

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5392

STATE OF NEW JERSEY

DATED: MAY 20, 2019

The Assembly Judiciary Committee reports favorably Assembly Bill No. 5392.

This bill establishes new liability standards in sexual abuse lawsuits filed against public entities and public employees. These new standards are identical to the liability standards applied to non-profit organizations, and their officers, employees and other agents, based on exceptions to the immunity granted to such organizations and agents under the Charitable Immunity Act, P.L.1959, c.90 (C.2A:53A-7 et seq.), as revised by P.L.2019, c.120 (C.2A:14-2a et al.).

Thus, a public entity or public employee could be held liable for willful, wanton or grossly negligent acts resulting in a “sexual assault, any other crime of a sexual nature, a prohibited sexual act as defined in section 2 of P.L.1992, c.7 (C.2A:30B-2), or sexual abuse as defined in section 1 of P.L.1992, c.109 (C.2A:61B-1)” being committed against a person; and a public entity could be held liable for a claim that its negligent hiring, supervision or retention of any public employee resulted in any such form of sexual abuse being committed against a minor under the age of 18 years (there would be no such “simple” negligence liability for any public employee under this cause of action, just as there is no liability for a non-profit organization’s agents). See P.L.2005, c.264, s.1 (C.2A:53A-7.4) (cause of action for negligent hiring, supervision or retention permitted against the nonprofit organization otherwise immune from negligence suits under the Charitable Immunity Act).

The bill would take effect on December 1, 2019, the same effective date as P.L.2019, c.120 (C.2A:14-2a et al.), which enactment, *inter alia*, (1) creates new, extended statute of limitations periods for civil actions by child and adult victims of sexual abuse (child victim – suit must be filed by the 55th birthday, or within seven years of discovering the injury, whichever date is later; adult victim – suit must be filed within seven years of discovering the injury), and (2) establishes a two-year window during which actions may be commenced even though they would otherwise be time-barred, even after using the appropriate new, extended statute of limitations period. The bill expressly indicates that once lawsuits can commence against public entities and public employers beginning on December 1, 2019, these suits, and any

suits previously filed that have not yet been finally adjudicated or dismissed, would be subject to the new, extended statute of limitations, and lawsuits could, if otherwise time-barred, be brought during the two-year window.