



New York's One Year Statute of Limitations Look-Back Period in Child Sexual Abuse Cases Set to Begin

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On February 14, 2019, the Child Victims Act (CVA) was signed into law by New York Governor Andrew Cuomo. The CVA enacted major changes to both the civil and criminal statutes of limitation in cases of child sexual abuse and created a one-year “look-back” period that is set to begin August 14, 2019.

These changes will have a profound impact on nearly all private and public institutions that work with children and will likely lead to many new claims of child sexual abuse being sued and charged.

Civil Lawsuits

The CVA amends the civil statute of limitations for child sexual abuse cases. Persons alleging child sexual abuse are now permitted to bring a civil action against an alleged abuser and/or institution until the age of 55.

As mentioned, the CVA also created a one-year look-back window, which begins on August 14, 2019, and will end in August 2020. During this time, a victim who is now over the age of 55 will be permitted to bring an action against an alleged abuser, even if the claim had previously been barred by the statute of limitations. Cases brought during the look-back period will receive preference and be heard on an expedited basis by the Courts. These cases may be difficult to defend and prosecute due to the evidentiary challenges posed by the lack retention of records and physical evidence, as well as the memories and survival of witnesses.

Additionally, before the enactment of the CVA, a victim seeking to sue a municipality, including a public school district, was required to file a notice of claim within 90 days of the abuse occurring. However, under the CVA an alleged child victim will no longer be required to file a notice of claim. By amending the statute of limitations and

removing the notice of claim requirement, the CVA has removed procedural hurdles that often barred such cases in the past including the complete elimination of a 50-H examination.

Criminal Charges

There are also changes in the criminal statute of limitations on child sexual abuse charges. Prior to the enactment of the CVA, the criminal statute of limitations for child sex abuse expired when the victim reached 23 years of age. However, under the CVA the statute of limitations is extended until the victim's 25th birthday for a criminal misdemeanor charge to be brought and until the victim's 28th for a criminal felony charge.

Be Prepared

- Both public and private institutions that work with children should review past and current insurance policies to determine what coverage will be available.
- Institutions should work to create an open environment, which encourages the reporting of sexual abuse. Open reporting allows for more accurate preservation of evidence to assist in the defense of a matter.
- Policies on the maintaining of records should be reviewed and enforced to assure that evidence is preserved for any possible future litigation. The CVA will likely change the best practices for institutions working with children over the next several years.
- Locate your old insurance policies – claims can look-back 30+ years.
- Consult with your attorney. The attorneys of Carter Conboy have experience representing institutions and individuals sued in child sexual abuse cases. We also deal with related issues that are often encountered in the defense of child sexual abuse cases, such as risk management, public relations, corporate governance and investigations, document and data preservation, and insurance coverage.

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