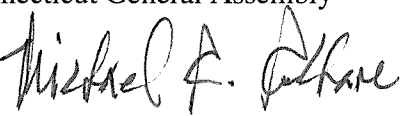


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MICHAEL C. CULHANE
EXECUTIVE DIRECTOR

DEACON DAVID W. REYNOLDS
LEGISLATIVE LIAISON

TO: Members of the Connecticut General Assembly

FROM: Michael C. Culhane 
Executive Director

RE: Comments to Representative Bye's letter to the General Assembly

DATE: April 16, 2010

We have received a copy of Representative Bye's letter to the General Assembly dated today and respond to each of her points as follows.

1. We appreciate her recognition that the so-called safeguards in HB 5473 for claims filed beyond age 48 do not include a requirement that such claims must be joined with claims of others filed before that age. Either way, the Connecticut Catholic Public Affairs Conference does not believe that a "tag-along" or joinder requirement reduces fraudulent claim-making or serve the policies of fairness, non-retroactivity, or prevention that we have endorsed. In fact, joinder would wreak havoc on discovery and pleadings of timely filed cases.
2. We also appreciate her recognition that, contrary to her earlier e-mail, HB 5473 does not require a probable cause hearing for suits filed after a claimant's 48th birthday. The requirement that an attorney or his client certify that the claim has good faith is no more than what is already required of litigants in any lawsuit. The requirement that a party identify a document, regardless of its age or authorship, consistent with the alleged abuse also is not a safeguard. For example, how would it be a safeguard for a plaintiff to provide a medical report from his own hired expert? These requirements for claims after age 48 also do not cure the other defects of the bill.
3. While it is true that three states have eliminated their statutes of limitation for childhood sexual abuse damages claims, she fails to note, first, that 47 states have not, and, second, the law in the three states that currently have no statutes of limitation for such claims applies only prospectively, i.e., they apply only to future conduct. HB 5743--alone among all state laws--would apply retroactively. Retroactive laws are patently unfair.
4. We do not misconstrue how sovereign immunity works. It today bars childhood sexual abuse claims against foster care facilities, juvenile detention facilities, public schools, and other governmental entities. HB 5473 does not repeal sovereign immunity or the one-year statute of limitation for governmental entities. Section 2 only provides that *State* governmental entities (but not city and town public schools and other political subdivisions of the State) can be sued if a State agency grants permission. Conversely, Catholic institutions can be sued regardless whether they grant permission. Section 2 does not address claims against public schools, municipalities, or other non-state governmental entities.