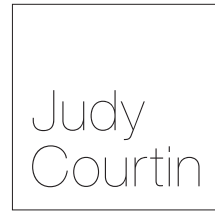


Abolition of the Statute of Limitations for historical child sexual abuse cases



Legal

Victoria

In July 2015, the Statute of Limitations for institutional child sex crimes and serious physical abuse, was abolished. Amendments were made to the Limitation of Actions Act 1958 (Vic). The first and landmark case taking advantage of the abolition of the statute of limitations, was *Erich v Leifer*. This was a Victorian Supreme Court Judgement that found the school that employed Mrs Leifer was indirectly (also known as vicariously) and directly liable for the alleged sex crimes committed by Mrs Leifer on her pupils.

New South Wales

Commencing on 17 March 2016, limitation periods were retrospectively removed for claims involving child sexual abuse. This includes sexual abuse, serious physical abuse and any other abuse perpetrated in connection with the sexual or serious physical abuse.

Queensland

On 1 March 2017, Queensland removed limitation periods retrospectively for claims involving child sexual abuse. This was further amended on 2 March 2020 to include serious physical abuse or psychological abuse perpetrated in connection with sexual or serious physical abuse.

South Australia

Commencing on 1 February 2019, limitation periods were retrospectively removed for claims relating to child abuse. Child abuse is deemed to include sexual abuse, serious physical abuse and psychological abuse related to the sexual or serious physical abuse.

Tasmania

On 1 July 2018, limitation periods were removed, including retrospectively for claims relating to child sexual abuse or serious physical abuse. This also includes psychological abuse related to sexual or serious physical abuse.

Western Australia

On 1 July 2018, limitation periods were abolished for claims relating to child sexual abuse. This is taken to include any act or omission that is sexual in nature. However, it does not technically include abuse that is physical, emotional or psychological.

The definition of 'child sexual abuse' was clarified in *Lawrence v Province Leader of the Oceania Province of the Congregation of the Christian Brothers* [2020] WADC 27 (21 May 2020).

The court held that acts or omissions do not need to be inherently sexual, but involve the perpetrator receiving sexual gratification. Further, any physical, emotional or psychological abuse may be considered so 'intrinsically intertwined' with the sexual abuse that harm caused, cannot be untangled.

In the case of *Lawrence*, the other forms of abuse cultivated an atmosphere in which the sexual abuse could occur and, in some way, became a part of the sexual abuse.

Australian Capital Territory

On 24 May 2017, new legislation was introduced removing limitation periods for claims relating to institutional child sexual abuse. These laws removed limitation periods retrospectively and only apply to sexual abuse. Limitation periods continue to apply for claims of physical, psychological or emotional abuse.

Northern Territory

On 15 June 2017, limitation periods were retrospectively abolished for claims of child abuse. This is inclusive of sexual abuse, serious physical abuse and psychological abuse against a child.