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FISCAL IMPACT REPORT

	Reps. Anaya, Thomson, Chavez, and Torres-Velásquez/Sen. Duhigg	LAST UPDATED	02/10/2025
SPONSOR		ORIGINAL DATE	01/29/2025
	Childhood Sexual Abuse Statute of Limitations	BILL NUMBER	House Bill 73
SHORT TITLE		ANALYST	Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
PSIA Excess Claims		Up to \$40,000.0	Up to \$40,000.0	Up to \$80,000.0	Recurring	General Fund
PSIA Excess Insurance		Up to \$30,000.0	Up to \$30,000.0	Up to \$30,000.0	Recurring	General Fund
CYFD		\$650.0 to \$985.0	\$650.0 to \$985.0	\$1,300.0 to \$1,970.0	Recurring	General Fund
Total		Up to \$71,000.0	Up to \$71,000.0	Up to \$142,000.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Related to House Bill 87

Sources of Information

LFC Files

Agency Analysis Received From

Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 New Mexico Attorney General (NMAG)
 Law Offices of the Public Defender (LOPD)
 Children, Youth and Families Department (CYFD)
 Public Schools Insurance Agency (PSIA)

Agency Declined to Respond

General Services Department (GSD)

SUMMARY

Synopsis of House Bill 73

House Bill 73 (HB73) removes the current statute of limitations for actions having to do with personal injury resulting from child sexual abuse. HB73 alters Section 37-1-30 NMSA 1978, which currently lists a three-year time period or the first instant of the person’s 24th birthday as statutes of limitations, replacing them with the phrase “may be commenced at any time,” as long as actions are not already pending.

HB73 also adds language to Section 37-1-30 NMSA 1978 stating that the deletion of the statute

of limitations for child sexual abuse is retroactive to child sexual abuse that occurred at any time before or after this bill’s effective date.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

The Children, Youth and Families Department (CYFD) notes the possibility that this bill may open the agency to legal action:

HB73 has the potential to involve CYFD in additional lawsuits that would have otherwise been barred per the original statute of limitations. This impact could then lead to significant additional litigation costs and potential damages levied against CYFD. Additional litigation would also have the downstream effect of creating a further burden on CYFD legal staff and general resources.

According to the New Mexico Sunshine Portal, in calendar year 2024 CYFD issued settlements to several different plaintiffs for cases of sexual abuse at an average of \$650 thousand per award. The 2023 LFC program evaluation unit report *Major Risk Funds of the Risk Management Division* noted an additional CYFD child sexual abuse settlement made in 2022 for \$985 thousand. Using these settlements as a range and, assuming HB73 would result in one additional successful lawsuit against and subsequent settlement made by CYFD per year, this bill would have an additional operating budget impact of between \$650 and \$985 thousand annually.

CYFD also suggests that the bill’s impact would result in “a significant increase to agency expenditures related to our liability rates. CYFD is obligated to pay a liability rate to the General Services Division based on the dollar amount of settlements paid out from prior years.” Further increases in CYFD’s liability rate will depend on the number of settlements made by CYFD as a result of the passage of HB73.

Passage of the bill, writes PSIA, “would have a domino effect on public schools.

Notably, there will be a need to increase NMPSIA’s self-insured retention. Securing reinsurance and excess insurance will become more difficult when prospective excess insurance companies are told that they will be financially responsible for claims without any reasonable time limit—possibly 30 or 40 years. Essentially, an insurance company offering an annual policy for schools will be told that it must be responsible for claims brought decades after the policy was offered. This increases the insurance company’s financial exposure and could quite possibly lead them to a decision not to even offer a policy based on the risk. Even if an insurance company did decide to offer such policies, the premiums paid by NMPSIA would be astronomical. NMPSIA believes school insurance premiums could increase anywhere from 20-40 percent for member schools. A school district such as the Rio Rancho Public Schools (RRPS) presently pays over \$1,700,000 for annual general liability premiums. A potential 40 percent increase would cost RRPS approximately \$680,000 out of its operating budget.”

Other responding agencies do not see added costs due to this bill, though they note the number and complexity of child sexual abuse cases may increase.

SIGNIFICANT ISSUES

CYFD indicates:

This change is consistent with current knowledge around the disclosure of traumatic childhood events, such as child sexual abuse. A person subjected to sexual abuse as a child may not be ready to remember or process the trauma until later in adulthood. Alternatively, a young child may disclose enough to a medical or mental health provider to trigger a reporting event but not be ready or old enough to verbalize a disclosure with the detail and clarity needed to support a cause of action. The long-term impact on a child may also be better assessed later in life.

CYFD, the New Mexico Attorney General (NMAG), and the Administrative Office of the Courts (AOC) all note that applying this change retroactively may result both in a greater number of cases being brought involving distant child sexual abuse and that evidence in these trials may be difficult to obtain many years after the alleged events occurred. AOC notes a National Conference of State Legislatures finding that “child victims frequently do not discover the relationship of their psychological injuries to the abuse until well into adulthood—usually during the course of psychological counseling or therapy. They may not even discover the fact of such abuse until they undergo such therapy.”

The Administrative Office of the District Attorneys indicates the bill’s retroactive application of change in statute of limitations would likely survive a legal challenge.

PSIA notes:

The lack of an explicit exclusion within HB73 for public institutions and employees ... could have dangerous financial implications for public schools. A recent Las Cruces, New Mexico, federal court jury verdict in March 2024 for \$44 million (\$11 million for compensatory and \$33 million for punitive damages) against a teacher for inappropriate touching illustrates the huge financial exposure for these claims that are uncapped pursuant to U.S.C. 1983. ... Unlimited claims against public schools dating back several years and even decades ago present serious financial consequences. Defending such claims would be extremely difficult, and, in many instances, impossible.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to House Bill 87, nonconsensual touching clarification.

LC/hj/SL2/hg