SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 577 (Laird)
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Fiscal: No
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SUBJECT

Civil actions

DIGEST

This bill makes several changes to relevant law to mitigate the fiscal impact of childhood sexual assault claims against public entities, including limitations on refiling actions, recovery of defense costs, and flexibility in issuing financing bonds.

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 of America. 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, 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, including many public institutions, where the crimes have occurred have played a role in covering up the sexual assaults and failing to prevent further damage.

Given the scope of this conduct, the resulting claims have severely strained the fiscal strength of many public institutions in California, including many school districts. This bill, based partially on a report called for by the Legislature, enacts measures to provide increased flexibility for funding claims, increased eligibility for defense cost recovery, and limitations on refiling certain actions, with a goal of finding the right balance between financial solvency and protecting victims' rights. This bill is author-sponsored.

It is supported by the County of Monterey. No timely opposition was received by the Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

1) Provides that there is no time limit for the commencement of any of the following actions for recovery of damages suffered as a result of childhood sexual assault:
    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) ("Section 340.1").)

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 the above applies to any claim in which the childhood sexual assault occurred on and after January 1, 2024. Notwithstanding any other law, a claim for damages based on the specified conduct in which the childhood sexual assault occurred on or before December 31, 2023 may only be commenced pursuant to the applicable statute of limitations set forth in existing law as it read on December 31, 2023. (Code Civ. Proc. § 340.1(p).)

4) Revives, notwithstanding any other provision of law, any above claim for damages that has not been litigated to finality and that would otherwise be barred as of January 1, 2020, because the applicable statute of limitations, claim presentation deadline, or any other time limit had expired, and permits these claims to be commenced within three years of January 1, 2020. (*Previous* Code Civ. Proc. § 340.1(q).)

5) 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).)

6) Specifies the time frame for commencing actions for recovery of damages suffered as a result of childhood sexual assault that occurred before January 1, 2024. (Code Civ. Proc. § 340.11.)

7) Defines "sexual conduct" to mean any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition of the genitals or pubic or rectal area for the purpose of sexual stimulation of the viewer, any lewd or lascivious sexual act as defined in Section 288 of the Penal Code, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being sexual conduct. (Pen. Code § 311.4(d).)

8) Establishes the County Office Fiscal Crisis and Management Assistance Team and charges it with, among other things, providing fiscal management assistance and training. (Educ. Code § 42127.8.)

9) Permits a defendant or a cross-defendant in a civil proceeding under the Government Claims Act, or in any civil action for indemnity or contribution, to seek from the court, at the time of the granting of a motion for summary judgment, directed verdict, motion for judgment in a nonjury trial, or nonsuit dismissing the moving party other than the plaintiff, petitioner, cross-complainant, or intervenor, a determination as to whether the plaintiff, petitioner, cross-complainant, or intervenor brought their proceeding in good faith and with reasonable cause. If the court finds the action was not brought in good faith or with reasonable cause, it must determine and award the reasonable and necessary defense costs incurred by the party opposing the proceeding and to render judgment in favor of that party. (Code Civ. Proc. § 1038.)

10) Defines "defense costs" for purposes of the above to include reasonable attorney's fees, expert witness fees, the expense of services of experts, advisers, and consultants in defense of the proceeding, and where reasonably and necessarily incurred in defending the proceeding. (Code Civ. Proc. § 1038(b).)

11) Provides that specified bonds, warrants, contracts, obligations, and evidences of indebtedness shall be deemed to be in existence upon their authorization. Bonds and warrants shall be deemed authorized as of the date of adoption by the governing body of the public agency of a resolution or ordinance authorizing their issuance, and contracts shall be deemed authorized as of the date of adoption by the governing body of the public agency of a resolution or ordinance approving the contract and authorizing its execution. (Code Civ. Proc. § 864.)

This bill:

1) Adds objections by demurrer to the list of eligible motions for seeking defense costs in Government Claims Act actions.

2) Prohibits refiling any action filed pursuant to subparagraphs (2) or (3) of subdivision (a) of Section 340.1 which results in a dismissal without prejudice if five years or more have passed from the original filing date of such action.

3) Provides that, for purposes of determining the validity of any issuance or proposed issuance of refunding bonds, as specified, to refund one or more tort action judgments entered against one or more public agencies by one or more California state or federal courts, and the legality and validity of all proceedings taken or proposed to be taken in a resolution or ordinance adopted by the public agency for the authorization, issuance, sale, and delivery of the bonds, for entering into any credit reimbursement or other agreement in connection therewith, for the use of the proceeds of the bonds, and for the payment of principal and interest on the bonds, each tort action judgment and the related refunding bonds, credit reimbursement or other agreement shall be deemed to be in existence as of the date of adoption by the governing body of the public agency of such resolution or ordinance, without regard to when the tort actions are filed or final judgments therein are entered by the court, at one time or from time to time, if all of the following conditions are satisfied:
    a) The judgments to be covered by the action under this chapter are entered by the applicable court or courts not later than a final date set forth in such resolution or ordinance.
    b) The public agency agrees in such resolution or ordinance that all judgments refunded with the proceeds of the bonds are final and not subject to appeal or further appeal, as applicable.
    c) The aggregate amount of judgments to be covered by the action brought under this chapter shall not exceed an amount set forth in such resolution or ordinance.
    d) No judgment will be refunded before it is entered by the court against the public agency.

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.

2. Childhood sexual assault: statute of limitations and scope

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)

Previously, certain actions for childhood sexual abuse were required to be commenced within eight years of the date the plaintiff attains the age of majority or within three years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse, whichever period expires later.

AB 218 (Gonzalez, Ch. 861, Stats. 2019) extended the time for commencement of actions for childhood sexual assault to 40 years of age or five years from discovery of the injury; provided enhanced damages for a cover up, as defined, of the assault; and provided a three-year window in which expired claims are revived.

This lengthy limitations period in California applied to actions against:

- the person alleged to have committed the childhood sexual assault;
- any person or entity who owed a duty of care to the plaintiff, where a wrongful or negligent act by that person or entity was a legal cause of the childhood sexual assault which resulted in the injury to the plaintiff; and
- any person or entity where an intentional act by that person or entity was a legal cause of the childhood sexual assault which resulted in the injury to the plaintiff.

AB 218 also replaced "childhood sexual abuse" throughout the statute with "childhood sexual assault." The main difference in the relevant definition was the addition of "any sexual conduct" as defined in Penal Code Section 311.4(d)(1). That definition includes certain sexual acts or displays, whether actual or simulated. (Pen. Code § 311.4.) This change increased the conduct to which the extended limitations period and the enhanced damages apply.

Last session, 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 applies prospectively to actions arising on and after January 1, 2024. That same year, SB 558 (Rubio, Ch. 877, Stats. 2023) replicated the then-existing civil statute of limitations applicable to childhood sexual assault claims in a new statute, Section 340.11 of the Code of Civil Procedure, that applies only to those acts of sexual assault that occur before January 1, 2024. It adds violations of specified Penal Code provisions involving childhood sexual abuse material (CSAM) to the definition of childhood sexual assault, but only those occurring before January 1, 2024, and extends the limitations period applying to specified claims involving CSAM occurring before that date.

A number of states have no specific limitations period applying to child sexual abuse, including Colorado and Delaware. Maine does not even apply limits to when actions based upon sexual acts toward minors may be brought. During his administration, President Biden signed the "Eliminating Limits to Justice for Child Sex Abuse Victims Act of 2022," which eliminated the statute of limitations for childhood sexual assault cases brought in federal court. Previously, such federal actions were subject to a 10-year limitations period, as specified. (18 U.S.C. § 2255.)

3. <u>The fiscal effects of childhood sexual assault claims against public entities</u>

A number of infamous childhood sexual abuse cases have come to light in recent years, many involving systematic abuse by government employees. Pursuant to the laws described above, victims have come forward to seek justice resulting in a number of settlements against public entities. Earlier this year, a massive settlement was announced in Los Angeles County:

> MaryAlice Ashbrook remembers the rain on the night the Los Angeles police retrieved her, the 8-year-old child of a pill-addicted mother, and

took her to the MacLaren Children's Center, the county-run foster home where she was preyed upon.

Shirley Bodkin remembers the smell of the staff member there who would put her on his lap and make her hold a Raggedy Ann doll while he hurt her. J.C. Wright remembers the social workers who accused him, at age 7, of "fabricating" when he tried telling them what a doctor there had done to him.

Those memories are decades old. Ms. Ashbrook is 65 now, a retired bookkeeper in Yuma, Ariz. Ms. Bodkin is 58, the mother of two grown sons in the Southern California beach town of Dana Point. Mr. Wright is 42, a truck driver and father of four in suburban Los Angeles.

Whole chapters of their lives have gone by — marriages, children, careers — yet the memories have never ceased to torment them. Ms. Ashbrook tried electroshock therapy. Ms. Bodkin attempted suicide. Mr. Wright lived on the streets for years, ending up in prison. There was no escaping the nightmares, they said in interviews on Sunday. So they turned to the courts for some measure of relief.

Last week, it arrived, for them and nearly 7,000 other plaintiffs who say they were sexually abused as children in Los Angeles County's juvenile detention and foster care systems, in cases dating to the late 1950s. In a settlement that lawyers say is the largest of its kind in the nation, the county publicly apologized and agreed to pay a record $4 billion, dwarfing previous settlements in child sex abuse cases brought against the Boy Scouts of America and the Archdiocese of Los Angeles.

The wave of claims — so immense that officials had warned before the deal that Los Angeles County, the nation's most populous, could be bankrupted by it — came after California gave childhood victims a new window to sue, even though the statute of limitations had expired. The county's Board of Supervisors is expected to formally approve the payout on April 29.

Some two dozen states have established similar "lookback windows" in response to a growing understanding of the many reasons child sex abuse victims might not come forward, or even think of themselves as having been abused, until years or decades later.[1]

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[1] Shawn Hubler & Shaila Dewan, *A $4 Billion Sex Abuse Settlement in L.A., After Childhoods of 'Pure Hell'* (April 7, 2025) The New York Times, https://www.nytimes.com/2025/04/07/us/los-angeles-county-abuse-settlement.html. All internet citations are current as of April 16, 2025.

In response to growing alarm among various public entities regarding the fiscal effects of revived and recent sexual assault claims against public entities such as those discussed above, SB 153 (Committee on Budget and Fiscal Review, Ch. 38, Stats. 2024), among other things, required the County Office Fiscal Crisis and Management Assistance Team (FCMAT), in consultation with subject matter experts, to provide recommendations on new, existing, or strengthened funding and financing mechanisms to finance judgments or settlements arising from claims of childhood sexual abuse, to be utilized by local agencies. The bill required that the recommendations provided be made in accordance with all of the following:

- They shall not impact current judgments or settlements from these claims, or unnecessarily delay the timeline in which plaintiffs receive funds from those judgments or settlements.
- Where applicable, recommendations that may need statutory or regulatory changes shall include the statutes or regulations. These recommendations shall solely be focused on financing, securitization, or funding of claims.
- Where applicable, recommendations shall consider existing financing mechanisms, including, but not limited to, judgment obligation bonds, emergency apportionment financing, and financing programs administered by the California School Finance Authority.

On January 31, 2025, FCMAT released that report, which details and assesses the problem presented:

> **Findings and Assessment**
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> **A comprehensive analysis of claims is not available, but what can be concluded is that the impact is significant.** The most recent statewide data was released in May 2023 and covered 80% of statewide average daily attendance. But even with claim data, the magnitude is not accurately known until each claim's outcome is decided. Many claims are in various stages of litigation; thus, it is impossible to project the extent of total liability, whether claimants will prevail, or what the dollar value of any final award of damages or settlement agreement may be.
>
> Even with missing details, we can conclude that the fiscal impact is and will continue to be significant and will affect programs and services. The best estimate of the dollar value of claims brought to date because of AB 218 is $2-$3 billion for local educational agencies. Other local public agencies' costs will exceed that value by a multiplier, with one county government alone estimating their claim value at $3 billion. The dollar estimate increases further for total childhood sexual assault claims when considering claims outside of the time frame covered by AB 218. The fiscal impact is not limited to local educational and public agencies with claims but affects all public agencies, because it includes increased insurance

premiums and special assessments based on the joint and several liability of current and past members of public entity risk pools.

Most public agencies have liability coverage through risk pools, not commercial insurance, so insurance in the traditional sense is something of a misnomer. With few exceptions, most local public agencies access insurance protection through public entity risk pooling. These pools are a way to manage risk and are created when a group of public agencies join together to finance and administer various forms of insurance coverage. This is similar to the commercial market but with the cost shared among the pool's member agencies. Each member agency funds the public entity risk pool through premiums and fees for the coverage obtained. The contributed funds and any investment earnings on reserves finance the risk pool's obligations.

Childhood sexual assault and misconduct cases have significantly altered the liability insurance marketplace (which includes public entity risk pools) in California. The insurance industry is built on a promise and operates under the current rule of law. No one expected the retroactive removal of the statute of limitations on childhood sexual assault. Changes in law disrupt the marketplace and create opportunities for reinsurance companies to reevaluate their products and pricing. Commercial insurers are less willing to accept the risk, given the ongoing uncertainty surrounding childhood sexual assault losses, which includes unknowns that could extend for decades. As a result, fewer insurance providers are available to offer reinsurance products, and the price has increased dramatically.

The insurance market for public agencies is perilously unstable. In the worst case, the market could deteriorate to a point where there is not enough insurance available, and public agencies could end up competing with each other for the limited coverage still being offered.

With some limitations, local agencies have the authority to borrow funds to amortize the cost of a settlement or claim. Local agencies have the power to authorize and issue refunding notes and bonds to satisfy their financial obligations under involuntary tort judgments. These notes or bonds are typically referred to as judgment obligation notes or bonds. Obligations arising from settlements may be nuanced. With some exceptions and various constraints, local agencies are also authorized to make lease financing arrangements.
The state treasurer should be allowed and directed to help public agencies that face settlements and judgments from childhood sexual assault to

access capital markets. There may be a variety of reasons to have an intermediary issue debt on behalf of public agencies.

Intensive interventions associated with a large emergency apportionment may not be appropriate for school districts requiring state loans solely due to AB 218 obligations. California's constitution and statutes protect school districts from insolvency through state emergency apportionments (also known as state emergency loans). These are commonly referred to as the receivership statutes. A less defined but similar receivership protection is extended to California's community colleges. This protection is designed to ensure that school districts continue to educate students. An administrator does, however, have the power to file a Chapter 9 bankruptcy petition for a school district, and a community college district is apparently authorized to file for Chapter 9 bankruptcy. This receivership process is not available to charter schools or other public agencies. However, the current structure and intensity of the intervention that accompanies a large emergency apportionment may not be appropriate for a school district that requires a state loan solely due to AB 218 obligations. It is unlikely that the circumstances surrounding a childhood sexual assault offense from years earlier are related to deficiencies in an agency's current governance, policies, systems and practices. The exception may be personnel management practices.

Victims deserve a more compassionate and timely remedy than litigation. A frequent discussion item among public agencies affected by childhood sexual assault claims is the creation of a statewide victims' compensation fund. All victims alleging injury have a right to a trial, so this would be a voluntary alternative to the judicial process. The fund would work to resolve claims through a reasonable process that invites the victim to present their claim in an uncontested environment that focuses on care and compassion, and where remedies are offered, discussed and decided on.

The goal should be to completely eliminate childhood sexual assault in local public agencies. One of the frequent criticisms of AB 218 and AB 452 is that neither bill promoted a state policy priority of eliminating childhood sexual assault offenses, and neither addressed the topic of prevention. Preventive measures and mandates must be increased to protect children.[2]

[2] *Childhood Sexual Assault: Fiscal Implications for California Public Agencies* (January 31, 2025) FCMAT, https://www.fcmat.org/PublicationsReports/child-sexual-assault-fiscal-implications-report.pdf.

The report then lays out 22 recommendations with the following themes:

- Mandated childhood sexual assault claim reporting, statewide data repository and data classification.
- Amended timelines for public agencies to pay a judgment to facilitate public financing of all or part of the judgment.
- Enhanced provisions related to the public financing of obligations.
- Alternative statutory provisions for emergency apportionments for school districts.
- Study and establish a victims' compensation fund option.
- Consistent and expanded statutes focused on preventive measures.

4. Responding to the fiscal impact on public agencies

This bill responds to the above issues by making several changes to the relevant law.

The Government Claims Act governs the process for filing a tort action against public entities. Section 1058 of the Code of Civil Procedure allows for the recovery of defense costs reasonably and necessarily incurred by a prevailing defendant in cases brought pursuant to the Government Claims Act upon the granting of specified motions in the defendant's favor and where the court determines that the proceeding was not brought in good faith and with reasonable cause by the plaintiff. This currently includes motions for summary judgment, judgment under Section 631.8 of the Code of Civil Procedure, directed verdict, or nonsuit. This bill adds to this list objections by demurrer in order to allow prevailing public entity defendants to recover whatever costs are incurred if litigation is brought in bad faith or without reasonable cause. As stated by the author:

> Allowing a cost recovery component at the demurrer stage comes much earlier in the litigation proceedings, rather than during summary judgment when cost recovery would usually occur. This will protect public agencies from unnecessary legal expenses as they won't have to spend significant resources defending baseless claims, and could discourage frivolous lawsuits.

Second, the bill amends Section 340.1 to affect actions for liability against any person or entity who owed a duty of care to the plaintiff or 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, pursuant to Section 340.1(a)(1) and (3). The bill provides that such actions which result in a dismissal without prejudice, cannot be refiled if five years or more have passed from the original filing date of such action. This limits the exposure that public entities face with regard to these third-party claims that were previously filed. To be clear, this does not affect actions against the actual perpetrator of the childhood sexual assault.

Finally, the bill makes adjustments to the law around validating bonds. Currently, bonds, warrants, contracts, obligations, and evidences of indebtedness, for the purpose of validating proceedings, are deemed to be in existence upon their authorization, as specified. The FCMAT report details the relevant law:

> In certain circumstances, judicial validation is necessary to enable notes or bonds to be sold with the level of certainty the municipal finance market requires regarding their validity. CCP 860 and following provides a procedure for establishing the validity of notes and bonds and related financing contracts. Use of the CCP 860 procedure must be authorized by other statute, such as GC 53511, which authorizes a local agency to "bring an action to determine the validity of its bonds, warrants, contracts, obligations or evidences of indebtedness." A validation action is an in rem action, which conclusively determines the validity of the matter against all persons. If a local agency does not bring a validation action pursuant to CCP 863, an interested person may bring an action, otherwise known as a reverse validation action, to determine the validity of such matter. In general, reverse validation actions are brought by opponents to challenge the validity of a matter authorized by a local agency.
>
> Given the potential large monetary amount of judgment obligations to be entered against local agencies, and the likely impacts to local agencies' programs and services if such judgment obligations were to be paid when entered against the local agency, many public agencies are likely to conclude it is desirable and prudent to issue judgment obligation notes or bonds to refund judgment obligations related to AB 218 and amortize such obligations over an extended period of time. Obtaining a validation judgment provides stronger and more immediate defenses against a subsequent legal challenge, and may provide comfort to lenders and reduce interest rates for a local agency's transaction.

One of the recommendations of the report specifically focuses on providing public entities more flexibility in these proceedings:

> **Given the unique challenges brought about by AB 218, the Legislature should consider recommendations regarding common financing methods that would help local agencies more easily implement a financing option.** Historically, judgment obligation bond validation actions, as described above, have involved underlying tort actions that have already reached judgment. Thus, a local agency typically would issue bonds to refund a single judgment or a handful of judgments on an as-needed basis following the completion of a CCP 860 validation proceeding. However, the sheer number of lawsuits and the large potential total liability some local agencies will have from claims as a

> result of AB 218 make this approach impracticable. Issuing bonds after judicial validation on a case-by-case, piecemeal basis would cost time and money, and significantly burden judicial resources. The solution is for a local agency to bring one CCP 860 validation proceeding relating to the refunding of all prospective judgments that could potentially be entered against the local agency.
>
> It is recommended that the Legislature clarify that a CCP 860 validation proceeding may be brought by a public agency before tort action judgments are entered against the public agency. This would help enable the public agency to put in place a financing mechanism or program for the timely refunding of a large number of tort action judgments as and when such judgments are entered. It would also facilitate public agencies in efficiently and effectively managing the unprecedented number of actions stemming from the enactment of AB 218.

This bill provides that, for purposes of determining the validity of refunding bonds to refund a tort action judgment entered against a public agency, as specified, indebtedness is deemed to be in existence on the date of the public entity's adoption of a resolution or ordinance without regard to when the tort actions are filed or final judgments therein are entered by the court, at one time or from time to time, if all of the following conditions are satisfied:

- The judgments to be covered by the action under this chapter are entered by the applicable court or courts not later than a final date set forth in such resolution or ordinance.
- The public agency agrees in such resolution or ordinance that all judgments refunded with the proceeds of the bonds are final and not subject to appeal or further appeal, as applicable.
- The aggregate amount of judgments to be covered by the action brought under this chapter shall not exceed an amount set forth in such resolution or ordinance.
- No judgment will be refunded before it is entered by the court against the public agency.

According to the author:

> Incidents of sexual assault on children should never happen. The adults in these cases have failed these children – some of whom are now adults. These cases can leave lifelong impacts and scars that no amount of compensation can erase. Judgements and settlements arising from childhood sexual assault cases are having fiscal impacts on schools and public agencies, even risking fiscal insolvency in some instances. As we consider legislative proposals aimed at ensuring the fiscal solvency of public agencies, it's crucial we prioritize justice for victims.

> By providing additional legal and fiscal mechanisms for public agencies, Senate Bill 577 carefully balances the need to uphold victims' rights and ensure they are able to seek justice under the law and receive fair compensation for the harm they have endured, while also safeguarding the fiscal stability of public agencies—such as school districts, cities, and counties—so they can continue delivering essential services to the communities they serve. This bill as currently drafted serves as a starting point for further discussions to refine and strengthen these protections.

The author responds to concerns that have been raised with the bill's approach:

> There are strong stakeholder views on both sides that may not feel this bill goes far enough one way or the other. Some school districts, cities and counties may feel that our bill does not go far enough to protect public agencies from fiscal insolvency as a result of AB 218 cases. Some have called for caps, or have gone to the California Supreme Court trying to completely invalidate AB 218. Some on the other side have called for a victim's compensation fund that would cost the state billions of dollars. Caps and a victim's compensation fund are both non-starters, and our bill tries to find a balance in the middle with viable financing options that provide financial relief to public agencies while also ensuring that we continue to uphold victims' rights and ensure they receive fair compensation for the harm they have endured.

Another bill in this Committee, SB 832 (Allen, 2025) also responds to the financial difficulties of governmental entities. The author of that measure and this one have agreed to incorporate some of SB 832's provisions into this one and to add additional provisions that will more robustly address the issues presented. The provisions to be added to this bill accomplish the following:

- Further streamline the judicial obligation bond process to help pay settlements and judgments.
- Extend local payment intercept mechanisms to local educational agencies.
- Extend the emergency apportionment loan payments.
- Raise the relevant standard of liability for childhood sexual assault cases against public entities by plaintiffs who are 40 years old or older to gross negligence for cases filed on or after April 15, 2025.
- Require courts, for judgements of non-economic damages against a public entity in AB 218 cases, upon motion for remittitur, to review and consider a series of factors to apply in all cases filed on or after April 15, 2025.
- Provide courts discretion to structure the payment of verdicts in AB 218 cases over time.
- Reduce the relevant delayed discovery timeline in Section 340.11(a)(1) of the Code of Civil Procedure from five years to three years.

- Prohibit new filings against Los Angeles County on or after January 1, 2026 in connection with specified childhood sexual assault claims connected to specified facilities, including the MacLaren Children's Center, and require certificates of merit, as provided.
- Exempt public agencies from the 21-day safe harbor in Section 128.5 of the Code of Civil Procedure if certain conditions are met for specified claims.

SUPPORT

County of Monterey

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation:

SB 413 (Allen, 2025) clarifies and adds to the list of persons who may view a juvenile case file without a court order, to ensure that counsel for parties in a case filed by a minor or former minor can expeditiously view the file, including claims made pursuant to Section 340.1 of the Code of Civil Procedure for the recovery of damages suffered as a result of childhood sexual assault. SB 413 is currently in the Senate Appropriations Committee.

SB 832 (Allen, 2025) responds to the same issues as this bill by, among other things, streamlining the judicial obligation bond process and creating a presumption of validity, extending local payment intercept mechanisms to local educational agencies, extend emergency apportionment loan payments, and changes the standard of proof in specified childhood sexual assault cases and requires, in such cases, corroborating evidence other than the victim's testimony. SB 832 is currently in this Committee.

AB 859 (Macedo, 2025) makes the same change as this bill to Section 1058 of the Code of Civil Procedure authorizing recovery of defense costs. AB 859 is currently on the Assembly Floor.

Prior Legislation:

SB 153 (Committee on Budget and Fiscal Review, Ch. 38, Stats. 2024) *See* Comment 3.

AB 2693 (Wicks, 2024) would have revived 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. Governor Newsom vetoed AB 2693, stating in part:

> I am concerned that again reviving the statute of limitations for these individuals, even for one year, will invite future legislation seeking to revive claims for other affected groups, both in the immediate future and in the years beyond. Statutes of limitations recognize that, as time passes, physical and documentary evidence may be lost and witnesses may die, no longer remember key facts, or otherwise no longer be available to testify, potentially prejudicing the ability of a party to present its case in court. Institutional employers are now on notice that childhood sexual assault claims are not subject to statutes of limitations going forward. But, having recently provided a three-year window for all victims of past abuse to bring claims, I am concerned that immediately reopening the claims period establishes a precedent for perpetually reopening claims periods for claims well in the past, for which key evidence may have been lost or no longer available.

SB 558 (Rubio, Ch. 877, Stats. 2023) *See* Comment 2.

AB 452 (Addis, Ch. 655, Stats. 2023) *See* Comment 2.

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.

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