

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

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44 STATEMENT

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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.