

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 3739

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 2019

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 3739.

This bill, as amended, establishes new liability standards in sexual abuse lawsuits filed against public entities and public employees. It would expressly provide that the statutory immunity from lawsuits granted to public entities and public employees pursuant to the “New Jersey Tort Claims Act,” N.J.S.59:1-1 et seq., would not be applicable with respect to the following types of sexual abuse lawsuits:

- an action at law for damages against a public entity or public employee as a result of sexual abuse *being committed against a person, which was caused by a willful, wanton or grossly negligent act of the public entity or public employee*; or

- an action at law for damages against a public entity as a result of sexual abuse *being committed against a minor under the age of 18, which was caused by the negligent hiring, supervision or retention of any public employee*.

These types of lawsuits are the same types of lawsuits for which the general statutory immunity of the Charitable Immunity Act, P.L.1959, c.90 (C.2A:53A-7 et seq.) does not apply, thereby permitting such lawsuits to proceed against non-profit organizations organized exclusively for religious, charitable, educational, or hospital purposes, and their trustees, directors, officers, employees, agents, servants and volunteers.

Based on the amendatory language set forth in the bill, any available immunity for public entities and public employees from some source of law other than the “New Jersey Tort Claims Act” could be raised by public entities and public employees as a defense to any of the aforementioned types of sexual abuse lawsuits.

The bill would take effect on December 1, 2019, the same effective date as P.L.2019, c.120 (C.2A:14-2a et al.), which enactment, *inter alia*, (1) creates new, extended statute of limitations periods for civil actions by child and adult victims of sexual abuse (child victim – suit must be filed by the 55th birthday, or within seven years of discovering the injury, whichever date is later; adult victim – suit must be filed within seven years of discovering the injury), and (2) establishes a two-year window

during which actions may be commenced even though they would otherwise be time-barred, even after using the appropriate new, extended statute of limitations period. The bill expressly indicates that once lawsuits can commence against public entities and public employees beginning on December 1, 2019, these suits, and any suits previously filed that have not yet been finally adjudicated or dismissed, would be subject to the new, extended statute of limitations, and lawsuits could, if otherwise time-barred, be brought during the two-year window.

The committee amendments to the bill:

- expressly provide that only the specific immunity from lawsuits granted to public entities and public employees pursuant to the “New Jersey Tort Claims Act,” N.J.S.59:1-1 et seq., is not applicable with respect to the types of sexual abuse lawsuits described in the bill, thus any available immunity from some other source of law could be raised by public entities and public employees as a defense to any such lawsuits; and

- reword the bill’s descriptions of the above described sexual abuse lawsuits for which public entities and public employees could not claim statutory immunity under the “New Jersey Tort Claims Act” to make these descriptions more consistent with how other causes of action are described under that act.