
California Expands the Statute of Limitations for Civil Lawsuits Against Non-Perpetrators for Childhood Sexual Assault

By Ryan C. McKim / Nov 07, 2019

California Governor Gavin Newsom signed Assembly Bill No. 218, amending the statute of limitations for civil lawsuits against non-perpetrator defendants for childhood sexual assault. The amended law expands the statute of limitations period for claims against non-perpetrator defendants and increases the amount of damages available to prevailing plaintiffs in some childhood sexual assault cases

A non-perpetrator defendant is a person or entity that did not commit the sexual assault but was in a position to implement safeguards to prevent it. As such, the amended statute of limitations will affect a wide variety of entities, including schools, youth sports organizations, scouting organizations, summer camps, and churches. The amended law also revives some time-lapsed claims, and it authorizes triple the amount of actual damages when the plaintiff proves that the non-perpetrator “covered up” the sexual assault of a minor.

Under the amended law, a plaintiff must file a lawsuit for childhood sexual assault against a non-perpetrator on or before the plaintiff's 40th birthday. (Code Civ. Proc. § 340, subd. (c) [as amended].) However, the 40th birthday cutoff does not apply when the non-perpetrator “knew or had reason to know, or was otherwise on notice, of any misconduct that creates a risk of childhood sexual assault” by a person under the non-perpetrator's control (e.g., an employer-employee relationship) and the non-perpetrator “failed to take reasonable steps or to implement reasonable safeguards to avoid acts of childhood sexual assault.” (Code Civ. Proc. § 340, subd. (c) [as amended].) While the amended law does not expressly state what limitations period applies in such circumstances, it arguably requires that the plaintiff sue within five years of discovering a psychological injury related to the childhood sexual assault. (See Code Civ. Proc. § 340, subd. (a) [as amended].)

Importantly, the amended law applies to lawsuits that are already pending and to lawsuits that would have been barred by the statute of limitations period in effect before enactment of the amended law. (Code Civ. Proc. § 340, subd. (r) [as amended].)

In addition to expanding the time frame in which a plaintiff may file a civil lawsuit, the amended law also allows a plaintiff to recover triple the amount of actual damages against a defendant that “covered up” the sexual assault of a minor. (Cal. Code Civ. Proc. § 340, subd. (b)(1) [as amended].) “Cover up” is statutorily defined as “a concerted effort to hide evidence relating to childhood sexual assault.” (Cal. Code Civ. Proc. § 340, subd. (b)(2) [as amended].)

The amended law makes it more difficult for non-perpetrator defendants to defend themselves because they must locate witnesses and evidence that may no longer be readily available due to the passage of time. Entities and individuals that may be sued as a non-perpetrator defendant should reevaluate their document retention policies in light of the amended law.

The full text of the amended statute of limitations may be viewed by clicking [here](#).

Should you have any questions, please contact Ryan C. McKim at rmckim@clarkhill.com or (213) 891-9100. Mr. McKim has substantial experience representing non-perpetrator defendants in civil actions for childhood sexual assault.