

PROPOSED LEGISLATION TO PROTECT CHILDREN FROM SEXUAL ABUSE

Objections and a Response

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SUMMARY

- ! Catholic bishops and their lobbyists use a variety of erroneous statements to try to persuade legislators against change that will benefit sexual abuse victims, young and old alike:
 - " *The Church cannot defend itself if accused perpetrators are dead*
 - " *There will be a deluge of false claims*
 - " *The flood of new cases will bankrupt the Church*
 - " *The proposed bills are really "Catholic Bashing"*

- ! Proposed legislation will protect *all* children and does not impact only the Catholic Church

- ! The focus has been on the Catholic Church precisely because it has been the most egregious offender

- ! The Catholic Church is not the only institution, public or private, that historically allowed sexual abusers to continue by transferring them, rather than stopping them. Other denominations have done this as have private institutions. The Catholic Church however, has an undisputed record of being the most egregious offender.

- ! Contrary to what some Catholic lobbyists have said, e.g., the Maryland Catholic Conference, the Church *has not "responded as it should."* The Church was *forced* to respond after decades of stone wall and cover-up, by the media and the courts. The abuse and cover-up *continue!*

- ! "*Aggressive steps to protect children*" have *only* been taken when the Church has been forced by intense public pressure to act. Pressure has come from the media, the courts and the general public.

- ! *Dead predators:* The Catholic Church has extensive files that have aided in the investigation of dead predators, many dating back decades. The Church *has* the information on past cases and it *can* defend itself.

- ! *False claims:* Of the thousands of complaints that led to actual claims over the past *20 years* throughout the U.S., there are only a minuscule number....less than 20....that turned out to be false.

- ! There were a minuscule (1 or 2) false claims in California as a result of the suspension of the SOL.

- ! *Bankruptcy and the curtailing of essential ministry.* There have been no parish closings, no program closings and no threats to extraordinary ministries anywhere in the U.S. as a result of payments to clergy sex abuse victims.

- ! Bankruptcy protection has been a last ditch effort to avoid disclosure of documents and damaging data, not to avoid financial disaster.

- ! *Catholic Bashing.* The public disclosure and criticism of the harm caused by the official Church or by clerics is *not* Catholic bashing. It is an honest recognition of *what is!*

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- A. Among the objections to a legislative change that would allow victims of sexual abuse to come forward even though previously barred by a Statute of Limitations are the following:
1. An organization such as the Catholic Church cannot defend itself adequately if the perpetrators are dead. Presumably this argument would hold also for members/employees of other private or even public institutions.
 2. If a “window” is opened, there will be a deluge of claims, many of which would be false. This would unduly burden the courts and the institutions accused.
 3. A flood of claims would put intense financial pressure on private institutions such as churches, forcing bankruptcies. In the case of the Catholic Church, a significant number of claims would put the dioceses in severe financial positions thus preventing them from carrying out their mission to the faithful but especially to the poor and needy.
 4. Since the most vocal proponents of such bills are victims of Catholic clergy, the passage of such legislation would be blatantly anti-Catholic and prejudicial.

B. *Misinformation about the Church, Victims and the Effects of Sexual Abuse*

The legislation proposed in Maryland and many other States will protect children and minors from sexual abuse by persons employed by or affiliated with both public and private institutions and not only Churches. Nevertheless the most active proponents of such legislation have been, in the past few years, victims of Catholic clergy sexual abuse. Contrary to the distorted views of Catholic Church officials and lobbyists for State Catholic Conferences, the proposed legislation is *not aimed solely at the Catholic Church*. This is certainly not an organized plot by disgruntled Catholics and above all, is not *Catholic bashing*.

The media has focused on Catholic clergy sexual abuse for the past 24 years but with special intensity since 2002. Why? Because of the objective revelations that Catholic bishops and cardinals throughout the U.S. and in several other countries had knowingly not only covered up reports of sexual violation, rape and other forms of abuse by clergy and religious, but had intentionally transferred the accused clerics to other assignments without regard for civil law reporting statutes that might have been present, criminal law considerations but above all, with

total disregard for the fact that such clerics would continue to violate children. The cover-up and intentional mishandling of accusations and the disregard of victims and their families is not a matter of opinion. Several grand jury reports from around the U.S. have verified these unfortunate actions by Church leaders. There have also been thousands of civil court actions based on such mishandling as well as several hundred criminal actions against accused clerics. Above all, the U.S. Bishops own appointed National Review Board verified this institutionalized neglect in its report, issued in February 2003.

The Maryland Catholic Conference sent out a letter, dated March 7, 2007, which contained various misleading and erroneous information. Among the most egregious misleading statements is: *“The Church responded as it should, removing predator priests from service and ensuring that they faced criminal charges, asking forgiveness of victims and providing counseling and material support, and taking aggressive steps to protect children.”*

1. Catholic Church officials, especially bishops, had known about predator priests for decades and generally did nothing. The bishops only responded after they were forced to by intense media pressure, outrage from the laity and general public and hundreds of lawsuits. Although pressure had been mounting since 1985 it became most effective after the Boston Globe revelations in January 2002.
2. The public apologies of bishops and Cardinals only came after the media had exposed the cover-ups and mishandling from 2002 on. There had been no public much less private and personal apologies prior to this. Even now, although there are tens of thousands of victims of clergy abuse, only a minuscule number have received personal apologies from bishops and in most cases these apologies are a required part of court settlements.
3. The *aggressive steps to protect children* have been taken only after intense pressure was applied. The Catholic bishops were well aware of the serious danger from 1985 at least and did nothing.

C. *Dead Predators*

First, it has been demonstrated by medical professionals that the average age of sexual molestation of a child by an adult is 12 and the average age at which victims come forward is 40. They generally are controlled by guilt, shame, fear and a variety of other symptoms from Post Traumatic Stress Disorder. Sexual abuse victims are terribly devastated and simply *cannot* operate according to the time tables that may be convenient to others. Most people do not understand the complex nature of sexual abuse and its effects and understandably so. But know knowing of these effects does not mean they don't exist.

Some have argued that statutory change will bring forth “old cases” against dead perpetrators about which there is little if any credible information. In the case of the Catholic

Church, clergy and religious personnel files contain a vast amount of detailed information, often including memos, letters and other written documentation that verifies the abuse. Over the past several years a significant number of cases have been brought forward in which the perpetrator has been dead. The documentation produced by the Church was more than sufficient to prove to the courts that the abuse took place. In short, the “dead perpetrator” excuse is simply a smokescreen and not a valid argument.

Some have attempted to minimize adult victims by referring to their claims as “old cases.” What happened to them is still a crime and the damage done years ago is still a cause for trauma and ruination of victims’ lives. Allowing them to bring a case to court is a right and not a privilege. If there is no evidence, no witnesses and no means of defense for the accused, the courts will decide this, not the lobbyists or the legislators. Sexual abuse of a child is just as vicious and devastating as the rape or maiming of an adult. The effects don’t fade away with time.

D. *A Deluge of False Claims?*

Over the past few years there have been thousands of reports accusing clergy of several denominations of sexual abuse. The majority of accusations of child and minor sexual abuse have been made against Catholic clergy and religious. This directly relates to the statistical evidence that most victims of Catholic clergy are children or adolescents and of these, most are male.

There is no evidence from any quarter of a significant number of false claims. Even Patrick Schiltz, an attorney who has defended dioceses in several hundred cases, according to his own estimation, admitted that there have been hardly any false claims.....less than 10 out of 500 cases he had been involved in (cf. New York Times, Aug. 28, 2002).

There have been a few, very few, isolated incidents of unscrupulous individuals who tried to take advantage of the situation by claiming abuse that probably never happened. In all of the cases I know of, the attorneys whom they contacted listened to their stories and then refused to represent them.

I have served as a pastoral minister to victims of clergy sexual abuse and their families for nearly 24 years. I have been a consultant and expert witness on well over a thousand cases since 1988 and have been contacted for input on countless more. Of these I have refused to assist in only two cases that I believed were fraudulent. The attorneys in turn also discouraged the persons from moving forward. I have worked with hundreds of plaintiff attorneys and discussed false claims with many of them. All have assured me that they put prospective plaintiffs through a very rigorous screening precisely to preclude the possibility of a false claim which of course would mean a significant waste of time, effort and money by the lawyer.

E. *Driving the Churches to Bankruptcy*

The threat and actual filings for bankruptcy protection by several U.S. dioceses have been among the most widely misunderstood and at the same time devious tactics used by the official Church.

Some bishops have claimed that large payments to victims of sex abuse is potentially devastating to the church's ability to provide pastoral and educational services and services to the poor. This is an even more dishonest smokescreen than the one involving dead predators.

No Catholic diocese has had to curtail or limit any services whatsoever because of monetary awards which were *justly* paid to victims. Catholic Charities, the church related organization that provides outreach and support in a variety of areas, receives 80% of its monetary support on average from government funding. In many dioceses the amount the diocese contributes is less than 10% of Catholic Charities' budget.

Even more disturbing have been revelations that dioceses have had more extensive holdings in securities, cash and properties than had been disclosed. For example, an investigation into the Archdiocese of Philadelphia by the District Attorney's office revealed the archdiocese held non-church related properties with a combined assessed value slightly more than \$276,000,000.00.

Dioceses that have filed for bankruptcy protection have not done so because they were threatened with financial problems. In every case the filings were made to forestall impending trials and thus put at least a hold on the discovery process. The real reason behind the filings is not money but the fear that the trial process will cause more files to be revealed and more duplicity to be uncovered.

On the other side of the coin are the financial realities of the Catholic Church in the U.S. Some dioceses and certainly some parishes are very poor. But in general no one on the outside knows the true state of Church finances, and recent events in connection with the clergy abuse issue have shown this to be true.

Consider Philadelphia, the 4th largest archdiocese in America. A grand jury has found that 171 priests there have been accused of molesting kids. At a bare minimum, there must be hundreds, or more likely, thousands of victims. Yet the Archdiocese admits having spent a total of \$200,000 compensating victims. Remember, this is the archdiocese with 275 million in property, including an 8 million dollar home on the Jersey shore.

Consider Orange County California. The largest settlement in Catholic history was in Orange County California. About 84 victims got about \$100 million.

Two things you should know: a) The diocese took out a loan to pay that settlement. They repaid the loan in six months.

b) Just a few weeks later, the diocese started to build a new \$300 million cathedral.

Historical fact: The Churches have provided financial help to victims and paid compensation only when forced to. Prior to the days of civil litigation, no diocese is known to have ever done anything for a victim. The common practice was to urge, coerce, intimidate and even threaten the victims to keep silence.

F. *The Churches Have Made Changes*

Due to the massive pressure from the media, the public and the courts, the official Catholic Church as well as some other denominations, have created policies and procedures for responding to sex abuse reports. The Catholic Church has removed from ministry or defrocked in excess of 200 clerics. The lay review boards of many dioceses have received generally poor reviews with a few notable exceptions. Victim outreach officials from many dioceses have reported frustration at the lack of cooperation by diocesan officials. Many have come to believe that the boards and the outreach offices are window dressing, put in place to create the illusion of concern and action. The Catholic Church has responded largely with administrative and bureaucratic solutions to a systemic and pastoral problem that requires much, much more.

The changes over the past three to five years don't matter as far as the past is concerned. For decades, even centuries, the official Catholic Church did nothing to protect children or curb clergy abuse. In some cases the perpetrators are still in ministry and could well still be abusing children. Retroactive legislation would provide an avenue for justice and healing for victims but more important, it would serve to expose more sexual abusers thus protecting the children of today and tomorrow.

Historical fact: All of the steps taken by the official church (Dioceses, Bishops etc.) from awareness programs to review boards to offices for child protection to suspending and defrocking priests have been *forced* on the Church by outside pressures from the media and the courts.

G. *Catholic Bashing?*

The knee-jerk reaction of many State Catholic Conferences to the attempts to change legislation has been accusations of *Catholic Bashing*. There is no question that the responses of Catholic Church officials to reports of clergy sexual abuse have ranged from bungled to irresponsible to deceptive to criminal. The grand juries and the courts have shown this. It is not rumor or exaggeration of religious prejudice.

The Catholic Church, like any other denomination or secular organization, is not above civil law and not entitled, because it is an organized religion, to special treatment or exemption from ordinary civic responsibilities. In the area of protecting the vulnerable from sexual abuse, the official Catholic Church (as well as some other denominations) has failed miserably. Calling the Church to accountability is a far cry from Catholic bashing.

The letter from the Maryland Catholic Conference, mentioned above, is a good example of such empty and even irrational accusations. It cites the fact that the sponsor of a Maryland bill called forth about 30 witnesses who criticized the Catholic Church (“...*excoriated the Church for permitting child-abusing predators to have their sinful way with youngsters.*”). The witnesses were reciting facts and telling painful stories about the Church permitting sexual abusers to violate children. The letter further distracts by calling sex abuse a “*sinful way*” which it is in a religious sense, but it is also a felony crime punishable by imprisonment. The witnesses in Maryland and elsewhere have leveled well-deserved criticism at the institutional Church for its failure to protect the innocent. To accuse these people of *Catholic bashing* is not only totally erroneous, but also immoral. It is a deplorable attempt to devalue the victims of sexual abuse and to trivialize the tragic accounts of their suffering.

H. *Sexual Abuse is not only a “Catholic” Problem*

One approach used to distract from the core issue of sexual abuse has been to claim that it exists to a greater degree in schools and in other private organizations. The legislation proposed does not single out the Catholic Church nor any other denomination or organization. It recognizes that organizations of all types tend to focus on self-preservation when threatened with serious internal problems that could threaten their stability. This is true of Churches, businesses, governments and educational institutions. Unfortunately Churches have been able to get away with various forms of abuse more than secular organizations. In schools, the careers of teachers who sexually abuse students are ended once they are uncovered. In Churches, known sexual abusers have traditionally been transferred to other assignments with no warning given to the new parish and no pastoral care given to victims. Everything was covered with a thick blanket of secrecy and fear.

The Catholic Church is not being signaled out and targeted by disgruntled Catholics or by anti-Catholic forces. It is not being attacked by greedy attorneys looking for more cases and more deep pockets. The leadership in working for legislative change has been victims and their supporters who know from experience that the institutional Church will not change unless forced to do so by powers greater than itself. The victims know that historically there was no recognition of their suffering and no hope for justice or the curtailment of abusing clerics until the civil courts were drawn into the fray. The Churches did nothing but cover, deny and ignore victims. It was the civil laws of our States and or court system that brought hope for support, recognition and justice to the victims.

The spotlight that has been fixed on the Catholic Church has drawn needed attention on the wider societal problem of sexual abuse of children and vulnerable adults. The Catholic dioceses in the U.S. and in several other countries have led the way in creating child protective measures and procedures for dealing with abusers. They have been forced to do so but nevertheless they have come up with ways to protect children now and in the future. These administrative and bureaucratic responses are certainly worthwhile but unless they are applied by

men and women who are committed to change and aware of the tremendous damage that comes from sexual abuse, they are practically useless.

I. *The Threat of Child protective legislation*

The most vociferous opponents of any advancement in child protective legislation, which includes mandatory reporting laws, elimination or lengthening of statutes of limitations for criminal and civil cases and the suspension of present statutes of limitations, have been the Catholic Bishops in the United States. They have claimed that any legislative changes will be harmful to the Church, in violation of the First Amendment, a challenge to the privileged communications enjoyed between clergy and clients or a threat to financial stability. All of these shallow arguments have been credibly challenged in several of the States where legislative changes are in process. Yet the passage of child protective legislation remains a serious threat to any Church or other institution that puts abuse employees or office holders above the welfare of children.

Church and institutions loom large in our society and appear, too often, to be above the laws that ordinary men and women must obey. Such institutions often have much to hide. Blind justice for the most vulnerable in our midst will deflate the exaggerated importance of the Churches and any other institution the leaders of which believe that they are above the law. Churches especially fear the loss of privileges and the deference that often allows them to escape accountability. They fear the discovery of records and files that might reveal a culture of abuse and irresponsibility.

J. *The Up-Side*

Churches are not just priests, ministers, pastors and governmental structures. Churches are essentially *people* and not buildings. Yet all too often the buildings, the governmental structures and the financial security become more important than the people and when that happens the Churches have lost their way. The present clergy sexual abuse phenomenon is unspeakably tragic yet if there is an upside it will be the fact that our society, especially through our governmental structures, will help Churches to find their true focus again and to remember that the most important in their midst are not the office holders but the most vulnerable and forgotten.