
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2023 - 2024 Regular Session

AB 2587 (Aguiar-Curry) - Sexual assault: statute of limitations

Version: June 20, 2024

Urgency: No

Hearing Date: July 1, 2024

Policy Vote: JUD. 9 - 0

Mandate: No

Consultant: Liah Burnley

Bill Summary: AB 2587 would revive, for two years, the statute of limitations on civil claims of sexual assault brought against an entity, for claims that are otherwise time-barred if they meet qualifying criteria.

Fiscal Impact:

- Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts to adjudicate cases that are time-barred by the current statute of limitation, but may be brought during the two-year revival period. Although this bill revives only one type of sexual assault claim, the short duration of the revival period could result in a large number of cases being filed in a short period of time. A significant increase in workload to the courts could result in delays of court services and prioritization of court cases might impact access to justice, and would put pressure on the General Fund to fund additional staff and resources. The Governor's 2024-25 budget proposes \$83.1 million ongoing from the General Fund to backfill declining revenue to the Trial Court Trust Fund.
- Significant cost (local funds, General Funds) potentiality in the billions collectively to state and local agencies due to settlements and judgments that must be paid out as result of claims that are successfully brought by plaintiffs that would have otherwise been barred by the existing statute of limitations. Such cost pressures would be exacerbated by a large number of potential settlements and judgments that would have to be paid in a short window of time. Additionally, to the extent an extended statute of limitations affects liability insurance premiums, state and local entities could experience unknown, potentially-significant costs related to procuring liability insurance, apart from any specific claims. (See staff comments.)

Background: Statutes of limitations dictate the time period within which a legal proceeding must begin. A case will typically be dismissed if it is not brought before the statute of limitation expires. Statutes of limitations play a critical role in ensuring that justice is timely served. They encourage plaintiffs to gather their evidence early and to bring their cases to court promptly, thereby preventing any delays and inaccuracies that arise due to the destruction of evidence, fading memories, and the passing away of witnesses. Statutes of limitations also prevent the unexpected enforcement of stale claims "concerning which persons interested have been thrown off their guard by want of prosecution." (*Pashley v. Pacific Elec. Co.* (1944) 25 Cal. 2d 226, 228-29.)

One of the underlying purposes of statutes of limitation is to prevent the unexpected enforcement of stale claims concerning which persons interested have been thrown off their guard by want of prosecution. When statutes of limitations are too long or are uncertain (for example, when an expired limitations period is arbitrarily revived by the Legislature) commercial and other activities become encumbered by the looming threat of litigation.

The limitations period serves important policy goals that help to preserve both the integrity of our legal system and the due process rights of individuals. “These statutes are declared to be ‘among the most beneficial to be found in our books. They rest upon sound policy, and tend to the peace and welfare of society.’” (*Ibid.*)

Unless there is a statute providing otherwise, the time for bringing a civil action is two years after the injury occurs or, depending upon the type of injury, two years after the plaintiff discovered, or reasonably should have discovered, the injury. The Legislature has previously extended the statute of limitations for civil cases involving sexual assault, and has authorized revival periods that allow a plaintiff to bring a case that would otherwise be barred by the statute of limitations. Most recently, in 2022, the Legislature passed AB 2777 (Wicks), Chapter 442, Statutes of 2022, which authorized a one-year revival period that allowed plaintiffs to file specified claims of sexual assault that would otherwise be time-barred by the existing statute of limitations.

Proposed Law: This bill revives, from January 1, 2025, to December 31, 2026, a claim that is time-barred as of January 1, 2025, solely because of the statute of limitations and allows it to be filed, if the claim is filed by a plaintiff who alleges they were sexually assaulted and one of the following conditions is met:

- One or more entities or persons, including the perpetrator of the sexual assault, are legally responsible for damages arising out of sexual assault by an alleged perpetrator against the plaintiff; or,
- An 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 by an alleged perpetrator of such abuse.

Staff Comments: This bill would revive claims against “entities” “legally responsible for damages arising out of sexual assault” including but not limited to their “representatives, employees, or agents.” The statute amended by this bill defines “entity” as a “sole proprietorship, partnership, limited liability company, corporation, association, **or other legal entity**.” State and local agencies are legal entities that can be sued. Thus, this bill would result in significant state costs to the extent state agencies must litigate claims revived by this bill.

For example, AB 218 (Gonzales), Chapter 861, Statutes of 2019, revived specified claims for childhood sex assault for a three-year period. That bill opened floodgates to litigation. Los Angeles County has reported thousands of claims filed against it, which specifically cite the revived statute of limitations. Los Angeles County reports that it is

facing settlements for billions of dollars. AB 218 was more limited than this bill as it only applied to childhood sexual assault. Accordingly, to the extent this bill revives all claims of sexual assault, this bill could result in significant fiscal impacts to state and local agencies.

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