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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
57th Legislature, 1st Session, 2025

Bill Number	<u>HB73/HJCS</u>	Sponsor	<u>Anaya/Thomson/Duhigg/Chavez</u>
Tracking Number	<u>.231292.2</u>	Committee Referrals	<u>HCPAC/HJC/HAFC</u>
Short Title	<u>Childhood Sexual Abuse Statute of Limitations</u>		
Analyst	<u>Estupiñan</u>	Original Date	<u>3/14/2025</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of HJC Committee Substitute

The House Judiciary Committee Substitute for House Bill 73 (HB73/HJCS) would amend Section 37-1-30 NMSA 1978 by retroactively removing the statute of limitations for childhood sexual abuse cases that have not yet been filed. The removal of the statute of limitations applies if the action is against a private individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any commercial or nonpublic legal entity.

The bill does not explicitly include public entities as those for which the removal of statute of limitations applies to.

The bill would be effective June 20, 2025.

FISCAL IMPACT

The bill does not contain an appropriation.

The New Mexico Children, Youth and Families Department (CYFD) notes the bill could increase litigation costs and potential damages levied against the department.

SUBSTANTIVE ISSUES

Current Statute. Statute establishes two limitations on actions for damages due to childhood sexual abuse, including the person's 24th birthday, or three years after the date a person disclosed an instance of sexual abuse to a licensed medical or mental health care provider while receiving care from that provider. Statute also defines "childhood sexual abuse" to mean conduct that, if prosecuted in a criminal matter, would constitute a violation of:

- 1) Criminal sexual penetration of a minor, pursuant to Section 30-9-11 NMSA 1978;
- 2) Criminal sexual contact of a minor, pursuant to Section 30-9-13 NMSA 1978; or
- 3) the Sexual Exploitation of Children Act.

HB73/HJCS would not revise the definition of childhood sexual abuse.

Prevalence of Childhood Sexual Abuse and Misconduct in Public Schools. LESC analysis focuses primarily on the impact of bills to kindergarten through 12th grade (K-12) education. A LESC [report](#) in December 2024 found there has been a growing number of incidents involving childhood sexual abuse in the United States. In 2020, there was a 55 percent increase in the total incidents of sexual violence from the 2015-2016 school year (SY16) to SY18, and a 53 percent increase in sexual assault from SY16 to SY18. Additionally, New Mexico was ranked sixth in the nation in reported incidents of sexual violence and ninth in sexual assault.

Data from the New Mexico Public Schools Insurance Authority (NMPSIA) indicates child sexual abuse has been an increasing burden on K-12 schools in the state, both in terms of educator sexual misconduct and student-on-student sexual misconduct. Child sexual abuse in schools has far reaching impacts on students, with research indicating students who suffer educator sexual misconduct experience greater difficulties in social emotional functioning, partake in increased alcohol and illicit drug use, are more likely to attempt suicide, and are more vulnerable to coercive sexual experiences. In addition, increasing NMPSIA employee-on-student and student-on-student claims present a financial challenge for both the agency and the state.

NMPSIA data indicates there have been 129 educator sexual misconduct claims, with a total claim cost of \$73.2 million, from 2013 to the present. Of these educator sexual misconduct claims, NMPSIA reports 54 claims have been for sexual assault (\$26.3 million), 39 for sexual penetration (\$25 million), and 36 for inappropriate conduct (\$21.9 million). Claim descriptions of alleged educator sexual misconduct are wide ranging, including “potential grooming” and “alleged criminal sexual contact, including rape.” Of the 129 educator sexual misconduct claims, 106 are closed, and 23 remain open.

NMPSIA defines student-on-student sexual misconduct as any form of unwanted sexual contact or behavior between students, including touching, sexual comments, or advances. NMPSIA data indicates from 2013 to present, there have been 76 student-on-student sexual misconduct claims for a total cost of \$19.8 million. Claim descriptions of alleged student-on-student sexual misconduct include hazing, rape, inappropriate touching, and molestation. Like educator sexual misconduct data, the time between the date of loss and the date of a claim being opened is substantial. For example, in one case opened in 2022 for alleged rape, the date of loss was more than 1,790 days prior. Of the 76 student on student sexual misconduct claims, 58 are closed and 18 remain open.

Statutory Definitions. Section 30-6A NMSA 1978 defines and outlines sexual exploitation of children. In addition, Section 30-9-13 NMSA 1978 outlines that licensed or unlicensed school employees, contract employees, school health providers, or volunteers can be charged with a fourth degree felony for criminal sexual penetration of a child between the ages of 13 and 18. The penalty for this crime is up to 18 months in prison and a fine of up to \$5,000, and the offender must register as a sex offender.

ADMINISTRATIVE IMPLICATIONS

CYFD notes removing the statute of limitations on childhood sexual abuse cases could raise constitutional concerns.

SOURCES OF INFORMATION

- LESC Files
- Legislative Finance Committee (LFC) Files
- Children, Youth and Families Department (CYFD)

DE/clh/mca/jkh