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Case tests child abuse amendments

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JEFFERSON CITY— A case that began as a lawsuit against a Catholic priest and the Diocese of Jefferson City emerged Friday as the first known legal challenge to the state's new child-abuse laws.

David Clohessy sued the Rev. John Whiteley, Bishop Michael McAuliffe, the Diocese of Jefferson City, and St. Plus the X Catholic Church in August in his petition. He contended Whiteley had sexually molested him from 1967 through 1971 and that he had repressed these memories until 1989.

At a preliminary hearing in Cole County Circuit Court, Judge Byron L. Kinder considered several motions to dismiss the case from diocesan counsel Louis DeFeo.

DeFeo argued that 1990 amendments to the state child-abuse law are unconstitutional. Those amendments allowed Clohessy to file his lawsuit beyond the deadline imposed by the statute of limitations.

A key element in the diocese's defense has been its argument that the pre-1990 statute of limitations should be applied. Under those rules, Clohessy would have had to have filed by 1982.

But Clohessy's attorney, Michael Hoare, of St. Louis, said the intent of the General Assembly in enacting the 1990 child-abuse amendments was crucial.

"There can be no dispute that the legislature clearly intended that the statute at issue be applied retrospectively," Hoare said.

After receiving the petitions, Kinder retired to his chambers with both attorneys, and after a brief conference, adjourned the hearing. He will decide the issue in upcoming weeks.

"This is a novel case under the best of circumstances," Kinder said.