

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

AB 2693 (Wicks)  
Version: April 3, 2024  
Hearing Date: June 18, 2024  
Fiscal: No  
Urgency: No  
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**SUBJECT**

Childhood sexual assault: statute of limitations

**DIGEST**

This bill revives otherwise expired claims for damages suffered as a result of childhood sexual assault by an employee of a juvenile probation camp or detention facility owned and operated by a county.

**EXECUTIVE SUMMARY**

The past decades have brought waves of revelations of long covered up sexual abuse by major institutions in this country, from the Catholic Church to United States Gymnastics to the Boy Scouts. California has repeatedly bolstered its law providing a cause of action for damages suffered as a result of childhood sexual assault. This has involved expanding the conduct that is included, extending the relevant statute of limitations, eliminating that statute of limitations, and providing revival periods for expired claims.

Many of these changes reveal an appreciation for the especially acute trauma child survivors of this sexual assault experience. Scientific research and studies make clear that many victims of these crimes repress memories of their assault or are incredibly fearful of reporting it. It is therefore not surprising that childhood sexual assault is grossly underreported. Making matters worse, many of the institutions where the crimes have occurred have played a role in covering up the sexual assaults and failing to prevent further damage.

This author-sponsored bill addresses well-documented abuse in county probation camps and detention facilities for children by reviving claims for childhood sexual assault committed by employees of these facilities and bypassing the attendant government claims presentation timelines. The bill is supported by a variety of groups, including Initiate Justice. No timely opposition was received by the Committee.

**PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Provides that in an action for recovery of damages suffered as a result of childhood sexual assault, there is no time limit for the commencement of any of the following actions:
  - a) an action against any person for committing an act of childhood sexual assault;
  - b) an action for liability against any person or entity who owed a duty of care to the plaintiff, if a wrongful or negligent act by that person or entity was a legal cause of the childhood sexual assault that resulted in the injury to the plaintiff; or
  - c) an action for liability against any person or entity if an intentional act by that person or entity was a legal cause of the childhood sexual assault that resulted in the injury to the plaintiff. (Code Civ. Proc. § 340.1(a).)
- 2) Authorizes a person who is sexually assaulted and proves it was the result of a cover up to recover up to treble damages against a defendant who is found to have covered up the sexual assault of a minor, unless prohibited by another law. (Code Civ. Proc. § 340.1(b).)
- 3) Provides that claims pursuant to Section 340.1 are not required to be presented to any government entity prior to the commencement of an action. (Code Civ. Proc. § 340.1(q).)
- 4) Provides that, except as specified, a public entity is not liable for an injury proximately caused by or to any prisoner or patient in a mental institution. (Gov. Code §§ 844.6, 854.8.)

This bill:

- 1) Provides that, notwithstanding any other law, an action for recovery of the types described in Section 340.1 for damages suffered as a result of childhood sexual assault by an employee of a juvenile probation camp or detention facility owned and operated by a county at the time the childhood sexual assault occurred, that would otherwise be barred as of January 1, 2025, because the applicable statute of limitations, claim presentation deadline, or any other time limit had expired, is hereby revived, and a cause of action may proceed if commenced by December 31, 2025.
- 2) Provides that the above revival does not apply to a claim that has been litigated to finality or that has been compromised by a written settlement agreement between the parties entered into before January 1, 2025.

- 3) Exempts the above revived claims from claims presentation requirements and public entity immunity provisions.

### COMMENTS

#### 1. Background on laws governing childhood sexual assault

In 2002, the Legislature enacted SB 1779 (Burton, Ch. 149, Stats. 2002), to provide that an action for recovery of damages suffered as a result of childhood sexual abuse may be commenced on or after the plaintiff's 26th birthday if the third party defendant person or entity knew, had reason to know, or was otherwise on notice, of any unlawful sexual conduct by an employee, volunteer, representative, or agent, and failed to take reasonable steps and implement reasonable safeguards to avoid future acts of unlawful sexual conduct. (Code Civ. Proc. § 340.1(b)(2).) SB 1779 also enacted Section 340.1(c) to allow a claim under Section 340.1(b)(2) to be brought within a one-year window, January 1, 2003, to December 31, 2003, even if that claim would otherwise be time barred as of January 1, 2003, because of an applicable statute of limitations.

The Government Tort Claims Act (the Act) generally governs damage claims brought against public entities. (Gov. Code § 815 et seq.) In addition to any time limitations placed by other statutes on such claims, the Act 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. (Gov. Code § 911.2.)

In *Shirk v. Vista Unified School District* (2007) 42 Cal.4th 201, the California Supreme Court held that, notwithstanding Section 340.1, a timely claim to a public entity pursuant to the Act is a prerequisite to maintaining an action for childhood sexual abuse against a public entity school district. The Court based its holding primarily on its finding that nothing in the express language of SB 1779 or the bill's legislative history indicated an intent by the Legislature to exempt Section 340.1 claims from the Act and its six-month claim presentation requirement. Essentially, many claims for childhood sexual abuse against a public entity could not benefit from the change to Section 340.1 because the six-month presentation requirement for such claims was not addressed by SB 1779.

To address this loophole for childhood sexual abuse claims against public entities, SB 640 (Simitian, Ch. 383, Stats. of 2008) was enacted into law. It added an explicit exception to the claims presentation requirements to Section 905 of the Act for "[c]laims made pursuant to Section 340.1 of the Code of Civil Procedure for the recovery of damages suffered as a result of childhood sexual abuse." (Gov. Code § 905(m).) Section 905(m) applied to claims arising out of conduct occurring on or after January 1, 2009.

Despite this additional legislation making it clear the Legislature intended Section 340.1 to apply to claims against local public entities, numerous public entities, including

school districts, were using another statute, Section 935 of the Government Code, to circumvent and undermine SB 640 and Section 905(m) of the Government Code. These public entities were attempting to defeat lawsuits alleging claims of childhood sexual abuse based on claims-presentations requirements the local public entities have set in their own charter, ordinance, or regulation.

To address this issue, SB 1053 (Beall, Ch. 153, Stats. 2018) provided that the procedures authorized to be prescribed by Section 935 relating to claims for money or damages against local public entities do not apply to claims of childhood sexual abuse made as described in Section 905(m). SB 1053 thereafter effectuated the intent of the Legislature in enacting SB 640, thereby ensuring the delayed discovery provisions in Section 340.1 apply to all childhood sexual abuse claims against local public entities.

These bills exempted claims for childhood sexual assault from claims presentation requirements pursuant to the Act, but only as against local public entities. AB 2959 (Committee on Judiciary, Ch. 444, Stats. 2022) took the next step and provided that claims for childhood sexual assault are not required to be presented to any governmental entity prior to the commencement of an action. Just last year, AB 452 (Addis, Ch. 655, Stats. 2023) amended Section 340.1 to completely eliminate the statute of limitations that applies to childhood sexual assault claims. This change applied prospectively to actions arising on and after January 1, 2024.

## 2. Childhood sexual assault: statute of limitations and revival of expired claims

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, as commonly referenced in the media, 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.

For example, one significant reason that a limitations period is necessary in many cases is that evidence may disappear over time – paperwork gets lost, witnesses forget details or pass away, and physical locations that may be critical to a case change over time. Limitations periods also promote finality by encouraging an individual who has been wronged to bring an action sooner rather than later – timely actions arguably ensure that the greatest amount of evidence is available to all parties.

In general, California law requires all civil actions be commenced within applicable statutes of limitations. (Code Civ. Proc. § 312.) Under existing law, the general statute of limitations in California to bring an action for assault, battery, or injury to, or for the

death of, an individual caused by the wrongful act or neglect of another, is two years. (Code Civ. Proc. § 335.1)

This bill responds to claims related to widespread sexual abuse and assault at county juvenile camps and detention facilities:

For five decades, boys and girls in Los Angeles County juvenile camps and detention halls have suffered repeated sexual assaults at the hands of probation and detention officers, according to a lawsuit filed by nearly 300 former detainees.

Page after page of the 359-page lawsuit filed Dec. 20 details allegations of systemic failures and horrific scenes of sexual abuse that lawyers say went unchecked by the L.A. County Probation Department, which operates the camps and halls.

Attorneys for the 279 plaintiffs say some of the boys and girls were victimized by more than one officer, and some officers are accused of being serial abusers, repeatedly finding new victims among those sent to the facilities over the years.

The lawsuit states that not only were the plaintiffs minors, but they also were incarcerated, which marks the abuse under the “color of authority.”

The alleged assaults, dating from the 1970s through 2018, spanned a wide swath of L.A. County’s once-vast and now mostly closed juvenile hall system, including Camp Scott and Camp Kenyon Scudder – girls facilities; the Challenger Memorial Youth Center; and the Los Padrinos, Central and Barry J. Nidorf juvenile halls.

County officials did not immediately respond to requests for comment.<sup>1</sup>

Among other things, AB 218 (Gonzalez, Ch. 861, Stats. 2019) provided a three-year window in which expired childhood sexual assault claims were revived. Many of the victims of these facilities were able to take advantage of this revival period even though their claims had expired. However, many survivors of this alleged systematic abuse were not able to take advantage of that window. As stated, there is currently no statute of limitations period for childhood sexual assault claims, but these expired claims do not benefit from that prospective change.

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<sup>1</sup> Richard Winton, *Nearly 300 sue over alleged sexual abuse at L.A. County juvenile halls and camps* (December 27, 2022) Los Angeles Times, <https://www.latimes.com/california/story/2022-12-27/hundreds-sue-alleging-sexual-abuse-at-l-a-juvenile-halls>. All internet citations are current as of June 5, 2024.

This bill provides that actions for the types of claims provided for in Section 340.1(a) for damages suffered as a result of childhood sexual assault by an employee of a juvenile probation camp or detention facility owned and operated by a county that would otherwise be barred as of January 1, 2025, because an applicable statute of limitations, claim presentation deadline, or any other time limit had expired, is explicitly revived by the bill. The bill creates a one-year window in which such claims can be brought. As with previous revival periods, this does not apply to claims litigated to finality or compromised by a written settlement before 2025. Given that the section newly created by the bill does not specify that the damages provided for in Section 340.1 are also available, it is unlikely that the treble damages specified in Section 340.1(b) are recoverable in connection with these revived claims.<sup>2</sup>

The California Supreme Court has squarely addressed the modification of statutes of limitations and the revival of stale claims:

The Legislature has authority to establish – and to enlarge – limitations periods. . . . [H]owever, legislative enlargement of a limitations period does not revive lapsed claims in the absence of express language of revival. This rule of construction grows out of an understanding of the difference between prospective and retroactive application of statutes. . . . As long as the former limitations period has not expired, an enlarged limitations period ordinarily applies and is said to apply prospectively to govern cases that are pending when, or instituted after, the enactment took effect. This is true even though the underlying conduct that is the subject of the litigation occurred prior to the new enactment. . . . However, when it comes to applying amendments that enlarge the limitations period to claims as to which the limitations period has expired before the amendment became law – that is, claims that have lapsed – the analysis is different. Once a claim has lapsed (under the formerly applicable statute of limitations), revival of the claim is seen as a retroactive application of the law under an enlarged statute of limitations. Lapsed claims will not be considered revived without express language of revival.<sup>3</sup>

The court continues, specifically addressing the policy reasons against revival:

“The reason for this rule is a judicial perception of unfairness in reviving a cause after the prospective defendant has assumed its expiration and has conducted his affairs accordingly.” As one court commented, “a statute of limitations grants prospective defendants relief from the burdens of indefinite exposure to stale claims. By reviving lapsed claims, the Legislature may appear to renege on this promise. As Judge [Learned] Hand wrote, there may be something ‘unfair and dishonest’ in after-the-fact withdrawal of this legislative assurance of safety.” Individuals, as well

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<sup>2</sup> See *K.M. v. Grossmont Union High Sch. Dist.* (2022) 84 Cal. App. 5th 717, 738 (finding that reference to claims encompassed in Section 340.1(a) does not “necessarily encompass[]” damages provision in Section 340.1(b)).

<sup>3</sup> *Quarry v. Doe I (Quarry)* (2012) 53 Cal.4th 945, 955-957, internal citations omitted.

as businesses and other enterprises ordinarily rely upon the running of the limitations period: “The keeping of records, the maintenance of reserves, and the commitment of funds may all be affected by such reliance . . . . To defeat such reliance . . . deprives [enterprises] of the ability to plan intelligently with respect to stale and apparently abandoned claims.”<sup>4</sup>

The California Supreme Court thus makes the case against reviving claims that have expired, highlighting the principle that such revival, while within the Legislature’s power, should not be provided lightly. (See also *Chase Sec. Corp. v. Donaldson* (1945) 325 U.S. 304, 314 [finding statutes of limitations are “good only by legislative grace and to be subject to a relatively large degree of legislative control”]; *Liebig v. Superior Court* (1989) 209 Cal. App. 3d 828, 831-834; *Lent v. Doe* (1995) 40 Cal.App.4th 1177, 1181 [finding the Legislature has the power to revive causes of action].) The courts have made clear that important state interests must be at stake to justify such a disruption of the law.

According to research on the trauma of child sexual abuse:

Childhood sexual trauma can have a profoundly devastating effect upon the victim. Some individuals appear to be relatively asymptomatic while others can be greatly affected. Sexual trauma can impact many of the normal developmental processes of childhood; typically exhibited by emotional or behavioral features that show distress. Victims of child sexual abuse attempt numerous efforts to psychologically escape from the abuse (e.g. avoidance, attempts at memory repression, distraction, addictive behaviors) and cognitive efforts at coping (e.g. cognitive reappraisal, reframing, minimization, and working through the abuse, among others).

Childhood sexual abuse has been correlated with higher levels of depression, guilt, shame, self-blame, eating disorders, somatic concerns, anxiety, dissociative patterns, repression, denial, sexual problems, relationship problems and trauma.<sup>5</sup>

Given the horrific damage and life-long trauma that can be caused by childhood sexual assault, these claims are arguably worthy of such revival, despite the general disregard for doing so. In fact, one of the only examples found where claims have been revived is in this context.

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<sup>4</sup> *Id.* at 958, internal citations omitted.)

<sup>5</sup> Allison N Sinanan, Trauma and Treatment of Child Sexual Abuse (October 9, 2015) *Journal of Trauma & Treatment*, <https://www.hilarispublisher.com/open-access/trauma-and-treatment-of-child-sexual-abuse-2167-1222-S4-024.pdf>.

According to the author:

This narrowly tailored bill will [bring] justice to a group of particularly vulnerable children who endured sexual assault while held in county juvenile probation camps or detention facilities. The need for this bill was starkly illustrated by a series of articles in the Los Angeles Times in 2022 and most recent in April by ABC national news. Many of the victims identified in the stories were able to use the three-year revival window created by AB 218 by joining lawsuits filed before the window closed, but many did not meet this deadline. AB 2693 will open up the window again for one year and give these victims of childhood sexual assault by an employee of a juvenile probation camp or detention facility owned and operated by a county the ability to file a claim. With this extension, these survivors will have an opportunity to seek justice in court by the end of 2025.

Writing in support, Smart Justice California explains the need for the bill:

The existing statute of limitations for childhood sexual assault requires that victims file actions for damages by the age of 40 or within five years of the date the victim discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual assault. Unfortunately, many victims who endured abuse at these facilities have been turned away when seeking legal representation because the statute of limitations for individual cases has expired. In 2019, former Assemblymember Lorena Gonzalez championed AB 218 which provided a three-year extension to the statute of limitations for civil childhood sexual assault cases that had expired. With the extension provided in AB 218 expiring January 1, 2023, additional time is needed so victims have a chance to come forward and report their abuse.

### **SUPPORT**

Smart Justice California

### **OPPOSITION**

None received

### **RELATED LEGISLATION**

Pending Legislation: AB 2587 (Aguiar-Curry, 2024) revives otherwise time-barred claims for damages arising from sexual assault and related claims arising out of the



sexual assault against the perpetrator and any entities responsible, as specified. AB 2587 is currently in this Committee.

Prior Legislation:

AB 452 (Addis, Ch. 655, Stats. 2023) *See Comment 1.*

AB 1547 (McKinnor, 2023) attempted a nearly identical revival to this bill. AB 1547 died in the Assembly Appropriations Committee.

AB 2959 (Committee on Judiciary, Ch. 444, Stats. 2022) *See Comment 1.*

AB 1455 (Wicks, Ch. 595, Stats. 2021) amended the statute of limitations for seeking damages arising out of a sexual assault committed by a law enforcement officer, eliminated the claim presentation requirements for such claims, and revived such claims that would otherwise be barred by the existing statute of limitations.

AB 218 (Gonzalez, Ch. 861, Stats. 2019) *See Comment 2.*

SB 1053 (Beall, Ch. 153, Stats. 2018) *See Comment 1.*

SB 640 (Simitian, Ch. 383, Stats. 2008) *See Comment 1.*

SB 1779 (Burton, Ch. 149, Stats. 2002) *See Comment 1.*

**PRIOR VOTES:**

Assembly Floor (Ayes 70, Noes 0)  
Assembly Appropriations Committee (Ayes 15, Noes 0)  
Assembly Judiciary Committee (Ayes 11, Noes 0)

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