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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair  
2021 - 2022 Regular Session

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### AB 2274 (Blanca Rubio) - Mandated reporters: statute of limitations

**Version:** March 31, 2022

**Urgency:** No

**Hearing Date:** June 27, 2022

**Policy Vote:** PUB. S. 5 - 0

**Mandate:** No

**Consultant:** Matthew Fleming

**Bill Summary:** AB 2274 would extend the statute of limitations for the failure of a mandated reporter to report an incident known or reasonably suspected by the mandated reporter to be child abuse or severe neglect, authorizing filing within one year of the discovery of the offense, but no later than four years after the commission of the offense.

**Fiscal Impact:** Unknown, potentially-significant workload cost pressures to the courts to the extent that prosecutions are filed under the provisions of AB 2274 that otherwise would have been barred by the statute of limitations (Special Fund - Trial Court Trust Fund, General Fund). See Staff Comments for additional detail.

**Background:** Existing law requires certain persons who are “mandated reporters” to report whenever in their professional capacity they have knowledge of or observe a child whom they reasonably suspect to be a victim of child abuse or neglect. Failure to report is a 6 month misdemeanor. Teachers, teacher’s aids, other school employees, medical professionals, social workers and many others are among those that are mandated reporters. Administrators and employees of a public or private youth center, youth recreation program, or youth organization and as of this year so are volunteers of such organizations are also currently considered mandated reporters.

The law specifies that the reporting duties are individual and states that no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. The penalty for a mandated reporter who fails to report an incident in a timely manner is up to six months in jail and a fine of up to \$1,000, or both. The punishment for a mandated reporter who either willfully fails to report or who impedes or inhibits a report of abuse or neglect – where the abuse or neglect results in the death or great bodily injury of a child – is up to one year in a county jail, or a fine of not more than \$5,000, or both.

A “statute of limitations” is a law that requires commencement of a prosecution within a certain period of time after the commission of a crime. A prosecution is initiated by filing an indictment or information, filing a complaint, certifying a case to superior court, or issuing an arrest or bench warrant. Statutes of limitation serve several important purposes in a criminal prosecution. These include preventing the staleness of a case, prompt investigation, and finality. The statutes of limitation protects persons accused of crime from having to face charges based on evidence that may be unreliable, and from losing access to the evidentiary means to defend against the accusation. With the passage of time, memory fades, witnesses die or otherwise become unavailable, and physical evidence becomes unobtainable or contaminated.

The current statute of limitations for a failure to report by a mandated reporter can be as much as five years for cases of sexual assault. For other incidents, such as child abuse or neglect, the period of limitation is one year. This bill provides that a charge for failure of a mandated reporter to report known or reasonably suspect child abuse or severe neglect may be filed up to one year after the date of discovery of the failure to report, but no more than four years after the commission of the offense.

**Proposed Law:** Provides that notwithstanding any other statute of limitations, prosecution for the failure of a mandated reporter to report an incident, as specified, that is known or reasonably suspected by the mandated reporter to be child abuse or severe neglect that falls short of a sexual assault, may be filed within one year of the discovery of the offense, but in no case later than four years after the commission of the offense.

**Staff Comments:** The offense of failing to report is punishable as a misdemeanor with the potential for incarceration, therefore certain defendants' rights are attached to the proceedings. These include the right to a jury trial and the right to counsel (at public expense if the defendants are unable to afford the costs of representation) which could lead to lengthier and more complex court proceedings. While it is not known how many charges ultimately would be brought under the expanded statute of limitations proposed by this bill, it generally costs about \$8,000 to operate a courtroom for one eight-hour day. Consequently, if prosecutors brought failure to report charges based on the expanded statute of limitations proposed by this measure that would not have been brought under existing law, and combined, those additional charges take 50 or more hours of court involvement, the cost pressures of this measure to the courts would surpass the Suspense File threshold.

Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties. Numerous trial court operations are funded through the imposition and collection of criminal fines and fees. However, the Legislature has reduced and eliminated criminal fines and fees over the past five years. As a result, the Governor's proposed 2022-23 budget anticipates annual allocations of \$117.8 million and \$13.4 million of General Fund backfill in order to address declining revenue to the Trial Court Trust Fund.

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