

NOVEMBER 2019

**AUTHORS**

KATHRYN BEAUMONT  
MURPHY

## New Laws in Pennsylvania to Affect Statute of Limitations for Childhood Sexual Abuse Claims, Mandatory Reporting, NDAs

### SUMMARY

**On November 21, 2019, both branches of the Pennsylvania Legislature passed The Statute of Limitations Child Sexual Abuse Reform Package, a series of four bills that will have significant implications for institutions throughout the state. Two of the bills concern the statute of limitations for victims of childhood sexual abuse, and two bills will immediately affect the laws related to mandatory reporting and nondisclosure provisions in settlement agreements. Governor Tom Wolf has indicated that he will sign the legislation.**

#### Changes to the Statute of Limitations for Claims of Childhood Sexual Abuse

Pennsylvania's statute of limitations for sexual abuse has been debated in the state legislature since 2018, when the Attorney General released a grand jury report on abuse by Catholic clergy that called for changes that would give victims more time to file claims. House Bill 962, sponsored by Pa. State Rep. Mark Rozzi, addresses the issue by raising the age limit for filing a civil claim arising out of child sexual abuse to age 55, from the current age of 30. The bill also (1) removes governmental and sovereign immunity, meaning that if a public institution knew about the harm, it can be held responsible; and (2) eliminates the criminal statute of limitations on child sex crimes going forward; currently, the state bars such claims after the victim reaches age 50.

Notably, H.B. 962 does not have a retroactive provision for claims where the statute of limitations has already run (a "look-back window"). The 2018 grand jury report called for a look-back window, in order to give individuals who would have otherwise aged out of the claims period a renewed chance to bring a claim under any reforms to the statute of limitations. But members of the legislature argued that such a provision would be unconstitutional under the state constitution's remedies clause. One of the other bills in the Package, H.B. 963, then, reflects the legislature's compromise on this issue: a constitutional amendment that provides a two-year look-back window within the language of the Pennsylvania Constitution itself. Anyone for whom the current statute of limitations has expired will have two years from the date amendment becomes effective to file a claim (within the provisions of the amended law). This means that, in theory, an individual between the ages of 30 and 55 with a civil claim against a school stemming from purported abuse could file in that two-year window.

Such a constitutional amendment, however, will not happen overnight. First, the bill, in identical form, must be passed in the legislature's next session in 2020-21. Then, Pennsylvania voters must also approve the constitutional change; the earliest such a change could be on a ballot is 2021. The two-year look-back window thus would not go into effect until 2021 at the very earliest.

### Changes to Penalties for Failures to Report Child Abuse and New Limitations on Settlement Agreements

In addition to legislative and constitutional changes to the statute of limitations, the Statute of Limitations Child Sexual Abuse Reform Package will increase penalties for violating the state's mandatory child abuse reporting act and prohibit certain nondisclosure provisions in settlement agreements related to childhood sexual abuse. Schools should make sure their administrators and staff are aware of these new laws, which will go into effect 60 days after the Governor's signature.

H.B. 1051 increases penalties from misdemeanors to felonies for those who have a duty to report instances of suspected abuse under the state's mandatory reporting law but fail to or continually fail to do so. Schools will want to ensure that their sexual misconduct and/or mandatory reporting policies accurately identify and train those who have a duty to report.

H.B. 1171 ensures confidentiality agreements do not cover communications with law enforcement officials regarding abuse; the bill makes void any provisions of non-disclosure agreements that (i) prohibit a victim from giving the perpetrators' name to law enforcement, (ii) hinder a victim from filing a claim with law enforcement, or (iii) attempt to suppress a victim from giving information to law enforcement relevant to an investigation. The bill also suggests model language for settlement agreements, to be included in boldface, 12-point font or larger: "NOTICE TO ALL PARTIES: By signing this agreement, you do not surrender your right to speak to law enforcement about the actions, underlying facts or circumstances referenced in this agreement."

Pennsylvania's Statute of Limitations Child Sexual Abuse Reform Package comes in the wake of other laws passed in 2019 in New York and New Jersey that amend statutes of limitations for claims related to sexual abuse.

This alert was written by Kathryn Beaumont Murphy, co-chair of the Firm's K-12 Schools Practice. Kathryn can be reached at (215) 972-1955 or at [Kathryn.Murphy@saul.com](mailto:Kathryn.Murphy@saul.com). This alert has been prepared for information purposes only.

Did you find this information useful? Please provide your feedback [here](#) and also let us know if there are other legal topics of interest to you.

The provision and receipt of the information in this publication (a) should not be considered legal advice, (b) does not create a lawyer-client relationship, and (c) should not be acted on without seeking professional counsel who have been informed of the specific facts. Under the rules of certain jurisdictions, this communication may constitute "Attorney Advertising."