CREW JANCI LLP

ATTORNEYS

9755 SW Barnes Road Suite 430 Portland, OR 97225
tel: 503.306.0224 888.407.0224 www.crewjanci.com

March 26, 2025

TO: House Committee on Judiciary
FROM: Peter B. Janci, Esq.
DATE: March 26, 2025
RE: HB 3582–Eliminates Civil Statutes of Limitations for Sexual Abuse and Sexual Assault

TESTIMONY OF ATTORNEY PETER B. JANCI IN SUPPORT OF HB 3582

Chair Kropf, Vice Chair Chotzen, Vice Chair Wallan, and Members of the Committee:

My name is Peter Janci and I appear today to testify in support of HB 3582.

I am an attorney in private practice based in Portland. For the last 18 years, my practice has been focused on representing victims of child sexual abuse in civil cases. In that time, I have represented hundreds of victims who were abused in Oregon, and I have often litigated challenges to my clients claims based on the statute of limitations under ORS 12.117. I have also had to turn away victims who have otherwise strong claims because they could not meet the burdens imposed by the statute of limitations.

HB 3582's proposed prospective elimination of the statute of limitations is a vitally important bill. It will empower survivors, increase accountability for predators and entities that harbor them, and increase the safety of children in Oregon. Given the compelling testimony you have already heard, I will focus my comments specifically on the proposed -1 amendment, which would remove the word "knowingly" from the existing statute.

The statute of limitations under ORS 12.117 currently allows child abuse victims to bring claims "based on conduct that constitutes child abuse or conduct *knowingly* allowing, permitting or encouraging child abuse."

From the original adoption of this statute, the legislature clearly and expressly indicated its intent that child abuse victims should be able to bring claims for negligence against entities that, by their conduct, allowed or permitted abuse. Oregon's Court of Appeals

has considered the legislative history and held that ORS 12.117 was “designed precisely to encompass negligent hiring, retention and supervision claims[.]”[1]

Unfortunately, the inclusion of the “knowingly” language has proven confusing and institutional defendants have often invoked that language to make arguments that are directly contrary to the legislature’s intention that sex abuse victims should be allowed to bring negligence claims against culpable organizations that allowed their abuse.

For example, in one case I handled recently, my client was sexually abused by a private school administrator <u>after</u> four different youth made reports to two supervisors regarding that administrator’s attempted sexual assault on another child. Despite knowing of the danger the administrator posed, the school defendant allowed the administrator to continue working with children. Later, he predictably sexually abused my client.

In litigation, the school defendant moved to have the case thrown out on summary judgment. The school’s argument was that my client should not get the benefit of the child abuse statute of limitations because there was no evidence that the school knew about ***this perpetrator actually abusing this particular victim*** (my client). According to the school, the “knowingly” requirement was not met. Thankfully, that trial court ultimately looked at the legislative history, common sense, and many other trial court orders rejecting this type of argument, and rejected that defendant’s argument.

But not all courts get this right. Some trial courts still get confused about the legislative intent behind the original inclusion of the term “knowingly.” Recently, in a highly publicized case involving a local doctor who is alleged to have sexually abused hundreds of victims, a trial judge accepted a defendant’s argument and dismissed victims’ claims, reasoning that the “knowingly” language required that that the victims prove that the medical system that employed the doctor had “‘actual knowledge’ of abuse by [the doctor] ***as to the particular plaintiff,*** not simply . . . of other acts of abuse by [the doctor] against different patients.”[2]

That defense argument of the “knowingly” language is that an organization can ignore a predator’s abuse of Victim A, keep them on staff, and if that same predator later abuses Victim B, they may face no consequences. Accepting such an interpretation imposes a higher standard on sexual abuse victims to prove a negligence claim than any other injured person would have to prove. That is not what the legislature intended, and it is dangerous for kids in Oregon.

---

[1] *Lourim v. Swensen*, 147 Or App 425, 442, n 8(1997), *aff'd in part*, *rev'd in part*, 328 Or 380 (1999) (emphasis added).

[2] *See, e.g., Coe et al v. Providence Health & Services Oregon et al.,* Multnomah County Case No. 20CV37412, “Order on Defendant Providence Health & Services Oregon’s Rule 21 Motions,” p. 7 (Dec. 5,2022) (Souede, J.);

The proposed -1 amendment presents the opportunity to remove this confusing language, provide clarity to the trial courts, and ensure that sexual abuse victims have a fair shot at justice.

Eliminating the civil statute of limitations for claims from child sexual abuse is hugely important. HB 3582 will make kids safer. And the -1 amendment will close an unintentional loophole that culpable defendants could otherwise exploit to escape accountability for allowing or permitting child abuse.

Thank you for your consideration of this important bill and the proposed amendment.

[End of Testimony]