

N.Y. bill lifts limits on suing church over abuse

Amy Kotlarz Catholic News Service | Apr. 1, 2009

ROCHESTER, N.Y. -- The New York State Catholic Conference has mounted a statewide campaign to educate Catholics about a bill that would temporarily waive the state's civil statute of limitations on suing individuals and private institutions over child sexual abuse.

The Child Victims Act of New York -- also known as the Markey bill -- also would lengthen the period in which alleged victims may sue individuals and private organizations for child sexual abuse in the future.

Sponsors of the proposed legislation in the state Assembly and Senate claim it will bring justice to victims of child sex abuse, but the Catholic conference, which represents the state's bishops in matters of public policy, said the proposal unfairly targets the Catholic Church and other private institutions.

New York's current statute of limitations requires alleged victims of child sex abuse to file civil lawsuits by the time they are 23.

But separate statutes for claims against public entities -- such as municipalities, public schools, public hospitals and government-run institutions -- require the alleged victims in cases of any nature to file statements of their intent to sue, called notices of claim, within 90 days of the incident.

In some cases, a judge might consider an extension to the 90-day time frame, though the Catholic conference said this is rare.

The disparity between public and private institutions is the crux of injustice cited by the Catholic conference.

The Child Victims Act -- sponsored by Assemblywoman Margaret Markey and Sen. Thomas Duane, both Democrats -- does not make any provision to drop the notice-of-claim requirement for cases involving public entities.

But its "window" provision, which would waive the civil statute for a one-year period, would permit the filing of previously time-barred lawsuits against individuals or private organizations in cases of child sexual abuse alleged to have taken place 30, 40 or more years ago.

"Under the Markey bill there are really two classes of victims: the public-institution victim and the private-institution victim, one of whom could sue for something that happened during the Roosevelt administration, and one of whom could be shut out after a year or less," said Dennis Poust, director of communications for the Catholic conference.

Although the New York State Catholic Conference opposes Markey's Child Victims Act, it is promoting a legislative alternative, a new bill sponsored by Assemblyman Vito Lopez and Sen. Carl Kruger, both Democrats.

The Lopez bill would extend the length of time child sex abuse victims would have to sue in future cases and

equalize the rules for civil child sex abuse suits against both public and private institutions.

Citing studies showing that most incidents of child sexual abuse are perpetrated by family members and employees of public schools and that only a small percentage of abuse has occurred at the hands of Catholic clergy, Bishop Matthew H. Clark of Rochester pointed out that the Child Victims Act would only help a small percentage of victims, whereas the Lopez bill would include all.

"If the intent of the (Markey) bill is to give remedy to victims of child sexual abuse, in fairness they ought to include all victims," Bishop Clark said.

"Our interest has been in acquainting legislators and the public with that basic unfairness of the bill, that it targets a very, very slim percentage of applicable cases," he said.

Despite the Catholic conference's opposition to the legislation, the Child Victims Act is supported by several New York state affiliates of the Catholic lay group Voice of the Faithful, which formed in 2002 in the wake of the national sexual abuse scandals.

"We Catholics have a special responsibility to respond with great compassion to victims who need our help and need our support," said Francis Piderit, a member of the leadership team for Voice of the Faithful New York, the organization's affiliate in the Archdiocese of New York.

"We believe that this bill helps us begin to do that. It will encourage victims to come forward -- victims who have been locked out of the courthouse by the statute of limitations," he said.

In California similar legislation resulted in 800 lawsuits and more than \$1 billion in claims against the Archdiocese of Los Angeles and other dioceses, forcing them to sell property and cut back on programs and services, according to information provided by the New York State Catholic Conference.

Though victims' advocates say the one-year window in the Markey bill would allow many to seek justice, Poust noted that it is difficult for the church to defend itself in cases that are past the statute of limitations because the accused abuser, witnesses and assigning bishop may be dead or unable to remember facts.

"Justice requires some sort of timely airing of the facts before memories fade and people die," Poust said, noting that this is the very reason statutes of limitations exist.

That also is the reason why the New York Civil Liberties Union opposes both Markey's and Lopez's proposed expansion of the statute of limitations for certain sex offenses.

"In any prosecution that takes place after a significant passage of time, an innocent person accused of a crime may be unable to remember where he or she was on a particular day," the organization said in a legislative memo on the bills. "Alibi witnesses' memories fade, or such witnesses move away or otherwise become inaccessible."

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