Why Am I Being Sued Now? The Increase In Sexual Abuse Lawsuits

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Why is my business/employer being sued now, years after alleged abuse?

New Jersey enacted legislation in 2019 that expanded the ability for plaintiffs to bring civil lawsuits for sexual abuse in several ways. First, the legislation created a one-time, two-year filing window of December 1, 2019 through December 1, 2021, during which time plaintiffs could revive or bring sexual abuse lawsuits that were otherwise time-barred under the previous statute of limitations (which is the deadline by which a party has to pursue legal action). This window applied to both new claims that were never filed, as well as any old claims previously dismissed on the grounds that the statute of limitations had expired.

Second, the act extended the statute of limitations in civil actions for sexual abuse from two years (or, for a person abused when a minor under 18 years old, two years after age 18) to seven years (or, for a person abused when a minor under 18 years old, the later of seven years from reasonable discovery of the injury and its causal relationship to the abuse, or the age of 55). Third, the act established new liability standards in, and removed statutory immunity and certain requirements for, sexual abuse lawsuits filed against public entities or employees. Additionally, the act prohibited sexual abuse lawsuits to proceed as a class action, due to the particular circumstances unique to each person's abuse, and expressly stated that any privately negotiated settlements on a class basis are void and unenforceable.

In sum, this legislation has led to an avalanche of lawsuits over allegations of sexual abuse against a variety of individuals and organizations, including schools, athletic organizations, religious institutions and youth groups.

What should I do if I am sued?

Because these lawsuits implicate a variety of legal issues touching upon the areas of employment, insurance, criminal, and financial restructuring law, defendants should engage experienced legal counsel as soon as possible to assist in any analysis and strategy. Early in any analysis, defendants should examine whether there is available insurance coverage. Because the asserted claims may relate to incidents that happened years ago, it may be necessary to engage an outside vendor, sometimes known as an insurance archeologist, to identify applicable insurance policies.

Additionally, defendants should evaluate whether other parties may have responsibility for such claims, including by examining key contracts to determine whether the defendant itself has claims against other potentially responsible parties, such as through indemnification or contribution, and take steps to preserve those claims against any potentially liable parties. This is particularly important given that some liable parties may have commenced insolvency proceedings that contain deadlines by which your organization/employer must file contribution or other claims. Such proceedings may also present opportunities for your organization/employer to contribute a nominal amount to a settlement trust in exchange for a complete release from related sexual abuse lawsuits.

Finally, defendants should evaluate their options for resolving such litigation, including by a restructuring either through an out-of-court negotiation, or an in-court proceeding, such as through a bankruptcy, which may provide an immediate "breathing spell" through the automatic stay of litigation, and a forum to deal with multiple lawsuits in a consolidated manner.