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THE CAMP NEWSLETTER OF SOBEL AFFILIATES
A BROWN & BROWN COMPANY
FEBRUARY 2019

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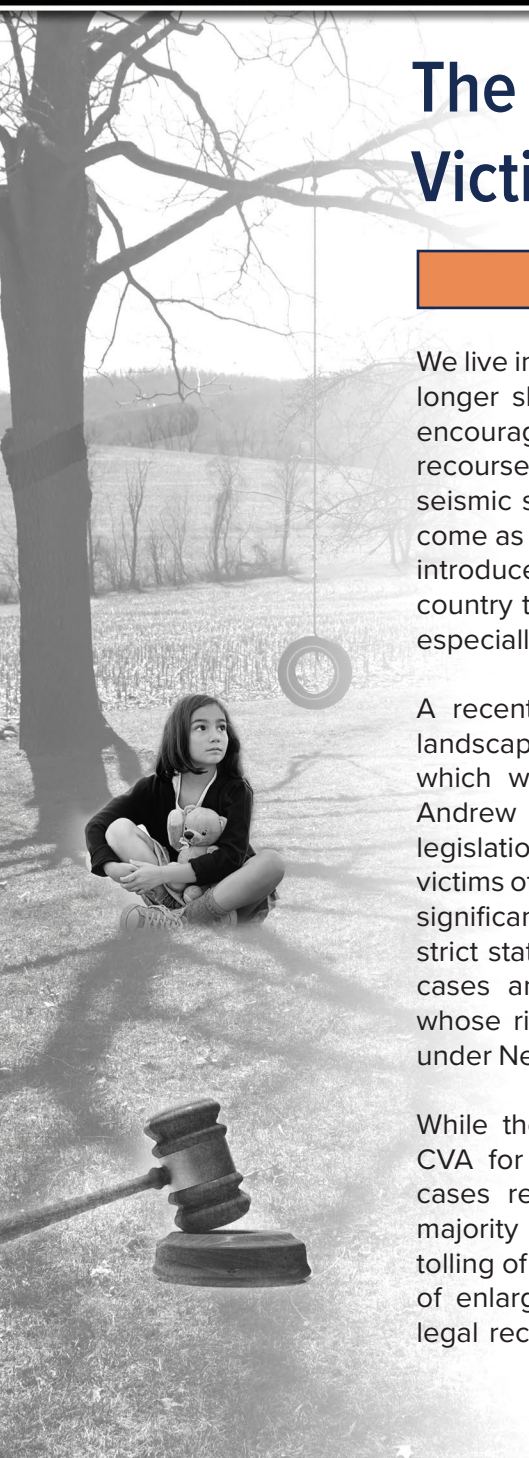

The Expansion of Rights for Child Sex Victims: *What You Need to Know*

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We live in a society where sex victims are no longer shamed into silence, but publically encouraged to speak out and seek recourse against their abusers. Given this seismic shift in public perception, it should come as no surprise that legislation is being introduced and enacted throughout the country to expand the rights of sex victims, especially children.

A recent example of the changing legal landscape is The Child Victims Act ("CVA"), which was signed into law by Governor Andrew Cuomo on 2/14/19. The New York legislation is designed to protect childhood victims of sexual abuse. To that end, the CVA significantly enlarges New York's previously strict statute of limitations for sexual abuse cases and provides recourse for victims whose right to assert a claim had expired under New York's prior statute of limitations.

While the statute of limitations under the CVA for sex crimes for criminal and civil cases remains 5 years from the age of majority (18 in NY), the commencement or tolling of the statute, has the practical effect of enlarging a child victim's time to seek legal recourse. The CVA now allows child victims to seek prosecution against their abuser in a civil case until the age of 55, an increase from the previous age limit of 23. The expansion of the statute of limitations was a concerted effort by New York State to address the statistical evidence showing that the average age of reporting of sex crimes was generally well after the statute of limitations in New York has already expired.

The most immediate and potentially significant aspect to the CVA, and bills like it, is the inclusion of a one-year window during which a victim of any age can bring a civil suit regardless of when the alleged abuse took place and would otherwise be time barred. The inclusion of one-year window provisions has been debated for years, in part, over concerns that it would open litigation floodgates and bankrupt some dioceses, schools or other institutions. The one-year window or look back window is being included in legislation around the country. According to the Associated Press, several states, including California, Minnesota, Delaware and Hawaii have created "lookback windows" in their respective state's legislation.

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The enactment of these bills is an important and meaningful step towards protecting victims of sexual abuse and providing a means to prosecute claims against the abusers. The ramifications of the sex abuse bills, and especially the one-year window, on the camping industry could be equally significant. As a summer custodian for children, there is an increased possibility that former campers or counselors may come forward with claims, armed with legislative authority and without a concern that their claims will be immediately dismissed as time barred. In many instances, these aged claims may be difficult to defend. Memories have faded, witnesses have disappeared and physical evidence, to the extent it ever existed, was likely disposed long ago. Making matters worse, the wrongdoers themselves may be long gone, resulting in claims where the only available evidence is the alleged victim's statement.

Now what? Yes, child sex abuse legislation, by its very nature, increases the exposure for the camping industry. Each camp should be proactive in response and should consider, amongst other things, these issues when contemplating its next steps:

- **Is your camp aware of any potential claims, or lawsuits that were previously dismissed on statute of limitations grounds?**
- **Did your camp investigate any claims of sexual abuse and if so, do you still have the results of that investigation?**
- **Do you have the insurance policies, or policy information, which may be needed to defend or settle any sexual abuse claims?**
- **If you know of a potential claim, have you put the insurance carrier on notice?**

The camp should take reasonable and prudent steps to prepare itself to respond to any complaints or lawsuits that may be brought and consider changes to its record keeping and document retention policies, to ensure that if and when a claim is brought, the camp is in position to respond accordingly. If your camp does not currently have a document retention policy, one should be implemented to reflect the extended possibility of future claims under any new legislation in your state. Similarly, if you have a document retention policy in place, it should be amended accordingly. With the technology now readily available, important documents, such as insurance policies, can be scanned and electronically saved forever at little to no cost. Doing so will prepare your camp for the increased possibility of a claim and is a good risk management practice to protect your camp in this new reality.

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Lee J. Sacket is a Partner at the law firm of L'Abbate Balkan Colavita and Contini, with offices in New York and New Jersey. In addition to representing camps, he practices in the areas of commercial litigation, professional liability litigation, general liability and insurance defense litigation. He counsels his clients regularly on risk management and presents seminars tailored to their specific practices.