



Lawmakers hope to give child sex abuse victims their day in court

Bill sponsors will host groups supporting the Child Victims Act on April 22 in Albany

By MATTHEW D'ONOFRIO

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Criminal and civil statutes of limitations for child sexual abuse crimes in New York would be eliminated if the state Legislature passes a bill reintroduced this session.

Under current law pedophiles are able to hide behind the statute of limitations and go unpunished for sexually abusing a child if the victim doesn't press charges before age 23. A growing number of bi-partisan lawmakers are hoping to change that.

The Child Victims Act (A.2872/S.63), sponsored by Assemblywoman Margaret Markey, D-Queens, would eliminate the criminal and civil statute of limitations for child sexual abuse crimes as well as establish a one-year window for victims to bring civil lawsuits against people or institutions in older cases that were exempt because of the existing statute of limitations.

Criminal cases are not included in this one-year window because they cannot be pursued retroactively.

The bill has a long legislative history but made headlines in 2012 in light of high-profile scandals at Syracuse University, Penn State University, and Horace Mann, a private school in New York City.

Former Syracuse University assistant basketball coach, Bernie Fine, was accused of inappropriately touching two ball boys for the team in the 1980s and 1990s. The two boys announced the abuse and accusation in November of 2011 on ESPN.

Jerry Sandusky, former assistant football coach for Penn State University was convicted of 45 counts of sexual abuse in June of 2012 for child molestation that occurred between 1994 and 2009 and stretched as early back as the 1970s.

At Horace Mann, more than 63 students were allegedly sexually abused by 22 staff members between 1962 and 1996. The abuse was uncovered decades later in June of 2012.

New York is one of five states that has not yet eliminated or extended their statute of limitations laws on child sexual abuse.

The bill language states that "Sex crimes, particularly those committed against children, are among the most heinous and deeply disturbing in our society. They are crimes that leave life-long scars, multiple victims and require an all encompassing strategy to combat. Victims of childhood sexual abuse do not come to terms with their abuse until well into adulthood. Under current law they have no recourse. By eliminating the statute of limitations on childhood sexual abuse cases victims can bring their claims regardless of whether or not DNA evidence is available.

The bill further states that "by eliminating the statute of limitations in childhood sexual abuse cases, victims of these horrific crimes will get their day in court and be able to seek the justice they have been denied."

California passed similar legislation in 2002, including the one-year window to file lawsuits for older crimes. More than 1,000 lawsuits, resulting in \$1.2 billion in settlements by statewide dioceses of the Catholic Church, followed the passage of the law.

The Catholic Church of New York opposes the Markey bill. Although the church supports the elimination of the statute of limitations for crimes going forward, it does not support the one-year window for past offenses.

In 2012, The Catholic Conference supported a bill proposed by Sen. Andrew Lanza, R-Staten Island and Assemblyman Michael Cusick, D-Staten Island. Their bill (S.6477/A.8064) extended the statute of limitations, but did not offer the one-year window to file new claims on older crimes.

Dennis Poust, director of communications for the New York State Catholic Conference, said the church views the one-year window as "unconstitutional" in terms of the criminal code.

"It is impossible to sort out the truth when you go back decades and decades," said Poust, noting that "memories fade and evidence [is] lost" and most offenders are

deceased by now. "We're not looking to defend them," Poust said of past offenders. He noted that it is the private institutions the church is defending, including groups such as the Boy Scouts.

There is some debate about whether the proposed law would open public institutions up for liability in past abuse cases. Poust believes public institutions would be insulated from lawsuits but a spokesman for Markey's office says the bill doesn't specify between private and public institutions.

Poust said the state is protecting itself from lawsuits and he'd like to see the bill amended to include public institutions as well because "anything less than that isn't justice at all."

"If you were 25 and were abused 10 years earlier by a public school teacher you would not be able to bring up a lawsuit," said Poust, referring to the bill in its current form. "If you were 25 and abused in 1945 by the Catholic Church, you can."

Mike Armstrong, a spokesman for Markey, said the legislation doesn't include public institutions because it doesn't include any institution at all — it is non-specific. There is no writing in the bill that states which type of institutions will be affected or targeted. It applies to both public and private institutions.

Armstrong said the opponents of the bill, or protectors of "molesters" as he referred to them, are concerned with the part of the bill that includes the one-year window.

Armstrong believes the legislation has the best chance of passing this session due to the largest number of supporters — 59 as of press time, both Democrats and Republicans between the Senate and Assembly — in recent history and the "aggressive, energetic" sponsor in the Senate, Brad Hoylman, D-Manhattan. Armstrong also notes that Sen. Jeff Klein, D-Bronx, is a new supporter of the bill.

On April 22, Markey will host a number of groups supporting the Child Victims Act during an advocacy day in Albany and other organizations concerned about the issue of child sexual abuse to educate others, get their message out and visit legislators.