

NEW JERSEY'S NONPROFIT ORGANIZATIONS' IMMUNITY

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BROWN & BROWN OF LEHIGH VALLEY, LP, A NJAMHAA APPROVED VENDOR

New Jersey's Child Victims Act went into effect on December 1, 2019, creating a two-year window for victims of any age to file a civil suit alleging child sexual abuse. The bill, signed into law by Governor Phil Murphy, allows victims the ability to file suit, even if it would have previously been time-barred by the statute of limitations. According to the *National Law Review*, there were 46 new cases filed in the *first minute* of the look-back period. The underlying idea behind the Child Victims Act is that children often hide instances of abuse due to psychological and emotional trauma, and do not report them until later in life.

New Jersey follows other states' laws, which were enacted recently across the U.S. In California, the law opened up a three-year look-back period that began January 1, 2020. In New York, the Child Victims Act went into effect on August 14, 2019. According to an article written by Steve Orr in *USA Today*, it was reported that by 5 a.m., lawyers submitted 200 child sexual abuse lawsuits in New York, which rose to 385 lawsuits by noon. New Jersey's law is unusual in that it also extends the statute of limitations to allow adult victims to file suits alleging child abuse, up until age 55, or until seven years after the date of reasonable discovery of the injury, whichever is later.

Due to a carve-out in the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, nonprofit organizations in New Jersey that were historically immune can now be held liable for negligent acts in sexual abuse claims. The consequences of this legislation for New Jersey nonprofits could be immense. To compound the issue, many attorneys are now seeking *immediate* settlements by encouraging nonprofits to avoid the

negative press or loss of donors' trust that would come as a result of litigation.

While every victim should have a voice, attempting to defend or sort through an allegation from 20, 30 or even 40 years ago can be particularly challenging. An accused abuser may no longer be employed at your organization or may be deceased. Evidence is difficult to unearth, memories have diminished, insurance policies have been archived or deleted, and witnesses can be impossible to locate. So, what can your organization do now to prepare for a potential lawsuit? Start by answering a few questions to determine your potential risk:



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ELIMINATED UNDER NEW CHILD VICTIMS ACT

- Has your organization reviewed historical complaints of abuse? Were the incidents thoroughly and promptly investigated?
- What sexual abuse lawsuits has your organization faced that were previously dismissed on the grounds they exceeded the statute of limitations? These should be brought to the top of the stack since they are most likely to resurface under the new law.
- What insurance coverage was in place at the time that could provide defense? Can you locate copies of the policies?
- If your organization is brought into a lawsuit, will you have access to relevant documents, witnesses and communication with the accused employee?

- Do you have a response team in place to immediately address allegations of sexual abuse? Are they qualified and experienced?

Brown & Brown offers their insureds a single-source solution to prepare for and manage sexual abuse claims through a division called Procor. They coordinate responses to allegations of abuse and create solutions unique to each organization. Their goal is to reduce claims' resolution time while minimizing reputational harm. They provide industry-leading experts, including claims administrators, insurance archeologists and experienced consultants. Procor's defense team has experience in high-profile abuse claims, including Penn State's child abuse case. To learn more about how Brown & Brown can assist your organization, contact John Ehresman, AAI, Senior Vice President, Insurance and Risk Management Advisor, at (610) 694-1884 or jehresman@bbinslv.com

Welcome, New Members!

NJAMHAA welcomes the following new members, who joined over the past several months.

Provider Organizations:

- Education and Health Centers of America
- Family Resource Network
- High Focus Centers (Pyramid Healthcare Hammonton)
- Total Family Solutions

Integrated Healthcare Council:

- Acutis (diagnostic lab)
- Sobel Co. (accountants)

Information Technology Council:

- DATIS HR Cloud (human resources and payroll software)

Approved Vendors:

- CBIZ Employee Benefits
- GoMo Health – Learn about their innovative mental health app on page 24!