

**WRITTEN STATEMENT OF WESLEY W. HORTON
ON BEHALF OF THE CONNECTICUT CATHOLIC PUBLIC AFFAIRS CONFERENCE
IN OPPOSITION TO RAISED BILL NO. 1033**

I oppose Raised Bill No. 1033, which would for future acts eliminate entirely the statute of limitations on actions to recover damages for personal injury to a minor caused by sexual abuse and the like. The current statute, C.G.S. § 52-577d, has an already very long 30-years-from-the-date-of-majority deadline. My opposition is based on the following reasons:

1. Statutes of limitations are important to a just society. The rights of plaintiffs are important too, but they must be balanced against the purposes of statutes of limitations, all of which become weightier as time goes by.

First, time slowly destroys evidence. Witnesses may die or their memories may fade. This is a particularly serious problem for § 52-577d because any plaintiff by definition was under 18 when the acts complained of occurred. If Raised Bill No. 1033 becomes law, a case could be brought at any time by the plaintiff. Since the defendant and some or all possible witnesses may be much older than the plaintiff, the death of the defendant and witnesses, or the fading of their memories, is likely to be a major problem in a case brought by a 50- or 60-year-old plaintiff.

Time also fades memories of who the witnesses might be. And remembering their names is only half the problem; it may be impossible to locate them after an absence of several decades.

Time not only fades memories of people and events, it also fades memories of relevant documents and where they were put. And even if a person's memory of where a document was put several decades ago is still vivid, anyone who has ever gone looking for a very old document knows the frustration of not finding it where it is supposed to be.

Second, there is a problem with unlimited statutes of limitations that goes beyond dead witnesses, lost documents and fading memories. It is the difficulty of judging conduct in extreme hindsight. Societal standards change over time, especially on sensitive subjects such as sex, race and the like. Sexual misconduct with minors of course is and has always been totally improper. Other actions that would be highly suspicious today might have been on the borderline or even acceptable 40 or 50 years ago. A juror raised under today's standards might infer the existence of sexual misconduct from such actions that a juror 40 or 50 years ago would not have inferred.

In any event, societal standards applicable to the closeness of supervision over priests and other community leaders, as well as societal standards applicable to the duty to investigate or report suspicious conduct, surely have changed over time. How can we expect a jury, many of whom may not have been alive 40 or 50 years ago, to apply the standards of conduct from a time before they were born? There also is an insurance issue. What was thought to be adequate insurance based on experience with claims and verdicts 40 or 50 years ago is simply not up to responding to hindsight verdicts arrived at decades later.

Third, society needs to know about misconduct sooner rather than later. The sooner society knows about misconduct, the sooner local, state and federal authorities, as well as private persons and institutions, can take action to solve the problem. While in the past young victims of sexual abuse may not have been sufficiently encouraged to come forward by their peers or by professionals, times have changed. In the twenty-first century, with mandatory reporting by various professionals, plus the great publicity and educational efforts on the subject, Raised Bill No. 1033 would be a step backward in the efforts to encourage timely reporting of sexual abuse.

Fourth, the Connecticut Supreme Court has said that the statute of limitations allows “persons after the lapse of a reasonable time, to plan their affairs with a reasonable degree of certainty, free from the disruptive burden of protracted and unknown potential liability.” *Tayco Corp. v. Planning & Zoning Commission*, 294 Conn. 673, 684 (2010). Put another way, law-abiding people and organizations need to know when they can safely dispose of mountains of records; insurance companies need to know how long claims can be asserted when they are setting premiums; and all of us at some point need to know when we can and should move on. While 30 years is already a very long time, at least it provides a definite ending point. If Raised Bill No. 1033 is passed, records can never safely be disposed of and a point is never reached where everyone – including good people who have done nothing wrong – can move on.

2. The second overall reason for my opposition to Raised Bill No. 1033 is that § 52-577d is already extraordinarily generous to people with sexual abuse claims from their childhood.

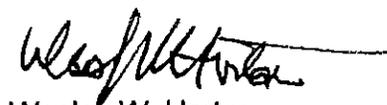
Until 1991, such claimants generally had only two years after majority to bring an action. From 1991 until 2002, the claimant had 17 years after majority to bring it. Since 2002 the claimant has had 30 years after majority. C.G.S. § 52-577e also allows an unlimited time for an action against a perpetrator convicted of certain sex crimes.

Claimants who were 18 or older at the time of the sexual acts complained of have only three years to make their claims. C.G.S. § 52-577. Claimants of any age at the time of non-sexual acts complained of (for example, kidnapping) also have only three years to make their claims. *Id.* Nothing in the current bill will change that. If the argument for Raised Bill No. 1033 is that sexual abuse of minors is different, my response is that § 52-577d already treats that misconduct far differently from other types of misconduct.

Almost all of the other 49 states would agree that Connecticut is already extraordinarily generous to young victims of sexual abuse. Of the 49, 45 generally have a deadline of between 1 and 22 years after reaching majority. In only 3 of the 45 is the deadline over 12 years after majority. Only Alaska, Delaware, Florida and Maine have gone further than current Connecticut law. The more Connecticut's statute of limitations is out-of-line with those of 45 other states, the more Connecticut will encourage forum-shopping, especially from litigants in states bordering Connecticut.

3. My final overall reason for opposition to Raised Bill No. 1033 extends beyond child sexual abuse cases. If the Bill becomes law, the public may conclude that the Legislature does not see statutes of limitations as being very important. But statutes of limitations exist to protect us all. As with many things in life, important principles often compete with each other and room must be found for both. Eliminating the statute of limitations entirely may force non-profit, religious and other organizations to divert their assets from providing a safety net for the needy to defending more law suits. In Delaware, for example, the unlimited statute of limitations led to a multi-million-dollar verdict in December 2010 for misconduct of a priest in the mid-1960s. While only 10% of the verdict was assessed against the local parish, the work of that parish for the needy is now in jeopardy.

The Connecticut Legislature has already seen fit to subordinate the policy of the statute of limitations so far as to give a plaintiff 30 years from majority to bring an action. Thirty years is long enough.


Wesley W. Horton

April 1, 2011