



**VIA Email: [HouseJudiciary@rilegislature.gov](mailto:HouseJudiciary@rilegislature.gov)**

March 24, 2022

Representative Robert E. Craven, Sr.  
Chair, House Judiciary Committee  
Rhode Island State House  
Providence, RI 02903

**Re: House 7409 – An Act Relating To Courts and Civil Procedure Generally – Cause of Action**

Dear Mr. Chairman:

The American Property Casualty Insurance Association (APCIA) applauds the General Assembly's efforts to protect children from sexual predators, but we must oppose H 7409.<sup>1</sup>

Let us be clear at the outset—APCIA and our members abhor violence against children. Child abuse is a heinous, criminal act and perpetrators must be prosecuted to the fullest extent of the law. We support legislation that strengthens criminal sanctions against perpetrators of child sexual abuse and provides the necessary resources to protect children and prosecute criminals. We support educational and safety mandates for individuals who interact with children and for the entities who employ them. APCIA and our members support reasonable changes to civil statutes of limitations to allow children sufficient time to bring claims as adults.

We recognize that H 7409, like the 2019 legislation it seeks to replace, strives to give concrete meaning to our collective concerns. Nonetheless, we oppose H 7409 because it interferes in a case and controversy currently before the Rhode Island Supreme Court and because it fails to adequately consider the judicial and public policies generally served by statutes of limitations, all of which (if unaddressed) could have a disruptive impact on Rhode Island's insurance market.

**Legislatures Should Avoid Interference in Pending Judicial Matters**

Issues surrounding the separation of powers have long been a political lightning rod in Rhode Island. Thus, passage of legislation where there is a pending state supreme court case on the is a line the General Assembly should cross rarely, if ever.<sup>2</sup>

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<sup>1</sup> Representing nearly 60% of the U.S. property casualty insurance market, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe. Several APCIA members are located in Rhode Island and many more do business here. Together, APCIA members write almost 65% of the commercial insurance sold in the state.

<sup>2</sup> See Houlihan vs. Louis Gelineau, et al RI Supreme Court case No. SU-2021-0032-A.

For reasons too numerous to enunciate, the General Assembly should not take the pen out of the hands of the court. Instead, the General Assembly should await the decision of the court and then react accordingly to change any provision of the law the legislative believes the judicial has misinterpreted or misapplied. To do otherwise may require the General Assembly to revisit this issue multiple times.

Mr. Chairman, we again also respectfully suggest that it may be in the best interest of the supporters of this bill as well to allow this process to work. Should H 7409 pass, we believe it is more likely than not that there will be a challenge to its constitutionality. It may benefit all concerned to be informed by the Supreme Court's decision and modify the legislation accordingly, rather than to have passed the legislation and then find its effectiveness in question due to whatever decision the Rhode island Supreme Court issues. Here patience may be more of a virtue than a righteous, but premature (and therefore ill-advised) response.

#### Statutes of Limitation Serve An Important Public Policy Purpose

Unlike earlier bills that sought to make incremental changes to the existing statute of limitations contained in Section 9-1-51, H.7409 drops all pretense and seeks to both eliminate any such limitation and to add an unlimited reviver.

Clearly the supporters of this bill see the elimination of statutes of limitations in sexual abuse cases as a question of fundamental fairness, while others may see it as a step toward their elimination in all sorts of tort cases, even for negligence and other forms of unintentional conduct. Such positions, fail to consider the judicial and public policies generally served by statutes of limitations, all of which (if unaddressed) will have a disruptive impact on Rhode Island's insurance market.

Specifically, legislation like H 7409 that allows time-barred claims for which exposures were never anticipated, premiums were never charged, and reserves were never set by insurers. Maintaining legal and contractual certainty – regardless of the context – benefits everyone. While reviving civil child abuse claims will adversely impact all manner of liability insurance – personal as well as commercial.

When expired claims are statutorily revived, we must expect all manner of revived claims in a wide array of situations in which adults and children interact, from schools to medical professionals to sports clubs to churches to foster care to juvenile justice and much more. Innocent people will all be exposed to previously unknown, stale claims as will their employers. The grave financial uncertainty this situation creates will negatively impact the provision of important social and charitable services and will disrupt liability insurance markets in communities throughout the state.

Finally, Mr. Chairman, APCIA has in the past been able to work constructively with all sides to achieve legislation that appropriately balances the equities presented by this exceedingly difficult issue. We hope we can again, but APCIA must respectfully and for the reasons noted above, oppose H 7409.

Very truly yours,

A handwritten signature in black ink that reads "Francis C. O'Brien". The signature is written in a cursive, flowing style with a large initial 'F' and 'O'.

Francis C. O'Brien  
Vice President, State Gov't. Relations