

Negligence Law Section

Negligence Law Section Quarterly

Summer 2024

“House Passes a Portion of the Sexual Assault Litigation Package Before Recessing for Summer”

Todd Tennis, *Capitol Services, Inc.*

At a little after 5am on June 27, the Michigan House and Senate completed their work on the Fiscal Year 2024-25 budget and recessed for what will likely be the next two months. The all-night session, which occasionally happens when passing controversial legislation such as appropriations bills, concluded with a handful of policy bills passing through either the House and Senate as well.

One of these packages of legislation might have an impact on future civil litigation regarding sexual assault. House Bills 4485, 4486 and 4487 would modify the statute of limitations for criminal action against perpetrators of sexual assault; remove governmental immunity protections for public colleges, universities and school districts for civil litigation by victims of sexual assault; and, in cases of sexual assault against a minor, remove the requirement that claims against the state be filed within 6 months after the event that gave rise to the claim.

House Bill 4485, sponsored by Representative Reggie Miller (D-Belleville), removes the statute of limitations for criminal charges to be brought against a person accused of second- or third-degree criminal sexual conduct. House Bill 4486, sponsored by Representative Karen Whitsett (D-Detroit), removes governmental immunity for negligence that currently applies to universities, community college and public schools for civil litigation stemming from criminal sexual conduct committed by an employee, agent or student provided that the school knew or should have known about the conduct. Moreover, a criminal conviction is not required to suspend the governmental immunity in such a case. Finally, House Bill 4487, sponsored by Representative Helena Scott (D-Detroit), removes the 6 month statute of limitations for claims against the State of Michigan in cases which involve criminal sexual conduct perpetrated against a minor victim.

These three bills were introduced as part of a larger package, but the House chose to move only House Bills 4485-7 before recessing for the summer. The three other bills in the original package – House Bills 4482-4, are still awaiting action on the House floor. Those bills would make further extensions of the statute of limitations for civil litigation based on criminal sexual assault, and therefore were the subject of more controversy.

Several years ago after the notoriety surrounding sexual assaults perpetrated by Larry Nassar at Michigan State University, the Legislature extended the statute of limitation for civil litigation, but narrowly tailored it so it would mainly apply to victims of that series of assaults. House Bill 4482-4, sponsored by Representative Julie Brixie (D-Meridian Twp.), Representative Samantha Steckloff (D-Farmington Hills) and Representative Noah Arbit (D-West Bloomfield), would further extend those initial extensions so they would apply much more broadly to sexual assault victims. The bills remove the requirement that the victim had been a minor at the time of the assault for the statute of limitations extension to apply, and pushes out the SOL in the following ways, whichever is later:

- Ten years after the claim accrues;
- Before the victim reaches the age of 52 (currently 28);
- Seven years (current law says three years) after the individual discovers, or through the exercise of due diligence should have discovered, both their injury and the causal relationship between the injury and the criminal sexual conduct.

The bills will also grant an additional window for any claim that accrued prior to the effective date when it becomes law for up to two years after the effective date of the new act. This would allow cases in which the statute of limitations had already expired to be revived.

At this point, sponsors of the bills that did not pass before the recess expect them to be taken up in the fall. Representative Brixie, one of the main sponsors of the package, has been working on this issue for several years in Lansing. She stated that victims deserve to have access to justice and that these bills will help them achieve that. She remains confident that the Legislature will pass all of the legislation before the end of the year.

Todd Tennis
Capitol Services, Inc.
(517) 372-0890
ttennis@capitolservices.org