

Judge William E. Smith (Ret.)

**U. S. District Court, D-RI
Judgewesmith@gmail.com**

April 30, 2026

Via Electronic Mail

senatejudiciary@rilegislature.gov

The Honorable Matthew LaMountain
Chairman
Senate Committee on Judiciary
State House, Room 313
Providence, RI 02903

**Re: SB 2616 (An Act Relating to Courts and Civil Procedure --
Procedure Generally – Causes of Action) amending R.I. Gen. Laws §
9-1-51 (Limitations on action based on sexual abuse or exploitation of
a child)**

Dear Chairman LaMountain and Members of the Committee:

My name is William Smith. I recently retired from the Federal District Court here in Rhode Island, and I currently am a Senior Fellow at the Watson School of International and Public Policy at Brown University, where I teach a study group on the role of courts in making public policy. I also serve as a pro bono strategic advisor to the Attorney General. I have devoted my life to the study of the law; as a judge, I have decided dozens of cases over the years challenging the constitutionality of legislation passed by the General Assembly; and I have taught for many years at both the Roger Williams University School of Law and now at Brown University about judging, the courts and the policy making process.

I regret that I cannot be present in person to testify. I had total knee replacement surgery several days ago, and I'm unable to leave home.

I want to make a simple point in favor of the passage of this bill. I have heard from various people involved in this debate that some of you are concerned about whether the bill will survive a constitutional challenge in the Rhode Island Supreme Court. To that end, you have received, and will hear tonight, many of the legal arguments for and against constitutionality. While my view is that the bill is

constitutional, for the reasons that have been argued and others, I emphatically believe that this is not the question this Committee should be focusing on.

In our system of separated powers, it is the legislative branch that makes policy decisions in the first instance. By anticipating how the Rhode Island Supreme Court might rule in a challenge to this bill, the legislature (through this Committee) would effectively abdicate its lead policy making role to the Supreme Court. As much as I am a strong advocate of the importance of state courts, and state supreme courts specifically—especially in the fraught times we are living through—it is crucial that we not let the courts become the primary policy making institutions in our government. This danger I am warning of is on full display in our federal system as we speak. The lack of effective legislative response to numerous extreme decisions of the U.S. Supreme Court— as recently as yesterday with its decision on the Voting Rights Act— has thrust it further and further into the lead policy making institution in our government. This is not how our system is designed to function at either the federal or state level.

This body passed the prior iteration of this bill extending the statute of limitations for suits against perpetrators. The Supreme Court held in *Houlihan* that the statutory language did not extend to institutions such as the Diocese. Now you have a chance to clarify your intent to hold these institutions accountable. If you do not believe that institutions should be accountable, then vote against the bill. But if you believe that sex abuse victims should be able to hold institutions such as the Diocese accountable through the legal system, then you must vote in favor of the bill. The constitutional debate will come later, as it always does; but to hide behind that inevitable debate, does an injustice not only to the victims but to this body. I urge you to stand up for victims and stand up for the role of the legislature as the voice of those victims.

Thank you for considering these views.

Sincerely,

/s/ William E. Smith
Judge William E. Smith (Ret.)
U. S. District Court, D-RI