

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 03/25/2019

POSITION: Oppose

BILL NUMBER: AB 218

AUTHOR: Gonzalez, Lorena

BILL SUMMARY: Damages: childhood sexual assault: statute of limitations.

This bill extends the time for commencing an action for recovery of damages suffered as a result of childhood sexual assault from 26 years of age to 40 years of age, or from 3 years from discovery of the injury to 5 years from discovery of the injury.

This bill also provides a three-year window in which expired childhood sexual assault claims can be revived, updates the terminology from sexual abuse to sexual assault, and provides enhanced damages for a person who is sexually assaulted as a child as the result of a cover up.

FISCAL SUMMARY

This bill could result in significant costs to state and local agencies to pay for judgment costs resulting from this bill. The update in terminology from "unlawful sexual conduct" to "misconduct that creates a risk of childhood sexual assault," the extension of the statute of limitations, the replacement of "and" with "or" that only requires one of two factors to be proven to move forward with a claim after the relevant limitations period, and the allowance of a three-year revival period of claims could greatly increase the amount of sexual assault claims against state and local agencies. The inclusion of treble damages in cases involving sexual assault as a result of a cover-up could also increase the costs of judgments.

To the extent that costs are increased for state agencies, this bill could create General Fund cost pressures to support these agencies. In addition, this bill is likely to create significant cost pressures for the state to provide resources to local educational agencies unable to absorb increased litigation and judgment costs that result from this bill. Given that many local education agencies self-insure for liability, an increase in child sexual abuse and molestation civil claims could create significant litigation and judgment costs in the hundreds of millions to low billions of dollars Proposition 98 General Fund statewide. To the extent that a significant judgment affects the fiscal stability of one or more local education agencies, the state might need to provide resources to stabilize affected local educational agencies.

To the extent that this bill results in additional civil actions, it could add to trial courts' caseload, which increases backlogs and could create a pressure on the General Fund to handle the increased caseload. However, we note that the courts do not typically receive funding on a workload basis; therefore, unless this particular caseload becomes significant and can be documented, it is likely to be absorbed.

COMMENTS

While the Department of Finance is sensitive to the bill's objectives, we oppose the bill because it could result in significant cost pressures in the millions to low billions of dollars of Proposition 98 General Fund to provide additional resources to stabilize local educational agencies that incur significant litigation and judgment costs. This bill could also result in significant costs to state agencies and local non-education agencies due to the increased amount and costs of judgments. To the extent that costs are increased for state agencies, this bill could create General Fund cost pressures to support these agencies.

Analyst/Principal (0212) E.Jungwirth	Date	Program Budget Manager Amy Jarvis	Date
Department Deputy Director		Date	
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

Gonzalez, Lorena

03/25/2019

AB 218

COMMENTS (continued)

Existing law provides that in an action for recovery of damages suffered as a result of childhood sexual abuse, the time for commencement of the action shall be before the plaintiff is 26 years old or within 3 years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse, whichever period expires later. This bill changes the terminology from sexual abuse to sexual assault and extends the time for commencing an action for recovery of damages suffered as a result of childhood sexual assault to 40 years of age or 5 years from discovery of the injury, as specified.

This bill provides that claims that would otherwise be barred as of January 1, 2020 because an applicable statute of limitations, claim presentation deadline, or any other time limit had expired, and that have not been litigated to finality, are explicitly revived for a three-year period or, if later, within the statute of limitations period established by the bill. This bill also provides that a person who is sexually assaulted as the result of a cover up may recover treble damages against a defendant who is found to have covered up the sexual assault of a minor.

AB 3120 (Gonzalez Fletcher) of 2018 was a similar bill that extended the time period that a victim of childhood sexual assault may commence an action for recovery of damages, updated the terminology from sexual abuse to sexual assault, provided for increased recovery of damages for certain victims of childhood sexual assault, and allowed for the revival of action commenced on or after the date of the bill's enactment. AB 3120 was vetoed.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year)						Fund Code
		PROP 98	FC	(Dollars in Thousands)				
				2019-2020 FC	2020-2021 FC	2021-2022		
6100/Dep of Educ	SO	No		-----	No/Minor Fiscal Impact	-----	0001	
6100/Dep of Educ	LA	Yes	C	-- C	-- C	--	0001	
9901/Var Depts	SO	No	C	-- C	-- C	--	0001	
0250/Jud Branch	LA	No		-----	No/Minor Fiscal Impact	-----	0932	
<u>Fund Code</u>		<u>Title</u>						
0001		General Fund						
0932		Trial Court Trust Fund						