

SB217,SD1

Testimony



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2011**

ON THE FOLLOWING MEASURE:

S.B. NO. 217, S.D. 1, RELATING TO LIMITATIONS OF ACTIONS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Thursday, February 24, 2011 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): David M. Louie, Attorney General, or
Caron M. Inagaki, Deputy Attorney General

Chair Hee and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill, but opposes it due to certain legal infirmities.

The purpose of this bill is to create a cause of action for minors who are alleged to have been injured as a result of the conduct of another that would constitute a violation of part V or VI of chapter 707, Hawaii Revised Statutes (specifically sexual offenses or child abuse) or similar offense, with no limitations period. The bill also revives a cause of action that may be barred by a limitations period by allowing the commencement of an action within one year of the effective date of this bill, provided that the action is commenced within thirty-five years of the conduct alleged or within thirty-five years after the minor attains the age of eighteen years.

The bill is unclear as to what is meant by "direct conduct of another." As written, the bill appears to allow a cause of action to be brought, not just against the alleged perpetrator, but against even those who the claimant may believe had some connection, no matter how peripheral, to the assault or abuse, without any time limitation.

The Department of the Attorney General has concerns that this bill violates the due process clause of the state and federal constitutions since a claim can conceivably be brought against any person or entity at any time, which could prevent or severely impair that person or entity's ability to defend himself or itself. For example, if a minor is sexually abused and is taken to a hospital to be treated, a medical care provider who examines the minor is mandated to report the suspected abuse. If no medical care provider reports the suspected abuse and the child is abused again, there may be grounds to file an action against the medical care provider and the hospital. However, since there is no time limitation, a claimant could file a lawsuit decades later when there may no longer be any witnesses or documentation that would allow the medical care provider or hospital to defend itself in the lawsuit.

Also, any claim against a medical care provider under this bill would be in direct conflict with section 657-7.3 which sets forth a specific limitation period for actions brought by a minor.

Moreover, if medical care providers or hospitals can be sued at any time, insurance companies may refuse to issue errors and omissions policies or may raise their rates to such an extent that physicians could no longer afford to purchase insurance coverage.

It is also unclear as to who can make the determination that the conduct constitutes a violation of part V or VI of chapter 707 in order to allow a cause of action under this bill. If the alleged perpetrator is arrested but not charged with a crime under part V or VI because the prosecutor determines that the allegations are unfounded, this bill may still allow a

lawsuit to be brought against a wrongfully accused individual, at any time, if the allegations in the lawsuit merely include the elements of a violation of part V or VI. Because there is no limitations period, a lawsuit could even be brought after this individual's death against his estate and there would be no opportunity for the accused to establish his innocence.

Finally, it is unclear as to why the certification process in subsection (d) would apply only to an action filed pursuant to subsection (b) and not subsection (a), especially if a significant length of time has passed between the alleged conduct and the filing of a lawsuit pursuant to subsection (a).

We respectfully request that this bill be held.

From: [tina \(cj\)](#)
To: [JDI Testimony](#)
Subject: SB217 testimony continued.. 2/24/11 @9am.
Date: Tuesday, February 22, 2011 11:56:32 AM

this study was paid for and ordered by the catholic conference of bishops
please not statistics on false claims
and access to information on the statutes of limitations

Continued Testimony from christine johnson for SB217
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BishopAccountability.org

Data on the Crisis **The Human Toll**

Thousands of Catholic clergy and religious have raped and sodomized tens of thousands of children—perhaps more than 100,000 children—since 1950. These crimes were committed in secret, and bishops nurtured that secrecy. Nearly 15,000 survivors have broken through the silence, and their accounts have created an in-depth picture of the crisis, both in [their own writings](#) and in the work of [journalists](#) and [law enforcement officials](#). Attorneys have obtained [diocesan documents](#) that reveal additional survivor witness and also document parts of a huge cover-up. But for every account that is known, hundreds are not yet public. In order to understand the crisis



fully and take the necessary policy actions, the in-depth testimony of individual survivors must be combined with data that capture the breadth of the crisis. This webpage begins an ongoing project by BishopAccountability.org to provide the best available data on the crisis, together with suggestions for extrapolating from detailed data to understand topics for which the data are weak or incomplete.

Sex Crimes

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Sex Crimes

1. How many priests have been accused?

The U.S. bishops have reported receiving allegations of abuse by **5,768** priests in 1950-2009, or **5.3%** of the 109,694 U.S. priests active since 1950.

The sources for these numbers are [The Nature and Scope of the Problem of Sexual Abuse of Minors by Priests and Deacons](#), by Karen Terry et al., prepared by the John Jay College of Criminal Justice (Washington DC: USCCB, 2004), with the annual implementation reports issued by the USCCB for [2004](#); [2005](#); [2006](#); [2007](#); [2008](#); and [2009](#) (chap. 4).

Other percentages

After the March 2009 release of [audit documents](#) by the NH AG, the names of 74 accused Manchester priests are known, or over 8.9% of the 831 diocesan priests, which extrapolates to **9,768** nationally

Covington diocese states that **9.6%** of its priests have been accused, which extrapolates to **10,531** nationally
 Over 10% of Providence RI priests have been accused, which extrapolates to over **10,969** nationally
 Richard Sipe estimates that **9%** of U.S. priests have offended, which extrapolates to **9,872** priests nationally

See our [summary of the data](#) with links to sources. BishopAccountability.org maintains a [Database of Accused Priests](#) that provides information on every bishop, priest, nun, brother, deacon, and seminarian who has been named publicly in an allegation. Our current totals in those categories, as of July 1, 2010, are:

Accused U.S. clerics and religious whose names have been made public	
19 bishops	
3,093 priests	+ 181 since July 2008
75 nuns	+ 10 since July 2008
186 brothers	+ 22 since July 2008
44 deacons	+ 5 since July 2008
17 seminarians	+ 2 since July 2008
3,434 total	+ 220 since July 2008

2. How many children have been victimized by priests?

As with the official numbers for accused priests, the sources are [The Nature and Scope of the Problem of Sexual Abuse of Minors by Priests and Deacons](#), by Karen Terry et al., prepared by the John Jay College of Criminal Justice (Washington DC: USCCB, 2004), with the annual implementation reports issued by the USCCB for [2004](#), [2005](#), [2006](#), [2007](#), [2008](#), and [2009](#) (chap. 4).

The U.S. bishops report receiving allegations from **15,235** victims or 2.6 victims per priest

This count of victims is universally acknowledged to be low. Here are several estimates of the correct number.

25,383 – using the current USCCB rate of victims per priest (2.6) and the New Hampshire level of accused priests (8.9%)

46,125 – using the Boston archdiocesan count of victims and the Boston share of U.S. Catholics

100,000 – using Rev. Andrew Greeley's 1993 partial [estimate](#) of 2,500 accused priests and 50 victims per priest

280,000 – using the USCCB's current

count of accused priests (5,600) and Greeley's estimate of 50 victims per priest

3. How have incidents and allegations varied over time?

[The Nature and Scope of the Problem of Sexual Abuse of Minors by Priests and Deacons](#), by Karen Terry et al., prepared by the John Jay College of Criminal Justice (Washington DC: USCCB, 2004) and the [Supplementary Data Analysis](#) published by the same authors in 2006 propose a "Shape of the Crisis."



Management

4. How many bishops have been accused of abuse of minors?

19 bishops in the United States have been accused of sexual abuse

The most complete tabulation of abuse allegations against U.S. bishops is our [U.S. Bishops Accused of Abuse](#), which includes photos, career histories, and links to sources.

5 . How many bishops have enabled abuse?

Approximately **two-thirds of sitting U.S. bishops** were alleged in 2002 to have kept accused priests in ministry or moved accused priests to new assignments.

The best available study of bishops accused of enabling abuse is [Two-Thirds of Bishops Let Accused Priests Work](#), by Brooks Egerton and Reese Dunklin (Dallas Morning News, June 12, 2002), with its table Bishops' Record in Cases of Accused Priests. We are currently reviewing that table and updating it. We have recently revised a [spreadsheet showing the status of each bishop analyzed by Egerton and Dunklin](#). It shows that:

Of the **109** bishops identified in the

Dallas Morning News survey,
only **33** bishops (30%) are still
managing the same diocese. Of the
others:
12 have resigned,
45 have retired,
15 were promoted, and
3 died in office.

6. What percent of parishes in each diocese have been affected?

Studies suggest that many Catholic dioceses in the United States have had a priest accused of abuse living at the rectory and doing parish work. The Los Angeles Times determined from an extensive data study in 2005 that over [three-quarters of LA parishes](#) had been at risk since 1950. We have done similar studies of [Davenport IA](#) and [Rockville Centre NY](#) and will release a study of Bridgeport CT later this summer. In the next week, we will be updating our Davenport study to include [additional accused priests](#) acknowledged by the diocese on 7/11/08.

56 of **Davenport's** 130 parishes –
43%
221 of **Los Angeles'** 288 parishes –
77%
90 of **Rockville Centre's** 134 parishes
– **67%**
65 of **Bridgeport's** 98 parishes – **66%**

Outcomes

7. How many cases have been filed?

Over **3,000** civil lawsuits have been
filed in the United States between 1984
and 2009.

The exact number is not known. The most reliable estimate appears in [Catholic Clergy Sexual Abuse Meets the Civil Law](#), by Thomas Doyle and Steven Rubino (Fordham Urban Law Review, January 1, 2004), p. 3 and n. 11. Doyle and Rubino conclude "from unofficial consultations with attorneys and from press reports" that 1984-2003 "there have been about 3,000 civil cases related to clergy sex abuse throughout the United States." This would appear to include the hundreds of suits filed during the 2003 SOL window in California. It does not include suits filed in 2004-2009, after the article appeared.

Rubino is cited in *Holding Bishops Accountable: How Lawsuits Helped the Catholic Church Confront Clergy Sexual Abuse*, by Timothy D. Lytton (Cambridge, Mass.: Harvard University Press), p. 50, as stating that in 1984-2005 he opened 2,264 new client files. During the same period, Jeffrey Anderson signed retainer agreements with 1,012 clients. Both groups of cases include some complainants allegedly abused by non-Catholic clergy.

An unknown number of complaints have been settled by U.S. bishops before lawsuits were filed, often with confidentiality agreements.

8 . How many settlements have been made for how much?

Over **\$3 billion** in awards and settlements have been made comprising:

\$750 million in settlements 1950-2002 (partly overlaps next item)

\$2 billion in large settlements and awards 1984-2008 with **3,547** survivors

\$500 million in smaller settlements 2003-2008

For the best data on settlements, see our table [Major Settlements and Monetary Awards in Civil Suits](#). That table provides exact counts and estimates in three categories:

- (1) \$1,902,825,000 in large settlements and awards (in excess of \$1 million each);
- (2) Pre-2002 payouts, documented in local John Jay reports, of more than \$750 million (some of that amount overlaps item 1 above); and
- (3) Smaller post-2002 settlements (under \$1 million each) likely totaling at least \$500 million.

This estimated total of \$3 billion far exceeds the [dire prediction](#) of Doyle, Peterson, and Mouton in 1985. And \$3 billion might even be an underestimate. Our table shows payouts to 3,547 survivors, only about 27 percent of the over 13,000 survivors who the bishops say have come forward. The total number of victims may be 100,000.

9. How many false allegations have been made?

Fewer than 2 percent of sexual abuse allegations against the Catholic church appear to be false.

"Patrick Schiltz, dean of the University of St. Thomas law school in Minnesota, said that over more than a decade he had defended Catholic dioceses against sexual-abuse lawsuits in more than 500 cases, and that he had concluded that 'fewer than 10' of those cases were based on false accusations." See [Doubt Is Cast on Accuser of 2 Priests, Judge Says](#), by Sam Dillon, New York Times, August 31, 2002. Schiltz was named a federal district court judge in 2006.

The Schiltz estimate is corroborated by a 2004 [report](#) commissioned by the U.S. Conference of Catholic Bishops and written by the John Jay College of Criminal Justice. The report analyzed surveys completed by the U.S. dioceses and many religious orders. The collated results of one of the surveys show that 5,681 diocesan investigations of abuse allegations in 1950-2002 yielded [definitive results](#):

4,570 allegations were substantiated	(80%)
1,028 allegations were unsubstantiated	(18%)
83 allegations were deemed false	(1.5%)

Note that these definitively investigated allegations represent slightly more than

half of the 10,667 allegations reported in the John Jay study. The other allegations were investigated without definitive result or were not investigated at all. Moreover, the church-funded research project [did not collect any data](#) on 298 priests who were considered by their bishops to be exonerated when the dioceses completed the surveys in 2003.

Kathleen McChesney, who was the first executive director of the Office for Child and Youth Protection of the U.S. Conference of Catholic Bishops has [summarized](#) the John Jay findings on false allegations: "False reporting of sexual abuse by children is very rare."

In 1985, Rev. Michael R. Peterson, then president of St. Luke Institute, a church treatment center for priests accused of sexual abuse, sent a [package](#) to the bishop of every diocese in the United States. The package contained a letter, an essay on the abuse problem, a copy of the [Manual](#) that Peterson wrote with Rev. Thomas P. Doyle O.P. and F. Ray Mouton, and a collection of scientific articles on sexual abuse. In his essay, Peterson [states](#): "In general, the adage that 'where there is smoke there is fire' is almost always true. I am not saying that it is impossible for a false accusation to be made; I am saying that in general the 'tip of the iceberg' is being exposed with a single accusation and that the cleric will generally need some kind of professional and legal help in a very short period of time."

The assessments cited above were made during the period 1985-2006 by experts employed by the U.S. bishops. Note that while false accusations are very rare, they do happen. A Boston man victimized as a very young child [misidentified](#) his perpetrator. The priest was reinstated. An [extortionist](#) accused a Portland, Oregon, priest with many substantiated allegations against him. The extortionist is now in prison. BishopAccountability.org is assembling data on disputed allegations.

10. How many cases have ended in a trial?

We have identified **37** civil cases that have gone to trial.

The best source on trials of sexual abuse suits alleging abuse by Catholic clergy is our [Sexual Abuse Cases That Have Gone to Trial](#). We identify 37 trials in 1986-2009 and provide links to source information..

11. How many priests have been laicized for sexual abuse?

In 2001-2010, the Vatican states that **600** priests accused of sexual abuse have been laicized worldwide, half at their own request and half by papal decree.

We have identified **325** accused U.S. priests who have been laicized.

The Vatican statistics come from a 3/13/10 [interview with Msgr. Charles J. Scicluna](#). The most complete list of laicized priests is our [Laicizations - A Revised Draft Preliminary List](#), updated 3/27/10, which provides names and links to sources for 325 laicized priests, with additional information on pending laicizations and other disciplinary action. The second tab in the spreadsheet sorts the data roughly by year. We are continuing to revise and update this list. If you know of a

laicized U.S. priest who is not on our list, please send his name to us at staff@bishop-accountability.org, if possible with a link to a news article about the laicization.

12. Where are the accused priests now?

Little is known about the whereabouts of Catholic priests who have been accused of sexual abuse. BishopAccountability.org is launching a national effort to determine the current status of every person listed in our Database of Accused Priests—who is dead, who is in prison, who has been returned to ministry, who is working in another profession, and where they now live and work. We will not provide street addresses. Please contact us at staff@bishop-accountability.org if you have information to help with this important work.

13. What is the current status of statutes of limitations and what are the trends?

One of the most important public policy developments in this area is the reform of statutes of limitations in California and Delaware and the effort to reform the laws in other states. BishopAccountability.org is launching a national effort to provide information on these developments. Please contact us at staff@bishop-accountability.org if you can help with this work



HAWAII CATHOLIC CONFERENCE

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Email to: JDLTestimony@Capitol.hawaii.gov
Hearing on: February 24, 2011 @ 9:00 a.m.
Conference Room # 016

DATE: February 21, 2010

TO: Senate Committee on Judiciary & Labor
Senator Clayton Hee, Chair
Senator Maile Shimabukuro, Vice Chair

FROM: Walter Yoshimitsu, Executive Director

RE: OPPOSITION TO SB 217 SD 1 RELATING TO LIMITATION OF ACTIONS

Mahalo for the opportunity to testify. I am Walter Yoshimitsu, **representing the Hawaii Catholic Conference**. The Hawaii Catholic Conference is the public policy voice for the Roman Catholic Church in the State of Hawaii under the leadership of Bishop Larry Silva. We oppose this bill for the following reasons:

This bill could cause substantial problems for all types of public and private programs and nonprofits, including public and private schools, churches, camps, and youth programs. This bill would eliminate any statute of limitations for commencement of a tort action for offenses under Part V (sexual offenses) and Part VI (Child Abuse) of Chapter 707, and provides that “[n]otwithstanding any law to the contrary” an action may be “commenced at any time.” Further, the bill would provide a one-year window for revival of many actions that would otherwise be barred by the applicable statute of limitation. It appears that, under the bill, claims may be asserted potentially going back as far as 53 years (1958).

While people often single out the Catholic Church for past instances of abuse, the problem is by no means unique to the Church. There is always the potential for abuse in any institution that deals with, supervises or cares for children.

Thus, for example, this bill could have a dramatic impact on claims against the State for potential sex crimes or sexual abuse committed by employees in public schools or other government programs. As indicated by a study prepared for the federal Department of Education, 6.7% of students in public schools nationwide have reported being sexually abused by an educator, a much higher percentage than the reported incidence of clergy abuse of children. (U.S. Department of Education, “Educator Sexual Misconduct: A Synthesis of Existing Literature” (2004).) Government reports also indicate that, across the country, there has been a high incidence of sexual abuse in juvenile detention facilities, with 10.3% of incarcerated youth reporting they had been sexually abused by a facility staff member during the prior year. (U.S. Department Justice, Bureau of Justice Statistics, “Sexual Victimization in Juvenile Facilities Reported by Youth 2008-09” (2010).)

Currently, the State’s liability for torts is barred unless suit is commenced within 2 years after the cause of action accrues, but this bill overrides such a limitations period and could expose the State to numerous claims.

Hawaii Catholic Conference

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Similarly, many other institutions including private elementary and secondary schools, Boy Scouts, Girl Scouts, YMCA, YWCA, Boys' and Girls' Clubs, childcare programs, preschools, after school programs, camps, churches, and youth-at-risk programs, just to name a few, could similarly be affected by the removal of limitations periods on asserted claims, as well as the revival of claims already barred by the statute of limitations. While it is hoped this would not be the case, there could be a flood of claims filed against both government bodies and private institutions should this bill become law.

Because of the lapse of time, many institutions potentially subject to suit under this bill would no longer have the ability to meaningfully defend themselves from such claims. The reason for statutes of limitation is to reflect the fact that, over time, individual memories fade, witnesses who may prove or disprove a claim have died or are no longer available, and written records may no longer be available that would have relevance to the case. Especially in the case of nonprofits, record-keeping over a prolonged period may be far from ideal. Boards and staff change, and institutional memories are lost.

This bill, however, would allow the assertion of claims going back many years, as far back as 1958. Many institutions may be put in the situation of defending themselves in situations where not only is there a lack of evidence, but the abuser and anyone who may have been at fault for negligently overseeing or supervising the abuser are long gone. All that remains as a target for litigation may be the institution, which is now without any practical way to defend itself from the allegations.

This bill could have substantial negative impacts on the ability of nonprofits to remain open and provide services. Many nonprofits that provide services for children and families do so on very thin budgets, especially in these economically challenging times. The cost of defending against a single claim brought under this bill could have a devastating impact. Further, to the extent that such claims can be insured against, it would seem that premiums for such insurance could increase substantially if this bill became law. Again, many nonprofit organizations may not be able to pay for such insurance, and it is quite possible that such organizations would simply cease to provide services rather than the organization, as well as its directors and officers, being exposed to suit.

This bill will not provide any additional protection for children. While not belittling in any way the suffering that those already abused have suffered, we believe that the focus of efforts at preventing sexual abuse should be on prevention. Over the past few years, as this problem has come to light, churches, schools and other nonprofits have taken substantial steps to reduce the possibility for abuse to occur, including substantially increased screening and background checks on potential teachers and employees, accountability and reporting procedures, and supervisory procedures to ensure that children are not put in situations and environments where they could be abused. This bill, however, which resuscitates claims that are 30, 40, or 50 years old, will not do anything to make children safer today.

For these reasons, we believe this bill should be held in committee.

Thank you for the opportunity to testify.

From: [tina \(cj\)](#)
To: [JDLTestimony](#)
Cc: maileshimabukuro@yahoo.com; [marci hamilton](#)
Subject: SB217SD1 for 2/24/11 at 9am Statutes of limitations/ window legislation
Date: Tuesday, February 22, 2011 11:31:50 AM

www.patheos.com/Resources/Additional-Resources/Bad-Guys-and-the-good-guys-Marci-Hamilton

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God vs Gavel

The Bad Guys and the Good Guys

What we have here is an old-boys network, with all of its sins and shortcomings. Instead of merit and the public good, they trade in favors underneath a transparent layer of devotion to "values."

By [Marci A. Hamilton](#), February 17, 2011

0

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If you have not read the 2011 Grand Jury Report on child sex abuse in the Philadelphia Archdiocese yet, and you happen to care about children, you need to sit down and read it right now: [Report of the Grand Jury](#).

This bare-knuckles Report documents the Archdiocese's continuing victimization of children sexually abused by priests. Just read the "Overview" and you will see what I mean. There is one bad guy after another, and so much tragedy in the lives of the victims.

At the end, the Report urges Pennsylvania to pass legislation to eliminate the civil statute of limitations for two years so that all victims have a chance to come forward, even if the statute of limitations expired at one point. It is called "window" legislation, and was already enacted in California and Delaware. A [New York Times editorial](#) on Tuesday endorsed both the Report and the recommendation that States enact legislation to open the courthouse doors to child sex abuse victims.

God vs Gavel

[The Bad Guys and the Good](#)

[GuysEgypt Can Learn from SurvivorsEgypt ExplainedThe Conservative Media: Unfair and Unbalanced toward Clergy AbuseThe Tangled Web Tightens for the Vatican](#)

[Author Bio »](#)



At first, I thought I would write today about how such legislation typically has no chance, because the Catholic bishops pay their lobbyists the big bucks to kill such bills. Like vampires fear garlic, bishops live in terror of the truth that would flow from the untethered victims.

But I changed my mind.

Everyone knows or should know by now that the bishops are not the good guys when it comes to child sex abuse. But there are some other bad guys that need to

be identified.

Here are the really bad guys: state legislators sitting on their hands while victims suffer, and pedophiles have free rein.

Let's get more specific. Whose fault is it that the New York Senate has never passed window legislation even though the General Assembly has three times? Let's see, it would be the water-carriers for the bishops, Assemblyman Vito Lopez (now under investigation for corrupt practices) and former Senator Joseph Bruno (convicted for corrupt practices). Lopez trotted around with the bishops' substitute bill that was supposed to be more "fair" to the Church but which, in fact, cut out the vast majority of victims. Bruno simply blocked the bill from entering the Senate when he was Majority Leader. Last year, a window bill did make it to a Senate committee. It had a chance, but two Senators who had supported it ultimately caved, Senator Shirley Huntley and now-retired Senator Dale Volker. Definitely bad guys.

Then there are the Republican lawmakers who hate trial lawyers and love anything religious (because they are more interested in public appearance and power than doing the right thing—ring a bell?). Child sex abuse victims are just the collateral damage flowing from their "principled" positions.

Just as in Philadelphia, children in New York City—as I write this—are being sexually abused by perpetrators whose previous crimes are protected by an expired statute of limitations. They are in homes, schools, and churches. Who is responsible for keeping the New York child rapists in business? The New York Senate, which has the simplest of remedies at hand, but so far lacks the guts to tell the Catholic Conference's high-paid lobbyist that this time she loses.

The line of cowardly legislators who obey like slobbering dogs when the Catholic Conference sweeps into the room, regardless of the issue, could span the country at this point (yes, I'm exaggerating, but it is a long line): Colorado lawmakers, Ohio lawmakers, Connecticut lawmakers, Pennsylvania lawmakers. In each of these states, powerful lawmakers knowingly and willingly have furthered the cover-up of predators by refusing to change the laws that muzzle victims.

What we have here is an old-boys network, with all of its sins and shortcomings. Instead of merit and the public good, they trade in favors underneath a transparent layer of devotion to "values."

There are some good "guys," too. Representative Maile Shimabukuro has been shepherding window legislation through the Hawaii legislature. The Hawaii Catholic Conference objected last week, but was rebuffed! Then there are Delaware Senator Karen Peterson, who is Catholic, and Representative Deborah Hudson, who succeeded in getting the window passed there, despite the Catholic Conference. And the never-say-die Assemblywoman Marge Markey in New York, who is a Catholic, and will never give up on the issue. And there are a number of other legislators around the country who have introduced window legislation, and will introduce it again, including in Michigan and Wisconsin.

Do you want to know whether your parochial school teacher is a pedophile, or your neighbor, or your cousin? The only ones who know for sure are the victims they already destroyed, and the vast majority of them are standing outside a locked courthouse. Your elected representatives hold the key.

Marci A. Hamilton is the Paul R. Verkuil Chair in Public Law, Benjamin N. Cardozo School of Law, Yeshiva University and author of [Justice Denied: What America Must Do to Protect Its Children](#) (Cambridge, 2008) and [God vs. the Gavel: Religion and the Rule of Law](#) (Cambridge, 2005, 2007).

Hamilton's column, "God vs. Gavel," is published every Thursday. Subscribe via [email](#) or [RSS](#).

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God vs Gavel

Aloha Senator Hee and Senator Shimabukuro

I am a survivor of both child and adult sexual abuse..

The reason i believe there should be no time limits whatsoever on child sexual abuse is because there is no time limit for the pain and dysfunction it causes.

I shall be 64 years old on March 7. I have memories of being molested as a child and as an adult.. but i have not had the time to do what it takes to be involved in a civil suit PLUS my abuse as a child happened in New York State and when they began their hearings for SOL Elimination

, the bill got so watered down and destroyed by the lobby people for the catholic church (see article above).. that the bill that made it wouldnt address people over age 54 i think it was.. so the attorney who was going to represent me had to tell me I DIDNT COUNT.. because it happened to long ago.

I can tell you that the dentist who molested me and my aunts generation and probably their aunts.. went on to be revered by the church (probably because he gave them lots of money)

while generations of the women in my family suffered and that had a ripple effect on our families and children..

I believe between all the relatives who admitted we were abused by that dentist that we would have had a strong case in spite of the time.

I also was molested by a catholic nun a piano teacher when i was around 12.. in NY state.. i would have had a good case against her and her order and the diocese because i had proof as my parents remembered me refusing to go to piano which i loved to play.. but because again the NYstate legislator sold out to the catholic church.. i won't be counted.

I am told by professor Hamilton that the burden of proof is always on the victim and their lawyers.. so why should the Attorney General or the catholic conference be concerned about false allegations or dealing with old allegations?

I am sending in some statistics that will be part of this testimony from the john jay college of criminal law.. it was paid for by the catholic bishops conference (they paid over 1 million dollars) and it states that "less than 2 % of all the allegations that came in were seen as false and some only because there was not enough evidence"..

I thank you for listening..

one last thing.. i learned getting a repressed memory is only the first step in a very long process that can take decades to get to the point of having the strength and information to pursue a civil suit..

a 2 year limit really does not do justice as one does not have enough time and energy to deal with it in the middle of living their busy lives..

Respectfully,

Christine Johnson

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From: [tina \(cj\)](#)
To: [JDLTestimony](#)
Subject: SB217SD1 testimony page 3 SOL/window 2/24/11 9am
Date: Tuesday, February 22, 2011 12:10:06 PM

Dear Senator Hee and Senator Shimabukuro and Committees..

This article came out last week from SNAP.

It speaks to some of the concerns of the Attorney General and Catholic conference. Am including it as part of my testimony (this is the third page and besides my personal statement i have sent in 3 important articles by experts who i know and have helped thru the years.

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SNAP objects to Dolan's statement on false allegations

by [Dennis Coday](#) on Feb. 16, 2011

- [NCR Today](#)

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The following is a media statement from Survivor's Network for those Abused by Priests

SNAPnetwork.org

Dolan's false claims about false allegations

Also says his fellow bishops have "branded" innocent priests as child molesters

Statement by Peter Isely, SNAP Midwest Director (Milwaukee)

CONTACT: [414.429.7259](tel:414.429.7259)

Archbishop Timothy Dolan of New York, who is the president of the United States Conference of Catholic Bishops, has apparently not read a single report or yearly audit which he and his fellow bishops have paid over a million dollars to the John Jay College of Criminal Justice to conduct.

Astonishingly, Dolan, in a recent interview reported by John Allen in the National Catholic Reporter, said that his "perception" is that the majority of allegations against priests for child sexual assault are false. Dolan also said that the number of false allegations appear to be increasing each year. (link to story: <http://ncronline.org/news/accountability/campaign-builds-rethinking-zero...>

According to the yearly reports submitted to the US Catholic Bishops, Dolan could not be further from the facts. Indeed, according to the organization Dolan runs, the vast majority of child sex abuse report against priests are true

and always have been.

In the original US bishop's national study in 2004, only 1.5 percent of all allegations against priests since 1950 were determined to be false. Since then, yearly reports of allegations show that the false and unsubstantiated reports are actually dropping since the 2004 study.

One would think, before Dolan would make such a profoundly alarming claim, that he would first check the facts on his own US Catholic Conference of Bishops website and read the reports that his own organization has been paying for and posting for seven years. (Link to the USCCB 2009 report: <http://www.nccbuscc.org/ocyp/reports.shtml>. Link to the USCCB 2004 to 2008 reports: <http://www.nccbuscc.org/ocyp/reports.shtml>).

Dolan has made other interesting claims based upon his confident "perception" of numbers and figures this week. According to news reports, Dolan may have moved tens of millions of dollars before leaving the archdiocese of Milwaukee in an attempt to shield assets from sex abuse cases. Dolan, who apparently convinced the Vatican that he had rescued the Milwaukee archdiocese from bankruptcy was rewarded with an appointment to New York. Within less than 20 months, the Milwaukee archdiocese filed for bankruptcy. So Dolan will likely be forced by the bankruptcy court soon to explain his questionable financial practices. Assuming that he will be under oath, one can only hope Dolan's "perceptions," this time, will line up with the facts.

How Dolan shares his "perception" of the world is often entertaining, to be sure. On matters concerning the daily struggles of catholic faith in the modern world, his folksy and nostalgic display of ecclesiastical authority can be amiable and reassuring.

But Dolan is increasingly becoming unedited, uncomfortable, and dangerously misleading. Dolan did not just target victims of clerical abuse in his remarks. Apparently, according to Dolan, American bishops have been removing priests who are innocent. Is Dolan, now that he is in charge of the US Bishops, going to tell us who these nefarious fellow bishops are? Maybe, since Dolan is moving very close to the position held by Rome and the Pope, which is to keep priests, even with proven reports of child sexual abuse in the priesthood, it really doesn't matter to him.

The Vatican has made Dolan the most powerful Catholic prelate in the United States. Given the weight of his position, he ought to think before he leaps into broadcasting his alleged "perceptions" on matters as serious as the sexual abuse of children. In light of the events in Philadelphia, where the grand jury has just arrested several priests, including the Vicar of Clergy, for child endangerment, law enforcement has shown that they are not afraid to challenge how a bishop "perceives" child sex crimes.

(For a review and summary of the United States Conference of Catholic Bishops/John Jay College of Criminal Justice yearly reports on child sex abuse, see http://www.bishop-accountability.org/AtAGlance/data.htm#accused_priests).

(SNAP, the Survivors Network of those Abused by Priests, is the world's oldest

and largest support group for clergy abuse victims. We've been around for 23 years and have more than 10,000 members. Despite the word "priest" in our title, we have members who were molested by religious figures of all denominations, including nuns, rabbis, bishops, and Protestant ministers. Our website is SNAPnetwork.org)

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: phillipsa008@hawaiiantel.net
Subject: Testimony for SB217 on 2/24/2011 9:00:00 AM
Date: Tuesday, February 22, 2011 5:34:11 PM

Testimony for JDL 2/24/2011 9:00:00 AM SB217

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Kathleen Phillips
Organization: Individual
Address:
Phone:
E-mail: phillipsa008@hawaiiantel.net
Submitted on: 2/22/2011

Comments:

I am writing in Favor of the Bill SB 217 - elimination of Statue of Limitations on child sexual abuse in Hawaii.

This bill hits home for my family and I.

Two of our daughters were sexually abused. Unfortunately, by the time they came forward and was emotionally able to deal with the situation, the status of limitation was over. Many of these perpetrators are free because they know that children and abused individuals are terrified and when threatened will not tell or literally just can't face the emotional drama and hurts. We have seen how this injustice has affected our children's life. Many are not the same after being abused....One thing for sure, their life is affected – many for life. As a parent it is difficult to see the affects of child abuse on your siblings. These perpetrators don't care of the affects of their abuse. The sad part about all of this is that the majority of the abusers get away. Often by the time the person abused can work through the trauma, the status of limitations has been exhausted. When a child/individual is abused, their spirit is murdered with lifetime affects. I strongly urge you to pass this bill.

Thank you for your time and consideration.

Kathleen V. Phillips
3297 Old Haleakala Hwy.
Makawao, HI 96768

Phone: 808-572-7226

TRANSMITTAL

DATE: 2-22 -2011

TO: The Honorable Clayton Hee, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair
Committee on Judiciary and Labor

FROM: Adriana Ramelli
The Sex Abuse Treatment Center

RE: SB 217 SD 1

Hearing: February 24, 2011 9:00 A.M.
Committee on Judiciary and Labor

This transmittal consists of 2 pages including this cover sheet.

Sender: Christine Trecker

Please call 535-7600 if you do not receive all of the pages.



THE SEX ABUSE TREATMENT CENTER

A Program of Kapi'olani Medical Center for Women & Children

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DATE: February 24, 2011

TO: The Honorable Clayton Hee, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair
Committee on Judiciary and Labor

FROM: Adriana Ramelli, Executive Director
The Sex Abuse Treatment Center

RE: SB217 SD 1 In Support with Amendments
Relating to Limitations of Actions

Good morning Senators Hee and Shimabukuro and members of the Committee on Judiciary and Labor. My name is Adriana Ramelli and I am the Executive Director of the Sex Abuse Treatment Center (SATC), a program of the Kapi'olani Medical Center for Women & Children (KMCWC), an affiliate of Hawaii Pacific Health.

The SATC supports the intent of SB 217 SD1. It is commendable to attempt to expand the ability of sex assault victims to seek civil compensation. However, we have two concerns about the requirements of subsection (d). First, as currently written, a notarized statement from a prospective plaintiff's therapist regarding a reasonable basis to believe the plaintiff would be required. The role of the SATC therapist is to provide direct treatment services. We do not investigate the validity or veracity of alleged sex assaults. Our therapists can comment on assessment, treatment modalities and outcomes, but they should not have to judge their client's credibility or corroborate their claims. With respect to the attorney certificate of merit, SATC does not believe this is needed since there is a "good faith" requirement already imposed on attorneys via the Hawaii Rules of Civil Procedure requiring them to bring only meritorious claims before the Court.

Secondly, the bill as it stands would waive the victim-counselor or patient-therapist privilege before a suit is filed (or concurrent with a suit being filed) as opposed to a waiver during the discovery process. Filing sensitive mental health information with the Court as a matter of public record should not be taken lightly and the client may not be fully informed of the ramifications of waiving privilege so early in the process.

In summary, SATC supports the intent of this bill to enlarge the statute of limitations without the added requirements in subsection (d). Thank you for allowing SATC to provide input into this important piece of legislation.