

# ASSEMBLY, No. 5392

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 13, 2019

**Sponsored by:**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**SYNOPSIS**

Establishes new liability standards in sexual abuse lawsuits filed against public entities and public employees.

**CURRENT VERSION OF TEXT**

As introduced.



A5392 QUIJANO

2

1 AN ACT concerning civil actions against public entities and public  
2 employees arising from acts of sexual abuse and amending  
3 P.L.2019, c.120.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 7 of P.L.2019, c.120 (C.59:2-1.3) is amended to read  
9 as follows:

10 7. a. Notwithstanding any other provision of law to the  
11 contrary, including but not limited to the "New Jersey Tort Claims  
12 Act," N.J.S.59:1-1 et seq. **【.】** :

13 (1) any immunity from civil liability granted to a public entity  
14 **【is liable in an action at law for an injury resulting from the**  
15 **commission of】** or public employee shall not apply to an action at  
16 law claiming that a willful, wanton or grossly negligent act of a  
17 public entity or public employee resulted in a sexual assault, any  
18 other crime of a sexual nature, a prohibited sexual act as defined in  
19 section 2 of P.L.1992, c.7 (C.2A:30B-2), or sexual abuse as defined  
20 in section 1 of P.L.1992, c.109 (C.2A:61B-1) being committed  
21 against a person; and

22 (2) any immunity from civil liability granted to a public entity  
23 shall not apply to an action at law claiming that the negligent hiring,  
24 supervision or retention of any public employee resulted in a sexual  
25 assault, any other crime of a sexual nature, a prohibited sexual act as  
26 defined in section 2 of P.L.1992, c.7 (C.2A:30B-2), or sexual abuse as  
27 defined in section 1 of P.L.1992, c.109 (C.2A:61B-1) being committed  
28 against a minor under the age of 18.

29 b. Every action at law involving a public entity or public  
30 employee as described in subsection a. of this section shall be  
31 subject to the statute of limitations set forth in section 2 of  
32 P.L.2019, c.120 (C.2A:14-2a), and may be brought during the two-  
33 year period set forth in subsection a. of section 9 of P.L.2019, c.120  
34 (C.2A:14-2b), notwithstanding that the action would otherwise be  
35 barred through application of the statute of limitations.

36 (cf: P.L.2019, c.120, s.7)

37  
38 2. This act shall take effect on December 1, 2019, the same day  
39 that P.L.2019, c.120 (C.2A:14-2a et al.) takes effect, and shall apply  
40 to any cause of action filed on or after that date, as well as any  
41 cause of action filed prior to that effective date that has not yet been  
42 finally adjudicated or dismissed by a court as of that effective date

43  
44 STATEMENT

45  
46 This bill establishes new liability standards in sexual abuse  
47 lawsuits filed against public entities and public employees. These  
48 new standards are identical to the liability standards applied to non-

**EXPLANATION** – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 profit organizations, and their officers, employees and other agents,  
2 based on exceptions to the immunity granted to such organizations  
3 and agents under the Charitable Immunity Act, P.L.1959, c.90  
4 (C.2A:53A-7 et seq.), as revised by P.L.2019, c.120 (C.2A:14-2a et  
5 al.).

6 Thus, a public entity or public employee could be held liable for  
7 willful, wanton or grossly negligent acts resulting in a “sexual  
8 assault, any other crime of a sexual nature, a prohibited sexual act  
9 as defined in section 2 of P.L.1992, c.7 (C.2A:30B-2), or sexual  
10 abuse as defined in section 1 of P.L.1992, c.109 (C.2A:61B-1)”  
11 being committed against a person; and a public entity could be held  
12 liable for a claim that its negligent hiring, supervision or retention of  
13 any public employee resulted in any such form of sexual abuse being  
14 committed against a minor under the age of 18 years (there would be  
15 no such “simple” negligence liability for any public employees under  
16 this cause of action, just like no there is no liability for a non-profit  
17 organization’s agents). See P.L.2005, c.264, s.1 (C.2A:53A-7.4)  
18 (cause of action for negligent hiring, supervision or retention permitted  
19 against the nonprofit organization otherwise immune from negligence  
20 suits under the Charitable Immunity Act).

21 The bill would take effect on December 1, 2019, the same  
22 effective date as P.L.2019, c.120 (C.2A:14-2a et al.), which  
23 enactment, *inter alia*, (1) creates new, extended statute of  
24 limitations periods for civil actions by child and adult victims of  
25 sexual abuse (child victim – suit must be filed by the 55th birthday,  
26 or within seven years of discovering the injury, whichever date is  
27 later; adult victim – suit must be filed within seven years of  
28 discovering the injury), and (2) establishes a two-year window  
29 during which actions may be commenced even though they would  
30 otherwise be time-barred, even after using the appropriate new,  
31 extended statute of limitations period. The bill expressly indicates  
32 that once lawsuits can commence against public entities and public  
33 employers beginning on December 1, 2019, these suits, and any  
34 suits previously filed that have not yet been finally adjudicated or  
35 dismissed, would be subject to the new, extended statute of  
36 limitations, and lawsuits could, if otherwise time-barred, be brought  
37 during the two-year window.