

Date: February 23, 2023

Bill number: SB0686

Committee: Judicial Proceedings Committee

Bill title: **Civil Actions - Child Sexual Abuse - Definition, Damages, and Statute of Limitations (The Child Victims Act of 2023)**

DHS Position: **LETTER OF INFORMATION**

The Maryland Department of Human Services (DHS) thanks the Committee for the opportunity to provide written information for Senate Bill 686 (SB 686).

Senate Bill 686 would alter the definition of “sexual abuse,” as it relates to civil actions for child sexual abuse. This bill would remove the statute of limitations in certain civil actions relating to child sexual abuse. This includes the removal of many of the limitations to governmental liability currently in law.

Under the existing law regarding civil liability, the statute of limitations for suits brought against a person or governmental entity that is not the alleged perpetrator of the abuse is 7 years after a victim of sexual abuse reaches the age of majority. The 7 year limitation is in effect unless all three of the following components are present: a person or governmental entity was found to have owed a duty of care to the victim, have employed or exercised some degree of responsibility or control over the alleged perpetrator, and engaged in gross negligence. The proposed bill strikes the 7 year limitation and allows an individual to seek damages at any time without proving gross negligence.

The U.S. Congress and nearly half of all states have either eliminated the statute of limitations for civil claims arising from childhood sexual assault or have expanded the statute of limitations to be linked to a specific number of years following an adult gaining knowledge of sexual abuse experienced as a child. There is a growing recognition of the long-term impact/trauma caused by child sexual abuse, and research demonstrates that child victims of sexual abuse frequently do not report the abuse they have suffered until they are much older.¹ Most of these laws have been passed within the last four years and the long-term impact has yet to be made clear.

Although a person seeking damages would still need to prove all elements of the claim if Senate Bill 686 is enacted, individuals making sexual abuse allegations may seek damages against individuals or governmental entities who were not directly involved in an abusive incident and may or may not have direct knowledge of the abuse at any time. For suits filed many years after the alleged incident, DHS’s local departments of social services may no longer have access to certain witnesses or to records subject to expungement necessary to defend against such suits.

¹ *Prince George’s County Dep’t of Soc. Servs. v. Taharaka*, 254 Md. App. 155, 176 & n.14 (2022)

DHS has an obligation to serve the most at-risk populations in our communities while also providing support and peace of mind to placement agencies and resource parents who willingly take on the liabilities associated with serving at-risk youth. Our mission at DHS can only be achieved with their support and participation. Senate Bill 686 has the potential to undermine resource parent and placement agency confidence and reduce participation by making the risk of liability too great to continue partnering with our agency. DHS staff see first hand the impact of sexual abuse on individuals as staff work diligently to provide services and resources to children and families after experiencing these devastating events.

The Department appreciates the opportunity to provide the aforementioned information to the Committee for consideration during your deliberations. DHS welcomes continued collaboration with the Committee on Senate Bill 686.

