

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 693

(Senator Smith)

Judicial Proceedings

Civil Actions - Child Sexual Abuse - Repeal of Limitations on Attorney's Fees

This bill repeals provisions under § 5-117 of the Courts and Judicial Proceedings Article (enacted pursuant to Chapter 104 of 2025) that limit the fees attorneys may charge or receive in an action for damages filed on or after June 1, 2025, arising out of a claim or claims of sexual abuse that occurred when the claimant was a minor to no more than 20% of the settlement or 25% of the judgment. The bill must be construed to apply retroactively and must be applied to and interpreted to affect any action for damages arising out of a claim or claims of sexual abuse that occurred when the claimant was a minor filed on or after June 1, 2025. However, a presently existing obligation or contract may not be impaired in any way by the bill. **The bill takes effect June 1, 2026.**

Fiscal Summary

State Effect: No presumed fiscal impact in FY 2026. State expenditures related to child sexual abuse civil claims increase, potentially significantly, beginning as early as FY 2027, as discussed below. Revenues are not affected.

Local Effect: No presumed fiscal effect in FY 2026. Local expenditures related to child sexual abuse civil claims increase, potentially significantly, beginning as early as FY 2027, as discussed below. Revenues are not affected.

Small Business Effect: Significant.

Analysis

Current Law: Under § 5-117, “sexual abuse” means any act that involves (1) an adult allowing or encouraging a child to engage in prostitution or obscene or pornographic photography, films, poses, or similar activity; (2) incest; (3) rape; (4) sexual offense in any degree; or (5) any other sexual conduct that is a crime.

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 (LGTCGA), or any other law, an action for damages arising out of a claim or claims of “sexual abuse” that occurred while the victim was a minor may be filed at any time. However, no action that would have been time-barred before October 1, 2023, may be brought under this provision if the alleged victim of abuse is deceased at the commencement of the action.

Except as provided under MTCA, LGTCGA, and specified provisions pertaining to local boards of education, the total amount of noneconomic damages that may be awarded under § 5-117 to a single claimant in an action against a single defendant for injuries arising from a claim or claims of sexual abuse that occurred while the victim was a minor that would have been barred by a time limitation before October 1, 2023, may not exceed:

- \$1.5 million for an action filed on or before May 31, 2025; and
- \$700,000 for an action filed on or after June 1, 2025.

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.

State Expenditures: The current version of § 5-117 of the Courts and Judicial Proceedings Article was created by the Child Victims Act (CVA) of 2023 (Chapters 5 and 6 of 2023) and amendments enacted pursuant to Chapter 104. If the bill’s repeal of caps on plaintiffs’ attorney’s fees under § 5-117 incentivizes attorneys to pursue CVA cases and increases overall State payments (within statutory liability limits) in CVA cases due to increased attorney compensation in contingency fee arrangements, State expenditures (presumably general funds) increase for CVA payments due to increased filings against the State and overall settlement/judgment amounts in CVA cases. As noted above, the bill applies to CVA claims filed on or after June 1, 2025, and the bill may not impair *existing* obligations or contract rights in any way. This estimate assumes that despite the bill’s June 1, 2026 effective date, any State fiscal impact is not experienced until fiscal 2027 at the earliest.

The MTCA is a limited waiver of the State’s sovereign immunity for torts committed by State employees. The CVA is a separate waiver of the State’s sovereign immunity based SB 693/ Page 2

on criminal activity. The State Treasurer's Office (STO) handles MTCA claims and administers the State Insurance Trust Fund (SITF), from which MTCA claims are paid. STO advises that claims arising from child sexual abuse under the CVA are not covered under the MTCA because those acts are outside the State employee's scope of employment. However, tort actions *related* to sexual abuse by a State employee (*e.g.*, negligent hiring or retention) would be subject to MTCA.

The fee arrangements affected by the bill are contingency fee arrangements between plaintiffs and their attorneys. The caps repealed by the bill are identical to provisions independently contained in the MTCA, which are not repealed by the bill. STO has historically advised that the fees attorneys receive for MTCA claims are not awarded separately, are subject to the MTCA's liability limits, and are deducted from the settlement or judgment awarded to a plaintiff/claimant.

CVA claims are paid by the Board of Public Works. STO advises that a funding source has not been identified for CVA payments and existing litigation against the State has not progressed far enough to know how settlements and judgments in hybrid claims involving the CVA and MTCA will be apportioned. Since the bill preserves the cap on attorney's fees under the MTCA, this analysis assumes that the bill does not materially affect the finances or operations of STO and SITF.

The Office of the Attorney General (OAG) did not provide updated information regarding current CVA claims against the State. According to June 2025 news reports, attorneys estimate that 11,000 plaintiffs have sued under the CVA in State courts, and State officials indicate a potential liability of \$3.0 billion to \$4.0 billion. As noted above, lower liability limits took effect on June 1, 2025, and the bill applies to claims filed on or after that date. Many plaintiffs filed their claims before that date to ensure application of the higher liability limit.

OAG advises that if the MTCA's fee caps are construed not to apply to State cases, then the bill increases overall State expenditures for claims, which is difficult to quantify. Because the bill allows for higher contingency fee percentages in CVA cases, in order to pay victims a determined amount or reach a settlement amount that victims will accept, State payments likely increase to account for the higher percentage of settlements and judgment awards given to attorneys. OAG notes that it has seen representation agreements where lawyers receive 40% of the State's ultimate payment to the claimant.

Local Expenditures: For reasons similar to the ones stated above, the bill increases local expenditures for CVA claims and litigation costs for CVA claims. The estimate assumes that despite the bill's June 1, 2026 effective date, any local fiscal impact is not experienced until fiscal 2027 at the earliest.

Unlike the MTCA, neither the LGTCA nor provisions limiting the liability of local boards of education contain independent attorney's fees caps. However, similar to what STO indicated for attorney's fees under MTCA, the Maryland Association of Counties (MACo) has previously advised that contingency attorney fee arrangements in LGTCA claims are subject to the overall liability limits under the LGTCA. This estimate assumes that attorney's fees paid pursuant to contingency fee agreements between plaintiffs and their attorneys operate in a similar manner in CVA cases against local boards of education.

MACo did not respond to a request for information on the bill's impact on the finances and operations of local governments. In 2025, MACo noted 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.

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 members and is not backed by a third-party insurer or reinsurance. In 2025, the pool had 19 members and five of the State's largest school districts were not members of the pool.

MABE advises that there are over 100 CVA claims against boards of education pending statewide. According to MABE, removal of the attorney's fees caps may increase the number of CVA claims against school systems due to greater potential compensation for plaintiffs' counsel and increase litigation costs for local boards of education. MABE indicates that legal defense costs in CVA cases average between \$75,000 and \$200,000 per claim (excluding any settlement or judgment). These factors increase costs for school systems and place additional pressure on insurance reserves.

Small Business Effect: The bill has a meaningful effect on small business law firms that represent plaintiffs in CVA cases and, as a result of the bill, are willing to accept more cases and receive higher fees through contingency fee agreements.

Additional Information

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

Designated Cross File: None.

Information Source(s): Anne Arundel, Baltimore, and Frederick counties; Maryland Association of Counties; Office of the Attorney General; Maryland State Treasurer's Office; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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