

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 962

PRINTER NO. 2891

AMOUNT

See Fiscal Impact

FUND

General Fund
Local Government Funds
Crime Victim's Compensation Fund

DATE INTRODUCED

March 27, 2019

PRIME SPONSOR

Representative Rozzi

DESCRIPTION

House Bill 962 amends Title 42 (Judiciary and Judicial Procedure) to extend the statute of limitations for civil actions or proceedings for childhood sexual abuse until the victim reaches 55 years of age, eliminates the statute of limitations for filing criminal charges in such cases and waives the Commonwealth's sovereign immunity and governmental immunity related to childhood sexual abuse.

This legislation amends Title 42 as follows:

- Amends Section 5533 (b) (relating to infancy, insanity or imprisonment) by increasing the statute of limitations for the filing of civil suits related to childhood sexual abuse from a period of 12 years after attaining 18 years of age to a period of 37 years after attaining 18 years of age;
- Amends Section 5551 (relating to no limitation applicable) by adding a subsection (7), eliminating the statute of limitation for the filing of criminal charges for committing or conspiring or soliciting to commit any of the following offenses if the victim was under 18 years of age at the time of the offense:
 - 1) Section 3011 (b) (relating to trafficking in individuals);
 - 2) Section 3012 (relating to involuntary servitude) as it relates to sexual servitude;
 - 3) Section 3121 (relating to rape);
 - 4) Section 3122.1 (relating to statutory sexual assault);
 - 5) Section 3123 (relating to involuntary deviate sexual intercourse);
 - 6) Section 3124.1 (relating to sexual assault);
 - 7) Section 3124.2 (relating to institutional sexual assault);
 - 8) Section 3125 (relating to aggravated indecent assault); or
 - 9) Section 4302 (relating to incest).
- Amends Section 5552 (relating to other offenses) by adding Section 3124.2 (relating to institutional sexual assault) to the 12 year statute of limitations for major sexual offenses and extends an exemption permitting the filing of criminal charges until the victim reaches 55 years of age by adding conspiracy or solicitation to commit any of the following offenses:
 - 1) Section 3126 (relating to indecent assault);
 - 2) Section 3127 (relating to indecent exposure);

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- 3) Section 4304 (relating to endangering welfare of children);
 - 4) Section 6301 (relating to corruption of minors);
 - 5) Section 6312 (b) (relating to sexual abuse of children); or
 - 6) Section 6320 (relating to sexual exploitation of children).
- Amends Chapter 85 (Matters affecting government units) by further amending Sections 8522, 8528, 8542 and 8553 by waiving sovereign immunity and governmental immunity in civil actions for sexual abuse of a minor as listed under the new Section 5551 (7) if the injuries to the plaintiff were caused by actions or omissions of the Commonwealth or local government agency which constitute negligence. Additionally, the sections are amended to exempt civil suits against state and local governments filed for childhood sexual abuse from caps on damages.
 - Adds a new Section 9730.3 (relating to counseling services for victims of sexual abuse). This new section provides that the Office of Victims' Services within the Pennsylvania Commission on Crime and Delinquency (PCCD) shall provide, for an individual who is a direct victim of sexual abuse, counseling services related to the sexual abuse. Payment to the health care provider shall be made from the Crime Victim's Compensation Fund as follows:
 - 1) \$5,000 if the individual was, at the time of the sexual abuse, 18 years of age or older; and
 - 2) \$10,000 if the individual was, at the time of the sexual abuse, under 18 years of age.The value of services shall be reduced by amounts received by the individual for counseling from insurance, public funds, pension programs, restitution and payments under the Crime Victims Act.
 - Provides for cooperation between health care providers, insurers, Commonwealth agencies and the Office of Victims' Services.

The legislation clarifies that the provisions of the act are severable. If any provision of the act is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application.

This act shall take effect upon the first passage of House Bill 963, Printer's Number 1130 (2019) by either chamber of the General Assembly or immediately, whichever is later.

FISCAL IMPACT:

Extending and eliminating statute of limitations for certain childhood sexual abuse offenses may result in an impact to Commonwealth funds. The impact would depend on the number of additional prosecutions that would have been affected by a statute of limitations and if the prosecution results in a defendant being sentenced to a State Correctional Institution.

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The variable per inmate/per day rates for an inmate in a State Correctional Institution is determined by the additional number of inmates being sentenced to a State Correctional Institution. The variable per inmate/per day rates for the State Correctional Institutions are as follows:

- 0 – 299 additional inmates = \$18.34 per inmate per day
- 300 - 599 additional inmates = \$43.60 per inmate per day
- 600 - 900 additional inmates = \$71.78 per inmate per day
- 900 + additional inmates = \$128.13 per inmate per day

If the provisions of this legislation annually result in the conviction of 10 additional individuals who are sentenced to state confinement, additional costs to the Department of Corrections would be approximately \$67,000 in the first year, increasing to \$1 million in year 10 when 100 additional individuals would be in state custody. The total cost under this assumed model is estimated at \$4,968,000 over the ten-year period.

Year	1	2	3	4	5	6	7	8	9	10
Per. Diem – Small Population Increases	\$18.34	\$19.26	\$20.22	\$21.23	\$22.29	\$23.41	\$24.58	\$25.81	\$27.10	\$28.45
1	10	10	10	10	10	10	10	10	10	10
2		10	10	10	10	10	10	10	10	10
3			10	10	10	10	10	10	10	10
4				10	10	10	10	10	10	10
5					10	10	10	10	10	10
6						10	10	10	10	10
7							10	10	10	10
8								10	10	10
9									10	10
10										10
Total Inmates:	10	20	30	40	50	60	70	80	90	100
Annual Cost:	\$66,941	\$140,576	\$221,407	\$309,970	\$406,836	\$512,613	\$627,951	\$753,542	\$890,121	\$1,038,475
Cumulative:	\$66,941	\$207,517	\$428,924	\$738,895	\$1,145,731	\$1,658,344	\$2,286,296	\$3,039,837	\$3,929,958	\$4,968,433

Additionally, there is a potential fiscal impact to the Commonwealth and local governments in the Commonwealth by the elimination of sovereign immunity, thereby exposing them to civil liability in childhood sexual abuse cases. The fiscal impact would be dependent upon the number of civil actions taken and the amount of damages awarded to plaintiffs.

On average, the Victims Compensation Assistance Program (VCAP) within PCCD receives over 8,600 new claims and pays an average \$13 million per year on behalf of crime victims. Although VCAP is the payer of last resort, counseling services provided for under the new § 9730.3 (relating to counseling services for victims of sexual abuse) may increase annual expenditures from the Crime Victim's Compensation Fund. The fiscal impact on this fund will depend upon the number of additional claims filed, claimant's eligibility and the age of the victim at the time of the sexual abuse.

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Assuming an additional 27,500 adult survivors and 10,000 child survivors during the first year pursue counseling services, with a Pennsylvania uninsured rate of 5.5%, this would total 2,063 claims filed through VCAP. With an average cost of \$1,140 per counseling claim, total counseling claim costs during the first year total \$2.3 million. Reducing the participation rate over years 2-5, the annual cost of counseling claims by year 5 would total \$5 million. It is assumed that PCCD would incur administrative costs of approximately \$500,000 for salary and benefits of five additional full-time employees to process the claims.