

Genesee Valley Toolbox for Session Sexual Misconduct Policies

Presbytery of Genesee Valley

#8 in a series (2019, January)

New York State Law: Preparing for Anticipated Changes in 2019

Child Victims Act: Overview

pages 2-3

John the Baptist moment

page 3

The Church Being the Church

pages 4-6

from the Resource Center

This edition of *Genesee Valley Toolbox* continues our series of support for Sessions in the Presbytery of Genesee Valley as they develop, adopt, implement, and update their sexual misconduct policies. The series offers practical information, recommends best practices, and identifies reliable sources on numerous topics. The intent is to deepen knowledge, encourage right behaviors, and achieve important outcomes.

Most frequently, this newsletter addresses topics related to the *Book of Order* requirement that a session adopt and implement a dedicated sexual misconduct policy (G-3.01016). That is not the catalyst this time!

This edition is prompted by changes anticipated to be enacted by the Legislature in 2019 which will revise both State civil and criminal statutes. While variations of the proposed law, the **Child Victims Act**, have been introduced and passed in the State Legislature since 2006, no version has ever passed the State Senate. However, analysis of the results of the November, 2018, state-wide elections give reason to expect the Act will pass in 2019.



If an interpretation of election results is not persuasive, then simply consider the recent influx of advertisements by law firms which are seeking to represent clients in civil suits. The Legislature, of course, is not scheduled to even convene until January. This edition offers basic information and commentary.

Anticipated New York Law Changes in 2019: Child Victims Act

Overview

Background:

<http://effectiveny.org/the-child-victims-act/> (Accessed 11/26/18)

Advocates' positions:

https://www.preventchildabuse.org/application/files/1115/1905/6216/Eliminating_State_of_Limitations_S.809.pdf (Accessed 11/26/18)

<https://www.democratandchronicle.com/story/opinion/guest-column/2018/04/03/new-york-must-take-stand-against-child-sexual-abuse/482821002/> (Accessed 11/26/18)

The proposed **Child Victims Act** (in the 2018 Legislative session, Senate bill # S6575 & Assembly bill # A5885) would amend the Criminal Procedure Law and the Civil Practice Laws and Rules regarding the statutes of limitations for the crime of sexual abuse of children. Generally speaking, current New York law gives survivors until the age of 23 – 5 years past their 18th birthday – to seek criminal action for most forms of sexual abuse, and to seek redress through a civil suit for having been sexually abused.

The 2018 proposed legislation would allow survivors until the age of 28 to seek criminal accountability of offenders, and until the age of 50 to file a civil suit against individuals and institutions. The very narrow current period is contrary to the reality which is well-documented nationally by law enforcement officials, child abuse experts, and mental health professionals: due to their experience of having been traumatized, people who were sexually abused as minors typically do not come forward until many years later. Given this reality, New York's statutes of limitations are among the most restrictive in the nation.



The 2018 public gatherings of survivors, advocates, and elected representatives at the State Capitol in Albany will likely be repeated in 2019.

Part of the controversy over the proposed bill has been a provision which would create a 1-year period in which an exception to the civil statutes of limitations would apply. This “window of opportunity” would allow survivors to pursue redress through civil proceedings, regardless of their current age.

Although the proposed legislation passed the State Assembly in 2018, it was never brought for a vote in the State Senate, which effectively defeated any consideration. However, given the results in the November, 2018, state-wide elections, survivors, advocates, and analysts see a greatly increased possibility for passage in 2019. The probable consequence? Expect to see survivors coming forward with stories of their having been violated and betrayed.¹ We can expect this both during the period when the bill is being considered, and following its final adoption.

2019 presents a John the Baptist moment for our congregations

These pending statutory changes raise more general questions for us as congregations?

- How has our congregation prepared the way for survivors of sexual boundary violations to come forward and disclose their experiences? Are our leaders prepared to respond on our behalf in ways that reflect who we are as the body of Jesus Christ?
- How have we prepared the way so that people with reasonable concerns about an incident which may constitute a sexual violation know they are encouraged to inform our leaders?

The language of session sexual misconduct policies is the formal, procedural voices of the *Book of Order*, lawyers, and insurance companies. Biblically, it is the language of Leviticus. However, the language of survivors coming forward to faith communities is the voice of anguish in the psalms of lamentation, the righteous fury of the prophets, and the moral indignation at corruption in the temple in Jerusalem. And when survivors are at a loss for words, we hear within them the intercessions of the Spirit with sighs too deep for words.

Differences in the language of policies and survivors are not necessarily mutually exclusive. They reflect different needs, experiences, and perspectives. We can build bridges between them.

- Does the language of your session sexual misconduct policy require a formal statement of accusation in writing before any response from leadership will be initiated? Or does your policy first welcome and encourage those with information and concerns to come forward with the assurance that they will be heard and taken seriously?

There are also non-policy ways for your congregation to communicate a clear message that survivors of sexual abuse are in a place of safety, acceptance, and care: sermons, pastoral prayers, joys and concerns, Bible studies, Christian Education programs, newsletters...

¹ Use of the term *betrayed* is deliberate. For decades, studies have repeatedly shown that in approximately 90% of cases, the offender is known by the child: family member, relative, family friend, teacher, coach, youth group minister. The betrayal by one in a relationship of trust adds to the experience of trauma.

The Church Being the Church of Jesus Christ

Pastors and congregations proclaim the redeeming and transforming love of God in Jesus God. We invoke virtues like compassion. We affirm acts of love, kindness, and gentleness because scripture recognizes these as among the fruits of the Spirit (Galatians 5:22-23). The challenge is how we translate these norms into concrete actions in the challenging context of sexual boundary violations, especially in the setting of a congregation.

One way to prepare the way for people who are survivors is by applying the principles of **Trauma-Informed Care**.^{2, 3} These are relationally-oriented responses. And they align with how we identify ourselves as the church of Jesus Christ. The principles are:

- 1) Our physical setting and interpersonal interactions promote a sense of safety.
- 2) Our response is transparent, and serves the goal of building and maintaining trust.
- 3) We encourage the survivor to develop an effective support network with access to resources.
- 4) Our response seeks to level the power differences between survivor and responder, and promotes the ability of the survivor to make well-informed decisions.
- 5) We recognize and value the survivor's strengths and resilience as a foundation to build upon.
- 6) We recognize cultural, historical, and specific demographic factors (e.g., gender-identity, age, religion, context, relations, spirituality) for their role in contributing to the nature of the original trauma, and their role as potential limits on, or contributors to, the person's recovery.

These principles, which were first established by clinical and human service providers, are now widely-taught and observed.⁴ In fact, their utilization has matured to the point where some agencies and organizations now use the term **Trauma-Informed Response** to make it clear that their staff are not providers of care, but do honor the **Trauma-Informed Care** principles.

The wise session takes its cues from John the Baptist and prepares the way for survivors to come forward, regardless of the status of the **Child Victims Act** in 2019. Through intentional acts to become an aware and informed congregation, a session may make a moral witness in its community regarding how it honors the principles of God's love and justice. Numerous local agencies which

² Substance Abuse and Mental Health Services Administration. (2014). *SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach*. Rockville, MD: Author. (Accessed 11/26/18) <http://www.traumainformedcareproject.org/resources/SAMHSA%20TIC.pdf>

³ National Sexual Assault Coalition Resource Sharing Project and National Sexual Violence Resource Center. (2013; 2017). *Building Cultures of Care: A Guide for Sexual Assault Services Programs*. Harrisburg, PA: National Sexual Violence Resource Center. (Accessed 11/26/18) https://www.nsvrc.org/sites/default/files/2017-10/publications_nsvrc_building-cultures-of-care.pdf

⁴ Examples in Monroe County include the Child Abuse Bureau and Sex Crimes Bureau of the District Attorney's Office.

practice **Trauma-Informed Care** would be wonderful partners in a session's effort to address a problem which affects every community throughout our Presbytery.

Do not worry about anything, but in everything by prayer and supplication with Thanksgiving let your requests be made know to God. (Philippians 4:6)

Cast all your anxiety on him, because he cares for you. (1 Peter 5:7)

Lawyers' recent aggressive advertising in New York state foreshadows that there will likely be significant and prominent civil suits following enactment of the **Child Victims Act**, as proposed in 2018. While some religious denominations may be more vulnerable than others, the feeling of being at risk is not unique to a few select denominations. One temptation for us as a people of faith, as the body of Jesus Christ, is to succumb to worry and anxiety about legal entanglements by reacting with defensiveness to protect ourselves. Out of fear, the temptation is to depend solely on advice from lawyers or insurers. This is a two-fold mistake.

- First, it is contrary to our belief that we belong to God.
- The second mistake is practical. When survivors come forward to faith communities, the primary desire is not for money or restitution. The first desire is that the church act like the church it claims to be, which means supporting survivors' goals: that the truth of the abuse be acknowledged by the church; that the survivor's experiences be validated by the church as real; that the offender be held accountable by the church which sanctioned the individual's functioning in an entrusted role and office; that steps be taken by the church to prevent harm to others who are at risk; that the church acknowledge its role, where applicable, in not acting on what it knew, or not taking preventive measures; that the church make systemic changes to prevent a future occurrence. Typically, a faith community is sued after it fails to respond relationally to the survivor and after it fails to act with the integrity reasonably expected of those who profess their faith.⁵

The second temptation for us as a people of faith is the opposite of the first. The second one tempts us to succumb to the wishful thinking that we are immune. Remember the prayer of the Pharisee as he stood next to the tax collector in the temple? "God, I thank you that I am not like

⁵ See in particular the research of Jennifer M. Balboni, who teaches criminal justice and sociology. She conducted extensive formal interviews with survivors who had been sexually abused by religious leaders, and who entered into civil litigation. Feelings of alienation and betrayal by the church was a catalyst for the decision to sue; the decision came after the failures of the church to respond appropriately. Establishing the truth was a way to assign responsibility for the offenses and banish the survivors' feelings of shame and being blamed. Establishing truth was a means to reducing feelings of stigma and led to restoring relationships with one's self, family, and friends. Balboni, Jennifer M., & Bishop, Donna M. (2010). Transformative justice: Survivor perspectives on clergy sexual abuse litigation. *Contemporary Justice Review*, 13(2, June):133-154. This article was followed by: Balboni, Jennifer M. (2011). *Clergy Sexual Abuse Litigation. Survivors Seeking Justice*. Boulder, CO: Forum Press. This was followed by: Balboni, Jennifer & Bishop, Donna M. (2015). "The Meaning and Legacy of Sexual Abuse Litigation." Chapter 15 in Wright, Richard G. (Ed.) *Sex Offender Laws: Failed Policies, New Directions*, 2nd ed. New York, NY: Springer Publishing Company.

other people...'" (Luke 18:9-14) Simply because a congregation knows of no past incidents of sexual abuse of minors, that does not mean that there were no incidents - disclosures of past incidents might still come forward. And past incidents of which a congregation was aware and thought were resolved - there may be new details or more survivors still to emerge.

Trauma-Informed Care responses can help congregations be the body of Jesus Christ

Yes, we absolutely need session policies and procedures to be in place, and in advance of the discovery of an incident. They guide us in a time of duress, but they do not displace our identity and calling. However, it is imperative that we as the disciples of Jesus Christ honor who we profess to be, both for the sake of our capacity to honor the personhood and dignity of survivors, and to preserve our faithfulness and integrity.

One Presbyterian congregation's story, which received national attention, is a compelling account of how it honored its identity and calling despite its initial failures in handling reports of sexual boundary violations by its youth ministries director. After the initial events, church leaders re-evaluated what occurred. This led to a public acknowledgment of the problems, apologies, and a recommitment to the well-being of those who were violated. The Vienna Presbyterian Church, Vienna, Virginia, as reported in *The Christian Century* and the *Washington Post*, admitted its failures in how it responded to the abuses, behaviors to which the director of youth ministries pleaded guilty in Virginia court to contributing to the delinquency of a minor.⁶ The leaders' recognition of failure also led to forcing the resignation of the church's executive director, apologies to survivors in worship, and cooperation with the *Post's* reporting.

Trauma-Informed Care principles are practical ways to guide our responses when survivors come forward. They help us act as faithful disciples of Jesus Christ. They help us be who say we are, and act in ways consistent with our commitment to discipleship.

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The 8 editions of the **Toolbox** series are posted on the PGV website in the dedicated folder of the Committee on Ministry: <https://pbygenval.org/committees/committee-on-ministry/sexual-misconduct-policies-resources/genesee-valley-toolbox/>

⁶ White, Josh. (2011, April 3). A church seeking redemption. *The Washington Post*. For *The Christian Century* article, see: Eisler, Peter. (2011). [Century News] When a church's honesty is a liability. *The Christian Century*, 128(12, June 14):14-15. For the update, see: White, Josh. (2011, June 14). *The Washington Post*. (Accessed 11/29/18)
https://www.washingtonpost.com/local/vienna-presbyterian-church-forces-out-executive-director-in-wake-of-abuse-cases/2011/06/14/AGLAZ7UH_story.html?utm_term=.4337be5d30e6