
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 2777 (Wicks) - Sexual assault: statute of limitations

Version: June 16, 2022

Urgency: No

Hearing Date: June 27, 2022

Policy Vote: JUD. 9 - 2

Mandate: No

Consultant: Matthew Fleming

Bill Summary: AB 2777 would revive claims for damages arising from sexual assault and other inappropriate conduct of a sexual nature that would otherwise be barred by the statute of limitations.

Fiscal Impact: Unknown, potentially-significant workload cost pressures to the courts to the extent that lawsuits are filed under the provisions of AB 2777 that otherwise would have been barred by the statute of limitations (Special Fund - Trial Court Trust Fund, General Fund). See Staff Comments for additional detail.

Background: A statute of limitations is a requirement to commence legal proceedings (either civil or criminal) within a specific period of time. Statutes of limitations are tailored to the cause of action at issue – for example, cases involving injury must be brought within two years from the date of injury, cases relating to written contracts must be brought four years from the date the contract was broken, and there is no statute of limitations for murder. Although it may appear unfair to bar actions after the statute of limitations has elapsed, that limitations period serves important policy goals that help to preserve both the integrity of our legal system and the due process rights of individuals.

In 2018, AB 1619 (Berman, Ch. 939, Stats. 2018) added Section 340.16 to the Code of Civil Procedure expanding the statute of limitations for recovery of damages suffered by an adult as a result of sexual assault. Prior to AB 1619, the default statute of limitations applicable to such claims was two years. Section 340.16 now provides that a case seeking damages suffered as a result of sexual assault, as defined, where the assault occurred when the plaintiff was 18 years of age or older, must be brought by the later of 10 years from the date of the last incident of sexual assault, or within three years that the plaintiff discovers or reasonably should have discovered that an injury or illness resulted from an incidence of sexual assault. When AB 1619 went into effect on January 1, 2019, it extended the clock for all relevant claims that had not already expired, those dating back less than two years from that date. Therefore, even though the new limitations period was ten years, those claims that accrued more than two years before the effective date of the new law did not reap the benefit of the extension.

This bill would revive claims based upon conduct that occurred on or after January 1, 2009, and that are commenced on or after January 1, 2019, that would have been barred solely because the applicable statute of limitations has or had expired. This functions to revive actions that could have been brought if AB 1619 had applied its 10-year statute of limitations retroactively. The revival period would last until December 31, 2026.

Proposed Law:

- Revives any action or causes of action for sexual assault that is commenced on or after January 1, 2019, where the assault occurred on or after January 1, 2009 when the plaintiff was an adult that would have been barred solely because the applicable statute of limitations has expired.
- Provides that the revival period extends until December 31, 2026.
- Provides that any claim seeking to recover damages suffered as a result of a sexual assault or other inappropriate conduct, communication, or activity of a sexual nature and any related claims that would otherwise be barred before January 1, 2023, solely because the applicable statute of limitations has or had expired, is revived for a one-year period if the plaintiff alleges the following:
 - The plaintiff was sexually assaulted or was subjected to other inappropriate conduct, communication, or activity of a sexual nature;
 - One or more entities are legally responsible for damages arising out of the misconduct; and
 - The entity or entities, including, but not limited to, their officers, directors, representatives, employees, or agents, engaged in a cover up or attempted a cover up of a previous instance or allegations of sexual assault or other inappropriate conduct, communication, or activity of a sexual nature by an alleged perpetrator of such abuse.
- Provides that these revival provisions do not apply to claims that have been litigated to finality in a court of competent jurisdiction or compromised by a written settlement agreement between the parties entered into before January 1, 2023.

Related Legislation: AB 1619 (Berman, Ch. 939, Stats. 2018) extended the statute of limitations for any civil action for recovery of damages resulting from sexual assault.

Staff Comments: It is unknown how many additional lawsuits would be brought as a result of relaxing the statute of limitations, which this bill proposes. However, it generally costs about \$8,000 to operate a courtroom for one eight-hour day. Consequently, if plaintiffs filed claims under the provisions of this measure, that otherwise would be barred under existing law, and combined, those additional cases take 50 or more hours of court involvement, the cost pressures of this measure to the courts would surpass the Suspense File threshold.

Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties. Numerous trial court operations are funded through the imposition and collection of criminal fines and fees. However, the Legislature has reduced and eliminated criminal fines and fees over the past five years. As a result, the Governor's proposed 2022-23 budget anticipates annual allocations of \$117.8 million and \$13.4 million of General Fund backfill in order to address declining revenue to the Trial Court Trust Fund.