

Reviver Statutes: A Case For Reviewing Recordkeeping Practices

Victims may be reluctant to report abuse for many reasons including memory suppression and the need for time to process trauma. “Reviver Statutes,” sometimes called “lookback statutes” or “lookback windows,” are extensions to a state’s statutes of limitations, enabling survivors of sexual abuse to file civil action beyond the prescribed time limit.

These statutes have presented special challenges for social service organizations, insurance carriers and others in states where such changes have been adopted, including New York, California, New Jersey, North Carolina, Vermont, and others. Organizations in other states watch these trends closely since others could be affected. Statutes have been challenged, but court decisions have generally favored the rights of the victims. These trends draw attention to needed changes in an organization’s risk management protocols, particularly with regard to recordkeeping.

Claim Scenarios

- In 2023, a camp counselor in California from the 1980s was accused of abusing three adolescent campers. Following the accusation, two more alleged victims came forward. The camp did not have records of employee screening or background checking prior to 2003. The claimants demanded \$15 million in damages, and defense costs were over \$1.5 million.
- In 2021, a substitute teacher at a private school in 1995 and 1996 was accused of having an ongoing sexual relationship with a 13-year-old student. The school had no records of their past abuse prevention policies, background checking records, and they were unable to determine who their insurance carrier was at the time.

Risk Management Measures

Because the future state of reviver statutes is unknown, organizations should take the following actions to galvanize their overall risk management program:

- Review your organization’s records retention policies to allow permanent retention of certain records that could assist in researching and defending future abuse claims.
- Unless prohibited by contracts or statutes, retain background checking records permanently for employees and volunteers who work with vulnerable populations.
- Work with contract parties, if possible, to permit longer retention of records related to your abuse prevention program and employee and/or volunteer screening.
- When otherwise prohibited, flag and permanently retain records when there have been allegations or suspicion of interactions that could lead to abuse allegations.
- Permanently maintain records of your abuse prevention policies and procedures, archiving policies when revisions are made.
- If your organization has not yet moved to digitizing certain archived records, now may be a good time to begin doing so.
- Create and retain a historical database of your organization’s liability insurance carriers including policy dates, policy numbers, coverage limits, and the insurance agent or broker of record.
- Contact your Great American Loss Control Consultant for ongoing support with your abuse prevention program.

As reviver statutes continue to reshape the legal landscape, organizations must proactively adapt their recordkeeping and risk management practices. By implementing permanent retention strategies, digitizing critical records, and maintaining comprehensive insurance documentation, organizations can better position themselves to respond to future claims. These measures not only support legal defensibility but also reinforce a commitment to safeguarding vulnerable populations.

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