

Date of Hearing: July 7, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

SB 501 (Wieckowski) – As Amended May 20, 2021

Policy Committee: Judiciary

Vote: 11 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: Yes

SUMMARY:

This bill extends the conditions upon which an injured party who is either a minor or physically or mentally incapacitated is entitled to have their untimely claims for damages against a public entity granted. Specifically, this bill:

- 1) Requires an application for an untimely claim against a public entity be granted where the person who sustained the alleged injury, damage, or loss was a minor during any of the statutory timeframe for the presentation of the claim, provided the application is presented within six months of the person turning 18 years of age or a year after the claim accrues, whichever occurs first.
- 2) Requires an application for an untimely claim against a public entity be granted where the person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during any of the statutory timeframe for the presentation of the claim and by reason of that disability failed to present a claim during that time, provided the application is presented within six months of the person no longer being physically or mentally incapacitated, or a year after the claim accrues, whichever occurs first.

FISCAL EFFECT:

Cost pressures (General Fund (GF)) possibly in excess of \$150,000 across all state agencies to pay damages related to otherwise barred claims. Existing law provides a public entity is not liable for injury if a claim for damages is not presented to the public entity within six months of the injury. In some circumstances, a person may make a written application to a public entity to file an untimely claim so long as it is within one year of the injury. This bill grants a minor or a physically or mentally incapacitated person the right to file an untimely claim in specific circumstances. Actual costs will depend on how many applications for untimely claims are filed as a result of this bill and the amount of damages a state agency may have to pay as a result of a claim that would otherwise be barred.

COMMENTS:

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

This bill creates an extension to the deadline to file a claim if the claimant was a minor or incapacitated for less than six months after the incident. If they were a minor for three months after the

event, the deadline to file is extended by three months. If it is one day under six months, it is extended by six months minus one day. This will ensure that fewer people run out the clock on their claims by giving more people a solid six months to file once they turn 18 or regain their capacity.

- 2) **Government Tort Claims Act (GTCA).** The GTCA governs proper notice to public entities where existing law allows a public entity to be sued for alleged injury, loss or damages. A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or of a public employee or any other person, except as otherwise provided by statute. However, the Government Code specifically provides that a “public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment” if the conduct would have otherwise given rise to a cause of action against that employee. The GTCA requires that a claim that is brought against a public entity relating to a cause of action for death or for injury to a person be presented in writing to the public entity not later than six months after accrual of the cause or causes of action.

However, the GTCA allows for a person to file a written application to submit an untimely claim against the public entity. The application requesting leave to file a late claim must still be submitted “within a reasonable time not to exceed one year after the accrual of the cause of action.” This one-year period is subject to various exceptions whereby the time is tolled. The purpose of the GTCA is give a public entity the opportunity to resolve a claim for damages before litigation. This bill allows for minors and people who are physically or mentally incapacitated the opportunity to file an untimely application within a specified timeframe expanding the universe of possible claims against state agencies that may result in payment of damages.

- 3) **Argument in Support.** According to the Conference of California Bar Association:

SB 501 will help ensure justice in government claims by ensuring those who are minors or incapacitated after a claim accrues, but for less than six months, will get an extension on their filing deadline based on how long they are minors or incapacitated.

Analysis Prepared by: Kimberly Horiuchi / APPR. / (916) 319-2081