

Legislative Analysis



EXTEND STATUTE OF LIMITATIONS FOR LAWSUITS AGAINST EMPLOYERS OF CHILD PREDATORS

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House Bill 5699

Sponsor: Rep. Deb Kennedy

Committee: Judiciary

Complete to 4-27-10

A SUMMARY OF HOUSE BILL 5699 AS INTRODUCED 12-15-09

The bill would establish the statute of limitations for lawsuits against individuals or businesses when an employee, volunteer, representative, or agent committed sexual criminal conduct against a minor.

The bill would amend the Revised Judicature Act (MCL 600.5838a and 600.5851) to extend the statute of limitations for certain civil suits involving criminal sexual conduct (CSC) against a minor. If the sexual conduct occurred when the individual was less than 18 years of age, the victim (or a person entitled to bring an action on the claim) would have two years after the bill's effective date **or** 30 years after reaching 18 years of age, whichever is later. This would apply regardless of whether the period of limitation had expired.

The extended statute of limitations would apply to situations in which an individual, partnership, corporation, association, governmental entity, or other legal entity could be sued for the actions of an employee, volunteer, representative, or agent (hereinafter "employee"). Under the bill, the extended statute of limitations would apply if the individual or entity knew, had reason to know, or had notice of previous sexual conduct by the employee **and** the employer or entity failed to take reasonable steps to avoid future acts of sexual conduct by the employee. Reasonable steps to avoid future acts of sexual conduct would include preventing or avoiding placement of the employee in a function or environment in which contact with children was an inherent part.

"Sexual conduct" would mean conduct proscribed by Section 520b (1st degree CSC), 520c (2nd degree CSC), 520d (3rd degree CSC), 520e (4th degree CSC) and 520g (assault with intent to commit CSC) regardless of whether the conduct was the subject of a criminal prosecution or whether the conduct could be proved beyond a reasonable doubt.

FISCAL IMPACT:

House Bill 5699 would presumably increase administrative and court costs for the judiciary due to the extension of the tolling of the statute of limitations. Despite the lengthening of the statute of limitations, the number of actions brought under the provision of the bill would likely be small. Moreover, many of the costs incurred by the judiciary (most likely at the local level) would be offset by the ability to charge parties to the action court costs.

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