

**First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 21-0017.02 Conrad Imel x2313

**SENATE BILL 21-088**

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**SENATE SPONSORSHIP**

**Danielson,**

**HOUSE SPONSORSHIP**

**Michaelson Jenet and Soper,**

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**Senate Committees**  
Judiciary

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING ESTABLISHING A CIVIL CAUSE OF ACTION FOR SEXUAL**  
102 **MISCONDUCT AGAINST A MINOR.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill creates a statutory cause of action for a victim of sexual misconduct when the victim was a minor against the actor who committed the sexual misconduct and against an organization that operates or manages a youth program if the sexual misconduct occurred while the victim was participating in a youth program.

The victim may bring the claim against the organization if the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

organization knew or should have known of a risk of sexual misconduct against minors participating in the program and the organization did not take action to address the risks or warn participants of the risk. The victim may bring a claim against a public employee or public entity that operates a youth program, including an educational entity operating an educational program or a district preschool program.

The cause of action applies retroactively and is available to a victim of sexual misconduct that occurred before, on, or after January 1, 2022. A person may not waive the right to bring a civil action, and any purported waiver is void as against public policy.

A court or jury shall not allocate any damages awarded in the civil action in any proportion against the victim of the sexual misconduct. A victim may be awarded treble damages under certain circumstances.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds and declares that:

4 (a) Child sexual abuse differs from adult sexual abuse. Child  
5 sexual abuse frequently occurs as repeated episodes that become more  
6 invasive over time. Perpetrators are typically known and trusted  
7 caregivers with unsupervised access to children who engage child victims  
8 in a gradual process of sexualizing the relationship, known as  
9 "grooming".

10 (b) Child sexual abuse is a significant public health problem in  
11 Colorado with long-term effects on the physical and mental health of  
12 children, including increased risk for unintended pregnancy, sexually  
13 transmitted infections, low academic performance, truancy, dropping out  
14 of school, eating disorders, substance abuse, self-harm, and other harmful  
15 behaviors; and

16 (c) Child sexual abuse creates financial burdens for victims,  
17 including costs associated with health care, child welfare, special  
18 education, short- and long-term physical and mental health treatment,

1 violence and crime, suicide, productivity, and loss of future wages.

2 (2) The general assembly further finds and declares that:

3 (a) Members of an organization can and do commit child sexual  
4 abuse and, while organizations are often in the best position to identify  
5 perpetrators of child sexual abuse, organizations may cover up instances  
6 of child sexual abuse perpetrated by members of the organization;

7 (b) When institutions choose to protect their power and profit by  
8 concealing the truth, the cover-up is a distinctly different harm than the  
9 child sexual abuse being concealed and, therefore, victims must have  
10 access to recourse against the organization.

11 (3) The general assembly further finds and declares:

12 (a) The vast majority of child sexual abuse goes unreported  
13 because children often lack the knowledge needed to recognize sexual  
14 abuse or lack the ability to articulate that they've been abused; do not have  
15 an adult they can disclose their abuse to; do not have opportunities to  
16 disclose abuse; often are not believed when they try to disclose; or, when  
17 the sexual abuse is committed by an esteemed trusted adult, for example  
18 a faith leader, coach, or teacher, it may be hard for the child to view the  
19 perpetrator in a negative light and, therefore, identify what has been done  
20 to them as abuse;

21 (b) When victims of child sexual abuse do report, a high  
22 percentage of them delay disclosure well into adulthood, after the  
23 expiration of the time permitted to file civil actions against those  
24 responsible for the abuse; and

25 (c) Because of the delay in disclosure, statutes of limitations are  
26 often used to deny and defeat claims of childhood sexual abuse.

27 (4) Therefore, the general assembly determines that:

1 (a) This act does not revive any common law cause of action that  
2 is barred and instead creates a new right for relief for any person sexually  
3 abused in Colorado while the person was participating in a youth program  
4 as a child;

5 (b) Creating a new civil cause of action that allows all victims of  
6 child sexual abuse, including those who delayed reporting the abuse well  
7 into adulthood after the statute of limitations on an action has expired, to  
8 hold the abusers and organizations accountable is in the best interest of  
9 the state's public health and safety and is needed to address the long  
10 history of child sexual abuse that occurred within organizations that are  
11 culpable and complicit in the abuse; and

12 (c) Establishing a civil cause of action that allows for victims of  
13 child sexual abuse to bring a claim against perpetrators of abuse and  
14 responsible organizations is related to a legitimate governmental interest  
15 of allowing victims of child sexual abuse to hold the abusers and enablers  
16 accountable.

17 **SECTION 2.** In Colorado Revised Statutes, **add** part 12 to article  
18 20 of title 13 as follows:

19 **PART 12**

20 **ACTIONS FOR SEXUAL MISCONDUCT AGAINST MINORS**

21 **13-20-1201. Definitions.** AS USED IN THIS PART 12, UNLESS THE  
22 CONTEXT OTHERWISE REQUIRES:

23 (1) "ACTOR" MEANS A PERSON ACCUSED OF COMMITTING SEXUAL  
24 MISCONDUCT.

25 (2) "EDUCATIONAL ENTITY" HAS THE SAME MEANING SET FORTH  
26 IN SECTION 22-12-103.

27 (3) (a) "MANAGING ORGANIZATION" MEANS AN ORGANIZATION

1 THAT OPERATES OR MANAGES A YOUTH PROGRAM, AND AS PART OF  
2 OPERATING OR MANAGING THE YOUTH PROGRAM:

3 (I) HIRES ADULTS AS EMPLOYEES OR RETAINS ADULTS AS  
4 VOLUNTEERS OF THE YOUTH PROGRAM;

5 (II) SETS STANDARDS FOR ADULT EMPLOYEE AND VOLUNTEER  
6 PARTICIPATION IN THE YOUTH PROGRAM AND CONTROLS THE CONDUCT OF  
7 THE EMPLOYEES AND VOLUNTEERS; OR

8 (III) REPRESENTS THAT THE ADULTS INVOLVED IN THE YOUTH  
9 PROGRAM ARE SCREENED BY THE MANAGING ORGANIZATION.

10 (b) "MANAGING ORGANIZATION" INCLUDES AN EDUCATIONAL  
11 ENTITY OPERATING AN EDUCATIONAL PROGRAM.

12 (4) "MINOR" MEANS A PERSON YOUNGER THAN EIGHTEEN YEARS  
13 OF AGE.

14 (5) "PUBLIC EMPLOYEE" HAS THE SAME MEANING SET FORTH IN  
15 SECTION 24-10-103 (4) AND INCLUDES AN EMPLOYEE AS DEFINED IN  
16 SECTION 22-12-103.

17 (6) "PUBLIC ENTITY" HAS THE SAME MEANING SET FORTH IN  
18 SECTION 24-10-103 (5) AND INCLUDES AN EDUCATIONAL ENTITY.

19 (7) "SEXUAL MISCONDUCT" MEANS ANY CONDUCT THAT IS  
20 ENGAGED IN FOR THE PURPOSE OF THE SEXUAL AROUSAL, GRATIFICATION,  
21 OR ABUSE OF ANY PERSON, AND THAT CONSTITUTES ANY OF THE  
22 FOLLOWING:

23 (a) AN OFFENSE DESCRIBED IN PART 3 OR 4 OF ARTICLE 3 OF TITLE  
24 18 OR IN ARTICLE 6 OR 7 OF TITLE 18;

25 (b) HUMAN TRAFFICKING FOR SEXUAL SERVITUDE, AS DESCRIBED  
26 IN SECTION 18-3-504;

27 (c) A FEDERAL SEX OFFENSE AS DEFINED IN THE FEDERAL "SEX

1 OFFENDER REGISTRATION AND NOTIFICATION ACT", 34 U.S.C. SEC. 20911

2 (5)(A)(iii);

3 (d) OBSCENE VISUAL REPRESENTATIONS OF THE SEXUAL ABUSE OF  
4 CHILDREN, AS DESCRIBED IN 18 U.S.C. SEC. 1466A;

5 (e) TRANSFER OF OBSCENE MATERIAL TO MINORS, AS DESCRIBED  
6 IN 18 U.S.C. SEC. 1470; OR

7 (f) ATTEMPT OR CONSPIRACY TO COMMIT SEX TRAFFICKING OF  
8 CHILDREN OR BY FORCE, FRAUD, OR COERCION, AS DESCRIBED IN 18 U.S.C.  
9 SEC. 1594.

10 (8) "YOUTH PROGRAM" MEANS A PROGRAM OPERATED BY AN  
11 INDIVIDUAL OR ORGANIZATION THAT PROVIDES ACTIVITIES, TRIPS, OR  
12 EVENTS FOR MINORS WITH ADULTS WHO ARE PLACED IN POSITIONS OF  
13 RESPONSIBILITY, TRUST, OR SUPERVISION OVER THE PARTICIPATING  
14 MINORS, REGARDLESS OF THE PARTICULAR LOCATION, LENGTH, GOALS, OR  
15 FORMAT OF THE ACTIVITIES, TRIPS, OR EVENTS. "YOUTH PROGRAM"  
16 INCLUDES TRANSPORTATION, LODGING, AND UNSCHEDULED ACTIVITIES  
17 PROVIDED IN RELATION TO ANY ACTIVITIES, TRIPS, OR EVENTS WHEN A  
18 YOUTH PROGRAM EMPLOYEE OR VOLUNTEER IS RESPONSIBLE FOR THE  
19 SUPERVISION OF THE PARTICIPATING MINORS. "YOUTH PROGRAM" ALSO  
20 INCLUDES AN EDUCATIONAL PROGRAM OPERATED BY AN EDUCATIONAL  
21 ENTITY FOR STUDENTS IN KINDERGARTEN THROUGH TWELFTH GRADE, OR  
22 ANY PORTION THEREOF, OR A DISTRICT PRESCHOOL PROGRAM, AS  
23 DESCRIBED IN SECTION 22-28-103, UNDER THE SUPERVISION OF THE  
24 EDUCATIONAL ENTITY OR ITS EMPLOYEES.

25 **13-20-1202. Civil cause of action for sexual misconduct against**  
26 **a minor - exceptions.** (1) (a) A PERSON WHO IS A VICTIM OF SEXUAL  
27 MISCONDUCT THAT OCCURRED WHEN THE VICTIM WAS A MINOR MAY

1 BRING A CIVIL ACTION FOR DAMAGES AGAINST:

2 (I) AN ACTOR WHO COMMITTED THE SEXUAL MISCONDUCT; AND

3 (II) A MANAGING ORGANIZATION THAT KNEW OR SHOULD HAVE  
4 KNOWN THAT AN ACTOR OR YOUTH PROGRAM POSED A RISK OF SEXUAL  
5 MISCONDUCT AGAINST A MINOR, AS DESCRIBED IN SUBSECTION (2) OF THIS  
6 SECTION.

7 (b) THE CIVIL ACTION DESCRIBED IN THIS SECTION IS IN ADDITION  
8 TO, AND DOES NOT LIMIT OR AFFECT, OTHER ACTIONS AVAILABLE BY  
9 STATUTE OR COMMON LAW, BEFORE OR AFTER JANUARY 1, 2022, AND  
10 MUST BE PLEADED AS A SEPARATE CLAIM FOR RELIEF IF A COMPLAINT ALSO  
11 ASSERTS A COMMON LAW CLAIM FOR RELIEF.

12 (2) A MANAGING ORGANIZATION IS LIABLE TO A VICTIM PURSUANT  
13 TO THIS SECTION WHEN THE SEXUAL MISCONDUCT OCCURRED WHILE THE  
14 VICTIM WAS PARTICIPATING IN THE YOUTH PROGRAM OPERATED OR  
15 MANAGED BY THE ORGANIZATION AND:

16 (a) THE ORGANIZATION KNEW OR SHOULD HAVE KNOWN THAT A  
17 SPECIFIC ACTOR WHO IS AN EMPLOYEE OR VOLUNTEER OF THE  
18 ORGANIZATION POSED A RISK OF SEXUAL MISCONDUCT AGAINST MINORS  
19 AND THE ORGANIZATION DID NOT TAKE ANY ACTION TO MONITOR OR  
20 SUPERVISE THE ACTOR WHEN THE ACTOR WAS IN CONTACT WITH A MINOR  
21 OR EXCLUDE THE ACTOR FROM CONTACT WITH MINORS; OR

22 (b) THE ORGANIZATION KNEW OR SHOULD HAVE KNOWN THAT A  
23 YOUTH PROGRAM POSED A RISK OF SEXUAL MISCONDUCT AGAINST A  
24 MINOR AND THE ORGANIZATION MADE NO EFFORT TO CHANGE THE YOUTH  
25 PROGRAM TO REASONABLY ADDRESS THE SPECIFIC RISK OR TO  
26 REASONABLY WARN PARTICIPANTS AND THEIR FAMILIES OF THE RISK OF  
27 THE TYPES OF SEXUAL MISCONDUCT OR SITUATIONS INVOLVING SEXUAL

1 MISCONDUCT THAT HAVE OCCURRED IN THE PROGRAM.

2 (3) (a) FOR THE PURPOSE OF SUBSECTION (2)(a) OF THIS SECTION,  
3 A MANAGING ORGANIZATION KNEW OR SHOULD HAVE KNOWN THAT A  
4 SPECIFIC ACTOR POSED A RISK OF SEXUAL MISCONDUCT AGAINST A MINOR  
5 IF THE ORGANIZATION RECEIVED PRIOR REPORTS OF THE ACTOR'S SEXUAL  
6 MISCONDUCT TOWARD ANY PERSON OR THE ORGANIZATION WAS AWARE  
7 OF, OR REASONABLY SHOULD HAVE BEEN AWARE OF, THE PREVALENCE  
8 AND SIMILARITY OF CIRCUMSTANCES SURROUNDING PRIOR INSTANCES OF  
9 THE ACTOR'S SEXUAL ACTIVITY WITH, OR EXPLOITATION OF, A MINOR.

10 (b) FOR THE PURPOSE OF SUBSECTION (2)(b) OF THIS SECTION, A  
11 MANAGING ORGANIZATION KNEW OR SHOULD HAVE KNOWN THAT A YOUTH  
12 PROGRAM POSED A RISK OF SEXUAL MISCONDUCT TO A MINOR IF:

13 (I) THE ORGANIZATION RECEIVED PRIOR REPORTS OF SEXUAL  
14 MISCONDUCT AGAINST ANY MINOR BY, OR FACILITATED BY, AN ADULT  
15 INVOLVED IN THE YOUTH PROGRAM AND THE PRIOR SEXUAL MISCONDUCT  
16 OCCURRED UNDER CIRCUMSTANCES REASONABLY SIMILAR TO THOSE OF  
17 THE MINOR BRINGING THE CLAIM; OR

18 (II) THE ORGANIZATION WAS AWARE OF A RISK OF SEXUAL  
19 MISCONDUCT POSED BY THE YOUTH PROGRAM DUE TO THE PREVALENCE  
20 AND SIMILARITY OF CIRCUMSTANCES SURROUNDING PRIOR INSTANCES OF  
21 SEXUAL MISCONDUCT AGAINST A MINOR BY AN ADULT WITHIN THE  
22 PROGRAM. IF A MANAGING ORGANIZATION OPERATES A YOUTH PROGRAM  
23 IN ANOTHER STATE, THE CIRCUMSTANCES SURROUNDING SEXUAL  
24 MISCONDUCT AGAINST A MINOR THAT OCCURRED IN AN OUT-OF-STATE  
25 YOUTH PROGRAM IS A FACTOR IN DETERMINING WHETHER THE  
26 ORGANIZATION REASONABLY SHOULD HAVE BEEN AWARE OF A RISK OF  
27 SEXUAL MISCONDUCT POSED BY THE YOUTH PROGRAM OPERATED IN



1 COLORADO.

2 (4) IN CIRCUMSTANCES IN WHICH A MANAGING ORGANIZATION  
3 TOOK ANY REMEDIAL ACTION, THE ORGANIZATION IS NOT LIABLE FOR  
4 DAMAGES PURSUANT TO THIS PART 12 IF:

5 (a) THE ORGANIZATION'S ACTION WAS REASONABLY ADEQUATE TO  
6 ADDRESS THE RISK OF SEXUAL MISCONDUCT AGAINST A MINOR;

7 (b) THE ORGANIZATION CONDUCTED AN EVALUATION TO  
8 DETERMINE IF THE INITIAL REMEDIAL ACTION WAS EFFECTIVE IN  
9 CURTAILING RISK FROM THE ACTOR OR YOUTH PROGRAM; OR

10 (c) ANY WARNINGS GIVEN BY THE ORGANIZATION WERE  
11 REASONABLY ADEQUATE TO APPRISE PARTICIPANTS AND THEIR FAMILIES  
12 OF THE RISKS OF SEXUAL MISCONDUCT AGAINST A MINOR IN THE YOUTH  
13 PROGRAM.

14 **13-20-1203. Retroactive application - no limitation on action.**

15 (1) A PERSON WHO WAS THE VICTIM OF SEXUAL MISCONDUCT THAT  
16 OCCURRED WHEN THE VICTIM WAS A MINOR AND THAT OCCURRED BEFORE,  
17 ON, OR AFTER JANUARY 1, 2022, MAY BRING AN ACTION PURSUANT TO  
18 THIS PART 12.

19 (2) NOTWITHSTANDING ANY PROVISION OF LAW, AN ACTION  
20 BROUGHT PURSUANT TO THIS PART 12 MAY BE BROUGHT AT ANY TIME  
21 WITHOUT LIMITATION.

22 **13-20-1204. Waiver of liability void.** ANY WAIVER, EITHER FOR  
23 CONSIDERATION OR GRATUITOUSLY, OF A PERSON'S RIGHT TO BRING AN  
24 ACTION PURSUANT TO THIS PART 12 IS VOID AS AGAINST PUBLIC POLICY.

25 **13-20-1205. No contributory negligence - treble damages.**

26 (1) NOTWITHSTANDING SECTIONS 13-21-111 AND 13-21-111.5, A COURT  
27 OR JURY SHALL NOT ALLOCATE ANY DAMAGES AWARDED IN AN ACTION

1 BROUGHT PURSUANT TO THIS PART 12 IN ANY PROPORTION AGAINST A  
2 VICTIM OF SEXUAL MISCONDUCT.

3 (2) THE COURT SHALL AWARD TREBLE DAMAGES TO A PLAINTIFF  
4 IN AN ACTION BROUGHT PURSUANT TO THIS PART 12 UPON A FINDING THAT  
5 A DEFENDANT MANAGING ORGANIZATION KNEW, BASED ON A REPORT  
6 RECEIVED BY THE ORGANIZATION'S AGENT, OFFICER, EMPLOYEE, OR  
7 VOLUNTEER, THAT AN ACTOR OR YOUTH PROGRAM POSED A SPECIFIC RISK  
8 OF SEXUAL MISCONDUCT AGAINST A MINOR AND THE MANAGING  
9 ORGANIZATION INTENTIONALLY OR RECKLESSLY FAILED TO DISCLOSE OR  
10 WARN A MINOR PARTICIPATING IN THE YOUTH PROGRAM, OR THE MINOR'S  
11 PARENT OR GUARDIAN OF THE RISK.

12 **13-20-1206. Attorney fees.** (1) IN AN ACTION BROUGHT  
13 PURSUANT TO THIS PART 12, A PREVAILING PLAINTIFF IS ENTITLED TO  
14 REASONABLE ATTORNEY FEES, AS DETERMINED BY THE COURT UPON  
15 MOTION BY THE PLAINTIFF.

16 (2) SECTION 13-17-201, WHICH PERMITS THE AWARD OF ATTORNEY  
17 FEES TO DEFENDANTS IN ACTIONS DISMISSED PRIOR TO TRIAL, DOES NOT  
18 APPLY TO AN ACTION BROUGHT PURSUANT TO THIS PART 12.

19 **13-20-1207. Applicability of part to public entities and public**  
20 **employees - no duty to indemnify.** (1) (a) NOTWITHSTANDING SECTIONS  
21 22-12-104, 24-10-105, AND 24-10-106, OR ANY OTHER STATE LAW THAT  
22 PROHIBITS CIVIL ACTIONS AGAINST A PUBLIC EMPLOYEE OR PUBLIC ENTITY,  
23 A PERSON MAY BRING A CLAIM ALLEGING LIABILITY FOR INJURIES ARISING  
24 FROM SEXUAL MISCONDUCT PURSUANT TO THIS PART 12 AGAINST A PUBLIC  
25 EMPLOYEE OR PUBLIC ENTITY.

26 (b) NOTWITHSTANDING SECTIONS 22-12-104 (3), 24-10-109 (1),  
27 AND 24-10-118 (1)(a), REQUIRING THE FILING OF A WRITTEN NOTICE, A

1 PERSON WHO BRINGS AN ACTION PURSUANT TO THIS PART 12 IS NOT  
2 REQUIRED TO FILE WRITTEN NOTICE AS A JURISDICTIONAL PREREQUISITE  
3 TO THE ACTION.

4 (2) NOTWITHSTANDING ANY PROVISION OF THIS PART 12 OR ANY  
5 OTHER PROVISION OF LAW, THE STATE, AS DEFINED IN SECTION 24-10-103  
6 (7), AND A PUBLIC ENTITY DO NOT HAVE A DUTY TO DEFEND OR INDEMNIFY  
7 A PUBLIC EMPLOYEE WHO IS PERSONALLY LIABLE FOR SEXUAL  
8 MISCONDUCT PURSUANT TO THIS PART 12.

9 **SECTION 3. Safety clause.** The general assembly hereby finds,  
10 determines, and declares that this act is necessary for the immediate  
11 preservation of the public peace, health, or safety.