



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

House Administration Committee Meeting Minutes
3.31.21

Chair Longhurst called the virtual meeting to order at 11 a.m. She stated that the meeting was planned in accordance with HCR 1 and took the roll call of the committee's members. Members present included Speaker Schwartzkopf, Reps. Mitchell, Short, and Dukes. Attorney General Kathy Jennings, Melanie Ross Levin, Director of the Office of Women's Advancement and Advocacy, and Lilly Ledbetter also attended the meeting. For a list of guests present, please see the speaker list below.

Chair Longhurst then introduced **HB 6, AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE STATUTE OF LIMITATIONS FOR VICTIMS OF SEXUAL VIOLENCE.**

Rep. Longhurst, the bill's sponsor, explained that a few years ago, she created a package of bills that included measures such as an equal rights amendment, pay equity, reproductive rights, and the creation of the Office of Women's Advancement and Advocacy (OWAA). Chair Longhurst noted that over the past several years, unacceptable practices of sexual harassment and sexual violence within the workplace had gained national attention. Thanking the MeToo movement, Longhurst explained that individuals are now coming forward with their stories with decreased fear of retribution. Chair Longhurst stated that the stories of workplace sexual harassment and violence have been chilling. She said that opening the statute of limitations has begun an important conversation on sexual harassment and violence while states such as Maryland, New York, California, New Jersey, and Oregon have responded by passing legislation that expands the statute. Chair Longhurst elaborated that HB 6 focuses on what victims have lost rather than what an organization will lose. Chair Longhurst said that silence is no longer an option.

Chair Longhurst opened the committee up for questions.

Seeing none, Chair Longhurst opened the committee up to public comment.

Andrea Johnson from the National Women's Law Center expressed support for the bill because many workers do not immediately come forward to report sexual violence or harassment due to fear of retaliation. Ms. Johnson stated that the fears are well founded because survivors are often retaliated against through harassment, by being fired, by receiving poor performance reviews, or by being threatened with legal action.

Ms. Johnson also noted that the trauma of being harassed or assaulted can also cause survivors to delay coming forward. She stated that timely reporting is also a problem for low wage job workers who do not have the resources or time to seek assistance.

American activist, Lilly Ledbetter, thanked the committee for the opportunity to testify and talk about her past experiences with sexual harassment in the workplace during her time as a supervisor at Goodyear Tire and Rubber Co. Ms. Ledbetter recounted inappropriate experiences and a fear for her personal safety and retaliation when speaking up against harassment in her previous workplace. She explained that many women tell her about their stories of harassment and violence and the retaliation they have faced. Ms. Ledbetter stated that the risk of retaliation is all too real for many women which is why women do not immediately come forward. Ms. Ledbetter urged for the passage of the bill.

Greg Lavelle stated that he did not disagree with what he had heard during the meeting but that he wanted to clarify information regarding sovereign immunity and if victims can sue both their abuser and the state of Delaware. Mr. Lavelle stated that he wanted to remind members of the committee that on multiple occasions, Delaware rejected the same opportunity for children who had been abused by state employees. Mr. Lavelle stated that the bill, if passed, would be unfair and discriminatory towards children, specifically those with disabilities that cannot articulate their experiences. Mr. Lavelle repeated that if the bill does waive sovereign immunity on behalf of adult victims, the same action should be taken for children who are sexually abused by state employees.

Lt. Fred Calhoun explained that he thought that the legislation would have a positive impact on women in the workforce and that the interest of organizations should not be prioritized over their wellbeing.

Attorney General, Kathy Jennings stated that the last few years had exposed workplace sexual violence as a frequent occurrence in which both men and women have suffered in silence. Attorney General Jennings stated that this change and increased awareness was thanks to those who have spoken up, such as those within the MeToo Movement. She stated that HB 6 would empower state and local public employees who have suffered and survived from sexual violence to take civil action against their abuser and their employer for a period of one year after the enactment of the law. Attorney General Jennings claimed that the legislation was not just about legal action but also about seeking justice and serving our duty as a society to care for one another and to protect each other.

New Castle County Councilperson Janet Kilpatrick explained that as a person that has been employed by the state and the county government, she would like to believe that there should be no reason to have the bill. She stated that the legislation would give those previously insecure about reporting a chance to come forward and that it sends a clear message that sexual harassment will not be tolerated by any government within Delaware.

Melanie Ross Levin, Director of OWAA, stated that Delaware should strive to create a work environment that treats people with dignity and respect. She continued by saying that the state of Delaware remained committed to ensuring that each manager and supervisor fosters a safe and inclusive work environment. Ms. Levin urged the committee to support the passage of the bill.

New Castle County Councilperson Timothy Sheldon thanked Chair Longhurst for brining the bill forward and spoke in support of the bill. Councilman Sheldon stated that the bill provided everyone with their day in court and demonstrated that sexual harassment or violence would not be tolerated.

New Castle County Councilperson Dee Durham thanked the committee and stated that the bill was a perfect example of government practicing what it preaches. Councilperson Durham urged for the passage of the bill.

New Castle County Councilperson David Carter thanked the committee for the chance to speak and stated that he was honored to speak alongside Lilly Ledbetter. He explained that prior to going to work for the University of Delaware, he spent 28 years in state government. He noted that he had also recently been elected as member of county council. Councilman Carter stated that over the years, several individuals had confided in him about sexual harassment in the workplace. In those instances, the harassment involved a workplace superior, and that each individual had expressed the fear of reporting due to the impact that any retribution would have on their lives. Mr. Carter explained that he urged those individuals to come forward but that he did not personally take the risks on behalf of those individuals. He stated that he tried to be as supportive as possible. Councilman Carter explained that he strongly believed that anyone who believes they are a victim of sexual violence should have a chance to be heard. Mr. Carter stated that the courts were the most appropriate venue for related complaints and that sexual violence should never be suppressed. Councilman Carter expressed support for the bill.

Lincoln Willis, on behalf of Delaware's League of Local Governments, thanked the committee and stated that the League is serious about sexual harassment and condemns it. Mr. Willis stated that HB 6 was a financial concern for the league due to the extension of the statute which he claimed would raise the entry of frivolous claims and could strain resources. Mr. Willis respectfully asked that the bill not to be released.

Council President Karen Hartley-Nagle thanked the committee for the opportunity to speak and stated that she supported a zero-tolerance policy for sexual harassment and discrimination.

Councilman George Smiley expressed support for the bill and stated that it was overdue throughout society. Councilman Smiley noted that harassment is not gender specific and that both men and women were subject to sexual violence.

Mary Ann Paley, on behalf of the Women's Commission of Delaware, stated that sexual violence and harassment in the workplace is a pervasive problem that is underreported due to fear. Ms. Paley noted that unwanted sexual contact is common, and findings suggest that workplace prevention efforts that do not addresses different components of harassment are not adequate. Ms. Paley explained that it was worth noting that 1 in 5 women in their lifetime have experienced rape.

City of Dover Mayor Robin Christiansen expressed mixed emotions on the bill due to his role as a father and husband. Mayor Christiansen stated that the City of Dover would not tolerate sexual harassment and violence in the workplace. Mayor Christiansen stated his concern over the extended timeframe to act and suggested some people might take advantage of the situation which could cause budget issues.

Chair Longhurst thanked all those who testified and noted that she received several emails from mayors and municipalities throughout the state opposing the legislation that would be entered into the public record. Chair Longhurst stated that she had received a letter from Michelle Allen, the attorney for the six women who filed a complaint against the New Castle Police Department that outlined their years in the police force. Chair Longhurst personally thanked Lilly Ledbetter for all her work as a trailblazer and advocate. Chair Longhurst stated that legislation takes time to adjust and that her intention for the bill was to take away silence from women and men who have suffered from sexual harassment or violence within the workplace. Chair Longhurst noted that those who have expressed sexual violence or harassment within the workplace have only had up to 300 days to file a complaint whereas it takes much longer for most people to come forward. She noted that as a result, HB 6 would allow up to 25 years for people to come forward. Chair Longhurst acknowledged the public concern and stated she would look at amendments to determine ways to improve the bill to help satisfy everyone and provide justice to those who need it. Chair Longhurst stated that no action would be taken on HB 6 and that she would reach out to the Attorney General Kathy Jennings for amendments on the legislation.

Rep. Dukes thanked Chair Longhurst and stated that he appreciated the intent of the legislation. Rep. Dukes voiced concerns since the bill would not be moving forward and stated that he was concerned about the sovereign immunity with the state and county municipalities. He noted that he had received a few emails from towns regarding opposition to the bill. Rep. Dukes added that line 71 and 72 were not underlined in the bill and that it should be corrected. Rep. Dukes asked Chair Longhurst if there would be a fiscal note for HB 6.

Chair Longhurst stated there was not a fiscal note.

Rep. Short asked if the legislation completely removed sovereign immunity from the State of Delaware.

At the request of the Chair, House Attorney Natalie Woloshin responded by stating that the legislation would remove the immunity which was defined on line 71 and 72 of the bill.

Rep. Short stated that one thing that might need to be explored is how insurance claims would be adjudicated, specifically for smaller town and cities that may not have had a policy that provides a retro date that covers up to 25 years. Rep. Short explained that there may be no financial backing for smaller towns and cities besides their own assets.

Chair Longhurst then introduced **HJR 3, ESTABLISHING A LEGISLATIVE BUILDING COMMITTEE FOR THE PURPOSE OF STUDYING AND RECOMMENDING A PLAN TO ADDRESS THE TECHNOLOGY, SECURITY, AND SPACE NEEDS FOR LEGISLATIVE HALL.**

Speaker Schwartzkopf, the sponsor of the bill, stated that after 25 years without any renovations made to Legislative Hall, HJR 3 aimed to improve the building in various and important areas such as ADA compliance, security, Wi-Fi, and more space.

A motion was made by Rep. Short and seconded by Rep. Dukes to release HJR 3 from committee: motion carried. Yes= 5 (Reps. Longhurst, Schwartzkopf, Mitchell, Short, and Dukes). The bill was released from committee with a F=4, M=1, U=0 vote.

Chair Longhurst adjourned the meeting at 11:47 am.

Speakers List:

Council President Karen Hartley-Nagle
Andrea Johnson
Lilly Ledbetter
Natalie Woloshin
Lincoln Willis
Mayor Robin Christiansen
Greg Lavelle
Councilman Timothy Sheldon
Fred Calhoun
Delaware Attorney General, Kathy Jennings
Councilman George Smiley
Councilwoman Janet Kilpatrick
Councilperson Dee Durham
Councilman Timothy Sheldon
Mary Ann Paley
Melanie Ross Levin, Director of OWAA

Respectfully submitted by:

Myra Ray-Howett

3.31.21 House Administration Committee Meeting Public Comment

HB 6 (Sponsor: Longhurst)

Submitted by Laura O'Sullivan, Patricia Davies, Margaret Ellwein, Lynda Scelsi, Lori Kane, and Jessica Neipri | March 30, 2021 at 7:02 p.m.

Representative Longhurst,

As victims of sexual violence in the workplace and speaking for those without a voice, we commend you on your leadership related to the Public Employee Sexual Violence Act. Collectively, we have experienced and been exposed to decades of sexual violence in the workplace as defined under this legislation. Specifically, during our employment with New Castle County, while we were trying to serve and protect the public in doing the jobs we love, we were subjected to horrors of sexual violence by a man with immense power and influence. Below is a brief synopsis of our experience that was done by a man simply because we were women, and he wielded the power to take away our careers and livelihood. He had the power granted to him by his powerful political allies. If this legislation is voted out of Committee today, you are one step closer to giving us a voice and restoring our dignity.

For one of us, this violence in the workplace started as early as 1996 and continued throughout her employment with NCC. Comments were made both in public and private about Captain O' Sullivan's appearance, hair, good shape, hard body and intimate areas. Captain O'Sullivan was sent a three page sexually graphic and explicit letter stating her supervisor wanted to grab her ponytail, bend her over and have sexual relations with her. In horrific detail, Captain O'Sullivan was for years subjected to sexual harassment and violence. The threats became physical when she was sexually assaulted at a holiday work party and the physical sexual assaults continued during working hours while she was in uniform. When she reported the sexual violence, she was told by her commanding officer that if she continued to report this matter, she would solely be known for being a victim and this fact alone would dominate her career and reputation.

Captain Patricia Davies was subjected to sexual violence by Watson beginning in 1994 and continuing throughout her employment with NCC. Watson made numerous comments to Captain Davies regarding her appearance and then he explicitly described his sexual desires to her and detailed the things he wanted to do to her. These acts of sexual harassment continued and escalated to sexual assault when Watson grabbed Captain Davies through her legs/crotch area and lifted her into a wall during a training scenario, without her consent. Watson repeatedly commented on the size of his genitals and frequently sent her sexually explicit handwritten notes, emails, texts and pages.

Watson continued his sexually hostile and violent behavior towards Margaret Ellwein, Background Investigator, at one point during her evaluation he told her she needed to get laid more. Lynda Scelsi, retired Master Corporal, was subjected to sexual violence by Watson beginning in 1999 and continuing throughout her employment with NCC. Watson commented about the size of Ms. Scelsi's breast and how she looked in certain pants. His harassment continued by making sexual noises in her presence. As with the

other women, Watson's behavior escalated to physical assault when he grabbed her belt during an inspection and placed his hand between her shirt and pants and commented about things, he would do to her if she wasn't being taken care of by her husband.

Lori Kane, Budget and Procedures Analyst, was also subjected to sexual violence by Watson beginning in 2004 which continued through her employment with NCC. Watson repeatedly made sexually explicit comments about his genitals to Ms. Kane and described what he wanted to do to her sexually while continually commenting on her appearance. Because Watson's behaviors were widely accepted, he continued to use his power and authority as he had done for decades in past to continue to subject female officers to continued and repeated sexually explicit comments and sexual assaults.

Beginning in 2010, Corporal Jessica Neipris was subjected to sexual violence by Watson beginning in 2010 which continued throughout her employment with NCC. Again, Watson used his superior position to humiliate, harass and belittle female officers. On Corporal Neipris' first day of the police academy, she was pulled out of the group of recruits by Watson and made to "bear crawl" (hands and feet on the floor, body as low as possible, buttocks in the air) separate from where all of the other recruits were performing the same exercise, while he stood directly above her.

At the time these sexual assaults occurred we were all very new and young in our careers. We could not fathom being part of an organization that was created to protect and serve the public that would allow and condone this type of behavior. However, in law enforcement there is a clear chain of command which exists and must be followed. The paramilitary structure which we worked in inhibited us from reporting the sexual violence we endured to the Delaware Department of Labor or Equal Employment Opportunity Commission as we were faced with breaking the chain of command and losing our jobs.

We are confident and hopeful this bill will ensure victims of sexual violence are no longer silenced and are encouraged to report instances of sexual violence in the workplace. We appreciate your time and consideration of this matter.

Respectfully Submitted,

Laura O'Sullivan
Patricia Davies
Margaret Ellwein
Lynda Scelsi
Lori Kane
Jessica Neipris

HB 6 (Sponsor: Longhurst)

Submitted by Tim Saxton | March 30, 2021 at 4:35 p.m.

Dear Members of the House Administration Committee,

The Town of South Bethany considers employee safety a top priority. That includes sexual harassment. We condemn sexual harassment in the workplace and support the full investigation into allegations of it.

HB 6 is a financial concern for us. Statutes of limitations exist for a reason. They allow crimes to be prosecuted and civil suits to occur but place a time limit for doing so. This provides stability.

The likelihood of a high volume of frivolous claims putting a strain on resources is high. Further, insurance policies will not cover all of the potential claims. That could put the financial health of the Town of South Bethany at risk.

We urge you to vote against releasing the bill from committee.

Regards,

Mayor Saxton
Town of South Bethany

HB 6 (Sponsor: Longhurst)

Submitted by Sam Callender | March 30, 2021 at 4:52 p.m.

Dear Member of the House Administration Committee,

The Town of Cheswold considers employee safety a top priority. And that includes the elimination of sexual harassment. We condemn sexual harassment in the workplace and support the full investigation into associated allegations.

Statutes of limitations exist for a reason. They allow crimes to be prosecuted and civil suits to occur, but place a time limit for doing so, which provides stability and an atmosphere of fairness.

HB 6 provides the opportunity for an increased volume of frivolous claims putting a strain on financial and human resources. Further, insurance policies will not cover all of the potential claims, adding to the detriment of the financial health of our Town.

We urge you to vote against releasing the bill from committee.

Respectfully,

Theon E. (Sam) Callender

HB 6 (Sponsor: Longhurst)

Submitted by Eric Scott Thompson | March 30, 2021 at 4:36 p.m.

Dear Members of the House Administration Committee:

The Town of Elsmere considers employee safety a top priority. That includes sexual harassment. We condemn sexual harassment in the workplace and support the full investigation into allegations of it.

HB 6 is a financial concern for us. Statutes of limitations exist for a reason. They allow crimes to be prosecuted and civil suits to occur but place a time limit for doing so. This provides stability. Moreover, the expiration of twenty-five years from the date of an incident can result in the loss of evidence, including material and memory, to fairly adjudicate the act on behalf of all involved.

The likelihood of a high volume of frivolous claims putting a strain on resources is high. Further, insurance policies will not cover all of the potential claims. That could put the financial health of our Town at risk.

We urge you to vote against releasing the bill from committee.

Eric Scott Thompson
Mayor of Elsmere

HB 6 (Sponsor: Longhurst)

Submitted by Teresa Tieman | March 30, 2021 at 7:58 p.m.

Good evening,

As a Town Manager and a municipal supervisor for nearly 33 years, I am asking you to oppose this legislation. This bill creates the Public Employee Sexual Violence Act which allows public employees who have suffered sexual violence in the workplace the ability to file an action against the perpetrator and the employee even if the applicable statute of limitations has run. This Act defines sexual violence and provides when a public employee who suffered sexual violence by a supervisor may file suit against an employer. This Act will allow a public employee who was a victim of sexual violence 1 year from the effective date to file claims in Superior Court.

The problem with the legislation is that there's a 25 year look back for claims, so even if the statute of limitations has passed, former state, county and municipal employees who claim to have suffered sexual harassment from a supervisor at any time in that last 25 years could file suit. And the legislation waives state and municipal sovereign immunity as well as municipal tort claims act provisions and it's difficult to know if insurance policies will cover the claims.

I fear that while the legislation may come from very good intentions it will place a monumental financial burden on municipalities and taxpayers. Why is the bill only targeting states, counties and municipalities and not all employers? It seems very unfair in that respect.

Municipalities consider employee safety a top priority. That includes sexual harassment. We condemn sexual harassment in the workplace and support the full investigation into allegations of it. HB 6 is a financial concern. Statutes of limitations exist for a reason. They allow crimes to be prosecuted and civil suits to occur but place a time limit for doing so. This provides stability. The likelihood of a high volume of frivolous claims putting a strain on resources is high. Further, insurance policies may not cover all the potential claims. That could put the financial health of our communities at risk.

Respectfully requested,

Teresa Tieman
17 Howe Drive
Dover, DE 19901

HB 6 (Sponsor: Longhurst)

Submitted by James Frazier | March 30, 2021 at 8:54 p.m.

Good evening,

DE Mayors and Managers have been informed about HB 6, extending statute of limitations relative to claims of sexual violence, and it concerns us a great deal:

- a. The language is unclear to me as to whether this is intended for public employees or any employees of any business. That needs to be clarified.
- b. Having the ability to go back 25 years is extreme, as Council members and staff of municipalities change often over the years. A quick review of our Town minutes from 1996 showed 3 council members deceased and the whereabouts of the other two to be unknown. Exactly what would a plaintiff hope to achieve given those facts?
- c. The scope seems to include everyone in a claim. Including all aspects of the municipality while rightfully targeting specific individuals will likely have unintended consequences. It could conceivably bankrupt small towns like ours with extended litigation. Prosecute the individuals, not the public entity.

The bill should be withdrawn, or at the least, rewritten to be more limited in scope and time frame. Victims of sexual violence certainly need to be heard, but I believe potentially bankrupting municipalities doesn't really address the problem.

Thank you.

James Frazier, Mayor
Town of Magnolia

HB 6 (Sponsor: Longhurst)

Submitted by Bethany DeBussy | March 31, 2021 at 8:46 a.m.

Dear Members of the House Administration Committee,

I send this correspondence on behalf of the Commissioners of Bridgeville.

Our town considers employee safety a top priority. That includes sexual harassment. We condemn sexual harassment in the workplace and support the full investigation into any allegations of it.

As proposed, HB 6 is a major financial concern for us. Statutes of limitations exist for a reason. They allow crimes to be prosecuted and civil suits to occur but place a time limit for doing so. This provides stability.

The likelihood of a high volume of frivolous claims putting a strain on resources is high. Further, insurance policies will not cover all of the potential claims. That could put the financial health of our small town at risk. We urge you to vote against releasing the bill from the committee.

Should you have any questions from our Commissioners or me, please do not hesitate to reach out.

HB 6 (Sponsor: Longhurst)

Submitted by Jeffrey Politis | March 31, 2021 at 10:58 a.m.

Dear Members of the House Administration Committee,

The Village of Arden supports the spirit of HB 6. Still, it has a concern about its unintended consequence of forcing local government citizens to pay for an injustice that happened many years ago. HB6 opens county and municipal governments up to civil litigation by making the County and Municipal Tort Claims Act unavailable defenses. Such suits, which could be from events 25 years ago, require either expensive litigation to defend or potential settlements. In either of these events, the present-day resident taxpayers will absorb the financial burden.

This bill, as written, opens county and municipal governments up to significant liability, which could put the financial health of our local and county governments at risk, potentially forcing governments to collect more taxes or decrease services.

I urge you to correct this financial concern in HB 6.

Thank you.

Jeffrey Politis
Town Chair, Village of Arden



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Testimony on HB 6
Andrea Johnson, Director of State Policy, Workplace Justice & Cross-Cutting Initiatives
National Women's Law Center

March 31, 2021

The National Women's Law Center submits this testimony for the limited purpose of providing background information to the committee about why survivors of workplace harassment often do not report or take significant time to report harassment and sexual violence. We do not take a position on HB 6.

The National Women's Law Center has been working for over for 45 years to remove barriers to the equal treatment of women in the workplace, especially workplace harassment and discrimination. The Law Center houses and administers the TIME'S UP Legal Defense Fund which, since it was launched in January 2018, has received nearly 5,000 requests for assistance related to workplace sexual harassment, including assault, and related retaliation.

What we see through the Fund and our work with survivors and advocates and attorneys across the country is that many workers do not come forward immediately, or even within months, to report, often due to the fear of retaliation, of not being believed, of hurting one's career, or of being shamed, humiliated, or blamed. Unfortunately, these fears are well-founded. Of those who have reported sexual harassment to the Fund, over 70% reported they had been retaliated against when they complained about harassment, including being fired and receiving poor performance reviews.¹ Some were threatened with legal action, with losing their job, or even physical harm, if they told anyone about their harassment.

It can also take a survivor a long time to come forward because of the trauma from being sexually harassed or assaulted, including anxiety, self-blame, dissociation, shame, loss of trust, post-traumatic stress disorder, depression, and panic disorders. Short statutes of limitations do not give survivors enough time to recover emotionally and physically to move forward with their claims.

In addition, timely reporting can be incredibly challenging for those with limited financial resources, especially those working in low-wage jobs where harassment is particularly pervasive. These workers need to prioritize finding new employment to keep food on their tables before bringing a claim. And many do not have the resources to easily find and consult with advocates or attorneys about their rights.

As a result of all this, we see with the TIME'S UP Legal Defense Fund that many people seeking assistance have run out of time and no longer have legal options to seek justice and be made whole for their injury.

We are encouraged to see many states across the country working to extend the statute of limitations for bringing workplace sexual harassment claims. Many are taking the approach of extending the deadline for bringing employment discrimination claims usually to 2 to 5 years, instead of the current grossly inadequate 180-or 300-day statute of limitations.²