

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1147
Judiciary

(Delegate Menes, *et al.*)

Civil Actions - Child Sexual Abuse - Extension of Time to File Action

This bill provides that the current statute of limitations on any action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor shall apply retroactively to revive any action that was barred by the statute of limitations applicable before October 1, 2006. The retroactive application of the bill only applies if the revived action is filed on or before October 1, 2008.

Fiscal Summary

State Effect: Any increase in civil actions arising out of alleged incident(s) of child sexual abuse could be handled with the existing resources of the Judiciary.

Local Effect: Any increase in civil actions arising out of alleged incident(s) of child sexual abuse in circuit courts could be handled with existing local resources.

Small Business Effect: None.

Analysis

Current Law: Pursuant to Chapter 360 of 2003, an action for damages arising out of an alleged incident(s) 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.

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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mam/jr

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