

Legislative History for Connecticut Act

HB 7316	PA 240	1991
House	4702-4708	(7)
Senate	2494-2496, 2497	(4)
Judiciary	1125-1129, 1132-1147	(20)
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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

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1991

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4698-5069

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House of Representatives

Wednesday, May 8, 1991

Thank you, Madam Speaker. I would like to have removed from the Calendar, Calendar No. 475, File 544, House Bill 6020, AN ACT CONCERNING A STATE TROUBADOUR.

DEPUTY SPEAKER POLINSKY:

The lady has asked for removal of Calendar 475 from the Consent Calendar. That Calendar -- that shall be done. Is there objection to any other item on the Consent Calendar for action at tomorrow's session?

The Clerk please return to the Call of the Calendar.

CLERK:

On Page 7, Calendar 461, Substitute for House Bill No. 7316, AN ACT EXTENDING THE STATUTE OF LIMITATIONS FOR MINOR VICTIMS OF SEXUAL ASSAULT.

Favorable Report of the Committee on Judiciary.

REP. TULISANO: (29th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

The distinguished Chairman of the Judiciary Committee, Representative Tulisano.

REP. TULISANO: (29th)

Madam Speaker, I move for acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER POLINSKY:

The question is on acceptance and passage. Will

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you remark, sir?

REP. TULISANO: (29th)

Yes, Madam Speaker, the Clerk has an amendment,  
LCO6151.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO6151, which shall be  
designated House Amendment "A".

CLERK:

LCO6151, designated House Amendment Schedule "A",  
offered by Representative Bolster, et al.

DEPUTY SPEAKER POLINSKY:

Representative Tulisano, do you wish to summarize?

REP. TULISANO: (29th)

Yes, Madam Speaker. The gentleman has asked leave  
of the Chamber to summarize. Is there objection?  
Seeing no objection, please proceed, sir.

REP. TULISANO: (29th)

Madam Speaker, this amends the statute, the  
proposed file copy from 12 to 17 years thereby  
extending an additional 35 years, five years to be 35  
which a person may be able to bring an action.

I move adoption of the amendment.

DEPUTY SPEAKER POLINSKY:

The motion is on adoption of House "A". Will you  
remark further? Will you remark further on House "A"?

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Representative Bolster.

REP. BOLSTER: (137th)

Thank you, Madam Speaker. When Judiciary had a public hearing on this particular bill, there was feeling among many of us that we probably should have written it originally to age 35, but we didn't and thinking more about it afterwards, I submitted the amendment to extend it for five additional years, to 17 years after date of maturity.

The testimony indicated that a great many people who suffer sexual abuse repress any knowledge and when this does begin to manifest itself, it's usually when they are over the age of 30, so if we had left it just at 12 years, we would have in essence prevented these people from bringing suits, if necessary.

I think that this is a better compromise and I would hope that both sides of the aisle would support it.

DEPUTY SPEAKER POLINSKY:

Thank you, madam. Will you remark further on this amendment? Will you remark further? If not, let us try your minds. All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

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DEPUTY SPEAKER POLINSKY:

Opposed nay.

The ayes have it.

The amendment is adopted and ruled technical.

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House Amendment Schedule "A":

In line 9, strike "TWELVE" and insert "SEVENTEEN"  
in lieu thereof

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DEPUTY SPEAKER POLINSKY:

Will you remark further on this bill?

Representative Tulisano.

REP. TULISANO: (29th)

Madam Speaker, I guess this legislation has had somewhat of a tortuous route from its inception. A number of years ago Connecticut was among the first states to recognize that minor victims of sexual assault often do not have the independence and the opportunity to bring civil actions against the perpetrators of crimes against them and at that time Connecticut, in the beginning, enacted its current statute, one of the first in the nation, and the purpose of it is to give individuals an opportunity to do something for themselves.

Our criminal statutes are there --.

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DEPUTY SPEAKER POLINSKY:

(Gavel) It's a long afternoon. It's a warm afternoon. We still have work to do and there is still too much noise in this Chamber. Please take your conversations out of the Chamber. Please. I apologize, Representative Tulisano. Please proceed.

REP. TULISANO: (29th)

Our criminal statutes are there and individuals can be arrested and convicted, but the main focus of legislation is before us today and now extended to individuals potentially 35 years old is to give an opportunity for a person that has recognized, in most cases these are women, an opportunity to do something for themselves.

My interest in this area began when I've had a few individuals come to my office and we dealt with some of their problems under the old law. Recently, before this bill was brought to us by an advocate this year, and another different form, thinking about calling about time of discovery, had received a few phone calls from people when the incident occurred in other states and husbands had called me about their wives who had, had begun to suffer, and I guess the best way to describe it is become dysfunctional in these marriages because of prior incidents and the only way they

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thought they might be able to help somebody become whole was to be able to bring a cause of action against the perpetrator.

In cases I've come into contact have been 25 to 30. The evidence that Representative Bolster has indicated very often may be up to 35. That's not to say in the future we may have even more evidence before us.

I think it's good legislation. It brings Connecticut in the forefront and gives individuals an opportunity to help redress their own wrongs. I hope the bill passes. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this bill as amended? Will you remark further? Will you remark further? If not, will all members please take their seats. Staff and guests to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is taking a roll call vote. Members to the Chamber please.

DEPUTY SPEAKER POLINSKY:

Have all members voted? Have all members voted and is your vote properly recorded? If all members have voted, the machine will be locked and the Clerk will

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take a tally.

The Clerk will announce the tally.

CLERK:

House Bill 7316, as amended by House Amendment  
Schedule "A".

Total Number Voting	143
Necessary for Passage	72
Those voting Yea	143
Those voting Nay	0
Those absent and not Voting	8

DEPUTY SPEAKER POLINSKY:

The bill as amended is passed.

CLERK:

Please turn to Page 8, Calendar 483, House Joint  
Resolution No. 65, RESOLUTION ACCEPTING THE

RECOMMENDATION OF THE COMMISSIONER OF CLAIMS WITH  
REGARD TO THE CLAIM OF ZELDES, NEEDLE & COOPER.

Favorable Report of the Committee on Judiciary.

REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Tulisano of the 29th.

REP. TULISANO: (29th)

I move for acceptance of the Joint Committee's  
Favorable Report and adoption of the resolution.

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care to remark on Senate Calendar 286? Further remarks? If not, Senator Avallone.

SENATOR AVALLONE:

I would move it to Consent.

THE CHAIR:

Thank you. Is there any objection in placing Senate Calendar 286, HB7178 on the Consent Calendar? Any objection? Hearing none, so ordered.

THE CLERK:

Turning to Calendar Page 5, Calendar 415, Files 521 and 673, Substitute HB7316, AN ACT EXTENDING THE STATUTE OF LIMITATIONS FOR MINOR VICTIMS OF SEXUAL ASSAULT. As amended by House Amendment Schedule "A". Favorable Report of the Committee on JUDICIARY. Clerk is in possession of amendments.

THE CHAIR:

Thank you very much. The Chair recognizes Senator Avallone.

SENATOR AVALLONE:

Yes, Madam President, I would move the Joint Committee's Favorable Report and adoption of the bill in accordance with the action of the House.

THE CHAIR:

Thank you. Mr. Clerk.

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Madam President, it is my understanding that all of the amendments that have been filed are to be withdrawn.

THE CHAIR:

Thank you very much. Hearing no objection, I recognize Senator Avallone.

SENATOR AVALLONE:

Madam President, we had substantial testimony before the Committee that minor victims of sexual assault often do not understand or recognize the damage which they have sustained until a substantial number of years after they attain majority. In fact, it is not just two or three years, but can be substantially longer than that. The testimony came from psychologists, child psychologists, psychiatrists, individuals who have gone through this very important experience and did not realize until later in their life the substantial adverse impact that these actions had on them at such an early age. So the Committee in recognition of that extends the statute of limitations on which one can bring an action.

THE CHAIR:

Thank you very much, Senator. Would anyone else wish to remark on Senate Calendar 415? Are there any further remarks? Any further comments? If not,

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Senator Avallone.

SENATOR AVALLONE:

I would move it to Consent.

THE CHAIR:

Is there any objection in placing Senate Calendar 415, Substitute HB7316 on the Consent Calendar? Any objection? Hearing none, so ordered. Senator O'Leary.

SENATOR O'LEARY:

Thank you, Madam President. Madam President, I move that any items not reached on today's Calendar be marked Passed Retaining their place.

THE CHAIR:

Thank you very much, Senator. Is there any objection? Hearing none, so ordered. Mr. Clerk, I believe we have now before us a Consent Calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber. Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Thank you very much. The issue before the Chamber is Consent Calendar #3 for the date, Tuesday, May 28, 1991. Mr. Clerk, when you are able would you please

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read the items that have been placed on the third  
Consent Calendar.

THE CLERK:

The third Consent Calendar begins on Calendar Page  
3, Calendar 286, HB7178. Calendar Page 5, Calendar  
415, Substitute HB7316. Calendar Page 7, Calendar 462,  
Substitute HB6814. Calendar Page 8, Calendar 464,  
Substitute HB6962. Calendar 466, Substitute HB7128.  
Madam President, that completes the third Consent  
Calendar.

THE CHAIR:

Thank you very much, Mr. Clerk. As you have heard  
we have before us the 3rd Consent Calendar. The Clerk  
has read the items that have been placed on Consent.  
The machine is open. You may record your vote. All  
Senators present and voting have voted. The machine is  
closed.

The result of the vote.

36 Yea

0 Nay

0 Absent

The Consent Calendar is adopted.

Mr. Clerk, do you have any further business?

THE CLERK:

Madam President, we are awaiting the 3rd Agenda to

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trademark law that occurred about two years ago. This would simply make the state trademark easier to interpret. It would allow us to rely on federal court decisions. It also administratively increases the flexibility of the office. It formally permits amendments to the trademark applications. It permits telephone amendments which are used in the federal practice. Currently their trademark applications have to be rejected three or four times with a lot of wasted postage and wasted effort on everybody's part. This, hopefully, would permit more efficient processing, basically.

And finally, the fees are increased for the first time since 1973. For the most part, the fees go from line \$25 up to \$40 for applications. I am aware that there were some concerns expressed in written testimony that I believe was submitted by the Intellectual Property Section of the Bar. I would like the opportunity, since I just saw that earlier today, to respond to some of those comments in writing, if I could. Thank you very much. That's the end of my testimony and if there are any questions --.

REP. WOLLENBERG: JoBean Chambers. Good almost evening.

JOBEAN CHAMBERS: Excuse me.

REP. WOLLENBERG: Almost evening. Good evening.

JOBEAN CHAMBERS: Thank you very much. My name is JoBean Chambers. I'm here to testify in favor of the Raised HB7316. I'm a professional artist, a former schoolteacher and a counselor at the Danbury Women's Center.

The urgency of the need to pass a statute that extends the time when an incest survivor can sue the perpetrator for lasting damages done in childhood is the reason I'm addressing you today.

Incest is soul murder. The sexual abuse of a child by a trusted adult, an adult that can reasonably be expected to protect and care for that child is

incest. Incest is soul murder. What's the state limitation for murder? I don't believe there is in the State of Connecticut.

Why should there be a Statute of Limitations for the brutal assault of a child that results in the death of childhood, the death of self-respect, the death of any sense of personal value and the destruction of the ability of the victim to care for his or herself in the real world.

Every child has the basic right to be protected and to be loved. Incest is a breach of those rights, a breach that is so traumatic and final as to cause the child to believe that they are at fault and unworthy of being loved and cared for. Incest victims are trained by the sexual abuse to believe that they themselves are responsible for the horrors that are visited on them. I know. I was incested by my father from the time I was in fourth grade. I had no power to understand exactly what was happening and no power to stop the abuse for years. I had no name to give what was happening to me. Who could I tell?

On at least two occasions my mother was in the room and she pretended the abuse was a game and then for years I put the memories out of my mind and conscious memory. For an only child that desperately wanted a mommy and a daddy, the only way to have them was to pretend. I pretended the same thing that I was trained to believe. Ours was an average middle class family. My mother was a Girl Scout Leader and ran the town's cookie drives. Good mothers 40 years ago were not supposed to work for money. My father was a chemical engineer who worked hard every day and helped the Boy Scouts when he could.

We even went to church and as a child I sang in the choir. I had ballet and canoeing lessons. My parents were very active in the community and highly respected. How could anything be wrong? But in high school I sobbed and I begged to be sent away to boarding school in exchange for my parents not paying for my college. They would not hear of it.

I had no words for what my father was doing to me because my child's mind thought that to be incest vaginal penetration had to take place. The words "sexual abuse" had not yet appeared in our national vocabulary or consciousness. For years the memories were pressed from my conscious mind and what is now called Post Traumatic Stress Syndrome. As a way to protect itself, the mind chooses not to remember, but this is not a conscious choice. The Central Park jogger was spared the detailed memory of the physical and sexual assault that nearly killed her. Many Vietnam veterans only fully remember the horrors of war and flashbacks after the event. Many unable to deal with the memories have committed suicide as the only way of stopping the memories.

Many incest victims have no memories of their sexual violation for years. Some of the memories return in small flashes, one horror at a time. Other victims have memories rush back, drowning them in horror and disbelief. The victim may see the face of her beloved grandfather as he forces himself in her mouth and she may feel the life forced out of her by the weight of her groaning stepfather on top of her.

With the memories that may have been suppressed for years, comes the realization of other truths. They were abandoned. They were not protected. How could a loving grandfather, father or even mother have subjected them to the unthinkable and the unspeakable. The victims fight with the knowledge that they were emotional orphans, yet these are the lucky ones. There are unlucky ones.

Over 90 percent of women in prison are victims of childhood sexual abuse. I know. I have read the studies and I have counseled some of these women. Over 80 percent of women in rehabilitation facilities for drugs and alcohol were incested. I know. I have read the studies. I have spoken with dozens of counselors and hundreds of women struggling to achieve sobriety. I know because I am an alcoholic who has been sober for 11 years by sharing with others our experience, strength and hope.

How many suicides are attempts to escape from the incest memories and pain of the past? Ellen Bath, well known therapist in the field of incest repeats many times on her tape for survivors, do not kill yourself. She knows our thoughts and feelings. How many incest victims have not survived long enough to hear, do not kill yourself? Their internal voices were louder.

And what about the perpetrators? They are criminals. They have committed the most heinous of crimes, the rape of children, and they have been hidden and protected by a society that doesn't want to see and hear and feel. It's time to send a loud, clear message. This abuse of incest, this breach of civil right will not be tolerated because memories have taken years to return to their victims. That time should not protect the perpetrators. Because the murders were not discovered at the time they were committed, the perpetrators have no right to be free of the consequences of their acts.

And it's most important that this message get through to the adults who are sexually torturing children as we speak today. Let them hear that what they do is murder. Their victims will no longer be silent. We have survived against all odds and all those who care for children stand together to accuse them, to hold them fully accountable now and when they are discovered, we have to make them stop. Thank you.

REP. WOLLENBERG: Thank you. I just wanted to ask you. This is 11 years after majority. Right? That's what this bill is?

JOBEAN CHAMBERS: Yes.

REP. WOLLENBERG: I mean it's 29. Is it 29 years?

JOBEAN CHAMBERS: Yes, it's a start.

REP. WOLLENBERG: Do you think it should be forever?

JOBEAN CHAMBERS: In my belief --.

REP. WOLLENBERG: I understand.

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JOBEAN CHAMBERS: Memories don't come back at 29 or 23. Some of the women I've worked with have memories coming back in their 40s.

REP. WOLLENBERG: But I mean for the prosecution, you know, are you suggesting that maybe even 35 or 40, we should then prosecute, when you bring it out at 35 or 40? Maybe we ought to have it longer than 11 years?

JOBEAN CHAMBERS: I suggest that -- yes, I personally believe so.

REP. WOLLENBERG: This is civil.

JOBEAN CHAMBERS: Yes.

REP. WOLLENBERG: And I'm not taking sides, but you know, there are times these things have to be put behind us. You're telling me no, and you know --.

JOBEAN CHAMBERS: No, I'm sorry. I agree with you, yes, these things have to be put behind us and my belief that a way of doing that is by allowing --.

REP. WOLLENBERG: A recovery for any injury?

JOBEAN CHAMBERS: Yes, and a message to go out that, you know, to the perpetrators that --.

REP. WOLLENBERG: But I'm saying isn't 29, if you haven't done it by 29, should you may have done it before 29 years old?

JOBEAN CHAMBERS: I suggest that you may not have the memories at 29, that you may not remember that you were -- it was such a violent crime that you may not remember --.

REP. WOLLENBERG: And you might remember at 35?

JOBEAN CHAMBERS: Yes, that's been my experience --.

REP. WOLLENBERG: I see, okay. Okay, I understand that. Thank you.

REP. MINTZ: Anyone else? Thank you.

Adding to this partial list, as it stands now, will not solve problems, but will only add to them because there will always be more reasons to add to this list again and in the end the list will become so long and cumbersome it will be an understatement. The answer is full enforcement powers for conservation officers using DEP administrators as a limiting factor. Thank you for the opportunity.

REP. MINTZ: Thank you. Any questions? Thank you.  
Representative Bolster.

REP. BOLSTER: I wanted to make sure I heard this. You can't arrest anybody for cruelty to animals?

THOMAS DANIELS: No.

REP. BOLSTER: That doesn't make very much sense if you're a conservation officer.

REP. MINTZ: Anyone else? Thank you.

THOMAS DANIELS: Thank you.

REP. MINTZ: Margaret Clark.

MARGARET CARSON CLARK: Good evening. My name is Margaret Carson Clark and I'm speaking in support of HB7316. I'm a teacher. I am an artist. I am an incest survivor. To come before you today is to speak what has been silenced in my family for 45 years. I am now 47. My father began molesting me at the age of 2.

How does a toddler feel when an adult treats them not with the care and tenderness due a small, trusting child, but as a sexual object? If a parent is supposed to love you, how can the same person abuse you? I could not unite the father who read me stories, but also terrified me, who took me to church, but also hurt me physically. I blotted out the abuse, buried it from conscious thought.

My father told me not to tell and like a child who wishes to please a powerful adult, I didn't. I became a survivor. Feeling meant I would be vulnerable to my father's abuse, so I did not allow

myself to feel anything very deeply. Becoming close to anyone put me at risk of being betrayed and abused again. I created a pleasing face to placate the world. I did well in school. I was well liked. I had many interests and skills. I was successful and I was terribly, terribly alone.

Although I repressed all conscious memory of the incest, confusing feelings remained. As a grew to adulthood, I remained deeply uncomfortable around my father, avoided going to see him, spent as little time in his company as possible. I lived in terror of having to drive with him when he had been drinking, which was most of the time. I endured the Christmas embrace that somehow always managed to include a surreptitious fondling. I suffered in frozen silence to his jokes, always involving sexual innuendo, always feeling like an assault and I retained one puzzling image of my childhood self, lying rigid on a bed, legs pressed tighter and tighter together in the belief that I would escape harm if I became as still and as small as possible.

Over the years people somehow glimpsed the person hiding inside, tried to break through, but ultimately withdrew in frustration. I married and gave birth to a daughter. I loved her deeply and could not risk letting her know it. I divorced and entered a relationship with someone who abused her psychologically. Feeling that I would die if I didn't take some action to leave that relationship, I entered therapy, leaving once I had achieved that limited goal.

Over the years, for reasons I never understood, people confided their own incest histories to me. A mentor told me that she suspected she had been raped as a child by her uncle. A colleague working on a book moved toward memories of incest with her father as she wrote. A close friend revealed that she had been terrorized and molested by her older brother. My sisters began slowly and guardedly to talk about our father. Finally, two years ago I was ready to listen.

I sought out books and articles on incest. As I began reading, I realized that my interest came out of the need to understand my own buried past. I contacted my old therapist and the memories began

flooding in. My father did not stop with me. He molested all three of my sisters and was accused by his stepdaughter of attempted rape. One of my sisters is kept alive today by massive doses of antidepressants. One has moved as far away from Connecticut as she could. One is here today, but does not yet feel free enough of terror to be able to speak.

When I told a close friend that I had decided to testify today, she first congratulated my decision as an act of courage. She then asked me what my worst fear was. I replied that my father would be there and would kill me immediately. She then asked what my second worst fear was. I replied that it was that no one would listen. In deciding to confront my history, however, I have been blessed to find people who have listened, cared and helped.

With that help I have the courage to speak out. I have confronted my father with my memories. I demanded that he admit responsibility for molesting me. I demanded that he pay for my therapy. I never heard from him again. My three sisters either confronted him or simply stopped seeing him. He ignored each one.

Almost a year ago my sister Nora and I decided to seek legal action against our father. Our expenses for therapy are enormous and essential. We wanted recognition, we wanted retribution and we wanted justice.

After consulting our own lawyer in Massachusetts, we were told that we would have to pursue our case in Connecticut. Here we quickly learned that we had no basis for suit under the current law. My purpose today is to urge you to change that law. Thank you.

REP. WOLLENBERG: I think -- would you like to talk about this a little more in public or --?

MARGARET CARSON CLARK: What are your questions?

REP. WOLLENBERG: My question is this is for injury and damages for injury.

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MARGARET CARSON CLARK: Right.

REP. WOLLENBERG: And I assume there has to be -- people aren't just coming forward and doing this. I mean they're not coming forward and paying these damages, so --.

MARGARET CARSON CLARK: No, they're not.

REP. WOLLENBERG: Would we have to have a -- you just said that and you tried and it didn't happen. You'd have to go to court probably for these damages. Is that right?

MARGARET CARSON CLARK: I would assume so.

REP. WOLLENBERG: Yes, I mean and -- but are you prepared to do that?

MARGARET CARSON CLARK: Absolutely.

REP. WOLLENBERG: And I think this bill is maybe too late for you too, but --.

MARGARET CARSON CLARK: I think so, but as you said, this is a start.

REP. WOLLENBERG: I want people to understand, for the record, if you do that, then you have to prove damages and so on and you have to first, I suppose, prove the act. Prove that it actually took place.

MARGARET CARSON CLARK: Not being a lawyer, I'm afraid I can't go into the fine points and I know that --.

REP. WOLLENBERG: And I'm not trying to be controversial either. I'm not trying to be controversial either. I just -- you would have to go through that proof, it would seem to me, of the act and of the abuse that we're --.

MARGARET CARSON CLARK: I can't answer that question. I'm sorry.

REP. WOLLENBERG: And then the injury from which the damages flow. When we have bills like this I just like to explore it a little bit because it's not

the answer and the end all for us to pass a law and say 11 years after majority you can pursue damages for personal injury. I understand the satisfaction it gives you to see people listening and doing something about it anyway and, you know, we're attempting, but it's not the end all, but I hope you feel that we are listening and I hope you feel that this goes part of the way anyway as the speaker before you said, it's doing something.

MARGARET CARSON CLARK: Even part way would be --.

REP. WOLLENBERG: Yes, it's some satisfaction that there is someone out there listening.

MARGARET CARSON CLARK: Yes.

REP. WOLLENBERG: Okay, thanks a lot.

MARGARET CARSON CLARK: Thank you.

REP. MINTZ: Yes.

REP. VERESE: Under this particular bill here, as it's proposed, you realize you would not be covered under it?

MARGARET CARSON CLARK: Oh, absolutely.

REP. VERESE: Under the Statute of Limitations.

MARGARET CARSON CLARK: Yes, yes, I understand that, but I'm not the only person who has been sexually abused. There are many others.

REP. VERESE: No, that I understand. I just wanted to make sure that there was no confusion on that point.

MARGARET CARSON CLARK: Yes.

REP. VERESE: Thank you.

REP. MINTZ: Representative Bolster.

REP. BOLSTER: Following up on Representative Varese's question. Eleven years is kind of a -- I'm not sure where we got the number, to be perfectly honest with you, what was your comment on 11 years?

MARGARET CARSON CLARK: My comment on 11 years is that among the people I have known who have been sexually abused, there seem to be two groups. Either people who always have remember and among the people I can think of I probably know at this point 25 or 30 people personally. That tends to be the case when people -- when the abuse started later. What I have read from studies, and again, I'm not an expert except personally on this. The earlier the abuse started, the harder it is for people to recover memories, the longer it seems to take, so there essentially --

(Gap in cassette switching 5a to 5b)

-- someone who is in her 50s and has been in therapy for probably either 10 or 12 years before she felt secure enough to begin to remember what was just unbelievably horrendous abuse on many people.

REP. BOLSTER: Well, of course, by the time she was in her 50s her father or whomever might well not even be around anymore so if it's -- so it's sort of, you know, beyond the --.

MARGARET CARSON CLARK: I'm not suggesting that she would have any legal recourse.

REP. BOLSTER: No, I was just wondering whether you had any ideas as to why -- I don't know why we have 11 years. I mean maybe it should be 15 years. I mean what -- if you were going to write this, what would you put in for a number of years?

MARGARET CARSON CLARK: I could give you a number of years. I think I'd be tempted to start at 20 and then push for more, but I think that assigning a number value to it perhaps is less important than the sense among what people are beginning to realize is probably a third of the female population, the sense that this is atrocious, this is not permissible, this is to be addressed, whereas it has been ignored. There is a satisfaction that comes from realizing that people are beginning to confront issues that have been there all along.

REP. BOLSTER: I agree with that, that we're finally growing up and acknowledging the fact that, hey, you know, this goes on even in the nicest parts of society. I'm really trying to come to grips with whether we should have 11 or whether we should have 15 or since that's I guess one of the reasons why we've got this bill, to change the ages in there which have been less. Okay, thank you.

MARGARET CARSON CLARK: Okay.

REP. MINTZ: Representative Rennie.

REP. RENNIE: Thank you for coming today. When you went to -- when you were in Massachusetts and you consulted with someone there, would you have had a Cause of Action in Massachusetts?

MARGARET CARSON CLARK: Yes.

REP. RENNIE: You would have?

MARGARET CARSON CLARK: There is a three-year Statute of Limitations, I believe from date of discovery in Massachusetts at this point. I think that is fairly recent.

REP. RENNIE: Day of discovery.

MARGARET CARSON CLARK: Right. In other words, the time from which you begin to have conscious memories of the incest and I also have to say that that three years really is rather critical because the experience of regaining memories of the incest can be so overwhelming that I can think of absolutely no one who has been at a point where they could take this anywhere within a least a year and usually longer than that. It is an overwhelming, devastating experience.

REP. RENNIE: Were you able to keep working?

MARGARET CARSON CLARK: Yes, but many people are not able to keep working.

REP. RENNIE: Thank you.

REP. MINTZ: Representative O'Neill.

REP. O'NEILL: Yes, I just wanted to -- was really going to ask similar questions to Representative Bolster and you sort of answered it so that essentially we would only be providing with the 11 years as the ultimate cap, we have three years within the date of discovery and then we have 11 years as an ultimate cap in this bill. We would only be providing relief for those people really who fall into Category 1 that you've described. In other words, those have always known pretty much and most of the people who only -- what you said was there are people who always knew and take action perhaps in their late teens, early 20s and then there are those who kind of come to be aware of it perhaps in their 30s and this would mean, since we're dealing with an 18-year majority, those who are 29 are mostly going to be the ones that always knew, that sort of way you're testifying?

MARGARET CARSON CLARK: This is my experience and I want to be really clear, I'm speaking only from personal experience, from the people I have spoken with. I could certainly refer that question to Gails Burns-Jones who is going to speak later and I think she's done much more extensive reading on this matter than I have.

REP. O'NEILL: Yes, thank you.

MARGARET CARSON CLARK: Okay.

REP. MINTZ: Representative Wollenberg.

REP. WOLLENBERG: Thank you for coming. It wasn't so bad. It's nice to have you. Nice to have you.

REP. MINTZ: Gail Burns-Smith.

GAIL BURNS-SMITH: Senator Avallone and Members of the Committee, my name is Gail Burns-Smith and I'm testifying today on Raised HB7316. I'm testifying on behalf of the Connecticut Sexual Assault Crisis Services which is the association of all 13 rape crisis located throughout the state.

We strongly urge you to support extending the Statute of Limitations in cases of sexual abuse of minors. Child sexual abuse and incest are heinous

crimes and the current Statute of Limitations prevents many survivors from seeking redress for their injuries.

Cases involving sexual abuse of minors warrant special consideration due to the fact that traditional statutes do not take into account the unique characteristics of child sexual abuse and the vulnerability of its victims.

Traditional approaches presume immediate recognition by the victim that a crime has been committed against him or her and the ability to report that crime immediately. Children, however, are often unaware that a crime has been committed and often the abuser will pressure or threaten the child victim to keep the abuse a secret.

As you've heard in this previous testimony, child sexual abuse, particularly incest, may be psychologically repressed because of the need to block the pain and the trauma resulting from such injuries. A survivor may develop Post Traumatic Stress Disorder as an elaborate defense mechanism to block painful memories. We know through experience and with documentation from the research literature that many survivors simply will not recall the abuse until the third or fourth decade of life.

By setting a short Statute of Limitations or some other inflexible time bar to a legal claim, Legislatures deny victims a viable opportunity to seek compensatory relief from their abuses. Indeed, an article in the Harvard Women's Law Journal states that under these circumstances, the prescribed termination of the limitation period renders the legal remedy delusive and may therefore be subject to constitutional attack as a deprivation of due process.

The bill before you begins to address these issues by recognizing that in many cases young adults simply lack the maturity, independence and strength to report such abuses, let alone pursue legal action against their abusers, especially against a parent. We would ask, however, that language be added to the section of the bill on line 22, if you keep this language, to clarify that the three years

of discovery should commence after the age of 18. Without this addition this bill would be more limiting than the current statute.

In closing, we will support this bill which will, as stated by Carolyn Handler in a Fordham Law Review article, to redress a fundamental inequity and hardship that is worked upon adult victims of childhood incest abuse when traditional rules of accrual are applied to the civil claims. Thank you. Do you have any questions?

SEN. AVALONE: Yes, I just have a couple of questions because I've never had a case of emotional distress. Connecticut law, is it the intentional infliction of emotional distress?

GAIL BURNS-SMITH: The way it reads now is no action to recover damages for personal injury to a minor including emotional distress caused by sexual abuse, sexual exploitation or sexual assault.

SEN. AVALONE: That's current language?

GAIL BURNS-SMITH: That's correct. And it would remain in the change -- just looking at the length of time.

SEN. AVALONE: Does Connecticut law require contact for emotional distress to be --?

GAIL BURNS-SMITH: Yes.

SEN. AVALONE: It does require contact? Okay. I wasn't sure of that. And it doesn't have to be intentional infliction of emotional distress. You don't want that anyway.

GAIL BURNS-SMITH: That's correct.

SEN. AVALONE: Okay. Is contact -- I would assume it would be the normal abnormal behavior if contact is made, but is there any need to change that so that you don't need contact?

GAIL BURNS-SMITH: I'm sorry. I'm not sure I understand the question, Senator Avallone.

SEN. AVALONE: Is there a form of abuse that takes place without there being contact?

GAIL BURNS-SMITH: Physical contact?

SEN. AVALONE: Yes.

GAIL BURNS-SMITH: Yes.

SEN. AVALONE: That's what -- I'm sorry, physical --. And so would we want to put something in here that says in these cases that there's no necessity of showing physical contact in order to make an action?

GAIL BURNS-SMITH: I think that certainly might be helpful for a lot of survivors, yes.

SEN. AVALONE: Okay.

REP. MINTZ: The question that I have is the language that's written may not do what you want it to do because it says, "But within three years of discovery of such injury."

GAIL BURNS-SMITH: That's correct.

REP. MINTZ: Discovery doesn't mean when a memory is brought back. Discovery is usually when someone discovers that something -- like in asbestos, that the disease is taking place. The problem with this is that the victim discovers that they were the victim when it happened to them. So the discovery -- no one is going to fall within the three years after majority because they would have discovered it already because they were the victim.

GAIL BURNS-SMITH: Not necessarily, Representative Mintz. There are sometimes -- you heard one of the survivors talk about their experience and they stated that the experience is so overwhelming that literally they repressed the entire memory.

REP. MINTZ: Oh, I'm not arguing that, but I'm talking very specific legal point of view -- the word "discovery" you may be throwing out the whole Statute of Limitations statute if we use the word "discovery" because unless, you know, discovery is

defined somewhere was recollection or the repression has been lifted. If you just use the word "discovery", from a legal point of view, the word "discovery" means when they find out. Well, they found out about it when it happened to them.

GAIL BURNS-SMITH: Indeed that's true. I understand and we hadn't thought about that. Actually this was based on other statutes from other states that indeed use the language "discovery" or when it reasonably should have been discovered, meaning indeed the remembrance of that abuse and that's common language in these types of Statute of Limitations. I was unaware of --.

REP. MINTZ: Is there any court cases that have defined discovery in these kind of cases to mean the recollection of the injury?

GAIL BURNS-SMITH: Yes. Indeed there is. I know there is at least one case currently that's pending on appeal in Rhode Island.

REP. MINTZ: Can you get us that because I would hate to put in language that actually does harm rather than good.

GAIL BURNS-SMITH: Right, and I agree.

REP. MINTZ: Representative Bolster.

REP. BOLSTER: Yes, I think (inaudible, mic not on) shouldn't just be recollection. It's got to be recognition. I've never done this before. We

GAIL BURNS-SMITH: Right.

REP. BOLSTER: Because you could remember something, but it's also been repressed (inaudible, mic not on). You might have remembered, but not understood.

GAIL BURNS-SMITH: That's correct.

REP. BOLSTER: (inaudible, mic not on) a lot longer. Also, what is -- or is there in our statutes a definition of emotional distress?

REP. MINTZ: There's case law developed over the years, obviously mental as opposed to physical and it manifests itself in (inaudible).

REP. BOLSTER: Okay. I mean you're getting into something that's not that easy to define.

REP. MINTZ: How many states have statutes like this?

GAIL BURNS-SMITH: There are currently five that have statutes similar to this.

REP. MINTZ: And how many of these have been tested in the courts that you know of?

GAIL BURNS-SMITH: Well, I know that --.

REP. MINTZ: Just Rhode Island.

GAIL BURNS-SMITH: No, actually Rhode Island doesn't have a statute that explicitly says this. Their courts actually have found for discovery on case law that they don't have a specific statute. However, Maine, Montana and California, some of these statutes, I think a lot of these statutes actually have been passed within the last three to five years so that there's not a lot of experience with them currently.

REP. MINTZ: Okay. I mean I think maybe we should look into that to see if there is because I don't --.

SEN. AVALLONE: There's a book called "Rights on Court." In other words, the Bible, so to speak. We've never done this before. We never (inaudible, mic not on.)

REP. MINTZ: Yes, Representative Rennie.

GAIL BURNS-SMITH: Are there any other questions?

REP. RENNIE: I have a question. Is there a profile of using parent -- is there a typical profile? I get a feeling that there are certain characteristics that the victims have in common. I'm wondering if you could share with us whether or not there are characteristics that the abusers have in common.

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GAIL BURNS-SMITH: Actually I think that there probably are some characteristics. I can tell you, however, that it cuts across all socio-economic lines and all races and ages.

Actually I would defer. We have an expert in the audience who does sex offender treatment and he might be able to speak to that much better and much clearer than I to give a specific answer.

REP. RENNIE: Okay, thank you.

REP. O'NEILL: I wanted to ask you the question that the previous witness thought you would be better able to answer which is the eleven years is the final number. It seemed like from her testimony, from her experience, people either remember more or less from the time that it happens and therefore are able to start taking action, say, in the early 20s or they don't remember anything, they completely repress it until some time in their 30s or 40s. Is that your -- you said you did a lot of research? Is that the way it is and, well, start with that, is that the way it is?

GAIL BURNS-SMITH: Actually people may also remember during their 20s. What usually triggers memories is the issue of safety, when one feels safe enough and has enough length of time and space away from the abuser, then one can start having memories.

Additionally, it may be a life event that brings on memories so that at childbirth or when your child reaches a certain age that may also trigger memories or indeed if there are other experiences. Sometimes we get phone calls from people who are watching a television show or hear someone else's abuse and it begins to trigger memories in them, so there's no exact age of which memories begin for those people who have repressed those memories. However, our experience and the research literature tends to show a large increase in memory retrieval in the 30s and 40s.

REP. O'NEILL: Okay, because the point is if 11 years essentially takes us out to age 29 --.

GAIL BURNS-SMITH: Correct.

REP. O'NEILL: And that a lot of people are going to be over 29.

GAIL BURNS-SMITH: Yes.

REP. O'NEILL: When they start remembering, then this probably doesn't really help that much in a lot of ways. I mean could you give me an idea of what percentage we're talking about because that would help me.

GAIL BURNS-SMITH: In terms of the number of people that remember at certain ages?

REP. O'NEILL: Right.

GAIL BURNS-SMITH: I don't know a percentage, but I can tell you that the vast majority would remember in their 30s and 40s, but if you're looking at the group of people that have repressed the memory and then we'll remember it later. However, this statute -- indeed I spoke with some attorneys and one of the attorneys in Hartford said that she knew of at least six people that this statute would have helped immediately, so that it's a beginning. I don't think it does go far enough.

REP. TULISANO: What would the damages be?

GAIL BURNS-SMITH: I'm sorry. Are you talking about in terms of what one would sue for?

REP. TULISANO: Yes.

GAIL BURNS-SMITH: Emotional damage.

REP. TULISANO: Yes, what would you use as a measure of damages to determine what the award would be?

GAIL BURNS-SMITH: Actually I think Post Traumatic Stress Disorder is clearly listed in the DMS-III and I think that clearly shows the kinds of damage that is done to people. We've heard about people who have become substance abusers who unable to have jobs, who are unable to establish close relationships. There can be a number of things.

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REP. TULISANO: Well, I mean how is a judge going to evaluate that in dollar terms of a jury?

GAIL BURNS-SMITH: My sense is that they'll probably do it the same way they do a lot of other things that are --.

REP. TULISANO: This is new to us. Help us, you know.

GAIL BURNS-SMITH: The cost of therapy would be one thing.

REP. TULISANO: One thing.

GAIL BURNS-SMITH: If you had to lose time from work. We've talked about people who are having memory retrieval and may not be able to keep working.

SEN. AVALONE: Earning capacity.

GAIL BURNS-SMITH: Right, earning capacity, certainly --.

REP. TULISANO: That's not why we're doing it, though, correct?

SEN. AVALONE: We could think of a couple of other things that we might in the punitive area.

GAIL BURNS-SMITH: Punitive damages, yes.

SEN. AVALONE: That was the issue here. (inaudible, mic not on). All right, any other questions? All right, thank you very much.

GAIL BURNS-SMITH: Thank you. I'll see if I can get that case for Representative Mintz from Rhode Island.

SEN. AVALONE: Elizabeth Gara.

ATTY. ELIZABETH GARA: Thank you. Good evening. My name is Elizabeth Gara. I'm a staff attorney for Connecticut Business & Industry Association. I'm here this evening to testify in opposition to HB7329 which establishes criminal penalties for anti-competitive practices.