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Dear Members of the Committee on Law and Justice:

I am sorry I cannot be at the hearing in person, but appreciate the opportunity to submit written comments. Thank you for giving careful consideration to the important child abuse issues that have prompted these proposed bills to be introduced.

I started in the Wayne County Prosecutor's Office in 1981. I wanted to be a prosecutor to help insure justice was done. I truly believed the system should be fair to both victims and those accused, a belief I continue to hold just as strongly today.

In 1986, I was asked to head up the newly formed Child Abuse Unit. Before 1986, child sexual and physical abuse cases rarely made their way to the Prosecutor's Office and even fewer made their way to the courtroom. We set up protocols to assist with children in the criminal justice system and made courtrooms safe for kids. We helped eliminate the barriers to children coming forward and made the process empowering for children. In 1994, domestic violence cases were added and the Unit became the Child and Family Abuse Bureau. The expertise I acquired in those groundbreaking days led me to train thousands of law enforcement officers, child protective service workers, medical and mental health professionals, prosecutors, and judges on the dynamics, investigation, and prosecution of child abuse and family violence related topics.

In 1992, I was appointed to the Governor's Task Force on Children's Justice where I served for over two decades and was able to advocate on behalf of children on a statewide basis. I was instrumental in pushing forward many changes in the law to help child abuse victims, including the State of Michigan Model Child Abuse and Neglect Protocol and the Forensic Interviewing Protocol. Michigan became a leader in this important work, and I am proud of the role I got to play.

I retired from the Prosecutor's Office in 2009 but continue to be concerned and involved with issues regarding child abuse. I sit on the Advisory Board of the Wayne County Kids-TALK Children's Advocacy Center (Co-Founder), the Archdiocese of Detroit Sexual Abuse Review Board, and last year did the final review and editing for the 4<sup>th</sup> edition of the State of Michigan Forensic Interviewing Protocol.

From my years of experience I know the nearer to an assault that it is disclosed and dealt with properly, the better it is for the victim's recovery and for a case to move forward. Children are

the best witnesses because they do not have all the worries and concerns we gain as we get older. Memories of events are the best sooner rather than later. Our perceptions of happenings are colored by our past experiences and our memories of occurrences are affected by subsequent incidents and outside influences. The longer after an event the more likely that memories will fade and be altered by later circumstances. When the time period is too long and memories are faulty, there is a real risk that we will end up creating new victims – innocent people unjustly held accountable for actions they did not take.

I was working in the Prosecutor's Office when the statute of limitations was amended to extend the time limit for cases involving criminal sexual conduct. It was not applied retroactively and I agreed with the changes. As a prosecutor, we did not issue a warrant unless we believed we could prove a case beyond a reasonable doubt – a very high and appropriate standard given the stakes for getting it right, and wrong. Therefore, long ago cases were not prosecuted unless there was compelling evidence. The high standard and the ethical obligation provide important assurances against the increased potential for error when the case is old.

In contrast to the high standards required in criminal cases, the general proof required in civil cases is much lower: only a "preponderance of the evidence" is required to reach a final judgment. Consequently, I have serious concerns about the length of time allowed in the proposed bills regarding civil actions. Going back 30 years and allowing 30 years going forward is not good policy. It will make claims almost impossible to defend and will not serve justice.

The objections I raise do not mean I think things are just fine as is and we should do nothing. Years ago, the statute of limitations was changed to 5 years for victims of domestic violence and a reasonable increase for victims of sexual assault is in order. I also do not think the present tolling provision giving victims only one year after their 18<sup>th</sup> birthday is correct. That is too short a period of time. And, we need to encourage victims of abuse to come forward sooner and devote our energy and resources to finding and carrying out policies that can help make that happen. This supports them and may help prevent future abuse. It is better to make services available and assist victims to be empowered to deal with abuse when it occurs.

The adage "bad facts make bad law" seems to be in play right now. The "Nassar" case is certainly bad facts. The facts can teach us much, but they should not be used to justify unwise abandonment of common law wisdom about the limits of civil litigation when memories are too remote. I encourage you to weigh the fairness to the victims of abuse to the fairness of those accused and continue your work to achieve a just result.

Sincerely,

A handwritten signature in cursive script, reading "Nancy Diehl". The ink is dark and the signature is fluid, with a large, stylized 'N' and 'D'.

Nancy J. Diehl