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## FISCAL IMPACT REPORT

SPONSOR SJC ORIGINAL DATE \_\_\_\_\_  
LAST UPDATED 03/06/17 HB \_\_\_\_\_

SHORT TITLE Childhood Sexual Abuse Damage Limits SB 91/SJCS/ec

ANALYST Daly

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Minimal	Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
Children, Youth & Families Department (CYFD)

### SUMMARY

#### Synopsis of Bill

The Senate Judiciary Committee Substitute for Senate Bill 91 amends existing law governing the time for filing an action for damages due to childhood sexual abuse. Currently, such a lawsuit must be brought before the person's 24<sup>th</sup> birthday or within three years of the time the person knew or had reason to know of the abuse and that the abuse caused the injury for which the person seeks damages. SB 91 revises these limitations and allows a case to be brought within three years from the date a person first disclosed the person's childhood sexual abuse to a licensed medical or mental health care provider when seeking or receiving health care from that provider. This bill also clarifies that the provisions of another statute that sets a three-year statute of limitations for personal injury does not apply in this context.

CS/SB 91 contains an emergency clause.

### FISCAL IMPLICATIONS

Because CS/SB 91 extends the limitations period for lawsuits related to childhood sexual abuse, AOC anticipates there may be some increase in caseloads for the courts, which may require additional resources to handle any such increase. Further, to the extent that this bill impacts

actions brought under the Tort Claims Act, there could be a fiscal impact to the state. See Significant Issues, below.

## **SIGNIFICANT ISSUES**

One purpose of any statute of limitations is to support judicial economy by limiting the time in which a claim may be brought. CS/SB 91 extends that time in a manner that allows more actions to be filed, which would adversely impact the courts' caseloads.

A potentially larger impact may result in the event a court determines there is an actual conflict between the bill and the existing limitations provision in the Tort Claims Act, and the limitation period set out in CS/SB 91 controls. When a state or other governmental agency is a party to a civil action that make claims against that agency of childhood sexual abuse against the plaintiff, the Tort Claims Act will be simultaneously considered with claims under this bill. The Tort Claims Act sets a two year time period for filing suit, providing an exemption only for a minor under seven years old, who has until the minor's ninth birthday in which to file. Section 41-4-15(A) NMSA 1978. That subsection expressly declares that this limitations period applies to all persons regardless of minority or other legal disability. Additionally, Section 41-4-7 of the Tort Claims Act declares that it is the exclusive remedy against a governmental entity or public employee for any tort for which immunity has been waived in that Act.

Section 37-1-30, NMSA 1978, which this bill amends, already defines the term "childhood sexual abuse" to mean those acts which constitute the offenses of criminal sexual penetration of a minor and criminal sexual contact of a minor.

## **PERFORMANCE IMPLICATIONS**

AOC reports the courts participate in performance based budgeting. This bill may impact the courts' performance based budgeting measures, which may result in a need for additional resources. The potential financial, social, and psychological ramifications of the outcome in childhood sexual abuse cases for both the plaintiff and defendant may be more significant than those in other types of personal injury cases. The district courts' performance measure clearance rates may be impacted if the extension of the limitations period for damages in these cases leads to an increased demand for jury trials and fewer settlements, thereby increasing the amount of judge and clerk time needed to dispose of cases.

MD/jle