

On Sunday March 29, many parishes heard from the pulpit or received an insert in their Parish Bulletin containing information on the legislation pending before the **NYS Assembly** and **Senate** that would:

- *Change the Statute of Limitation [SOL] law and
- *Open a Window of Opportunity for victims of child sexual abuse

If you are unfamiliar with what this legislation will do, what brought it about, and what are the true consequences on the Catholic Church, see the talking points below. They attempt to offer answers to the questions raised by an "Office of Communications".

"Talking Points on Child Sexual Abuse"

Question # 1: What are these bills and what do they do?

Talking Point: These bills are legislation that extends the SOL for five years beyond their present limitation, $18 + 5 = 23$ years of age, to $23 + 5$ to 28 years. In addition a Window of Opportunity is opened for one year for sexual abuse victims who presently are denied their right to civil suit action for reasons such as repressed memory that reawakens years after the abuse took place, initial advice from an authority figure that the abuse was an isolated incident that would not occur again and it did over and over with other victims, or the child was not believed at the time the abuse took place and now wishes to face the abuser. Many times the abuser, or the parties who had control over the abuser, would delay any action until the SOL had come into effect.

Question # 2: What is the SOL and what purpose does it serve?

Talking Point: SOL does serve a purpose, but when they are used to prevent a victim of child abuse who at a later age determines to face their abuser in a court of law for one of the reasons stated above, SOL then works in favor of the abuser and against the victim.

Question # 3: How would these bills harm the Church?

Talking Point: The insert claims that frivolous lawsuits could be brought by an individual. Section # 3 of the Markey/Duane bills prevents frivolous lawsuits, "The plaintiff must obtain a certificate of merit by a mental health expert that states in reasonable detail the facts and opinions relied for concluding that the plaintiff was a victim of sexual abuse". There must be documentation to believe the abuse did occur. If a jury awarded an excessive settlement, the presiding judge could set aside the award. Settlements that were reached in California took place just prior to Cardinal Mahoney being deposed on his knowledge of transferring pedophile priests, not prior to the trials. It was agreed in the settlement that tens of thousands of documents that had been denied to the plaintiffs attorneys for years by the LA Arch-Diocese, would be made accessible, and they have not been forwarded to the court two years after the agreement.

Question # 4: But doesn't the Church support helping people abused by clergy as minors?

Talking Point: It was the Catholic people, the Church, who unknowingly paid for decades to cover up the costs associated with child abuse. Victims, for whom SOL has passed them by, receive little or no help from the diocese, or even acknowledgement of the pain they have suffered.

Question # 5: How is this legislation unjust to Catholics?

Talking Point: In the many settlements that have been reached across the country as a result of child sexual abuse, none has resulted in catastrophic changes in these many dioceses. Four dioceses filed bankruptcy as a way to shield assets, but were chagrined that the bankruptcy judge made them open files that they wished to conceal from plaintiffs. In the case of the San Diego Diocese the judge denied them bankruptcy because their assets were too great. Some services that the Church says would be harmed, such as Catholic Charities, are 90% funded by the Federal Government. To my knowledge there have not been any Catholic Hospitals closed because of the settlements, nor have other services been curtailed. The major portion of settlements have been paid by insurance companies, not by local diocese.

Question # 6: Are there any other ways in which these bills are unfair?

Talking Point: Laws in all 50 states have been set up to separate governmental functions from private groups. This is known as "Municipal Sovereignty" which protects public services from lawsuits that could prevent them from providing their essential public service. Public School teachers can be sued as individuals, as well as Uncle Joe, Aunt Mary, and all the other abusers who presently hide behind the SOL. If the Bishops are truly concerned about the welfare of children in Public Schools, then after passage this year of Markey/Duane, they should turn their efforts to change onerous parts of Municipal Sovereignty which the Lopez/Kruger does not address.

Question # 7: What has the Catholic Church done about the misconduct of clergy?

Talking Point: The Bishops issued the Dallas Document in 2002 that has only been partially followed. One of the authors of the document, Cardinal George of Chicago, permitted an abusive priest to live in chancery housing, and he then abused again and he was arrested. In California, a Bishop allowed an accused priest enough time to flee over the Mexican border before reporting him to law enforcement. These actions have taken place recently, and are not allowed by the Dallas Document.

Overall: There is no mention in the Markey/Duane bills of the Catholic Church or any other organization. It is not anti-Catholic, anti-Jewish or anything else. It has been written as a "Bill of Rights for Victims of Sexual Abuse".

Please contact your NYS legislators in support of **Markey, A. 2596** and **Duane, S. 2568**. The bills will be voted on shortly.

"Talking Point" was prepared by John Traynor, an active parishioner, LIVOTF member, and Parish Voice member who is current on Legislative Issues in Albany.