

Legislative Analysis



COURT OF CLAIMS: MINOR VICTIMS OF SEXUAL MISCONDUCT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 875 as passed by the Senate
Sponsor: Sen. Margaret E. O'Brien

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 876 as passed by the Senate
Sponsor: Sen. Ken Horn

House Committee: Law and Justice
Senate Committee: Judiciary
Complete to 5-7-18

BRIEF SUMMARY:

Senate Bill 875 would exempt a claim against the state for sexual misconduct committed against a minor from the current filing deadline and from signature and verification requirements and apply the exemption retroactively to January 1, 1997.

Senate Bill 876 would exempt a claim against the state for sexual misconduct committed against a minor from provisions that limit how long after an event a claim may be filed and apply the exemption retroactively to January 1, 1997.

Each bill would take effect 90 days after enactment.

DETAILED SUMMARY:

All civil actions filed against the State of Michigan and its departments, commissions, boards, institutions, arms, or agencies must be filed in the Court of Claims, which is located in the Michigan Court of Appeals. Each Court of Claims case is heard by a single judge, and there is no right to a jury trial. Cases filed with the Court of Claims typically include highway defect, medical malpractice, contracts, state constitutional claims, prisoner litigation, tax-related suits, and other claims for money damages (e.g., personal injury or property damage).

Both bills would amend provisions within Chapter 64 of the Revised Judicature Act (RJA), entitled "Court of Claims," and would apply to claims filed with the court regarding sexual misconduct against a minor.

Sexual misconduct would be defined in each bill to mean the conduct described in the following provisions of the Michigan Penal Code, regardless of whether the conduct resulted in a criminal conviction under those sections:

- Section 136: female genital mutilation.
- Section 145a: accosting or soliciting a minor for immoral purposes.

- Section 145b: accosting or soliciting a minor for immoral purposes after a prior conviction.
- Section 145c: child sexually abusive activity or material.
- Sections 520b, 520c, 520d, 520e, and 520g: criminal sexual conduct in the first, second, third, or fourth degree or assault with intent to commit CSC in the first, second, or third degree, respectively.

Senate Bill 875 would amend Section 6431 of the RJA, which requires that in order to file a claim against the state, either a written claim or a written notice of intention to file a claim must be filed with the clerk of the Court of Claims within 1 year after the claim accrued (i.e., the event happened). A claim or notice of intention to file for property or personal injuries must be filed within 6 months after the event. Among other things, the claim or notice of intention must include a signature and verification by the claimant before an officer authorized to administer oaths.

Under the bill, the requirements for the claim or notice of intention to be filed within a certain time period and to include a signature and verification made under oath would not apply to a claim for sexual misconduct committed against an individual who is less than 18 years of age. Instead, the claim or notice could be filed at any time after the event or events giving rise to the claim.

Further, the bill would allow the claimant to bring the claim without providing for the signature and verification otherwise required and to do so in a manner that protects his or her identity throughout the proceeding. The state Supreme Court would be authorized to adopt special rules of procedure under Section 6422 of the RJA to implement these exceptions. (Section 6422 specifies that practice and procedure in the Court of Claims generally must be in accordance with the statutes and court rules prescribing the practice in the circuit court, but authorizes the Supreme Court to adopt special rules for the Court of Claims.)

The bill's provisions would be applied retroactively to January 1, 1997.

MCL 600.6431

Senate Bill 876 would amend Section 6452 of the RJA. Currently, every claim against the state that is within the jurisdiction of the Court of Claims is forever barred unless the claim is filed with the clerk of the court, or a suit is instituted on the claim in federal court, within 3 years after the claim first accrues. In addition, the periods of limitations for various actions contained in Chapter 58 of the RJA also apply to claims filed in the Court of Claims.

Under the bill, the 3-year limitation and the limitations listed in Chapter 58 would not apply to a claim for sexual misconduct committed against an individual who is less than 18 years of age. This exception would be applied retroactively to January 1, 1997.

MCL 600.6452

FISCAL IMPACT:

Judiciary

Senate Bills 875 and 876 would have an indeterminate fiscal impact on the state and on local units of government that would depend on how the provisions of the bills affected caseloads and related administrative costs. Increased costs could be offset, to some degree, depending on the amount of additional court-imposed fee revenue generated. The bills could result in costs for litigation, as well as costs for judgments and settlements.

Other State Departments

Senate Bills 875 and 876 would result in undetermined, but potentially significant, increases in costs to state departments and agencies. Senate Bills 875 and 876 reduce restrictions to filing a claim against the State for sexual misconduct toward minors. The bills could lead to a substantial increase in lawsuit claims and case filings against the state, resulting in increased administration and litigation costs. The bills could also result in significant costs to the state for settlements won by plaintiffs against the state. Settlement costs can vary significantly, ranging from negligible amounts to millions of dollars.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.