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NORTH CAROLINA

NC child sex abuse court cases stalled by challenges to law allowing lawsuits

BY VIRGINIA BRIDGES

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Portraits of former Chief Justices line the wall in the courtroom of the Supreme Court of North Carolina in Raleigh, N.C., Monday, May 9, 2022. ETHAN HYMAN ehyman@newsobserver.com



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There is no question that a YMCA counselor took Kernersville kids on trips, hosted them at sleepovers in his home and abused some of them in the 1990s.

Three years ago, adult men contending they were among the abused sued that former counselor, Kernersville Family YMCA and others. But their quest to hold them legally responsible for physical and mental injuries have stalled.

Whether the counselor, the Kernersville Family YMCA and others should pay the men damages money for their physical and mental injuries, isn't even a part of the conversation yet. The same is true for likely hundreds of child sex abuse cases stalled in North Carolina courts.

TOP VIDEOS



Lt. Gov. Robinson on the left, the media and the establishment

In 2019, the General Assembly unanimously passed landmark legislation that sought to recognize the challenges young sex abuse victims face in coming forward. The law temporarily allowed victims of child sexual abuse to file civil lawsuits against abusers and institutions that enabled them, no matter how long ago the assaults occurred.

During that so-called revival window, hundreds of people filed and joined lawsuits against the [University of North Carolina School of the Arts](#), the [Roman Catholic Diocese](#) in Charlotte and Raleigh, churches, camps and many more organizations that employed teachers, coaches, priests and others accused of abusing children and teens, sometimes sending them down a path of depression and drug abuse.

But progress on these suits is delayed as attorneys debate the constitutionality of a section of the 2019 law that extended the statute of limitations for child sex abuse lawsuits, including [temporarily allowing people of any age to file](#) child sex abuse lawsuits during a two-year window that closed Dec. 31, 2021.

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CLAIM OFFER

Riding a roller coaster, said Charlotte Attorney Amanda Mingo, doesn't match the ups and downs that lawsuit plaintiffs have been through as they wait for answers about their claims.

"We are stuck with hoping, right, hoping that the appellate process will be brief and hoping that the healing will continue," said Amanda A. Mingo, Charlotte-based attorney who has four pending cases on pause while other cases work their way through the appellate process.

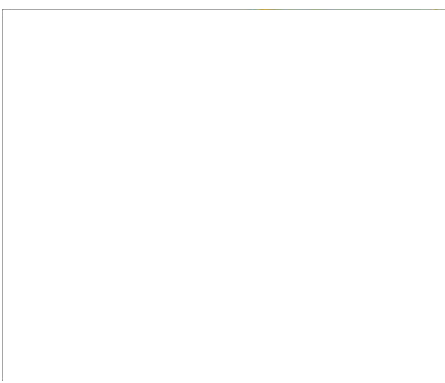


Chris, one of several former students at the UNC School of the Arts who are alleging sexual abuse by faculty members, recounts his story during a Zoom press conference Monday, Oct. 4, 2021. *Zoom*

WAITING FOR ANSWERS

On Tuesday the first case involving the law dubbed the [SAFE](#) Child Act went before the North Carolina Supreme Court.

The case involves nine adults seeking redress against the Kernersville Family YMCA and a longtime counselor who allegedly sexually assaulted them when they were between the ages of 9 and 15.



In that case, the court is considering procedural issues. Its decision will likely be irrelevant when they finally answer the question of whether the revival window is constitutional, Bobby Jenkins, who is representing the men, told members of the Supreme Court.

Those answers will likely come after appellate courts weigh in on a case set to go before the Court of Appeals in June, said Jenkins, who is also representing the plaintiffs in that case.

Attorneys assembled a list — not exhaustive — of about 250 lawsuits filed, with about 75% of those focused on abuse that occurred more than 30 years ago.

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These cases have from one to dozens of plaintiffs. The Schools of Arts lawsuit has about 60 plaintiffs, with at least one having died before the case was resolved.

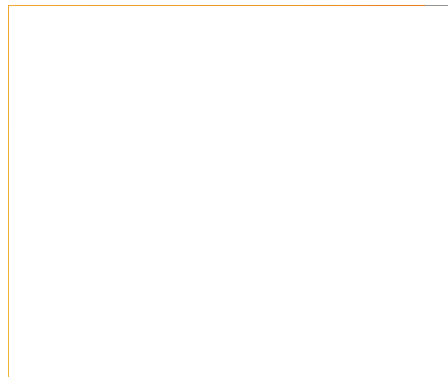
Blair Tindall, a 1978 graduate died earlier this month in Los Angeles, according to [The New York Times](#). Tindall wrote “Mozart in the Jungle,” a memoir about her experience as a New York City musician and School of the Arts student which became a 2014 to 2018 Amazon television series.

NATIONAL TREND

Passage of the SAFE Child Act was part of a national trend giving survivors of childhood abuse more time to file lawsuits. It reflects developments in the understanding of the effects of childhood abuse and research that shows children often delay disclosing abuse for many years.

“Child victims often suffer psychological trauma preventing them from coming forward for many years after their abuse ends,” wrote officials with the state

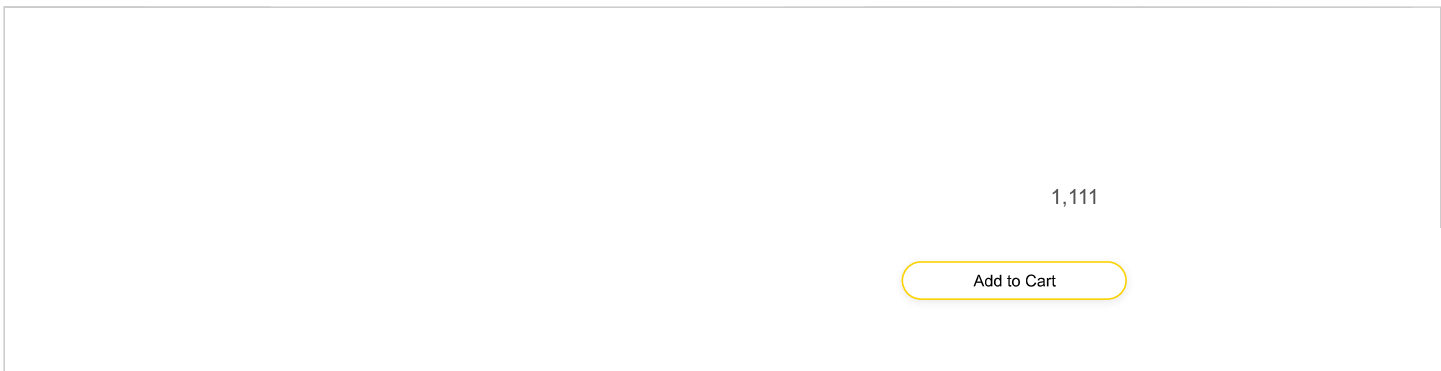
Department of Justice in an amicus brief filed on behalf of Attorney General Josh Stein in one case.



In addition to the two-year revival window, the law also permanently extended the statute of limitations by allowing individuals to seek claims through the age 28, compared to age 21 previously.

It also allowed lawsuits to be filed within two years of a criminal conviction for a felony sexual offense against someone under the age of 18.

However, institutions that have been sued argue that legislators can't revive legal claims that were barred by existing statute of limitations, in many cases, for years.



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Organizations must be able to rely on some period of time where claims for monetary damages can't resurface, they argue.

"If the Legislature is permitted to select emotionally charged issues and revive decades old claims, the potential liability is endless," wrote attorneys in a filing for the Gaston County Board of Education in response to a lawsuit related to a longtime high school wrestling coach convicted of statutory rape and other crimes in 2014.

ANOTHER CASE SET

In the case set to go before the Court of Appeals in June, Jenkins is representing three former East Gaston High School students who filed a lawsuit in 2020 demanding financial damages from the Gaston Board of Education and a former wrestling coach, Gary Scott Goins, who was convicted of statutory rape and other crimes in 2014 related to his abuse of students.



Gary "Scott" Goins', right, talks about photographs shown to him by his attorney Brent Ratchford during his 2014 trial. Goins, 54, was found guilty and sentenced to a minimum of 34 years in prison for 17 child molestation charges. John Clark *Pool photo/Gaston Gazette*

The education board filed a motion to dismiss the civil lawsuit, challenging the constitutionality of opening a temporary window to sue, no matter how long ago abuse occurred.

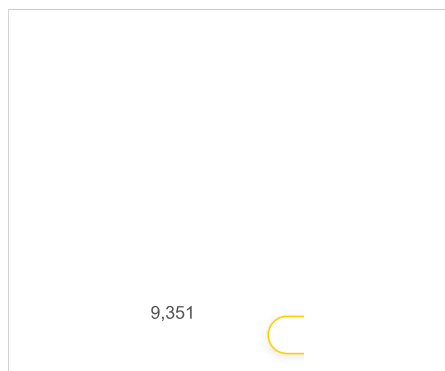
A three-judge panel ruled 2-1 in the board's favor.

In July 2022 a Democrat-majority Supreme Court approved a request that would have allowed the case involving Gaston County to come before them, skipping the Court of Appeals. But the Republican-majority justices in place after last fall's election rescinded that order.

The move sent the case to the Court of Appeals, which will draw out the process to determine whether the section of the law is constitutional, attorneys involved said in interviews.

"We were profoundly disappointed," said Katie Clary, a Charlotte attorney who is working with Mingo on four related cases.

Imagine the children who have been sexually abused, living in shame and silence for decades, Clary said. Along the way, the General Assembly recognized the harm done to them and gave them power to seek recourse against their abusers and those who enabled them, she said.



The process is hard, she said, as they have to recount and relive the abuse. Many exhaled after the Supreme Court set the expedited review.

“We saw enormous gains and real healing,” Clary said.

But Clary said they were “blindsided” when the court sent the case back to the appeals court, she said.

“You saw and felt the emotional setback,” she said, with many asking: “Why did I even do this?”

Virginia Bridges covers criminal justice in the Triangle and across North Carolina for The News & Observer. Her work is produced with financial support from the nonprofit The Just Trust. The N&O maintains full editorial control of its journalism.

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