

Non-Profit Child Serving Policy Recommendations

General Reforms

Apply Targeted Liability Protections Based on Function and Compliance

Apply appropriate liability protections, including available sovereign-immunity, charitable-immunity, or liability-cap frameworks, to qualifying child-serving entities that perform licensed, state-contracted, delegated, or quasi-governmental functions. Eligibility should be based on the entity's regulated function and compliance with child-safety requirements, not nonprofit status alone.

Establish Compliance-Based Liability Safe Harbors

Provide liability safe harbors or heightened standards of fault for child-serving entities that substantially comply with applicable licensing, reporting, background-check, training, supervision, and child-safety requirements. These protections should not apply in cases involving intentional misconduct, criminal conduct, willful or wanton misconduct, conscious disregard for child safety, knowing concealment of abuse, retaliation, or knowing failure to perform a material child-safety duty.

Limit Noneconomic and Punitive Damages

Adopt or extend reasonable limitations on noneconomic damages and punitive damages in actions against qualifying child-serving entities. Such limitations should preserve recovery for documented economic losses and remain available only in appropriate cases involving serious, culpable misconduct.

Require Disclosure of Third-Party Litigation Funding

Require disclosure of third-party litigation-funding arrangements in actions involving child-serving entities, including the identity of the funder and any rights the funder has to influence litigation or settlement decisions.

Reviver / Sexual-Abuse Claim Reforms

Oppose Retroactive Reviver Statutes

States should avoid retroactive statutes of limitations reviver laws that reopen claims previously barred by law. Reviver statutes create unanticipated legacy liabilities that insurers did not price or reserve for, disrupt underwriting and reinsurance, and may reduce the availability and affordability of liability insurance. As a result, it becomes much more challenging to defend against such claims, thereby increasing uncertainty in future expected loss costs. Those future expected costs would need to be calculated into the business decisions of insurers

Preserve Defined Prospective Limitations Periods

If states modify civil statutes of limitations for sexual-abuse claims, changes should apply prospectively, be clearly defined, and retain reasonable time limits. States should avoid unlimited or open-ended liability periods and should evaluate the effects of proposed changes on insurance pricing, reserving, availability, and provider capacity.

Establish Publicly Funded Historical-Claims Programs

Consider state-administered, publicly funded victim-compensation or claims-resolution programs for historical claims as an alternative to reviving expired civil claims. Programs should not be financed through insurer assessments, mandatory insurer or policyholder contributions, insurance premium surcharges, residual-market mechanisms, or similar insurance-based funding requirements.

Child-Serving Entity Reforms

Limit Liability to Foreseeable, Controllable Risks

Limit duties of care and liability to harm that was reasonably foreseeable based on the entity's actual knowledge, control, and the information available at the time. This would reduce hindsight-based liability while preserving accountability for known and preventable risks.

Require Pre-Suit Notice and Good-Faith Settlement Demands

Require claimants to provide pre-suit notice and a good-faith settlement demand containing sufficient factual detail to permit the entity and its insurer to evaluate the claim and pursue early resolution.

Promote Proportionate Liability and Predictable Damages

Limit joint-and-several liability and other mechanisms that impose damages disproportionate to an entity's actual responsibility. States should consider proportionate-liability rules, appropriate limits on prejudgment interest, and restrictions on punitive damages except in cases involving egregious misconduct.

Avoid Mandated Insurance-Based Indemnification

Avoid statutory indemnification requirements or insurance-contract mandates that require insurers to assume liabilities beyond the coverage, terms, conditions, exclusions, underwriting assumptions, or pricing reflected in the policy.