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TO: House Committee on Judiciary
FROM: Cary Brown, Executive Director of the Vermont Commission on Women

RE: H729, an act relating to miscellaneous judicial procedures
May 2, 2022

Thank you for the invitation to provide written testimony regarding the proposed amendment to H729 which would insert a new Sec. 38 to read as follows:

Sec. 38. 12 V.S.A. § 525 is added to read:

§ 525. ACTIONS BASED ON DISCRIMINATION

An action under 9 V.S.A. § 4506(a) (discrimination in public accommodations or housing) or 21 V.S.A. § 495b (employment discrimination) shall be commenced within six years after the cause of action accrues and not after.

The proposed amendment would increase the statute of limitations for filing claims on the basis of discrimination to six years in all cases. Currently, employees have either three or six years in which to file a lawsuit, depending on the type of remedy being sought. If a plaintiff seeks remedy for personal injury, such as emotional distress, they must bring the case within three years, but if the remedy is for other losses they have six years in which to do so. The amendment would bring all statutes of limitations on the basis of discrimination to six years.

There are a number of reasons why a three-year statute of limitations may be limiting to those who have experienced discrimination. Many employees do not come forward immediately following an instance of discrimination due to fear of retaliation, blame, shame, or an expectation that they will not be believed. For those who do not want to leave their jobs, the fear of losing their job or of destroying relationships at their workplace can make them reluctant. Prioritizing the ability to maintain employment is the first consideration for many.

Marshalling resources, financial and otherwise, to consult with advocates, find an attorney and pursue a claim can be challenging and time-consuming. For most people, doing so is an absolute last resort, after they feel that all other options have been exhausted.

For many individuals who have been discriminated against it can take time to reach a place where they are ready to pursue a discrimination claim, whether in terms of career stability, financial stability, or emotional readiness after dealing with discrimination. Increasing the statute of limitations is likely to increase access to remediation for many people who have been otherwise unable to pursue it.