

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1378
Judiciary

(Delegate Wilson)

Child Sexual Abuse Claims Against the State - Time Limitation

This bill prohibits an action for damages against the State or a unit of State government arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor from being filed on or after January 1, 2026, if the action would have been barred by a time limitation before October 1, 2023.

Fiscal Summary

State Effect: To the extent the bill decreases the number of civil causes of action for child sexual abuse filed against the State, State expenditures decrease, perhaps significantly. Revenues are not affected.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law:

Civil Statutes of Limitation – 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, unless otherwise specified, on becoming an adult at age 18, a child victim of a tort is required to file the suit before the victim reaches age 21.

Chapter 360 of 2003 – The First Extension of the Statute of Limitations for Civil Actions for Child Sexual Abuse

Chapter 360 of 2003 established that an action for damages arising out of an alleged incident(s) of sexual abuse, as defined in § 5-701 of the Family Law Article, 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 (age 25). The law was 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.

Chapters 12 and 656 of 2017 (Repealed by Chapter 5 of 2023 as Discussed Below)

In general, Chapters 12 and 656 of 2017 established that an action for damages arising out of an alleged incident or incidents of sexual abuse, as defined in § 5-701 of the Family Law Article, that occurred while the victim was a minor must be filed:

- at any time before the victim reaches the age of majority; or
- within the later of 20 years after the date on which the victim reaches the age of majority (age 38) or 3 years after the date that the defendant is convicted of a crime relating to the alleged incident or incidents under § 3-602 of the Criminal Law Article (sexual abuse of a minor) or the laws of another state or the United States that would be a crime under § 3-602 of the Criminal Law Article.

However, in an action brought more than seven years after the victim reaches the age of majority, damages may be awarded *against a person or governmental entity that is not the alleged perpetrator* of the sexual abuse only if (1) the person or governmental entity owed a duty of care to the victim; (2) the person or governmental entity employed or exercised some degree of responsibility or control over the alleged perpetrator; and (3) there is a finding of gross negligence on the part of the person or governmental entity. “Alleged perpetrator” means the individual alleged to have committed the specific incident or incidents of sexual abuse that serve as the basis of an action arising from alleged sexual abuse under § 5-117 of the Courts and Judicial Proceedings Article.

Chapters 12 and 656 also included a “statute of repose,” which prohibits a person from filing an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor *against a person or governmental entity that is not the alleged perpetrator* more than 20 years after the date on which the victim reaches

the age of majority. In February 2025, the Supreme Court of Maryland held that Chapter 5 of 2023 (discussed below) is constitutional and despite the terminology used, the General Assembly extended the statute of limitations in the 2017 law, rather than establish a statute of repose.

Causes of action filed under these provisions are exempt from the notice of claim requirement under the Local Government Tort Claims Act (LGTC) and the submission of a written claim requirement, denial of claim requirement, and the statute of limitations under the Maryland Tort Claims Act (MTCA).

Chapters 12 and 656 may not be construed to apply retroactively to revive any action that was barred by the statutory period of limitations applicable before October 1, 2017. The statute of repose created by Chapters 12 and 656 must be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the statutory period of limitations applicable before October 1, 2017.

Chapters 5 and 6 of 2023 (Child Victims Act) – The Current Statute of Limitations

Repeal of the Statute of Limitations and Revival of Claims: Notwithstanding any time limitation under a statute of limitations, a statute of repose, 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 bill, 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 Child Victims Act of 2023 (CVA) repealed existing provisions addressing the filing of actions for damages arising out of incidents of child sexual abuse under § 5-117 of the Courts and Judicial Proceedings Article and also repealed provisions from Chapters 12 and 656 establishing that the “statute of repose” in existing statute must be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017. CVA’s provisions are severable and must be construed to apply retroactively to revive any action that was barred by the statutory period of limitations applicable before October 1, 2023.

“Sexual abuse” means any act that involves an adult allowing or encouraging a child to engage in:

- obscene photography, films, poses, or similar activity; pornographic photography, films, poses, or similar activity; or prostitution;
- incest;
- rape;

- sexual offense in any degree; or
- any other sexual conduct that is a crime.

Interlocutory Appeals: 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 CVA (*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.

Limits on Liability, Liability Coverage, Etc.: 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.

CVA 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. 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 sexual abuse.

State Expenditures: In general, the bill is likely to alter the *timing* of the filing of currently eligible civil causes of action against the State. However, to the extent that the bill decreases the number of claims for damages against the State arising out of alleged incident(s) of child sexual abuse, State expenditures decrease, perhaps significantly. The extent to which this occurs and the combined value of the associated claims cannot be reliably determined in advance. While there may be plaintiffs who are unaware of CVA, the legal community has been extensively advertising the availability of this cause of action.

As noted above, CVA caps the State's liability at \$890,000 to a single claimant for injuries arising from an incident or occurrence of child sexual abuse. According to the Office of the Attorney General (OAG), there are currently about 4,000 claimants seeking damages under CVA, and the potential liability under current law could range from \$3.5 billion to as high as \$34.0 billion if each claimant received the maximum of \$890,000 for each

alleged incident of abuse. OAG advises that it cannot determine how many more previously time-barred claims may be filed in the future.

The State is engaged with plaintiffs' counsel on an alternative dispute resolution process; no funds are included in the fiscal 2026 budget as introduced, and no funds are dedicated in the out-years to settlement payments. The State has not assigned a funding source for existing claims, and it is unclear if a funding source will be specified for future claims.

In general, MTCA claims are paid from the State Insurance Trust Fund (SITF), which is administered by the State Treasurer's Office (STO). STO advises that for purposes of tort liability under MTCA, the underlying alleged acts of child sexual abuse would be considered outside the performance of the State employees' duties, not within their scope of employment, and with malice. Therefore, MTCA or SITF would not be applicable. However, the State may still face MTCA claims and litigation for negligent hiring and retention arising from the child sexual abuse claims. These tort claims would be within MTCA and SITF. Should these tort claims not be filed as a result of the bill, special fund expenditures that may have otherwise occurred are avoided (as are general fund expenditures for State agencies for corresponding SITF assessments).

Additional Information

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

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Maryland State Treasurer's Office; Judiciary (Administrative Office of the Courts); Department of Budget and Management; Department of Legislative Services

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Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510