

Department of Legislative Services  
Maryland General Assembly  
2003 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 68

(Senator Kelley, *et al.*)

Judicial Proceedings

Judiciary

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Civil Actions - Child Sexual Abuse - Statute of Limitations

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This bill provides that an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor must be filed within seven years of the date that the victim attains the age of majority.

The bill may not apply retroactively to any action that was barred by the period of limitations applicable before the bill's October 1, 2003 effective date.

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Fiscal Summary

**State Effect:** It is expected that the bill's provisions could be handled with existing resources.

**Local Effect:** None – see above.

**Small Business Effect:** None.

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Analysis

**Current Law:** The statute of limitations for a civil action provides that a civil action must be filed within three years from the date it accrues unless another statutory provision provides a different period of time within which an action can be commenced. The “discovery rule” is applicable generally in all actions and the cause of action accrues when the claimant in fact knew or reasonably should have known of the wrong. *Poffenberger v. Risser*, 290 Md. 631 (1981).

If a cause of action, such as child sexual abuse, accrues to a minor, this general three-year statute of limitations is tolled until the child reaches the age of majority. Thus, on becoming an adult at age 18, a victim of child sexual abuse would be required to file the suit before the victim reaches the age of 21.

**Background:** Various other states have taken different approaches to the issue of expanding the ability of child sexual abuse victims to bring civil claims at a time later than that allowed in most other civil cases. The simplest and most direct approach extends the limitations period for a civil action based on child sexual abuse for a specified number of years. Connecticut's statute appears to be the most expansive, allowing a civil claim for sexual abuse to be brought up to 30 years after becoming an adult.

Rather than specifically extending the statute of limitations for child sexual abuse, New York and Virginia have enacted statutes that suspend the statute of limitations if a criminal prosecution from the same facts has been commenced. The applicable statute of limitations begins to run after the conclusion of the criminal case.

A number of other state statutes contain a general "discovery" rule which allows any civil claim to proceed within a specific number of years after the injury was or should have been discovered, even if the discovery occurs beyond the expiration of the period of limitations. Other states have a specific discovery rule that tolls the statute of limitations until the abused individual discovers or should have discovered that sexual abuse occurred and that the sexual abuse caused the individual's injuries.

At least two states, Alaska and Maine, allow civil actions for certain sexual offenses against minors to be commenced at any time.

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### **Additional Information**

**Prior Introductions:** This bill was introduced as HB 326 in the 1994 legislative session. HB 326 passed the House and was referred to the Judicial Proceedings Committee, where it received an unfavorable report.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 23, 2003  
lc/cer Revised - Senate Third Reader - March 24, 2003

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