

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1376
Judiciary

(Delegate Anderson)

Civil Actions - Child Sexual Abuse - Statute of Limitations

This bill extends the statute of limitations for an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor from 7 to 28 years from the date that the victim attains the age of majority.

The bill is to be construed to apply retroactively to revive any action that was barred by the period of limitations applicable before the bill's October 1, 2005 effective date. Any action that was barred by application of the period of limitations applicable before October 1, 2005 must be filed by October 1, 2006.

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.

Analysis

Current Law: 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 law is not to be construed to apply retroactively to revive any action that was barred by application of the period of limitations applicable before October 1, 2003.

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).

Background: 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 that 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.

State and Local Fiscal Effect: Expansion of the statute of limitations for child sexual abuse cases may lead to an increase in circuit court cases and appellate cases to challenge the admissibility of memories that may be decades old. However, the Department of Legislative Services advises that the Judiciary should be able to meet the bill’s requirements within existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/jr

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