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# California State Senate



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## SENATOR S. JOSEPH SIMITIAN ELEVENTH SENATE DISTRICT

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### GOVERNOR SIGNS SIMITIAN BILL TO PROTECT CHILDHOOD VICTIMS OF SEXUAL ABUSE

*Palo Alto* – State Senator Joe Simitian (D-Palo Alto) announced today that Governor Schwarzenegger signed his Senate Bill (SB) 640. The measure is designed to close a loophole in the law that currently prevents victims of childhood sexual abuse from seeking justice later in life, and which inadvertently creates an incentive for school districts to look the other way in cases of sexual misconduct by their staff.

Currently, childhood victims of sexual abuse may bring suit anytime up until age 26, or within three years of the date the victim discovers the impact of the abuse (whichever is later). The law is specifically designed to ensure that childhood victims who don't come to grips with their abuse until later in life still have recourse to the legal system.

This timeframe is, however, inconsistent with the Tort Claims Act which requires that civil action against a school district or other public entity must be filed within six months of the abuse. According to a 2007 California Supreme Court case (*Shirk*), that means that after six months a childhood victim of sexual abuse loses the right to bring suit against a local school district even if school district officials knew of the abuse and failed to take steps to end it.

"This conflict in state law amounts to a cruel Catch-22," said Simitian. SB 640 remedies this problem by exempting civil actions for childhood sexual abuse from the Tort Claims requirements.

Simitian, a former Palo Alto School Board Member, said he recalls a half-dozen cases of sexual misconduct that came to his attention during his eight-year tenure on the school board. And that, he notes, "is in a relatively small school district. Each case is troubling," Simitian said, "and each case raises difficult questions. Could something more have been done to protect these kids. Did folks in the system do all they could? Or did they simply pass the buck and look the other way?"

While the new law is designed to give childhood victims of sexual misconduct the right to make their case against a local school district, city or county, Simitian said that was not his primary goal. "I'm trying to bring some accountability to a system where it's all too easy for people to simply hear no evil, see no evil, speak no evil."

"I want to be sure that local school districts face up to their obligation to protect these kids, and prevent these incidents whenever they can. Under existing law," said Simitian, "there's actually a perverse incentive to deny the problem. If folks simply run out the calendar, the districts are off the hook in six months."

"Imagine that a fourteen-year-old girl is the victim of sexual misconduct by a faculty member at her middle school, but she doesn't come to grips with her abuse until she's 19 years old," said Simitian. "She wouldn't be able to take any action against the system. She was victimized once. She shouldn't be victimized again simply because she missed a six-month deadline."

Simitian added, "SB 640 is designed to replace a culture of denial with a culture of accountability and concern. We have a responsibility to the children who are in our care. When a child is a victim of sexual abuse by an educator, or other public employee, we've failed them once. Let's not fail them twice by denying them their right to some form of legal recourse and accountability."

"We're glad that the Governor signed this bill. SB 640 is not only about conformity in law but also about fairness for victims," said Harriet Salarno, Chair of Crime Victims United of California.

Simitian pointed out that the current six-month claim requirement does not apply to cases involving private schools, but only to California's public schools (and other local governments), meaning that public school students do not receive the same rights as private school students under the law.

Simitian introduced SB 640 after reading about a Palo Alto middle-school teacher whose abuse of an eighth-grade student did not come out until years later. Because the student went to authorities more than a decade after being abused, she was unable to file a claim against the school district. Simitian said he reached no conclusion about the district's role, but felt strongly that such cases "shouldn't be barred on a technicality".

While pursuing the legislation in 2008, Simitian noted, a high profile case in Los Angeles Unified School District (the so-called Rooney case) highlighted the problem of school district inaction even in cases where abuse was flagrant.

To learn more about SB 640, visit [www.senatorsimitian.com](http://www.senatorsimitian.com)

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