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Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 456
Judiciary

(Delegate Spiegel, *et al.*)

Civil Actions - Child Nonsexual Abuse and Neglect - Damages and Statute of
Limitations

This bill establishes that, notwithstanding any law, an action for damages arising out of an alleged incident or incidents of “nonsexual abuse” or “neglect,” as defined under the bill, that occurred while the victim was a child (defined as an individual younger than age 18) must be filed within the later of (1) 20 years after the date that the victim reached the age of 18 or (2) 3 years after the date that the defendant is convicted of a crime relating to the alleged incident or incidents under § 3-601 or § 6-602.1 of the Criminal Law Article or an equivalent state or federal law. The bill also establishes a cap on noneconomic damages and liability limits, as specified. The bill contains a severability clause and must be construed to apply both prospectively and retroactively to any action that was barred by the statutory period of limitations applicable before October 1, 2025.

Fiscal Summary

State Effect: State expenditures increase *significantly*, likely by *at least* millions of dollars, to account for costs associated with the litigation and payments of claims against the State that would not be allowed to proceed under existing statute, as generally discussed below. Revenues are not materially affected.

Local Effect: Local expenditures increase for insurance-related expenses and if the bill results in increased litigation and payments of claims against local government entities, as discussed below. Revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Definitions

“Neglect” means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate (1) that the child’s health or welfare is harmed or placed at substantial risk of harm or (2) mental injury to the child or a substantial risk of mental injury. “Neglect” does not include (1) the sexual abuse of a child, as defined in § 5-117 of the Courts and Judicial Proceedings Article, or the physical injury of a child by accidental means or (2) the failure to provide necessary assistance and resources for the physical needs or mental health of a child when the failure is due solely to a lack of financial resources or homelessness.

“Nonsexual abuse” means the physical or mental injury of a child under circumstances that indicate that the child’s health or welfare is harmed or at substantial risk of being harmed by a parent, a household member or family member, a person who has permanent or temporary care or custody of the child, a person who has responsibility for supervision of the child, or a person who, because of the person’s position or occupation, exercises authority over the child. “Nonsexual abuse” does not include the sexual abuse of a child, as defined in § 5-117 of the Courts and Judicial Proceedings Article, or the physical injury of a child by accidental means.

Statute of Limitations

Notwithstanding any time limitation under a statute of limitations, a statute of repose, the Maryland Tort Claims Act (MTCA), the Local Government Tort Claims Act (LGTCA), or any other law, an action for damages arising out of an alleged incident or incidents of nonsexual abuse or neglect, as defined under the bill, that occurred while the victim was a child must be filed within the later of (1) 20 years after the date that the victim reached the age of 18 or (2) 3 years after the date that the defendant is convicted of a crime relating to the alleged incidents or incidents under § 3-601 or § 6-602.1 of the Criminal Law Article or an equivalent state or federal law. This provision does not apply if the alleged victim of nonsexual abuse or neglect is deceased at the commencement of the action.

A party may appeal from an interlocutory order entered by a circuit court in a civil case denying a motion to dismiss a claim filed under the bill (*i.e.*, an action for damages arising out of an alleged incident or incidents of nonsexual abuse or neglect that occurred while the alleged victim was a child) if the motion is based on a defense that the applicable statute

of limitations or statute of repose bars the claim and any legislative action reviving the claim is unconstitutional.

Liability Limits and Caps on Noneconomic Damages

Except as provided under MTCA, LGTCA, and specified provisions pertaining to county boards of education, the total amount of noneconomic damages that may be awarded to a single claimant in an action against a single defendant for injuries arising from an incident or occurrence that would have been barred by a time limitation before October 1, 2025, may not exceed \$1.5 million. This provision does not apply if the alleged victim of nonsexual abuse or neglect is deceased at the commencement of the action.

If the liability of a local government, a county board of education, the State, or the State's units arises under a claim of nonsexual abuse or neglect, the liability may not exceed \$890,000 to a single claimant for injuries arising from an incident or occurrence.

The bill increases the minimum comprehensive liability coverage county boards of education must carry under statute to reflect this \$890,000 liability limit with respect to nonsexual abuse and neglect claims. Consistent with existing statute, a county board of education may raise the defense of sovereign immunity to any amount above the limit of its insurance policy. If a county board of education is self-insured or a member of a public entity self-insurance pool, the board may raise the defense of sovereign immunity to any amount above \$890,000 to a single claimant for claims arising from each incident or occurrence if the liability of the board arises from a claim of nonsexual abuse or neglect.

Current Law:

Statute of Limitations – In General

In general, the statute of limitations for a civil action requires that a civil action must be filed within three years from the date it accrues unless another statutory provision permits 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 accrues to a minor, the 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 child victim of a tort other than one involving sexual abuse is required to file the suit before the victim reaches age 21.

Child Victims Act

Chapters 5 and 6 of 2023, also known as the Child Victims Act, established that an action for damages arising out of an alleged incident or incidents of “sexual abuse,” as defined under the Act, that occurred while the victim was a minor may be filed at any time. However, no action for damages that would have been barred by a time limitation before October 1, 2023, may be brought if the alleged victim of abuse is deceased at the commencement of the action. The Act must be construed to apply retroactively to revive any action that was barred by the statutory period of limitations applicable before October 1, 2023.

Notwithstanding any time limitation under a statute of limitations, a statute of repose, the MTCA, LGTCA, or any other law, an action for damages arising out of an alleged incident or incidents of sexual abuse, as defined under the Act, that occurred while the victim was a minor may be filed at any time. However, no action for damages that would have been barred by a time limitation before October 1, 2023, may be brought if the alleged victim of abuse is deceased at the commencement of the action.

A party may appeal from an interlocutory order entered by a circuit court in a civil case denying a motion to dismiss a claim filed under the Act (*i.e.*, an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor) if the motion is based on a defense that the applicable statute of limitations or statute of repose bars the claim and any legislative action reviving the claim is unconstitutional.

Except as provided under MTCA, LGTCA, and specified provisions pertaining to county boards of education, the total amount of noneconomic damages that may be awarded to a single claimant in an action against a single defendant for injuries arising from an incident or occurrence that would have been barred by a time limitation before October 1, 2023, may not exceed \$1.5 million. If the liability of a local government, a county board of education, the State, or the State’s units arises under a claim of sexual abuse, the liability may not exceed \$890,000 to a single claimant for injuries arising from an incident or occurrence.

The Act increased the minimum comprehensive liability coverage county boards of education must carry under statute to reflect this \$890,000 liability limit with respect to sexual abuse claims. A county board of education may raise the defense of sovereign immunity to any amount above the limit of its insurance policy. If a county board of education is self-insured or a member of a public entity self-insurance pool, the board may raise the defense of sovereign immunity to any amount above \$890,000 to a single claimant for claims arising from each incident or occurrence if the liability of the board arises from a claim of sexual abuse.

Caps on Noneconomic Damages

There is no cap on economic damages or punitive damages in Maryland. However, there are caps on noneconomic damages. For personal injury actions, “noneconomic damages” means pain, suffering, inconvenience, physical impairment, disfigurement, loss of consortium, or other nonpecuniary injury. “Noneconomic damages” does not include punitive damages.

In any action for damages for personal injury (excluding medical malpractice) in which the cause of action arises on or after October 1, 1994, an award for noneconomic damages may not exceed \$500,000. This limitation increases by \$15,000 on October 1 of each year beginning on October 1, 1995. The increased amount must apply to causes of action arising between October 1 of that year and September 30 of the following year, inclusive. (As of October 1, 2025, this cap will be \$965,000.) This limitation applies in a personal injury action to each direct victim of tortious conduct and all persons who claim injury by or through that victim.

In a jury trial, the jury may not be informed of these limitations on damages. If the jury awards an amount for noneconomic damages that exceeds the applicable limitation, the court must reduce the amount to conform to the limitation.

Maryland Tort Claims Act

In general, the State is immune from tort liability for the acts of its employees and cannot be sued in tort without its consent. Under MTCA, the State statutorily waives its own common law (sovereign) immunity on a limited basis. MTCA applies to tortious acts or omissions, including State constitutional torts, by State personnel performed in the course of their official duties, so long as the acts or omissions are made without malice or gross negligence. Under MTCA, the State essentially “waives sovereign or governmental immunity and substitutes the liability of the State for the liability of the State employee committing the tort.” *Lee v. Cline*, 384 Md. 245, 262 (2004).

MTCA covers a multitude of personnel, including some local officials and nonprofit organizations. In actions involving malice or gross negligence or actions outside of the scope of the public duties of the State employee, the State employee is not shielded by the State’s color of authority or sovereign immunity and may be held personally liable.

In general, MTCA limits State liability to \$400,000 to a single claimant for injuries arising from a single incident. However, for claims arising on or after July 1, 2022, if liability of the State or its units arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer, the following limits on liability apply: (1) the combined award for both economic and noneconomic damages may

not exceed a total of \$890,000 for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and (2) in a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed \$1,335,000, regardless of the number of claimants or beneficiaries who share in the award. If the liability of the State or the State's units arise under a claim of child sexual abuse, the liability may not exceed \$890,000 to a single claimant for injuries arising from an incident or occurrence.

The State does not waive its immunity for punitive damages. Attorney's fees are included in the liability cap under MTCA. Under MTCA, attorneys may not charge or receive a fee that exceeds 20% of a settlement or 25% of a judgment.

Local Government Tort Claims Act

LGTCGA defines local government to include counties, municipal corporations, Baltimore City, and various agencies and authorities of local governments such as community colleges, county public libraries, special taxing districts, nonprofit community service corporations, sanitary districts, housing authorities, and commercial district management authorities.

In general, LGTCGA limits the liability of a local government to \$400,000 per individual claim and \$800,000 per total claims that arise from the same occurrence for damages from tortious acts or omissions (including intentional and constitutional torts). However, for claims arising on or after July 1, 2022, if the liability of a local government arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer, the following limits on liability apply: (1) the combined award for both economic and noneconomic damages may not exceed a total of \$890,000 for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and (2) in a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed \$1,335,000, regardless of the number of claimants or beneficiaries who share in the award. If the liability of a local government arises under a claim of child sexual abuse, the liability may not exceed \$890,000 to a single claimant for injuries arising from an incident or occurrence.

A local government must provide its employees a legal defense in any action that alleges damages resulting from tortious acts or omissions committed by an employee within the scope of employment with the local government. LGTCGA further establishes that the local government is liable for tortious acts or omissions of its employees acting within the scope of employment, so long as the employee did not act with actual malice. Thus, LGTCGA prevents local governments from asserting a common law claim of governmental immunity from liability for such acts or omissions of its employees. A person may not execute against

an employee on a judgment rendered for tortious acts or omissions committed by the employee within the scope of employment with a local government. However, an employee is fully liable for all damages awarded in an action in which it is found that the employee acted with actual malice. In circumstances involving actual malice, the judgment may be executed against the employee and the local government may seek indemnification for any sums it is required to pay under LGTCA.

A local government is not liable for punitive damages. However, a local government, subject to the liability limits, may indemnify an employee for a judgment for punitive damages entered against the employee. A local government may not enter into an agreement that requires indemnification for an act or omission of an employee that may result in liability for punitive damages.

Limits on Liability for County Boards of Education (§ 5-518 of the Courts and Judicial Proceedings Article and § 4-105 of the Education Article)

Under § 5-518 of the Courts and Judicial Proceedings Article, a county board of education employee acting within the scope of employment, without malice and gross negligence, is not personally liable for damages resulting from a tortious act or omission for which a limitation of liability (discussed below) is provided for the county board, including damages that exceed the limitation on the county board's liability. In these cases, a civil claim may be filed against the employee, but the board of education must be joined as a party and is required to indemnify the employee for any personal liability associated with a money judgment entered against the employee.

County boards of education are not covered under LGTCA. However, a county board of education may raise the defense of sovereign immunity to any amount claimed above the limit of its insurance policy or, if self-insured or a member of an insurance pool, above \$400,000 (above \$890,000 to a single claimant for a sexual abuse claim). A county board of education may not raise the defense of sovereign immunity to any claim of \$400,000 or less. For sexual abuse claims, the liability of a county board of education may not exceed \$890,000 to a single claimant for injuries arising from an incident or occurrence.

Each county board of education must carry comprehensive liability insurance to protect the board and its agents and employees. The purchase of this insurance is a valid educational expense. The State Board of Education (SBE) must establish standards for these insurance policies, including a minimum liability coverage of not less than \$400,000 for each occurrence (\$890,000 for claims of sexual abuse as specified). The policies purchased must meet the standards established by SBE.

A county board complies with this requirement if it (1) is individually self-insured for at least \$890,000 for each occurrence (under the rules and regulations adopted by the

Insurance Commissioner) or (2) pools with other public entities for the purpose of self-insuring property or casualty risks.

State Expenditures: Special fund expenditures for the State Insurance Trust Fund (SITF) increase, likely significantly, for litigation and payments in cases against the State from prospective claims that would be barred under existing statute and retroactive claims that are revived. General fund expenditures increase for State agencies subject to higher SITF premiums/assessments if SITF incurs losses from MTCA payments as a result of the bill.

The extent of any such increase cannot be reliably estimated at this time but based on current experience, is likely to be significant. The State is facing substantial liability under the Child Victims Act. One of the issues surrounding the calculations of potential liability under the Child Victims Act is that neither the Act nor State courts have defined “occurrence.” The bill also does not define that term. Agencies that may be the subject of claims brought under the bill include the Department of Human Services, the Governor's Office for Children, the Maryland Department of Health, the Department of Juvenile Services (DJS), and the Maryland State Department of Education (Maryland School for the Deaf).

State Treasurer's Office

The State Treasurer's Office (STO) advises that the bill has a substantial impact on SITF based on (1) an increase in claims and lawsuits, particularly older claims; (2) a diminished ability to investigate claims, preserve evidence, and defend against lawsuits; (3) increased litigation expenses, settlement costs, and higher verdicts; (4) the inability to properly reserve against future losses; and (5) potential additional liability for the State.

For the types of claims affected by the bill, MTCA currently limits State liability to \$400,000 to a single claimant for injuries arising from a single incident. The bill increases this limit to \$890,000 in claims arising from child nonsexual abuse or neglect.

In actions involving malice or gross negligence or actions outside of the scope of the public duties of the State employee, the State employee is not shielded by the State's color of authority or sovereign immunity and may be held personally liable. Thus, it is not clear under this legislation whether the State would be liable in individual cases and whether payments would be administered under MTCA. However, it should also be noted that the State may still face liability through other causes of action (*e.g.*, negligent hiring, retention, etc.). Claims filed pursuant to the bill may be so old that the office will likely experience difficulties in conducting a proper investigation and defense of the claim. Other potential effects include litigation costs and an inability to reserve against future losses. This indeterminate factor could result in the underfunding of SITF or the need to identify the

State's funding source to cover all claim payments, all litigation costs and all personnel costs for both STO's Insurance Division and the assistant Attorneys General (AAG) who handle litigation.

Agencies pay premiums to SITF that are comprised of an assessment for each employee covered and SITF payments for torts committed by the agency's employees. The portion of the assessment attributable to losses is allocated over five years. The Treasurer is charged with setting premiums "so as to produce funds that approximate the payments from the fund." (See *Md. State Fin. & Proc. Code Ann.* § 9-106(b).) The actuary assesses SITF's reserves and each agency's loss experience for the various risk categories, which include tort claims and constitutional claims. An agency's loss history, consisting of settlements and judgments incurred since the last budget cycle, comprises part of the agency's annual premium. That amount is electronically transferred to SITF from the appropriations in an agency's budget.

STO advises that its staff is currently working at full capacity and that the volume and complexity of cases expected under the bill require two additional adjusters to investigate claims, at a cost of \$167,876 in fiscal 2026 and increasing to \$226,810 by fiscal 2030.

STO further advises the bill results in significant increases in expenditures, litigation costs and potential judgments for the Office of the Attorney General (OAG) and its client agencies, including additional attorneys and support staff for litigation units within OAG and State agencies exposed to claims under the bill.

Office of the Attorney General

OAG advises that it cannot estimate the number of additional claims under the bill. Regardless, OAG anticipates that the bill will result in a significant volume of claims with a substantial impact on workloads.

OAG, without providing sufficient justification, estimates the need for up to 185 additional AAGs and 45 support staff if it handles cases directly. However, OAG is currently using outside counsel for litigation of Child Victims Act claims. Although this estimate assumes outside counsel will also be utilized to handle claims under the bill, OAG did not provide an estimate of these contractual costs. Even assuming outside resources are used, OAG still requires 4 additional AAGs to coordinate the work that is being done by the hired counsel. Thus, in addition to *significant* general fund expenditures to contract with outside counsel, general fund expenditures increase by \$526,804 in fiscal 2026 and \$730,252 by fiscal 2030 for costs associated with the additional AAGs.

Department of Juvenile Services

The Department of Juvenile Services (DJS) advises that the bill is likely to result in multiple lawsuits against DJS from youth held in detention and/or committed facilities. While DJS is currently unable to determine the fiscal impact, given the litigation under the Child Victims Act, the department assumes there will be a substantial fiscal impact under the bill.

Judiciary

The bill has an operational impact on the courts, the extent of which depends on the volume of previously time-barred cases filed under the bill. The Judiciary advises that because the number of new cases is speculative, it cannot estimate the amount of time or other judicial resources would be needed to adjudicate the potential new cases. However, the Judiciary estimates that it can implement the bill with existing budgeted resources.

Local Expenditures: Local expenditures increase if the bill results in litigation and payments in cases brought under the bill's provisions that would otherwise not occur under existing statute or higher payments in future cases that would have been brought under existing statute. The extent of any such increase cannot be reliably estimated at this time. Insurance-related expenditures also increase because of the bill's alteration of liability limits, increased insurance requirements for local boards of education, and the elimination of the statute of limitations.

The Maryland Association of Counties (MACo) advises that generally, if a local government is found to have been negligent in their supervisory capacity of an employee who perpetrated an offense outlined in the bill while operating outside the scope of their duties, there is a potential for claims and coverage costs to increase. If the number of claims alleging nonsexual abuse of a child by employees of local governments increases, the impact will be felt by all local governments – even those without a negative claim history – as the insurance premiums will likely increase. Given the uncertainty on the number of potential claims, MACo cannot estimate the premium increases and risk to member equity at this time. MACo notes that claims/litigation under the bill may erode the accumulated surpluses maintained to satisfy existing claims and those future claims that can be reasonably anticipated. MACo advises, however, that county governments generally do not have many employees who oversee children. Parks and recreation departments are the primary division with the most exposure, which is anticipated to be narrow.

Baltimore City Public Schools advises that the bill vastly increases the cost and burden of defending against applicable cases and record retention obligations. Frederick County Public Schools (FCPS) advises that the bill creates significant exposure with a potentially high fiscal impact. FCPS notes that the legislation opens the system to exposure for events

that took place prior to the proposed enactment, which would be difficult for FCPS to defend or even verify because of a lack of notice of potential liability, records, and witnesses. Anne Arundel County Public Schools advises that the bill increase its costs to participate in the Anne Arundel County Self Insurance Fund and increases costs for staff time to participate in discovery (*e.g.*, producing documents, responding to interrogatories, participating in depositions, etc.) as well as participating in court proceedings.

Small Business Effect: The bill has a potentially meaningful impact on small business law firms that can litigate or proceed with cases as a result of the bill.

Additional Comment: The bill refers to § 6-602.1 of the Criminal Law Article. However, there is no statutory provision with that numerical designation. The reference should be to § 3-602.1 of the Criminal Law Article, which addresses neglect of a minor.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Harford and Montgomery counties; Maryland Association of Counties; Office of the Attorney General; Maryland State Treasurer's Office; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Department of Human Services; Department of Juvenile Services; Baltimore City Public Schools; Anne Arundel County Public Schools; Frederick County Public Schools; Department of Legislative Services

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