Debate continues over NY bill lifting statute of limitations on sex abuse crimes

by Peter Feuerherd

New York — Editor's note: This story was updated with new information at 10 a.m., central time.

As the New York state legislature plans to close up shop for its annual session by the end of this month, the Catholic bishops are hoping to run out the clock on a bill that would lift the statute of limitations on sex abuse crimes.

A bill passed by the state Assembly would lift the statute of limitations on future sex abuse crimes against minors, which now prohibits lawsuits five years after victims pass their 18th birthday. In its most contentious provision, the bill would also provide a one-year window allowing for lawsuits in old cases.

Proponents say the measure would balance the scales of justice and provide child sex abuse victims with their day in court. Opponents argue that it would be impossible to fairly judge decades-old cases, that the legislation unfairly exempts public institutions, and that the legal costs would bankrupt the Catholic church in the state. The bishops, while supporting lifting the statute of limitations on future sex abuse, say that lifting it retroactively would open the church to unfair lawsuits.

Similar measures enacted elsewhere eventually resulted in the Wilmington, Del., diocese filing for bankruptcy and for an increase in liabilities for dioceses in California and Minnesota.

Dennis Poust, a spokesman for the New York State Catholic Conference, told NCR that the bishops are willing to support changing the age limit on reporting sex abuse crimes to 28. But, he said, the proposal passed in the Assembly unfairly singles out private institutions like the Catholic church.

"If such a change in the law is made, we believe the change should apply equally to individuals and
institutions, so that all survivors have equal access to justice and all institutions, public and private, are treated equally in the eyes of the law, unlike the current law which protects public institutions," he said.

The proposed law, he said, would open up cases from private schools from 40 years ago, while leaving students recently abused in public schools no recourse.

Programs implemented by dioceses provide safeguards for children in Catholic schools and parishes, said Poust. These include fingerprinting of employees, training in sex abuse prevention, cooperation with law enforcement and review boards in all of New York's dioceses to oversee cases.

"There is no hint of any diocese in New York State being anything but fully transparent at this point," he said.

Marci Hamilton, professor of law at Cardozo School of Law in Manhattan, told NCR that the legislation is needed because predators continue to act without legal consequences. Those who bring forth complaints outside the statute of limitations are vulnerable to defamation suits under current law.

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"It is a very modest bill," she said of the bill passed in the Assembly, sponsored by Democrat Margaret Markey. While California also offered a one-year window to bring suits, other states have offered wider windows, including two years in Delaware, three years in Minnesota and four years in Hawaii. A similar measure is now being debated in Pennsylvania.

She said that in those states where the statute of limitations has been lifted, there were no false claims. Reforms were implemented, including improving child protection policies in the Wilmington diocese.

While the New York bishops are adamantly opposed, that has not permeated to many rank-and-file Catholics. Among groups supportive of raising the statute of limitations are Voice of the Faithful and Call to Action. Markey, the bill's prime sponsor, is a Catholic who represents a swath of heavily Catholic neighborhoods in the New York City borough of Queens. She has sponsored the bill over the past 10 years, inspired to do so by a constituent who is a sex abuse survivor.

Also among its supporters is the New York Daily News, the struggling city tabloid which has been up for sale and in danger of closing for the past few years. The paper has taken on the issue as a crusade, including front-pages photos of men in clerical garb. A June 6 front-page headline shouted "Not how our religion should be" as it described Catholics marching in support of the legislation.

Bishop Nicholas DiMarzio of Brooklyn, in his column in The Tablet, the diocesan newspaper, described the Daily News as consumed by an agenda "to attack leaders of the Catholic Church as uncaring and unapologetic because we defend the Church family from the crippling consequences of an unjust law."

He wrote that the proposed law threatens to "cripple our mission of service and bankrupt us financially." He noted that "statutes of limitations in both criminal and civil cases were established for valid reason. Memories fade, witnesses die, and evidence gets stale. Accusations become difficult and impossible to defend."
The newspaper-church dispute reached its zenith June 7 when the Daily News published a front-page article quoting Markey that at a 2010 meeting with DiMarzio, he offered her a $5,000 bribe to rescind the proposed statute of limitations change on sex abuse crimes.

DiMarzio issued a quick denial, backed by Dominican Sr. Ellen Patricia Finn, former Victims' Assistance Coordinator for the diocese, who was present at that meeting. The bishop said that while he did offer Markey therapy for a family member who is a victim of sex abuse, there was no bribe. Writing in The Tablet, the bishop said the meeting actually took place in 2007.

Ironically, the statute of limitations on bribing a public official is three years in New York state. DiMarzio wrote the accusation points out the need for a statute of limitations: "Memories fade, witnesses die, and evidence gets lost," he wrote.

Still proponents of the measure, including Robert Hoatson, founder of Road to Recovery, a victims' aid organization based in New Jersey, said that rescinding the statute of limitations is "a no-brainer."

Hoatson, a former Newark archdiocesan priest and Christian brother, now laicized, is a sex abuse survivor and counselor, who says that he has heard people in their 70s describe for the first time their abuse as children.

"There is no statute of limitations on the murder of the body," he said, adding that mental health professionals describe childhood sexual abuse as "soul murder" that should be subject to the same legal response as physical murder.

The Daily News reported that the Catholic Conference has spent $2.1 million in lobbying efforts over the past eight years, but Poust of the Catholic Conference argues that figure includes lobbying over other issues, including Catholic school aid. The Daily News has also reported that Sen. John J. Flanagan, the leader of the State Senate, which so far has not acted on the bill, was a member of a law firm which worked for the Rockville Centre diocese on Long Island.

New York Gov. Andrew Cuomo has said he is supportive of changing the statute of limitations. Apparently only the state Senate stands against Markey's bill being enacted into law as the summer approaches and the legislature plans its annual recess.

[Peter Feuerherd is a correspondent for NCR's Field Hospital series on parish life and a professor of journalism at St. John's University, New York.]


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