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# Assembly Eases Way For Suing Churches

By LAURA MANSNERUS    DEC. 18, 2005

TRENTON - THE people crowded into in a knot in the General Assembly gallery -- peering down at the high-pitched debate about them -- had no lobbyists, no money and no big constituencies. They had only their own stories, which they had made sure the legislators heard.

Mark Crawford was sexually molested and beaten by a parish priest. John Hardwicke described himself as the sexual captive of a choirmaster at a boarding school. Johnny Vega told of a priest forcing him to "do things that made me throw up." Yet their reports of abuse, they said, were brushed off.

The Assembly finally answered them on Monday, giving final approval to a bill making it easier for victims of childhood sexual abuse to sue the institutions that they blame. The 63-to-5 vote repealed the legal bar, called charitable immunity, that has protected churches and other nonprofit organizations from suits for negligent hiring and supervision.

"Some of those stories seemed so horrific," Mr. Crawford said while he nervously awaited the debate. "It was brutally candid, but that's what was needed."

At the same time, Mr. Crawford, like many others, said he had fought an institution that he loved. "My children attend Catholic school," he said. "I attend Mass."

On the Assembly floor, the legislators also voiced raw, conflicting sentiments. Michael Patrick Carroll, a Republican from Morris, said that because charities would

be bled by legal and insurance costs, "if this bill passes, some of the poor will go without heat, some of the homeless will go without shelter." But Joseph R. Malone III, a fellow Republican from Bordentown, protested that "it's just sickening" that the Assembly was even debating the measure.

The change in New Jersey's law leaves only two states, Alabama and Tennessee, that recognize charitable immunity in sexual abuse cases -- cases never anticipated by the legislatures that acted years ago to foreclose negligence suits by, for example, a parishioner who slips on the church steps or a Boy Scout injured at camp. New Jersey law already allowed suits for reckless or intentional behavior.

But after revelations of widespread sexual abuse by Roman Catholic clergy, which surfaced in 2001 and 2002, many victims ended years of silence and legislators, led by Senator Joseph F. Vitale, a Democrat from Woodbridge, and Assemblyman Neil M. Cohen, a Democrat from Roselle, gathered support for a change in the law. The main objection to the bill was its retroactivity provision. It allows suits for abuses that occurred decades ago, although a victim must act within two years of becoming aware of the harm caused by the molestation.

Assemblyman John McKeon, a Democrat from West Orange, waved a volume of the New Jersey statutes as he argued that it was deeply unfair to change the rules after the fact. When Mr. McKeon said he was voting against the bill, a woman in the gallery shouted, "Shame on you!"

The Catholic Conference of New Jersey, despite a strong last-minute lobbying effort, kept a public silence. The conference's executive director, William F. Bolan Jr., and the conference's lawyer, Martin F. McKernan Jr., did not return calls asking for comment.

In a statement 13 months ago, submitted for an Assembly committee hearing where more than a dozen victims recounted their stories, Mr. Bolan wrote: "In this particular area -- where claims of 'repressed memory' and 'delayed discovery' are often asserted -- this means, in effect, that there is really no time limit on the retroactive repeal of charitable immunity."

The Catholic Conference has said that it otherwise does not oppose the change in the law.

The Senate approved the bill easily in May 2004. But the measure then stalled, leaving its proponents baffled and frustrated, until its sudden revival this month after -- as Mr. Cohen noted -- the Assembly elections had safely passed. Gov. Richard J. Codey has supported the bill, and is expected to sign it.

Mr. Crawford told his story seven years ago to Mr. Vitale, his state senator.

Now 43, Mr. Crawford, who lives in Woodbridge and works as a manager for an airline, was befriended as an adolescent in Bayonne by a priest at St. Andrew's parish.

"He took me on trips all over the country and even to Europe," Mr. Crawford said. "He bought me clothing, very expensive clothing. My parents thought it was great that this priest took an interest in me."

But the priest also started sexually molesting him and sometimes became violent, he said. On his 13th birthday, Mr. Crawford recalled, the priest came to his house and, angered by a remark at the dinner table, "he took my brother and I down to the basement to beat our backsides with a belt buckle."

Later, he said, he sometimes fought the priest's advances physically. "If I wasn't around he would go into a rage sometimes," Mr. Crawford said. In letters from the priest after Mr. Crawford became a seminarian, "he would say, 'I can't live without you.' "

At 19, worried that the priest was molesting his younger brother, Mr. Crawford approached his bishop and eventually met with the Archbishop of Newark, Theodore E. McCarrick. The archbishop listened attentively, he said. A week later he was sounded out, not for the first time, about a confidentiality agreement. The priest, who left the priesthood recently, was permitted to remain in his job, working with children.

Mr. Hardwicke, 48, a graphic artist from Maryland, sued the American Boychoir School in Princeton, maintaining that school officials when he was a student there 35

years ago knew that the choirmaster regularly abused the boys. His case is before the State Supreme Court, which heard arguments more than a year ago.

Donald B. Edwards, the school's president, said the school hoped the court would act quickly "so that Mr. Hardwicke can get on with his life and the school can move forward with its educational mission."

The school has acknowledged that the choirmaster, who was fired 23 years ago and has left the country, molested students; no one in the current administration ever knew him.

Mr. Hardwicke's lawyer, Keith Smith of Philadelphia, said the law should operate retroactively. "Protecting pedophiles at the expense of children is always wrong," Mr. Smith said. "We're not taking conduct that was good and making it bad retroactively."

Many of those who lobbied for the measure, including Mr. Crawford, have reached legal settlements, and for that or other reasons, will not themselves benefit from the change in the law. Lawyers said they could not speculate about the number of victims who might now come forward.

But Andrew Rothman, a dean at the Rutgers Law School in Newark who is an expert on nonprofit organizations, said that "now the entire playing field is changed completely" in settlement talks.

Gregory G. Gianforcaro, a Phillipsburg lawyer who has handled about 50 cases against the Diocese of Paterson and the Archdiocese of Newark, said the church "has been taking steps, even pending this legislation, to try and resolve these cases."

"The church has been around for 2,000 years," Mr. Gianforcaro added, and, like other nonprofit organizations, has continued its charitable works in the states that have allowed negligence suits in sexual abuse cases. "Those institutions in those other 47 states seem to be doing just fine."