

Department of Legislative Services  
Maryland General Assembly  
2025 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 1378  
Judiciary

(Delegate Wilson)

Judicial Proceedings

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Civil Actions - Child Sexual Abuse

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This bill (1) prospectively reduces, as specified, the liability limits for claims arising from child sexual abuse under the Maryland Tort Claims Act (MTCA) and the Local Government Tort Claims Act (LGTCa) and the limit on noneconomic damages in applicable private actions; (2) replaces references to *incidents* or *occurrences* with references to *claims* in certain provisions relating to the application of liability limits and noneconomic damages caps and makes similar changes to related statutory provisions; (3) makes corresponding changes to provisions relating to the defense of sovereign immunity by a local board of education to claims of child sexual abuse and provisions relating to minimum liability insurance coverage requirements for local boards of education to reflect the provisions described above; (4) prospectively limits counsel fees in applicable cases; (5) authorizes the Supreme Court of Maryland to adopt rules to implement the bill's provisions; and (6) requires the Maryland Judiciary to report specified information regarding applicable awards and claims. **The bill takes effect June 1, 2025.**

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Fiscal Summary

**State Effect:** To the extent the bill reduces payments in applicable claims against the State, State expenditures decrease, perhaps significantly. Revenues are not affected.

**Local Effect:** To the extent the bill reduces payments in applicable claims against local governments and local boards of education, local expenditures decrease, perhaps significantly. Revenues are not affected.

**Small Business Effect:** Potential meaningful.

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## Analysis

### Bill Summary:

#### *Statute of Limitations, Liability Limits, and Damages Caps*

*Statute of Limitations:* Under current law, subject to a specified exception and 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 in § 5-117 of the Courts and Judicial Proceedings Article, that occurred while the victim was a minor may be filed at any time. Under the bill, this provision applies to an action for damages arising out of *a claim or claims* of sexual abuse that occurred when the victim was a minor.

*Noneconomic Damages Cap in Private Causes of Action:* The bill reduces, from \$1.5 million to \$700,000, 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 *a claim or claims* of child sexual abuse if the action is filed on or after June 1, 2025, and would have been barred by a time limitation before October 1, 2023.

*Maryland Tort Claims Act:* The bill specifies under MTCA that if the liability of the State or its units arises under *one or more claims* of sexual abuse *that occurred when the claimant was a minor*, the liability of the State or its units may not exceed \$890,000 to a single claimant for injuries arising from *the claim or claims*. However, for an action filed on or after June 1, 2025, the liability of the State or its units may not exceed \$400,000 to a single claimant for injuries arising from the claim or claims.

*Local Government Tort Claims Act:* The bill makes similar changes to the provisions of LGTCA. Under the bill, for an action filed on or after June 1, 2025, that would have been barred by a time limitation before October 1, 2023, the liability of a local government may not exceed \$400,000 to a single claimant for injuries arising from the claim or claims.

*Local Boards of Education:* The bill makes similar changes to statutory provisions pertaining to local boards of education. The bill also alters the minimum comprehensive liability coverage local boards of education must carry under statute to \$400,000 to a single claimant for injuries arising from the claim or claims for an action filed on or after June 1, 2025, that would have been barred by a time limitation before October 1, 2023. Consistent with existing statute, a local board of education may raise the defense of sovereign immunity to any amount above the limit of its insurance policy. If a local board of education is self-insured or a member of a public entity self-insurance pool, if the liability of the board arises from one or more claims of sexual abuse that occurred when the defendant was a minor, the board may raise the defense of sovereign immunity to

(1) any amount above \$890,000 to a single claimant for the claim or claims and (2) any amount above \$400,000 to a single claimant for the claim or claims for an action filed on or after June 1, 2025, that would have been barred by a time limitation before October 1, 2023. Furthermore, if the liability of a local board of education arises under one or more claims of sexual abuse that occurred when the claimant was a minor, the board's liability may not exceed (1) \$890,000 to a single claimant for the claim or claims and (2) \$400,000 to a single claimant for the claim or claims for an action filed on or after June 1, 2025, that would have been barred by a time limitation before October 1, 2023.

### *Attorney's Fees*

In any action for damages filed on or after June 1, 2025, arising out of a claim or claims of sexual abuse that occurred while the claimant was a minor, counsel may not charge or receive fees that exceed 20% of the settlement or 25% of the judgment. (Under MTCA, attorneys may not charge or receive a fee that exceeds 20% of a settlement or 25% of a judgment, regardless of the type of claim/case.)

### *Reporting Requirement*

The bill requires the Maryland Judiciary to report the following information to the General Assembly by January 31, 2027, and by each January 31 thereafter (1) the amount of each award made to a claimant under the bill and (2) a summary of the sexual abuse claims underlying the award made to each claimant.

### **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 LGTCA and the submission of a written claim requirement, denial of claim requirement, and the statute of limitations under 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 Acts, 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 local 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 local 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 local board of education may raise the defense of sovereign immunity to any amount above the limit of its insurance policy. If a local 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:** To the extent that the bill decreases overall payments in claims for damages against the State arising out 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 information provided by the Office of the Attorney General (OAG) on March 12, 2025, there are 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 in 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). As noted above, the bill's attorney's fees provisions are substantially similar to existing provisions under MTCA. Attorney's fees are still subject to the overall cap under MTCA (*i.e.*, they come out of the award and are not awarded separately). This estimate assumes that those provisions do not materially affect State expenditures.

**Local Expenditures:** To the extent that the bill decreases overall payments in claims for damages against local governments or local boards of education arising out of child sexual abuse, local expenditures decrease, perhaps significantly. The extent to which this occurs and the combined value of the associated claims cannot be reliably determined in advance.

The Maryland Association of Boards of Education (MABE) administers the MABE Group Insurance Pool, a self-insurance pool for local school districts in Maryland that is funded entirely by its 19 members and is not backed by a third-party insurer or reinsurance. Five of the State's largest school districts are not members of the pool.

*For illustrative purposes only*, MABE advises that the pool has 18 pending CVA claims; based on information it has received, MABE expects 50 to 70 additional claims in the coming months. If these previously time-barred additional claims are filed on or after June 1, 2025, the \$400,000 liability cap under the bill significantly reduces the maximum liability for these claims. This does not include the bill's potential effect on MABE's litigation costs, which have ranged from \$75,000 to \$200,000 per claim recently and are paid directly through the pool. Should the bill's caps on attorney's fees incentivize faster settlements, those costs may decrease.

MACo advises that the bill has the potential to decrease liability in previously time-barred cases and decrease defense costs. MACo does not currently have any knowledge of any time-barred cases that have been brought in the last two years against a local government entity. MACo notes that the exposure of local governments for child sexual abuse claims

is generally low and mainly limited to parks and recreation divisions and local detention centers that have housed juvenile offenders at various times.

Unlike MTCA, LGTCA and liability provisions for local boards of education do not address or limit attorney's fees. MACo advises that attorney's fees in LGTCA cases are subject to the liability limit under that statute. Information is not readily available as to how attorney's fees are treated in cases against local boards of education and if the overall liability limit under that statute still applies even if attorney's fees are awarded in claims subject to that statute. Regardless, those provisions in the bill are likely to reduce local government expenditures in applicable cases.

**Small Business Effect:** The bill, including provisions regarding attorney's fees, may have a meaningful effect on plaintiff's attorneys in civil cases arising from child sexual abuse.

**Additional Comments:** This analysis reflects the third reader version of House Bill 1378, as printed on April 3, 2025. Although the House adopted Amendment 903920/1 prior to the bill passing second reading, the complete text of the amendment was not fully incorporated into the printed text of the third reader bill. As of the time of this fiscal and policy note, a revised printing has not been published online.

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### **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; Maryland Association of Counties; Maryland Association of Boards of Education; Department of Legislative Services

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