

Comments of Rachel Seelig, Esq. Director  
Disability Law Project, Vermont Legal Aid, Inc.  
House Committee on Judiciary  
April 26, 2022

Madame Chair and Members of the Committee:

Thank you for inviting Vermont Legal Aid to provide testimony on H. 729.

I am sorry I cannot be with you in person today. My name is Rachel Seelig. I am Director of the Disability Law Project at Vermont Legal Aid. The Disability Law Project provides legal advice and representation to Vermonters with legal issues related to their disabilities. This includes anti-discrimination work in the contexts of housing, employment, and places of public accommodation.

Vermont Legal Aid's representation of Vermonters experiencing discrimination and harassment goes far beyond the DLP. The Housing Discrimination Law Project (HDLP), the Poverty Law Project (PLP) and the Victims Rights Project (VRP) also help clients fight discrimination and harassment.

I am writing to express support for the creation of a standard six year statute of limitations for claims brought under the Vermont Fair Employment Practices Act and Vermont Fair Housing and Public Accommodations Act. In the past six years, Vermont Legal Aid has opened 671 cases regarding discrimination. This includes 88 complaints of discrimination in education, 27 cases regarding employee rights, 136 complaints of employment discrimination, and 420 cases of housing discrimination. 115 of the employment discrimination cases were opened for people with disabilities.

These numbers provide you with a rough estimate of the scope of discrimination and harassment complaints received by Vermont Legal Aid. For example, a case regarding inappropriate restraint of a child with a disability may also be a discrimination case.

Here are some examples of our clients' experiences:

- Client with a learning disability saw work hours drastically reduced after requesting reasonable accommodations and experienced other staff making negative comments about their sexuality.
- A client with autism spectrum disorder (ASD) was involuntarily transferred away from the position for which they had been hired by a supervisor who "joked" to client and others about client's ASD, calling the client "slow" and "off" and telling other employees there was "something wrong with" client. The supervisor also promoted another staff person over client, despite client's greater experience and training.

- Clients with intellectual disability are singled out for criticism by supervisors, subjected to disparate supervision due to disability, teased by co-workers and supervisors regarding their disabilities, and called “retarded”.
- Female client was traumatized when a co-worker grabbed her female body parts at work, just once. It was not a supervisor, but the impact on her mental health was severe and led to loss of the position.

I write to express support for creating a six year statute of limitations regardless of what type of remedy is sought in these cases. The current statute of limitations of three years is too short, and the six-year limitation in this bill is much more appropriate.

There are two key reasons, in my view, that the current statute of limitations is too short.

First, experiencing discrimination and harassment is emotionally, and too often physically, painful. It can take victims time to recover from their experience before they are ready to pursue legal remedies.

Second, the investigation processes conducted by the Civil Rights Unit and the Human Rights Commission are not always able to be conducted as promptly as we, or they, would like. This is in part because of the volume of Vermonters who are seeking investigations of their mistreatment.

In our experience, our clients’ investigations were not completed with findings of reasonable grounds of discrimination issued, until just weeks before the three-year statute of limitations for many of the claims our clients could bring. This leaves almost no time to try to resolve these cases through negotiation or mediation and can require filing a lawsuit for the sole purpose of not missing the statute of limitations even though both parties are ready and willing to come to the table and come to agreement on resolution.

Pro se litigants who do not find their way to Vermont Legal Aid or are not eligible for our services are especially dependent on these investigative processes to be able to negotiate resolutions on their own, try to take their cases to court, or find pro bono attorneys to take their cases if they cannot settle after a reasonable grounds determination. These findings are often key in incentivizing parties to negotiate resolution.

Thank you for your consideration.