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ACLU OF RI POSITION: OPPOSE

TESTIMONY ON 24-H 7629, RELATING TO COURTS AND CIVIL PROCEDURE – CAUSE OF ACTION April 4, 2024

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 to file suit 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 bill's intentions, and we realize that there may often be little practical difference between a very lengthy statute of limitations and none 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 this 50 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 *criminal* offenses, a public policy decision has been made that, on balance, it is more important to be able to prosecute these crimes despite the passage of a great deal of time. But in those instances, the accused at least receives all the critical due process rights afforded by the criminal justice system, including the right to counsel and a requirement that the offense be proven 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 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, as it undermines basic notions of due process. For these reasons, we respectfully oppose this legislation.

We are authorized to say that Professor Andrew Horwitz, Associate Dean for Experiential Education and Professor of Law, Roger Williams University School of Law,* also joins in this testimony.

* The title is for identification purposes only.