

Date of Hearing: April 21, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 1455 (Wicks) – As Amended April 7, 2021

Policy Committee: Judiciary

Vote: 10 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill revives otherwise time-barred claims arising out of an alleged sexual assault by a law enforcement officer. Specifically, this bill:

- 1) Extends the statute of limitations for a claim arising out of an alleged sexual assault by a law enforcement officer, if the alleged assault occurred while the officer was employed by a law enforcement agency, to the later of either of the following dates:
 - a) Within 10 years after the date of judgment in a criminal case if the action arises out of the same set of operative facts as the criminal case brought against the officer.
 - b) Within 10 years after the law enforcement officer is no longer employed by the law enforcement agency that employed the officer when the alleged assault occurred.
- 2) Revives an otherwise time-barred claim arising out of an alleged sexual assault by a law enforcement officer if all of the following are true:
 - a) The alleged sexual assault occurred on or after the plaintiff's 18th birthday while the officer was employed by a law enforcement agency.
 - b) The claim has not been litigated to finality or compromised by an executed written settlement agreement.
 - c) The claim would otherwise be barred because the applicable statute of limitations, any state or local government claim presentation deadline, or any other applicable time limit has expired.
- 3) States a time-barred claim arising out of an alleged sexual assault by a law enforcement officer that satisfies the requirements of this bill may be commenced within either the following time periods:
 - a) Ten years from the date of the last act, attempted act, or assault with the intent to commit an act, of sexual assault against the plaintiff.

- b) Three years from the date the plaintiff discovers or reasonably should have discovered that an injury or illness resulted from an act, attempted act, or assault with the intent to commit an act, of sexual assault against the plaintiff.
- c) Exempts a claim arising out of an alleged sexual assault by a law enforcement officer if the alleged assault occurred while the officer was employed by a law enforcement agency from all state and local government claim presentation requirements.

FISCAL EFFECT:

Possible cost pressures in the hundreds of thousands of dollars annually (Trial Court Trust Fund/General Fund (GF)) to the trial courts in increased workload, given this bill would revive otherwise lapsed civil claims against peace officers or public entities employing peace officers where it is alleged a peace officer committed a sexual assault. The estimated cost of one eight-hour court day is approximately \$7,644. It unknown how many claims may be filed, however, if 50 cases otherwise time barred are filed in civil court requiring 48 total hours (six days) of workload, the cost would be approximately \$382,200. Although courts are not funded on the basis of workload, increased pressure on the courts and staff may create a need for increased funding for staff and infrastructure. This is particularly true given that courts have delayed hundreds of trials and civil motion during the COVID-19 pandemic resulting in a serious backlog that must be resolved.

COMMENTS:

- 1) **Purpose.** According to the author:

We should not require impossible-to-imagine bravery of women who have been sexually assaulted by law enforcement as a pre-condition to them seeking compensation for their life-altering trauma. Yet, that is the state of current law which can require already vulnerable and traumatized victims to sue based on the conduct of law enforcement while those officers are still on-duty.

- 2) **Background.** Existing law allows an adult victim of sexual assault to file a lawsuit against the alleged perpetrator within the later of the following two timeframes: within 10 years from the last occurrence of alleged assault or attempted assault, or within three years from the date when the plaintiff discovered, or reasonably should have discovered, the injury or damage suffered resulted from the assault or attempted assault. The bill modifies existing law by eliminating the claim presentation requirements in the Government Tort Claims Act, extending the statute of limitations for sexual assault committed by a law enforcement officer by allowing the victim to delay bringing the action until after the officer is no longer employed by the law enforcement agency and revives otherwise time-barred claims for sexual assault by a law enforcement officer.

As an example, if a person alleges a police officer committed a sexual assault while on duty but the police office remains on the force for another 25 years, the statute of limitations to file a civil claim would be extended by another 10 years for a period of 35 years after the

alleged assault. That amount of time with no notice to the public entity may make it almost impossible for a public entity to verify the allegations, offer early resolution of the allegations, or dispute the matter in court. As a result, costs to local and state agencies in litigation costs as a result of this bill may be significant.

3) Prior Legislation.

- a) AB 1619 (Berman), Chapter 939, Statutes of 2018, extends the statute of limitations for any civil action for recovery of damages suffered as a result of sexual assault to within ten years after the alleged assault.
- b) AB 3092 (Wicks), Chapter 246, Statutes of 2020, revives otherwise time-barred claims arising out of sexual assaults at medical clinics owned or operated by the University of California, Los Angeles (UCLA).

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