



House Bill 456

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

MACo Position: **SUPPORT**

To: Judiciary Committee

WITH AMENDMENTS

Date: February 13, 2025

From: Sarah Sample

The Maryland Association of Counties (MACo) **SUPPORTS HB 456 WITH AMENDMENTS**. In brief, HB 456 attempts to address some of the grievous harms visited upon the victims of child abuse and neglect. If the bill becomes law, it will extend the statute of limitations on matters involving allegations of nonsexual abuse of a child.

First, this is not an area of liability that county governments anticipate having significantly increased exposure. The instances are narrow but not zero and for those reasons, counties find it necessary to share the types of challenges that could arise for county employees and legal teams. For context, this would primarily effect parks and recreation divisions that would have supervisory capacity over an individual who might be working at a summer camp, or some other child-centered program. These programs are not run in all jurisdictions, so this potentially narrow impact is also not statewide. In terms of the challenges, there are fiscal concerns, the interpretation of "MENTAL OR PHYSICAL INJURY," and the ability to effectively investigate these claims.

On the fiscal side, the increased exposure, however narrow, will affect insurance premiums for the vast majority of jurisdictions who do not self-insure. Additionally, the cap that was established in 2023 - \$890,000 - is relatively new, but a significant jump from the prior \$400,000 that was previously specified in the Local Government Tort Claims Act. Counties made clear at that time, and would like to again, that while claims are likely to be few, even one could significantly erode the reserves to pay the settlement or judgements in these cases.

The second category of concern is the scope of what constitutes "PHYSICAL OR MENTAL INJURY" particularly as it relates to the definitions of "NEGELCT" and "NONSEXUAL ABUSE" in the bill. The mental injury standard is too broad to make a reasonable determination of the likelihood of increased liability. The line between what constitutes necessary and appropriate disciplinary actions and mental injury leaves a lot of uncertainty. This has the potential to limit necessary interventions by employees.

There are some instances with program participants where an employee might be intervening during an incident to protect the child, other children, or employees. If even a mild form of injury, physical or emotional, takes place when an employee was reasonably taking actions in the protection of a child, the local governments would be in a very tricky spot. This could have the potential to create a chilling

effect on staff members taking actions that could increase exposure to even further liability due to the fear that someone could be mentally or physically injured during a good faith action and bring claims.

Lastly, the longer statute of limitations to bring claims puts counties in a situation where investigating claims effectively would be very difficult. As an example, parks and recreation divisions employ a large number of young adults in high-school and college, particularly for short periods of time. If a plaintiff waits 10 years to bring claims, the ability to find the employee of interest for a proper investigation is often very restricted, and compromises the local government's ability to investigate or defend itself against the claim.

Amendments to realize a clearer understanding of "PHYSICAL OR MENTAL INJURY," good faith actions, and reasonable discipline could ensure counties are able to encourage employees to take actions that are necessary to keep all community members safe.

Counties believe measures should be taken to ensure that victims of child abuse and neglect can seek the justice their circumstances deserve. The bill expands the opportunity for victims to do so but also leaves counties in a difficult position to continue providing certain beneficial programs. With the outlined amendments, MACo urges a **FAVORABLE WITH AMENDMENTS** report on HB 456.