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ACLU OF RI POSITION: OPPOSE

TESTIMONY ON 23-H 5510, RELATING TO COURTS AND CIVIL PROCEDURE – CAUSE OF ACTION March 16, 2023

Four years ago, the General Assembly amended the statute of limitations for individuals who were sexually abused as minors or adults to bring a civil lawsuit. In conjunction with tolling provisions, the time was increased from 7 to 35 years. This bill would eliminate any statute of limitations whatsoever, and apply it retroactively. The ACLU of Rhode Island appreciates the intentions behind this bill, and we realize that there may often be little practical difference between a very lengthy statute of limitations and no statute of limitations at all, but we also believe that a complete abandonment of any statute of limitations simply goes too far and establishes a dangerous precedent for the due process rights of civil defendants.

Statutes of limitation serve an important purpose. They ensure that evidence is relatively fresh and they recognize that as time passes, it becomes much harder for a person to mount a defense. Memories fade, and exculpatory evidence that a person has no chance to recover ceases to exist. To ask a person to defend him or herself against a lawsuit like this fifty years or more after the fact imposes enormous challenges. While we recognize that the same is largely true 35 years after the fact as well, bootstrapping that long statute of limitations to defend a complete repeal is a qualitative, as well as quantitative, change in the law that should be resisted.

For a subset of very serious crimes, a public policy decision has been made that, on balance, it is more important to be able to prosecute very serious crimes despite the passage of a great deal of time. But in those instances, there are at least all the benefits to the accused of basic due process rights afforded by the criminal justice system, including the right to counsel and a requirement that the offense be proved beyond a reasonable doubt. Those safeguards, among many others, are missing from a civil trial.

We recognize and fully appreciate the various social and psychological factors that may inhibit a victim of sexual abuse from coming forward promptly with allegations of such crimes, and so there was much to be said for previously extending the earlier seven-year statute of limitations. We also realize that drawing a dividing line with a statute of limitations is ultimately somewhat arbitrary, as is the case with the current very lengthy statute. But we do not believe an indefinite, and retroactively indefinite, statute of limitations is appropriate or reasonable. For these reasons, we respectfully oppose this legislation.