CIVIL STATUTE OF LIMITATIONS

SUMMARY OF FINDINGS FROM DIALOGS WITH STATE SEXUAL ASSAULT COALITIONS

WCSAP sent out a request for information to 50 State Sexual Assault Coalitions inquiring on their current state civil SOL.

Questions and results are below:

What brought your state to review your civil statute of limitation law or to come to its current status? Check all that apply and please provide narrative.

- [4] legislative inquiry
- [4] coalition concern
- [7] victim access needs to remedy outside of criminal system (monetary or non-monetary)
- [ ] inadequate restitution
- [1] enhancement of state victim rights
- [3] media coverage
- [3] to increase offender accountability
- [2] Other: State survey (1), scandal involving Catholic Church (1)

Additional Narrative:
- A very high-profile sexual abuse case brought to light that the laws were arbitrary in nature
- To increase victim rights and hold offenders accountable
- The fact that victims may not come forward otherwise
- Re-evaluation of current statutes to make sure they reflect current trends related to victim issues, offender accountability and changing jurisprudence

What considerations did your state make or were necessary for the review process? Check all that apply please include some narrative.

- [5] comparison with criminal statute
- [1] joint and several liability
- [4] victim impacts cost and process
- [6] Other: Church (5), state constitution (1)

Additional Narrative:
- Anticipated opposition from religious community
- Needed to review our state constitution

Did you encounter barriers to policy change? Please explain.

- Significant opposition from the Catholic Church
- “We became buried by the unexpected and vociferous opposition from the Catholic Church and – more potently – the insurance industry.” The opposition was too strong and the bill to change the civil SOL failed.
- The legislature was interested in how the proposed extension compared to the civil SOL for other torts
- Concern with retroactivity. State has a constitutional provision that bars retroactivity so it was a prospective change
- Civil and criminal SOL had equality. We sought to eliminate the civil SOL. Legislative response, “…if the child sexual abuse was serious enough to warrant a lawsuit, the
law should also consider it serious enough to be prosecuted”. Comment on only eliminating civil.

- Challenges from stakeholders in Judiciary committee and some attorneys
- Opposition from American Tort Reform Association

Have the changes your state made to civil SOL increased suits? In what areas have you seen most damages sought in?

- No notable change if filing of lawsuits reported (3) appears to be linked with states that also eliminated criminal SOL so there is likely less reason to pursue a civil case
- Most damages sought in injury cases

Response Rate:

Response rate: 10 coalitions replied- a response rate of 20%. Information was collected from email response and internet survey. Due to nature of the request, data received was anecdotal in nature.

- Of the states who replied the primary reasons for a review of statute of civil statute of limitations was due to 1) victim access needs to remedy outside of the criminal system (monetary or non-monetary) 2) Legislative inquiry 3) Coalition concern
- A significant portion of respondents reported that the biggest challenge in getting an extension or removal of the civil statute of limitations was opposition from the Catholic Church. A common standing argument was that time elapsed would make it near impossible for the church to "defend itself" against claims.
- No states reported an increase in filed civil cases. This was attributed to the fact that the state also had significantly expanded or eliminated the criminal SOL.