or before June 14, 2024. It is the express intent of the legislature to revive until June 14,
17 2024, any cause of action related to sexual abuse of a minor that previously prescribed under
18 any Louisiana prescriptive period.

19 Section 3. This Act shall become effective upon signature by the governor or, if not
20 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 402 Engrossed

2022 Regular Session

Hughes

Abstract: Provides for the revival of claims for abuse of a minor and defines "abuse".

Present law (R.S. 9:2800.9) provides that an action against a person for sexual abuse of a minor, or for physical abuse of a minor resulting in permanent impairment or permanent physical injury or scarring, does not prescribe.

Present law (Ch.C. Art. 603) defines "abuse" as any one of the following acts which seriously endanger the physical, mental, or emotional health and safety of the child:

- (1) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.
- (2) The exploitation or overwork of a child by a parent or any other person, including but not limited to commercial sexual exploitation of the child.
- (3) The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent, caretaker, or any other person of the child's involvement in any sexual act with any other person, pornographic displays, any sexual activity constituting a crime under the laws of this state, a coerced abortion conducted upon a child, or female genital mutilation of the child or of a sister of the child.

Proposed law maintains present law and provides that "abuse", as the term is used in the present law provision regarding prescription of claims, has the same meaning as provided in present law definition of "abuse".

Present law (Act 322 of the 2021 R.S.) provides that a party whose action was barred by liberative prescription prior to the effective date present law may file such an action against a party for a period of three years following the effective date of present law (effective June 14, 2021).

Proposed law provides that any person whose cause of action related to sexual abuse of a minor was barred by liberative prescription shall be permitted to file an action under proposed law on or before June 14, 2024. Further provides that the revival of claims includes any cause of action related to sexual abuse of a minor that previously prescribed under any La. prescriptive period.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 9:2800.9(A)(1))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Provide for the revival of claims until June 14, 2024, rather than for 3 years following the effective date of the Act.