

LOCAL NEWS

Constitutional debate on Maryland Child Victims Act set for first in-court argument



Jerry Jackson/Baltimore Sun

Maryland SNAP Leader David Lorenz speaks at a news conference in front of the Baltimore Basilica about the Child Victims Act.



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Debate over the constitutionality of Maryland's Child Victims Act, long argued in the legislature and, more recently, in legal filings, is set to take place in a courtroom for the first time this week.

The landmark law allows people sexually abused as children to sue those responsible, no matter how much time has passed. It was enacted last spring, with abuse survivors championing the measure as a long-overdue avenue to hold perpetrators accountable on the victims' timelines.

A flurry of lawsuits followed when [the law took effect Oct. 1.](#) Complaints targeted churches, schools, youth correctional facilities and other institutions, with people alleging abuse by priests, teachers, guards and others in positions of authority over children.

Defendants moved to throw out lawsuits in at least eight cases statewide by arguing that the law is unconstitutional. In response, plaintiff survivors have defended the act, and hearings are beginning to be scheduled to settle the question.

The first comes Wednesday in Prince George's County Circuit Court, where a group of men sued the Archdiocese of Washington, which includes five Maryland counties and is headquartered in Hyattsville. The class-action complaint says the abuse they allegedly suffered as young children at the hands of priests, deacons or other diocesan employees fits a pattern of abuse committed in the archdiocese.

Circuit Judge Robin D. Gill Bright is presiding over the matter, and it's unclear when she will make a ruling. She could decide from the bench Wednesday, issue a written opinion later, or both.

Her decision is expected to trigger an appeal that is likely to end up before the Supreme Court of Maryland. That's because General Assembly lawmakers, anticipating a legal challenge to the Child Victims Act, included a provision allowing a mid-lawsuit appeal.

Kathleen Hoke, a law professor at the University of Maryland Francis King Carey School of Law in Baltimore, predicts the losing side will promptly appeal to the Appellate Court of Maryland while simultaneously filing a request to the state's top court to take the case, "to say, 'Hey, don't make us waste months and the intermediate court's time. This is a very novel issue of Maryland law.'"

"My guess is that the Supreme Court will take it right away, and we won't have to go through that intermediate step," said Hoke, who testified repeatedly at legislative hearings about the sex abuse bill, becoming one of the foremost experts on the law and surrounding legal questions.

In a statement, the Archdiocese of Washington did not directly address whether it would appeal if the judge rules against the church, saying only that it was "continuing to evaluate its legal options with respect to the Maryland Child Victims Act, which has been challenged on constitutional grounds not only by the archdiocese, but also by the defendants in numerous other cases filed against public and private entities across the state."

"We remain committed to our longstanding efforts to bring healing to survivors through pastoral care and other forms of assistance that are available apart from the legal process," the statement continued. "We are also committed to maintaining our robust safe-environment policies that have been in place for decades to ensure the protection of all those who are entrusted to our care."

The firm Schochor, Staton, Goldberg and Cardea, which represents the survivors in the Prince George's lawsuit, said it would appeal if the judge deems the law unconstitutional.

Attorneys for the archdiocese [argued in court papers](#) that the Child Victims Act runs afoul of a 2017 law that extended the statute of limitations for victims to sue their abusers. That law said survivors could file claims until they turned 38, and the church's lawyers contend that it included a provision granting potential defendants immunity from lawsuits filed after a survivor's 38th birthday.

"Their argument is that in 2017, when the statute was extended, there was language added called a 'statute of repose' that gave them a permanent right to be free of any claims past the extended statute of limitations," Hoke explained.

"So, the 2023 statute that eliminated the period of limitations and applies retroactively, interferes with that right. It's vested, and that can't be taken away from them," she said, continuing to outline the archdiocese's contention.

On the other side of the debate, the abuse victims' lawyers disagree with the church regarding the role of the 2017 law.

"They're trying to claim that insulates them from any changes by claiming that that legislation provided a statute of repose. However, upon analysis, that is plainly erroneous," Jonathan Schochor said in a February interview with The Baltimore Sun.

Legal scholars say the only other statute of repose in Maryland is in the construction industry. It protects the likes of builders and architects from liability related to injuries sustained in structures they designed and built after a certain amount of time passes following completion. The clock for lawsuits starts ticking when

With a statute of limitations, on the other hand, the law starts counting the period a person has to file a lawsuit from the time they sustain an injury.

The timeline for a lawsuit stemming from sex abuse does not begin until a child is abused, Schochor argues.

“If a statute is triggered by wrongdoing by anyone,” he said, “it is a statute of limitations.”

Plaintiffs lawyers also argue that the legislature can change statutes of repose.

Maryland Attorney General Anthony Brown, a Democrat, agrees with the plaintiffs’ position. He said he would stand up for the law in court when the legislature was considering it, and made good on his word by filing a brief in the Prince George’s case — as well as in another lawsuit against the Washington diocese in Montgomery County — arguing the law is constitutional.

“The General Assembly has broad authority to modify time restrictions for filing lawsuits, and the archdiocese cites no case in which a Maryland court has found the General Assembly to have exceeded that authority,” Assistant Attorney General Jeffrey S. Luoma wrote in the brief. “Further, there is no basis to conclude that the General Assembly ever intended to create a ‘vested right’ for the enablers of child sex abuse to avoid civil liability for their actions.”

A spokesman for the attorney general’s office said Friday that it did not plan to send a lawyer to participate in Wednesday’s hearing.

The attorney general’s office released a report last April documenting the results of a four-year investigation of child sexual

Some survivors credited the report with providing momentum for lawmakers in Annapolis to push the child victims law, for which they'd advocated for years, over the finish line. They were dismayed, if not surprised, when the [Archdiocese of Baltimore filed for bankruptcy](#) before the Child Victims Act took effect.

People who say they were abused by those affiliated with the Baltimore diocese have [until May 31 to file claims](#) in bankruptcy court. The proceedings are expected to take years.

In the meantime, lawsuits against private and public schools, other religious institutions and government agencies have begun to populate court dockets.

Though the odds are in favor of the Prince George's case being the first to go up on appeal, that's not assured. If the presiding judge takes time to rule, another case could be appealed first. The appellate courts also could choose to combine several cases into one appeal.

Trial courts have broad authority to allow lawsuits under the child victims law to move forward, even if lawyers request a pause for the legal question to be settled, but their calculation may change if the question reaches the high court, Hoke said.

“Once the Supreme Court of Maryland has granted certiorari, then from a judicial efficiency perspective, all of this litigation will stop,” she said, using the legal term for agreeing to review a lower court's ruling. “I guarantee it.”

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