

San Jose Mercury News

March 24, 2008

Sex-abuse victims deserve equal rights to recourse

Children who are sexually abused by adults in public schools and in city recreation programs should have the same recourse under civil law as students who are molested at private schools and camps.

That's not the way it works now because of a quirk in state law that a bill sponsored by Sen. Joe Simitian, D-Palo Alto, would fix. It has its first hearing in the Legislature on Tuesday.

A woman who was molested by a teacher while she was a student at Jordan Middle School in Palo Alto illustrates the problem.

She went to authorities a decade later, in her mid-20s. As a consequence, the teacher was convicted of molestation and is in prison. She won a \$260,000 settlement against him, but she was prohibited from filing a claim against the school district,

even though the teacher admitted that students and faculty knew about the sexual abuse and failed to intervene.

Six years ago, state law was changed to permit victims of childhood sexual abuse to bring a lawsuit within three years of the incident or until the age of 26. But legislators failed to repeal a separate statute that sets a limit of six months after the incident for a suit against a government agency. That applies whether the victim is 7 or 17.

SB 1339 would create a uniform statute of limitations on lawsuits when a public or private institution is involved. It should become law.

State law holds private employers accountable when they look the other way to abuse. Government should be held to the same standard.

San Francisco Chronicle

April 1, 2008

To protect the children

Sen. Joe Simitian, a Palo Alto Democrat, realizes that it's not easy to persuade his colleagues to expand government's vulnerability to lawsuits. But Simitian has identified a serious deficiency in a well-established state law known as the Tort Claims Act, which requires someone who wants to file a lawsuit against a city, county or school district to initiate his or her claim within six months of cause of action.

This rule might make sense for timely reporting of a car accident or tree-removal dispute, but it's incongruous with the reality of sexual abuse of children.

"It seems to me, from the research we've done, that the natural human inclination is to repress . . . and these things don't come out until much later," Simitian said.

His SB1339 would adjust the statute of limitations on sexual-abuse claims against public agencies to conform to the legal deadlines that apply to everyone else. A 2002 law extends

the statute of limitations for child sexual-abuse claims until the victim's 26th birthday — or up to three years after the defendant knew or should have known of unlawful sexual conduct by an employee, volunteer, representative or agent.

As Simitian pointed out, these extended legal deadlines currently apply to cases involving private schools. California's public-school students deserve no less protection.

Simitian said he was prompted to introduce SB1339 after reading about a case involving a Palo Alto middle-school teacher whose abuse of an eighth-grade student did not come out until years later. The Tort Claims Act limited the school district's liability, even though there was evidence that some of the defendant's fellow teachers were aware of the abuse.

Simitian's bill cleared the Judiciary Committee last week on a 5-0 vote. Legislators should pass SB1339, and Gov. Arnold Schwarzenegger should sign it into law.