

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 165

(Delegates McHale and Menes)

Judiciary

Judicial Proceedings

Civil Actions - Child Sexual Abuse - Statute of Limitations

This bill extends from three to seven years the statute of limitations for filing a civil suit based on child sexual abuse.

Fiscal Summary

State Effect: The bill could result in additional civil actions in connection with child sexual abuse cases, but is not expected to have a significant effect on government operations or finances.

Local Effect: Minimal – see above.

Small Business Effect: None.

Analysis

Current Law: A civil action must be filed within three years from the date it accrues, unless another statute provides a different period of time. Under the discovery rule, which is generally applicable in all actions, a cause of action accrues when the claimant knew, or reasonably should have known, of the wrong. *Poffenberger v. Risser*, 290 Md. 631 (1981).

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

“Sexual abuse” means an act that involves sexual molestation or exploitation of a minor, whether or not physical injuries are sustained.

Background: Other states have taken a number of 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. Some states have extended the limitations period for these cases 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 the victim becomes an adult.

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. New York and Virginia suspend the statute of limitations if a criminal prosecution based on the same facts has been commenced, until such time as the case is concluded.

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

Additional Information

Prior Introductions: None.

Cross File: None. SB 68 extends the statute of limitations in child sexual abuse cases until 12 years of the later of the victim's twenty-first birthday, or the date on which the victim knew, or reasonably should have known, that the alleged abuse was actionable.

Information Source(s): State's Attorneys' Association, Department of Human Resources, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Legislative Services

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