

CONNECTICUT CATHOLIC PUBLIC AFFAIRS CONFERENCE, INC.
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MICHAEL C. CULHANE
EXECUTIVE DIRECTOR

April 15, 2010

DEACON DAVID W. REYNOLDS
LEGISLATIVE LIAISON

The Honorable Beth Bye
Legislative Office Building
Hartford, CT 06106

Dear Representative Bye:

I am writing to you on behalf of the Connecticut Catholic Public Affairs Conference. Please know that we appreciate your public acknowledgment of the good work performed daily by Catholic institutions in Connecticut. We also want to state, and certainly believe you know, that Catholic institutions abhor child abuse and have taken extraordinary and effective steps to ensure that their ministries are safe.

We are concerned, however, about the misunderstandings that appear to exist about the Conference's position regarding HB 5473 and about the language of HB 5473 itself. As you know, the *Hartford Courant* recently editorialized against the bill stating that it "may do harm beyond the justice it could provide." By permitting childhood sexual abuse claimants to wait to age 48 before suing, Connecticut already has the longest retroactive statute of limitation in the nation. The delay in the present law already leads to unfair and inaccurate results from court proceedings. It already permits cases to be decided long after memories fade and documents are lost, and it evaluates conduct from generations earlier by today's standards. Permitting claimants, under the bill, to wait even longer--up to a lifetime--before suing only makes these problems worse. Those states that have eliminated statutes of limitations for child sexual abuse claims have done so prospectively, not retroactively, in order that entities would be on notice to maintain records and plan accordingly.

We would also like to call your attention to the following two incorrect statements in your email relating to the proposed "safeguards" added to HB 5473 to protect against fraud by those filing after their 48th birthday:

- You write that a "potential claimant over 48-years-old can only join an ongoing suit." **This is incorrect.** The bill does not require those over 48 to join a previously filed suit.
- You also stated that those filing claims after their 48th birthday "must first pass the standards of a probable cause hearing . . ." **This is incorrect.** The bill does not require a probable cause hearing. The bill merely requires an attorney or his client to certify the good faith that is already required of attorneys and litigants in any lawsuit and to identify any document consistent with the alleged abuse, regardless of the document's age or authorship.

These are not safeguards. Even if they were, they do not cure the other defects of the bill.

We also would like to address your assertion that this "bill does not target Catholic institutions." Here are the reasons why we believe it does:

- In your first press conference, you focused exclusively on opening the door for Reardon claimants who are suing only *Catholic* institutions: St. Francis Hospital and the Archdiocese of Hartford.
- In your presentation to the Judiciary Committee, you read their statements.
- The expert panelists supporting the bill were exclusively plaintiff attorneys suing *Catholic* institutions.
- Almost every victim who testified on March 17 is suing a *Catholic* institution.

We find it highly objectionable that the General Assembly would impose burdens on Catholic and other non-public institutions that it is unwilling to impose upon itself. Please note that Catholic institutions, through zero tolerance and safe environment programs, practically have eliminated such abuse since 1992. Meanwhile, one in ten children in juvenile detention facilities were sexually victimized by staff in 2008; 112 Connecticut public school teachers lost their license for sexually abusing students since 1992, and 19 State-paid Connecticut foster parents abused their wards since 2006. Please review the attached graph that illustrates these points.

We firmly disagree with your claim that the "bill does not protect the state" from childhood sexual abuse damage claims. It would be accurate if you had written that state and local government are already absolutely protected from such claims due to the doctrine of sovereign immunity and that the bill does not repeal sovereign immunity in regard to the State and CGS § 52-557n with regard to municipalities. Instead, the bill merely permits plaintiffs to apply for permission to sue the State. But history proves that the State can and likely will refuse the vast majority of such applications. This is clearly not the same as providing direct access to the courts as is available to those suing Catholic institutions. In addition, even under the bill, child victims cannot apply for permission to sue non-state government entities like public schools.

If the provision really does open the door for suits against the State (the retroactive nature of which the CCPAC certainly objects to), then the Office of Fiscal Affairs must estimate the large number of potential claims that have accumulated against the State over the past eighty years but were barred due to sovereign immunity and the statute of limitation. These include Reardon-related claims against the Department of Public Health, claims of foster-parent abuse, and claims of teacher and coach abuse. Based upon present averages, there are likely 300 foster parent abusers and 360 teacher and coach perpetrators since 1950. There are also an undetermined number of juvenile detention facility staff abusers. Does HB 5473 open the door to all these claims? If so, how much must the General Assembly appropriate and set aside to defend or pay these claims? Will these claims bankrupt the State?

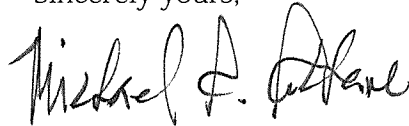
The bill also ignores CCPAC's additional concern that the law prevent future abuse. The original bill stated that its purpose was "to protect children." This purpose was apparently deleted from the substitute bill. Suits filed after the passage of decades or after an abuser is dead do not prevent child abuse. Shorter statutes of limitations, like the two to five year period permitted in most other circumstances, provide prompt notice of dangerous conditions and personnel and permit their

prompt removal. Waiting 40, 50, or 60 years before filing suit risks leaving an offender unidentified and able to re-offend.

HB 5473 is bad law because it does not prevent abuse or protect children, it unfairly applies retroactively and it does not equally expose government and non-government institutions to potential liability. The bill would make our judicial system less reliable and divert resources from the good work performed daily by Catholic institutions in Connecticut.

As the *Hartford Courant* editorialized, hard cases make bad law. This bad law deserves to be rejected.

Sincerely yours,

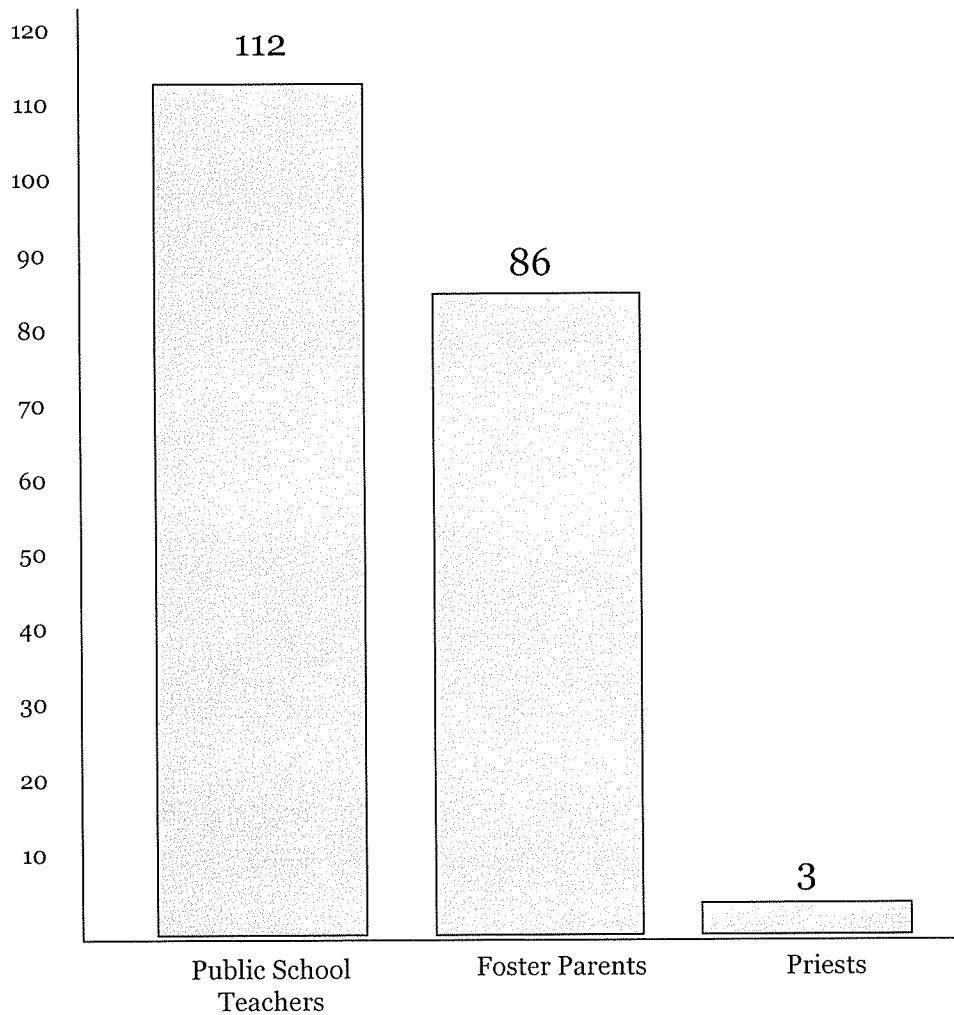
A handwritten signature in black ink that reads "Michael C. Culhane". The signature is written in a cursive, flowing style.

Michael C. Culhane
Executive Director

Attachments (2)

cc: Members of the General Assembly

**Alleged Sexual Offenders of Children in Connecticut
Government and Catholic Church Settings
1992 through 2009**



The information in columns one and two is based upon data acquired through Freedom of Information Act requests. The number in column two, 86, is the product of the four year annual average for 2006 to 2009 multiplied by the 18 years reported in this graph. In addition, the U.S. Department of Justice disclosed in a January 2010 study that 10.3% of young people (2,370 persons) held in juvenile detention facilities reported being sexually victimized by staff employees during 2008 alone. Data about sexual abuse in Connecticut juvenile detention facilities is not available because the responsible state agency refused to provide such information in response to a Freedom of Information Act request.

Courant.com

Lengthening Time Limit On Abuse Claims Is A Hard Case

THE REARDON BILL • Can an institution defend itself against charges going back many decades?

April 1, 2010

Hearts go out to those abused by the monster of a doctor who filmed children in explicit poses at St. Francis Hospital and Medical Center in Hartford, apparently for many years.

But cooler heads should prevail over a controversial bill voted out of the Judiciary Committee this week that would relax the rules on how many years those wronged by Dr. George Reardon have to file a civil lawsuit.

The bill is tailored to the doctor's victims. If it passes the General Assembly and becomes law, it would allow those whose filing time has expired to piggyback onto other lawsuits if they have documentation of abuse and similar claims.

The endocrinologist has been accused of abusing hundreds of children while at the hospital from the 1960s to the 1990s. Some were patients; some were recruited for what he claimed were growth studies. More than 50,000 slides and 100 movie reels of children were discovered in his former home in West Hartford during a 2007 renovation. That would be just the kind of documentation the bill would require.

Dr. Reardon can't be sued because he died in 1998. The target would be St. Francis Hospital, which is already facing scores of potentially crippling lawsuits from people who do fall within the current time limits.

The hospital maintains it didn't know of specific allegations until the year the doctor left, 1993. There are questions about whether the hospital can defend itself against allegations that reach back decades. Records are likely gone, witnesses' memories have grown unreliable.

Statutes Of Limitations

It's because of the long-term emotional damage of childhood sexual abuse that the General Assembly in 2003 extended the statute of limitations — the time the law gives victims to file civil lawsuits — up to the age of 48 (30 years after they turn 18). That's one of the longest such statutes of limitation in the nation.

Most of Dr. Reardon's victims didn't sue while he was alive because they believed they had no way of proving his abuse. Suddenly, in 2007, proof emerged. It does feel unjust that some victims can't use this evidence to seek retribution for their hurt unless this bill becomes law.

But statutes of limitation serve the purpose of pushing people to bring their claims before evidence degrades and the point of justice is lost.

Society's Interest In Time Limits

Deadlines for civil litigation are often missed. The woman raped in college may try to file a civil suit after undergoing therapy, only to find out she's a year too late. There would be no exception for her, even if new evidence surfaced.

That's partly because legislatures have to set limits on litigation or it would never end. It's also in part because society has to give victims notice that it's time to move away from retribution and toward recovery.

And it's partly to give defendants amnesty after a certain period so they can throw away time sheets and other exculpatory evidence and resume their lives and business.

Back when most of Dr. Reardon's crimes were apparently committed — a time when authority figures were naively trusted and when minors had until only age 20 to file a lawsuit — few institutions, if any, thought they'd have to prepare for such accusations decades hence.

The sick doctor's justifiably angry victims do deserve some kind of reckoning — an apology, atonement, acknowledgment of the pain they suffered.

But the bill that the Judiciary Committee passed after listening to the anguished testimony of Dr. Reardon's victims may do harm beyond the justice it could provide.

That's what Supreme Court Justice Oliver Wendell Holmes Jr. meant when he wrote a century ago that "hard cases make bad law ... because of some accident of immediate overwhelming interest which appeals to the feelings and distorts the judgment."

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