

## **Testimony to House Judiciary Committee on H.8**

Feb.2,2023

Presented by: Representative Sarita Austin-Sponsor of H.8

H.8-An act relating to appealing the statute of limitations for civil actions based on childhood emotional abuse

Thank you for this opportunity to testify before your committee.

I would like to begin by providing some background information on the genesis of this bill (H.8) and the rationale for its passage.

### **The Creation of the St. Joseph's Orphanage Task Force**

In August of 2018 BuzzFeed News published an article containing allegations of child sexual, physical, emotional abuse and murder against the caretakers who operated St. Joseph's Orphanage in Burlington, Vermont.

The allegation that a murder may have occurred at the orphanage triggered the Vermont Attorney General's Office to create the St. Joseph's Orphanage Task Force -Sept.2018

The members of the Task Force included: The Attorney General's Office, the Burlington Police Department, the Vermont State Police, Mayor Miro Weinberger of the City of Burlington, and the Chittenden County State's Attorney

The task force had three charges:

Investigate the allegations that a homicide was committed at the Orphanage

Prosecute any criminal activity if warranted

Create a restorative process to facilitate healing and accountability for the victims of the abuse

The investigation took two years. Law enforcement and victim advocates conducted 48 interviews with individuals that were residents at the Orphanage from the 1940s until 1974 when the Orphanage closed. The resident's experiences are included in the Task Force Report. These testimonies formed the basis for the Task Force's investigation that reviewed allegations of physical abuse, sexual abuse, neglect, and murder.

### **The Findings of the Task Force**

"The residents included in this report lived at the Orphanage between 1940 and 1974.As described in Section 4.3 State of the Law, the task force reviewed and analyzed the criminal statutes, particularly focusing on the statutes of limitations in effect at the time of the alleged abuses. A statute of limitation establishes a time period following a crime during which the State may bring criminal charges. After that time period is over, the State may not bring charges. Even if all elements of a crime can be established, the State would be barred from bringing a criminal charge if the statute of limitations has expired. Through its analysis of applicable law, the Task Force found that, while many

of the allegations constituted crimes under the applicable laws, the statutes of limitation that apply to these alleged crimes had run for each potential crime in this investigation-except murder.” p. 7 Task Force Report

The report goes on to state,“ The Task Force unequivocally supports the former residents of the Orphanage. It is clear from the corroboration of the testimony provided that trauma occurred... It was the insidious type that bore no physical scar or bruise, the type that indelibly shapes the survivors’ lives to this day. It was the constant emotional abuse and diminishment that forced survivors (children) to live in constant fear and caused lifelong trauma-trauma that we hope to acknowledge and address through a restorative process, and facilitate healing” p.8 Task Force Report

### **Restorative Inquiry**

The St. Joseph’s Restorative Inquiry was created in April of 2019 in order to understand and document the events of the Orphanage through the voices, experiences, and stories of those most impacted, the former residents of the Orphanage.

### **The Voices of St. Joseph’s Orphanage**

In 2020 during my first term as a Legislator, I received an invitation from a Colchester constituent inviting me to join the St. Joseph’s Restorative Inquiry Group. Although this constituent was an older person when she contacted me the memories of her residency as a young child at St. Joseph’s Orphanage was filled with fear, abandonment, abuse, and neglect.

**“The mission of The Voices of St. Joseph’s Orphanage wants to ensure the safety of children now and in the future, “and hold accountable those who abuse them.**

I joined other Chittenden County Legislators on a Zoom screen to hear the testimonies from some of the former children of St. Joseph's Orphanage. The stories that were presented that day were the most disturbing and painful testimony I’ve heard as a member of the Legislature.

The passage of S.99 (Act 26) “An act relating to repealing the statute of limitations for civil actions based on childhood physical abuse” sponsored by then Senator Chris Pearson and Senator Kesha Ram Hinsdale-was one of the main goals of the St. Joseph’s Restorative Inquiry Group that past session.

H.8 has been identified by The Voices of St. Joseph’s as the next Legislative action that will change the statute of limitations on emotional abuse.

### **The Rationale for the Passage of H.8**

#### **The Effect of Trauma on the Brain Development of Children**

Over the past 20 years research on the outcomes of childhood trauma on the physical and mental health of survivors has been linked to poor health outcomes, health risk behaviors, and substance use. In addition, adult depression and other mental health diagnosis are associated with adverse childhood trauma and abuse.

Research has shown that children that experienced ongoing violence, mental illness in the home, physical, psychological and sexual abuse, substance abuse, and other trauma can have profound and lasting consequences to their physical and emotional wellbeing.

The reality is that experiences that can adversely impact a child's social, emotional, cognitive, and physical development can occur throughout all segments of society. However, research has shown that there are certain demographics where children are more likely to be exposed to trauma than others. Homes where there is economic insecurity, drug addiction, untreated mental illness, and violence are more prone to adverse experiences for children.

In a research study published in *Morbidity and Mortality Weekly Report* (November 2019) the document states, "Exposure to trauma is common in children who have been placed in care (Gabby, Oatis, Silva, Hirsch 2004) Trauma is thought to have significant implications for the development of children's cognition, language and self-identity." The findings in this paper provides a glimpse of the data that links trauma with delayed or disrupted cognitive development.

In another study titled, "The Effect of Trauma on the Brain Development of Children" (Australian Institute of Family Studies) it states, "Children placed in out of home care are more at risk for experiencing a range of adverse circumstances including trauma, abuse, neglect, and abuse. The Adverse Childhood Experience Study (Anda, Felita, & Bremner 2006) has demonstrated that exposure to early trauma is associated with a "range of physical and mental health outcomes in adulthood".

Research on the impact of adverse childhood experiences continues to explore how the brain development of children is impacted by trauma and adversity. However, communities and agencies can use data and resources such as the CDC's Preventing Adverse Childhood Experiences (ACES): Leveraging the Best Available Evidence to better understand the connection between how preventing childhood trauma can increase the chances social, emotional, and cognitive wellbeing over a lifetime.

In ending **Reflections**, the Task Force Report states, "The State of Vermont, its laws, and all its institutions did not protect all of the children of St. Joseph's Orphanage. That failure to protect was a failure of laws, a failure of law enforcement, and a failure of society that made the laws and oversaw their enforcement... The Task Force recognizes, however, that the limits of criminal jurisdiction do not mark the limit of the State's obligation to those people whose lives were harmed by their time at the Orphanage."