



Gov. Kathy Hochul signs the Adult Survivors Act in the Red Room at the State Capitol in Albany New York on May 24, 2022. Photo: Mike Groll/Office of Gov. Kathy Hochul.

## ANALYSIS

## The Adult Survivors Act: A Window of Opportunity

Pre-Adult Survivors Act, for adults sexually abused before Sept. 18, 2014, or whose abuse did not fall within the requirements of CPLR 213-c, New York law still left them without a remedy. The ASA creates a one-year window to solve that problem.

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🕒 6 minute read

By Ilann M. Maazel

In a prior column (“[Suits for Sexual Abuse: Deadlines and Statutes of Limitations](#),” NYLJ, March 22, 2019), we discussed what options sexual assault survivors have to vindicate their rights in New York courts. Today, we review this primer, then discuss a new, powerful legal tool for survivors: the Adult Survivors Act (ASA).

A reminder: This column is not legal advice. If you have a potential claim, please contact a lawyer and get advice concerning your particular claim.

### The Child Victims Act

Survivors of sexual abuse often do not come forward for years or even for decades. The reasons are myriad: shame, guilt, embarrassment, and fear are a few. In some cases, for example in the context of doctor-patient sexual abuse, survivors may not even realize they were abused until many others have come forward.

Recognizing the difficulties survivors often have preserving their legal rights, New York state passed the Child Victims Act (CVA) in 2019. The CVA applies to child victims of sexual abuse in New York state and extends the statute of limitations until the victim is 55 years old. CPLR 208(b). This is a permanent change. If you are 19 or 35 or 54 years old, and experienced sexual abuse as a child, you can file a legal claim.

Under the CVA, survivors can sue not only their sexual abusers, but also “every party whose intentional or negligent acts or omissions are alleged to have resulted in the commission” of the sexual abuse. This could include churches, schools, facilities for people with disabilities, supervisors, or any person and/or entity whose negligence proximately caused the abuse.

### Adult Survivors, Pre-ASA

What about survivors of adult sexual abuse? Before Sept. 18, 2019, the longest statute of limitations for a potential cognizable claim was *10 years*, for federal claims for sex trafficking of adults by “means of force, threats of force, fraud, [or] coercion.” 18 U.S.C. §§1591, 1595.

In New York City, the Victims of Gender-Motivated Violence Protection Act provides a *seven-year* statute of limitations to “any person claiming to be injured by an individual who commits a crime of violence motivated by gender.” See Ilann M. Maazel, “[The New York City Victims of Gender-Motivated Violence Protection Act](#),” New York Law Journal, Dec. 18, 2018. These claims: (1) must arise out of conduct in New York City; (2) apply only to the person(s) who themselves committed the crime of violence; and (3) include an element of gender-motivation.

For sexual abuse of adults that occurred before Sept. 18, 2019, New York state provides a *five-year* statute of limitations to bring a claim “for physical, psychological or other injury or condition suffered by a person as a result of ... rape in the first degree as defined in section 130.35 of the penal law, or criminal sexual act in the first degree as defined in section 130.50 of the penal law, or aggravated sexual abuse in the first degree as defined in section 130.70 of the penal law.” CPLR 213-c. However, “[w]henever it is shown that a criminal action against the same defendant has been commenced” arising from the same sexual misconduct, “the plaintiff shall have at least five years from the termination of the criminal action ... in which to commence the civil action[.]” CPLR 215(8)(b). This sexual assault claim can only be brought against the perpetrator, not others whose negligence may have enabled the perpetrator.

The underused New York Civil Rights Law §79-n provides: “Any person who intentionally selects a person ... for harm ... or causes physical injury or death to another in whole or in substantial part because of a belief or perception regarding the ... gender ... or sexual orientation of a person ... shall be liable, in a civil action or proceeding maintained by such individual or group of individuals, for injunctive relief, damages, or any other appropriate relief in law or equity.” The statute of limitations for this claim is *three* years. CPLR 214(2).

Effective Sept. 18, 2019, however, New York state extended the civil statute of limitations for survivors of certain adult sexual abuse to *20 years*. CPLR 213-c. A few notes about this amendment. First, the 20-year statute only applies to sexual abuse that occurs on or after Sept. 18, 2019. Second, the amendment permits lawsuits against not just the perpetrator, but also “any party whose intentional or negligent acts or omissions are alleged to have resulted in the commission of the said conduct.” Third, the 20-year statute extends to a much wider range of sexual abuse (too detailed to discuss here) than the previous CPLR 213-c.

## The ASA

Pre-ASA, for adults sexually abused before Sept. 18, 2014, or whose abuse did not fall within the requirements of CPLR 213-c, New York law still left them without a remedy. The [ASA](#) creates a one-year window to solve that problem. For one year beginning on Nov. 24, 2022, “any party alleging intentional or negligent acts or omissions by a person for physical, psychological, or other injury or condition suffered as a result of” a [broad range of sexual offenses](#) committed against an adult can bring a lawsuit.

Some key features of the ASA:

*First*, it applies to adult sexual abuse, i.e., sexual abuse that occurred on or after the victim’s 18th birthday. *Second*, it is retroactive. Any person of any age who was sexually abused as an adult in New York state can bring suit, no matter when the abuse happened. *Third*, survivors can sue not only the abusers, but any person or institution whose “negligent acts or omissions” proximately caused the abuse. This could include, for example, any number of employers and businesses. *Fourth*, even if a plaintiff previously filed a lawsuit and it was dismissed on statute of limitations grounds or for failure to file a notice of claim, the ASA permits the plaintiff to sue again. *Finally*, there is a limited, one-year window to bring these suits, beginning on Nov. 24, 2022. After the window closes, the legal regime above will apply once again.

## Conclusion

For survivors of adult sexual abuse in New York state interested in exploring their legal rights, now is the time to contact a lawyer so that counsel can evaluate the case, do an investigation, perhaps negotiate an out-of-court settlement, or prepare to file a lawsuit. Given the many years it took to pass the ASA, it is impossible to know when, if ever, a window of opportunity to bring these claims will occur again.

If you are a survivor of sexual assault, you can also contact the [National Sexual Assault Telephone Hotline](#) at 1-800-656-4673.

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