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Sens. Becky Whitley & Cindy Rosenwald: Survivors of abuse owed more than feel-good legislation

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Sen. Becky Whitley



Sen. Cindy Rosenwald

WE HAVE spent our entire careers ensuring that all children have the opportunity to thrive. As Nelson Mandela said in 1995, “[t]here can be no keener revelation of a society’s soul than the way in which it treats its children. “

At this point, we are all aware of the horrific abuse of children that was allowed to take place at the state-run Youth Development Center (now the Sununu Center) over the course of four decades. The victims' stories are horrifying and heartbreaking. Their victimization in state care is unacceptable and deserves significant redress. Unfortunately, the solution crafted by Governor Chris Sununu and the state Department of Justice is woefully inadequate and does not come close to providing justice for these children.

HB 1677 created a settlement fund for these victims of abuse. While this is a laudable goal, it needed to be constructed with the many victims' interests and voices at the forefront. Creation of this fund by the Legislature marks the first of its kind across the country, setting national precedent. As such, it is critical that we get it right. Unfortunately, the bill was rushed through the legislative process with questions and serious concerns left unanswered and unaddressed. The result is an inadequate settlement fund made worse by a proposed process, designed to systematically undercompensate and re-victimize the victims of horrific crimes.

To begin with, the fund set up by HB 1677 is an incomplete response to the scope and atrocity of the abuse at the Sununu Center. In particular, the definition of "sexual abuse" for the purposes of this fund is far too narrow and fails to capture the horrors so many victims experienced. Throughout the legislative process, Democrats in the House and Senate offered multiple amendments to revise this definition to ensure that all victims would be able to utilize this process and that no victims would be excluded from accessing relief. Unfortunately, our Republican colleagues rejected these efforts. The final bill sets far too low a maximum award for any victim and leaves some victims out entirely.

Even with too low a statutory cap on compensation, the governor and his attorney general proposed an artificial average maximum award, one less than 50% of the amount allowed by law. Although law allows for an individual to receive compensation for sexual abuse up to \$1,500,000, the a

general informed the Legislative Fiscal Committee recently that he believes the correct average maximum compensation that a sexually or physically assaulted child should get is no more than \$700,000. That's what he said is fair to taxpayers.

What this means is that the governor and attorney general have designed a formula that intentionally provides hundreds of child victims less than half of the amount allowed by law. And what does the victim have to have suffered to receive the full amount? Granite Staters will be shocked to learn that the governor and attorney general think it's fair to taxpayers to use a formula requiring a child to have been raped 10 times while in the state's care before that they can receive full compensation. This is particularly chilling and difficult to understand.

Last spring, House and Senate Democrats also attempted to increase the monetary caps in the fund. While the Sununu administration claims the caps are based on precedence set in national cases, this claim is inconsistent with other high-profile child sexual abuse cases.

In the case against gymnastics coach Larry Nassar, the average payout settlement will be at least \$1.28 million per victim, far above the \$700,000 average the Sununu administration is seeking. Similarly, a 2007 settlement between the Los Angeles Archdiocese and victims gave an average of \$1.3 million to each victim. Again, far more than the \$700,000 average the governor and attorney general propose.

As soon the governor signed the bill into law, victims spoke publicly of their disappointment. Many even talked about feeling revictimized by the state.

While we understand and appreciate fiscal prudence, it can never come at the cost of doing the right thing and providing actual justice for victims of child sexual abuse in state custody. This is not an instance where we can support prioritizing the bottom line over the trauma inflicted upon these children at the hands of the state. We do not believe Granite Staters think requiring a child to have been raped 10 times before receiving maximum compensation is just, palatable, or remotely appropriate.

We owe survivors more than feel-good legislation that doesn't align with victims' experiences of abuse, which they've been brave enough to share with us. Expediency cannot come at the cost of doing the right thing by these victims. They deserve justice, and we stand with them in our disappointment, our outrage, and our commitment to keep fighting for what's right.

Sen. Becky Whitley (D) lives in Hopkinton and Sen. Cindy Rosenwald (D) lives in Nashua.