153rd GENERAL ASSEMBLY
FISCAL NOTE

BILL:	**HOUSE BILL NO. 75**
SPONSOR:	**Representative Dukes**
DESCRIPTION:	**AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE STATUTE OF LIMITATIONS FOR CIVIL CLAIMS BASED ON SEXUAL ABUSE OF A MINOR.**

Assumptions:

1. This Act becomes effective upon signature by the Governor.
2. This Act removes the statute of limitations for the sexual abuse of a minor. Additionally, this Act waives the State's sovereign immunity for civil actions based on childhood sexual abuse.
3. Since this Act waives sovereign immunity, state agencies may face civil actions, potentially leading to significant legal costs. There is no available data on the number of cases that may be brought against the State nor the number of cases that may result in a settlement or court-awarded damages against State entities and the number of settlements and damages awarded. Each settlement or judgment could produce expenditures ranging from hundreds of thousands to millions of dollars based upon a review of publicly available settlements of government entities across the United States.
4. While this Act does not require the purchase of sexual misconduct liability coverage through commercial insurance, it is assumed that once this Act is effective, the Insurance Coverage Determination Committee (the Committee), as established in 18 Del. C. § 6502, may need to determine appropriate and availability of sexual misconduct liability coverage. A determination would likely involve coverage through a combination of commercial insurance and self-insurance.
    a. Presumably, the Committee will need to determine a self-retention amount before a commercial policy becomes effective. The self-retention amount is per person. For example, if a decision is made to self-retain at $250,000 per person, and 10 individuals submit a claim against one perpetrator – the State would have to be responsible for the $2,500,000 for all 10 individuals before a commercial policy provides coverage.
    b. Insurance carriers do not provide coverage for claims made before coverage begins. Since this legislation applies retroactively and allows for the filing of legal claims from any period of time, it is assumed that any settlement or court-awarded damages against State entities would be paid through the Self Insurance fund.
    c. If the policy purchased contains a limit or cap per policy period, any excess settlement or court-awarded damages over the limit would also result in a liability to the State's Self Insurance fund.
    d. The cost of such a policy is unknown until a qualified assessment of risks, a definition of limits and retention that the State would be absorbing through the Self Insurance fund, and a definition of the scope of individuals covered is determined (i.e., the number of employees, volunteers, contractors, etc.).
5. The Department of Justice may provide legal services required by claims against the State to the extent necessary. Specific expertise and staffing constraints may require outside legal services paid through the Self Insurance fund. However, this cost is indeterminable since the number of claims that may be filed is unknown.

6. There is insufficient information available to quantify the increase in annual expenditures this Act may cause the State since the number of cases that may be brought and may result in a settlement or court-awarded damages is unknown. The Insurance Coverage Determination Committee will need to determine if it's appropriate to seek liability coverage to minimize the type of risk to which the State may be exposed upon this Act's passage. Therefore, the fiscal costs of this Act are indeterminable but potentially significant.

Cost:

Fiscal Year 2026: Indeterminable; Potentially Significant
Fiscal Year 2027: Indeterminable; Potentially Significant
Fiscal Year 2028: Indeterminable; Potentially Significant

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