



ISSUE BRIEF

LAWSUITS INVOLVING SEXUAL ASSAULTS OF CHILDREN

Two bills currently pending in the State legislature would, if signed into law, remove the statute of limitations for child abuse cases and permit suits for cases where the statute of limitations has already expired. For a number of reasons, this is undesirable public policy.

BACKGROUND

Statutes of limitations provide that a criminal prosecution or civil lawsuit must occur within a specified time period after the crime is committed or the injury is caused.

Senate Bill 356 and its companion, Assembly Bill 651, do the following: 1) open a three-year window during which anyone who was sexually assaulted as a child can bring a civil lawsuit against those responsible for the assault, including the employer of the perpetrator if the assault occurred in part because the employer was negligent; and 2) completely remove the statute of limitations for future civil actions not already time barred.

WCC POSITION

For several reasons, the Wisconsin Catholic Conference is opposed to these bills.

Statutes of limitations serve a purpose. Statutes of limitations exist for good reason in our justice system. They secure the swift and accurate administration of justice by insuring that prosecution and civil litigation occur in a timely manner. Statutes of limitations force the relevant parties to collect evidence and obtain witness testimony while both are still fresh and uncorrupted by time and/or undue influence. In removing all time limits for future cases and in allowing for suits surrounding abuse that occurred decades ago, these bills go too far.

A window by itself will not benefit all victims equally. As drafted, these bills have an unequal and unfair impact on different institutions, depending upon whether they are public or private entities. Current law caps the liability of municipal bodies, such as school districts, at \$50,000 per person. The liability of private or non-profit entities, such as parochial schools, is not capped.

For example, a parochial school system might find itself liable for millions of dollars because of one case. On the other hand, the \$50,000 cap protects the neighboring public school district. In addition, there is a statutory bar to punitive damages against government entities. Such damages typically are the largest component of such awards. No such exemption exists for private entities.

Therefore, victims in nearly identical situations will get vastly different settlement amounts. It also means a church or non-profit agency may have to pay more than a government agency who was even more at fault for the actions of its employee.

Opening a window for old claims can have a devastating impact on churches and other non-profit entities. Parishioners and those served by churches and non-profit groups of today are not responsible for any mistakes made dealing with child abusers decades ago. But they will suffer if a large damage award devastates their church or agency. They should not be burdened with liability for the actions of others in the distant past.

A former AG deemed a window constitutionally flawed. When the legislature considered the idea of a window in 2004, then-Attorney General Peg Lautenschlager advised legislators that a proposal to revive claims after a statute of limitations has expired was constitutionally flawed. That advice is as valid today as it was then.

The legislature has already lengthened the statute of limitations. In 2004, the legislature increased the statute of limitations to give child abuse victims more time to bring suits against their abusers and other culpable parties. Prior to 2004, victims had only up to three years after their eighteenth birthday to file a suit. The law now allows a victim to sue up until he or she turns 35 years of age. The Wisconsin Catholic Conference fully supported this change in the law.

The Catholic Church remains committed to the healing process. The Catholic Church is committed to assisting victims of abuse through the healing process so that they can repair and rebuild their lives. To this end, the Archdiocese of Milwaukee has reached settlements (which include monetary compensation for therapy) with over 160 sexual abuse survivors whose claims were time barred (because the statute of limitations had expired) and therefore could not be resolved in court.

ACTION REQUESTED

Write your legislators and urge them to oppose SB 356 and AB 651.

As you make the points discussed above, please emphasize that the Catholic Church remains committed to the healing process.

For more information, please contact John Huebscher at 608/257-0004.