

2021 Regular Session

HOUSE BILL NO. 492

BY REPRESENTATIVES HUGHES, ADAMS, BACALA, BAGLEY, BEAULLIEU, BISHOP, BOURRIAQUE, BRASS, BROWN, BRYANT, CARPENTER, CARRIER, WILFORD CARTER, CORMIER, COUSSAN, COX, DESHOTEL, DEVILLIER, DUPLESSIS, EDMONDS, EDMONSTON, EMERSON, FONTENOT, FREEMAN, FREIBERG, GLOVER, GREEN, HARRIS, HILFERTY, HOLLIS, HORTON, ILLG, IVEY, JAMES, JEFFERSON, JENKINS, MIKE JOHNSON, TRAVIS JOHNSON, JONES, JORDAN, LACOMBE, LANDRY, LARVADAIN, LYONS, MARCELLE, MARINO, MCCORMICK, MCFARLAND, MCKNIGHT, MCMAHEN, DUSTIN MILLER, NELSON, NEWELL, CHARLES OWEN, ROBERT OWEN, PIERRE, PRESSLY, RISER, SCHEXNAYDER, SCHLEGEL, STAGNI, THOMPSON, TURNER, WHEAT, WHITE, WILLARD, ZERINGUE, AND KERNER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LIABILITY/CIVIL: 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), relative to the prescriptive period for certain civil

3 actions against a person for certain acts committed against a minor; to extend the

4 prescriptive period for actions against a person for sexual abuse of a minor or for

5 physical abuse of a minor; to provide that an action against a person convicted of a

6 crime against a child does not prescribe; to provide for an effective date; and to

7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

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

10 §2800.9. Action against a person for abuse of a minor

11 A.(1) An action against a person for sexual abuse of a minor, or for physical

12 abuse of a minor resulting in permanent impairment or permanent physical injury or

13 scarring, is subject to a liberative prescriptive period of ~~ten~~ thirty-five years. This

1 prescription commences to run from the day the minor attains majority, and this  
2 prescription shall be suspended for all purposes until the minor reaches the age of  
3 majority. Abuse has the same meaning as provided in ~~Louisiana~~ Children's Code  
4 Article 603. This prescriptive period shall be subject to any exception of peremption  
5 provided by law.

6 (2) An action against a person convicted of a crime against the child does not  
7 prescribe and may be filed at any time following conviction. "Crime against the  
8 child" has the same meaning as provided in Children's Code Article 603.

9 \* \* \*

10 Section 2. This Act shall become effective upon signature by the governor or, if not  
11 signed by the governor, upon expiration of the time for bills to become law without signature  
12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
13 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
14 effective on the day following such approval.

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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)]

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HB 492 Reengrossed                      2021 Regular Session                      Hughes

**Abstract:** Extends the prescriptive period for certain actions against a person for abuse of a minor from 10 years to 35 years and provides that an action against a person convicted of a crime against the child does not prescribe.

Present law 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, is subject to a liberative prescriptive period of 10 years.

Present law further provides that prescription commences to run from the day the minor attains majority and shall be suspended for all purposes until the minor reaches the age of majority, subject to any exception of peremption provided by law.

Proposed law retains present law, but extends the prescriptive period from 10 years to 35 years.

Proposed law provides that an action against a person convicted of a crime against a child, as defined by present law does not prescribe and may be filed at any time following conviction.

Present law defines "crime against the child" as the commission or attempted commission of any of the following crimes against an unemancipated minor:

- (1) Homicide.
- (2) Battery.
- (3) Assault.
- (4) Rape.
- (5) Sexual battery.
- (6) Kidnapping.
- (7) Criminal neglect.
- (8) Criminal abandonment.
- (9) Carnal knowledge of a juvenile.
- (10) Indecent behavior with juveniles.
- (11) Pornography involving juveniles.
- (12) Molestation of a juvenile.
- (13) Crime against nature.
- (14) Cruelty to juveniles.
- (15) Contributing to the delinquency or dependency of children.
- (16) Sale of minor children.
- (17) Human trafficking.
- (18) Trafficking of children for sexual purposes.
- (19) Female genital mutilation.

Proposed law retains present law.

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

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

Summary of Amendments Adopted by House

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

1. Provide that actions against a person convicted of a crime against a child shall not prescribe.
2. Delete provisions for the revival of prescribed claims.