

08.13.19

Weber 
Gallagher

New Law Clarifies Limits on Tort Immunity in NJ Sexual Abuse Cases

In May, Governor Murphy signed a law significantly extending the statute of limitations period for adults who were sexually assaulted or abused as children to bring claims against their alleged abusers. See our alert [here](#) for more on that law. When he signed that law, Governor Murphy pointed out that it did not include a standard of proof which could expose governmental entities to expanded liability and asked the legislature to act to clarify under what circumstances the Tort Claims Act applied to sexual abuse claims. The legislature answered the Governor's call passing a so-called "clean up" bill that will take effect on December 1, 2019--the same day as the extended statute of limitations bill passed in May.

The "clean up" bill amends New Jersey's Tort Claims Act (TCA), setting liability standards in sexual abuse lawsuits filed against public entities and public employees. Under the law, public entities/public employees cannot claim immunity under the TCA in lawsuits that allege "a willful, wanton or grossly negligent act of a public entity or public employee resulted in a sexual assault, any other crime of a sexual nature." The law also provides that the TCA does not apply in lawsuits that allege the "negligent hiring, supervision, or retention of any public employee resulted in a sexual assault, any other crime of a sexual nature . . . or sexual abuse . . . being committed against a minor under the age of 18."

These standards of proof are the same as those in place for civil suits against nonprofit entities under the Charitable Immunity Act.

Comment: As we said in May, December 1, 2019 is expected to see an influx of civil suits against alleged abusers and the institutions that employed them by adults claiming they were sexually abused when there were children. The legislature and Governor Murphy have now clarified the limits of tort immunity for governmental entities and employees, and it is likely that Plaintiff's lawyers will draft their pleadings accordingly.