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History of U.S. Child Sex Abuse Statutes of Limitation Reform: 2002 to 2020

2020 Annual Report: A National Overview of the Movement to Prevent Child Sex Abuse and Empower Victims through Statutes of Limitation Reform Since 2002

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CHILD USA is the leading nonprofit think tank working to end child abuse and neglect in the United States. CHILD USA engages in high-level legal, social science, and medical research and analysis to derive the best public policies to end child abuse and neglect. CHILD USA produces evidence-based solutions and information needed by policymakers, organizations, lawyers, media, and society to increase child protection and the common good. Our goal is to help millions of children at a time. For more information about CHILD USA, please visit our website at <https://www.childusa.org/>.



The Sean P. McIlmail Statute
of Limitations Research
Institute at CHILD USA

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I. INTRODUCTION

The United States is in the midst of a civil rights movement for children and especially the victims of child sex abuse. An important first step in the war to empower these victims is to establish effective access to justice. For too long, civil and criminal statutes of limitation (SOLs)—the arbitrary deadlines for filing claims—have been unfairly short. They have silenced victims, endangered children, favored perpetrators, and held reckless institutions unaccountable. That is changing.

This movement was first spurred by the *Boston Globe*'s groundbreaking Spotlight series on the cover up of clergy sex abuse by Cardinal Bernard Law in the Boston Archdiocese, published in January 2002,¹ which was honored with prizes from the Pulitzer Awards to an Academy Award for the Best Picture of the Year.² There is little question that the series was a towering journalistic accomplishment. It was also a turning point in the history of child protection as the public finally saw the outlines of a paradigm of sex abuse in trusted institutions. The Spotlight series brought to the fore the broad themes of institution-based child sex abuse: powerful men motivated by image and self-preservation; calculated ignorance of the clear risks to children; and protection of the abusers within the institution rather than the children. While those in power dithered and/or ignored the horror in plain sight, the perpetrators were permitted latitude to abuse countless children. The story was picked up around the world, and clergy sex abuse became standard content in headlines everywhere.

Cardinal Law's recklessness appeared so brazen that, at first, some people believed the problem had to be limited to the Boston Archdiocese. For example, Sen. Rick Santorum blamed it on liberalism specific to Boston: "While it is no excuse for this scandal, it is no surprise that Boston, a seat of academic, political and cultural liberalism in America, lies at the center of the storm."³ Not long thereafter, Philadelphia District Attorney Lynne Abraham initiated the most comprehensive grand jury investigation into Archdiocesan clergy sex abuse at the time. The 2005 Grand Jury Report on Sex Abuse in the Philadelphia Archdiocese established that the cover-up of child sex abuse by dozens of priests in the Philadelphia-area Catholic dioceses was not related to liberalism. Rather, it was a pattern that repeated itself in parish after parish, and diocese after diocese, state after state, and one country after another.⁴

The *Spotlight* paradigm created numerous new ways for the public to comprehend child endangerment embedded in institutions. Patterns that were formerly masked became visible as institutional dominos started to fall. The church reports were followed by disturbing stories about other religious organizations⁵

¹ Michael Rezendes, *Church Allowed Abuse by Priest for Years*, THE BOSTON GLOBE: SPOTLIGHT SERIES (Jan. 6, 2002), <https://www.bostonglobe.com/news/special-reports/2002/01/06/church-allowed-abuse-priest-for-years/cSHfGkTlrAT25qKGvBuDNM/story.html>; see also <http://www.bostonglobe.com/arts/movies/spotlight-movie>.

² SPOTLIGHT (Universal Home Studios 2015).

³ Rick Santorum, *Fishers of Men*, CATHOLIC ONLINE (2002), <http://www.catholic.org/featured/headline.php?ID=30>. See also Marci Hamilton, *How Senator Rick Santorum, In Acting for His Church, Persistently Fails to Consider the Larger Public Good*, FINDLAW (Aug. 11, 2005), <http://supreme.findlaw.com/legal-commentary/how-senator-rick-santorum-in-acting-for-his-church-persistently-fails-to-consider-the-larger-public-good.html>.

⁴ COMMONWEALTH OF PENNSYLVANIA: OFFICE OF THE ATTORNEY GENERAL, A REPORT OF THE THIRTY-SEVENTH STATEWIDE INVESTIGATING GRAND JURY (April 2014), <https://www.scribd.com/document/301459233/Grand-jury-report-on-Altoona-Johnstown-Catholic-Diocese>. See also www.bishopaccountability.org (leading archive of sex abuse in the Catholic Church).

⁵ For example, the Jehovah's Witnesses. Hemant Mehta, *Dozens of Alleged Victims Share Stories of Abuse Within the Jehovah's Witnesses*, PATHEOS (Mar. 26, 2018), <http://www.patheos.com/blogs/friendlyatheist/2018/03/26/dozens-of-alleged-victims-share-stories-of-abuse-within-the-jehovahs-witnesses/>.

and the “perversion files” in the Boy Scouts of America.⁶ Then the secular institutional scandals began to appear, starting with Penn State and Jerry Sandusky. From there, abuse in many other institutions surfaced, like elite boarding schools, sports teams, and other youth-serving organizations. The question must be answered, however, whether the knowledge yielded about the Boston Archdiocese’s cover ups and its progeny has resulted in lasting change that would protect children in the future.

The revelations of institution-based abuse contributed to large numbers of victims coming forward at roughly the same time. Barbara Blaine, President of SNAP, or the Survivors Network of Those Abused by Priests, held vigils of survivors holding pictures of themselves at the age when they were abused in dioceses across the country. The media covered these demonstrations and the public started asking about justice. Shockingly, the two paths to justice—criminal prosecution and civil lawsuits—were unavailable for the vast majority of the victims. They could not prosecute or file civil lawsuits, because they had missed the arbitrary procedural deadlines, the SOLs, for their claims.

Most of the victims missed the deadlines because of the delayed disclosure that is common among child sex abuse victims. Only 25-33% of victims disclose in childhood, and 33-70% disclose in adulthood, with studies finding age 48 as the median and age 52 as the average age of disclosure.⁷ The reasons for delay are specific to each individual, but often involve mental and/or physical health issues that result from the trauma of sex abuse, e.g., depression, PTSD, substance abuse, alcoholism, and physical ailments. It is also a product of the large power differential between the child victim and the adult perpetrator, as well as the power dynamics of the institution. Perpetrators and institutions have silenced victims through threats, victim-blaming, and shame.

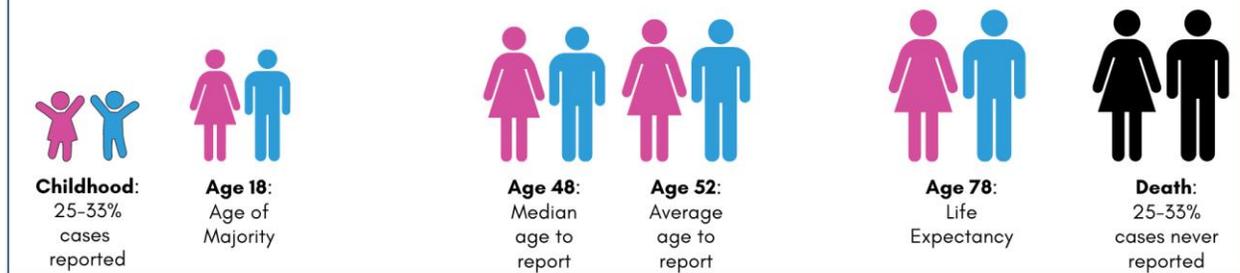
⁶ Paul Dugan, *Boy Scout ‘perversion files’ released*, WASH. POST (Oct. 18, 2012), https://www.washingtonpost.com/local/crime/boy-scout-perversion-files-released/2012/10/18/62c7a6ec-1940-11e2-b97b-3ae53cdeaf69_story.html?utm_term=.fb006cc70429.

⁷ See N. Spröber et al., *Child sexual abuse in religiously affiliated and secular institutions*, BMC PUBLIC HEALTH, Vol.14 (March 27, 2014); G. Priebe & C. Svedin, *Child sexual abuse is largely hidden from the adult society*, 32 CHILDHOOD ABUSE AND NEGLECT 1095, 1105 (2008) (acknowledging that of adults who disclose childhood abuse, only 6%-15% of disclosures are made to authorities, whereas most individuals disclose to friends); Kamala London, Maggie Bruck and Stephen J. Ceci, *Disclosure of Child Sexual Abuse: What Does the Research Tell Us About the Ways That Children Tell?*, 11 Psychol. Pub. Pol’y and L. 194 (2005). See also www.childusa.org/law (delayed discovery graphic of ages at which victims of child sex abuse come forward).

DELAYED DISCLOSURE

Delayed disclosure is the phenomenon common to survivors of child sex abuse where individuals wait for years, often well into adulthood, before telling anyone they were abused.

52 YEARS-OLD IS THE AVERAGE AGE CHILD SEX ABUSE VICTIMS REPORT ABUSE



The institutional disclosures revealed a callous disregard for the welfare of children. When the SOLs blocked justice for the victims and simultaneously protected the perpetrators and institutions, a strong argument was made to do away with the SOLs: this deadline appeared to be patently unfair. I wrote *Justice Denied: What America Must Do to Protect Its Children* (Cambridge University Press), because, at the time, I believed that the law was simply a mistake to be corrected. I quickly learned that there are vested interests in the United States determined to keep victims out of court including the Catholic bishops, insurance industry, teachers' unions, the ACLU, defense attorneys, and the chambers of commerce.⁸ Their arguments against victims' access to justice are self-serving and undermine the public interest.

There are two classes of child sex abuse victims to consider: (1) the children currently being abused and (2) the adult victims whose claims have expired. For the children at risk right now, prospective elimination of the civil and criminal SOLs makes the most sense.

For those whose claims had expired, California attempted to revive expired criminal and civil SOLs. The United States Supreme Court held the criminal revival was unconstitutional in *Stogner v. California*.⁹ The California civil revival window, though, was found to be constitutional and, therefore, California led the way with its 1-year civil window, which was open during the calendar year 2003. The window concept was not a novel approach crafted solely for child sex abuse victims. It was borrowed from the revival of expired SOLs in other contexts where the harm to the individual was not immediately apparent when

⁸ MARCI A. HAMILTON, *JUSTICE DENIED: WHAT AMERICA MUST DO TO PROTECT ITS CHILDREN* 51-110 (Cambridge University Press 2012) (hereinafter "Justice Denied").

⁹ *Stogner v. California*, 539 U.S. 607 (2003), <https://supreme.justia.com/cases/federal/us/539/607/>.

injury first occurred. For example, asbestos-related injustices have prompted the revival of expired SOLs and veterans exposed to Agent Orange have been permitted to file claims for injury long after exposure.¹⁰

The pace of legal reform to extend and eliminate the child sex abuse SOLs has been intense since 2002. There has been increasing innovation as states grapple with the challenge of creating justice for victims of a crime no one wants to discuss. It is also a fact that the predominant example of institution-based child sex abuse from 2002 until the Penn State/Jerry Sandusky scandal broke in 2011 was clergy sex abuse in the Catholic Church. The post-2002 clergy sex abuse scandals reinforced the Spotlight-identified paradigm.

Before 2002, there was a trickle of information mostly focused on individual perpetrators and victims, which led the public to believe child sex abuse was relatively uncommon and a problem related solely to individual perpetrators, as opposed to an institutional or society-wide problem. Moreover, the pervasive understanding was that children needed to be protected from “Stranger Danger,” while in fact the primary danger rested with parents, priests, teachers, or coaches. Contrary to public assumptions, child sexual abuse is actually rampant, impacting 1 in 5 girls and 1 in 13 boys in North America, and 3.7 million children every year.¹¹

The pace of disclosure by sex abuse victims and the identification of responsible individuals and institutions increased significantly starting in 2002. There was also a pronounced shift from a focus on individuals to a focus on society as a whole. The following is a timeline of some widely publicized child sex abuse scandals identified by perpetrator or defendant institution:

1977. Roman Polanski (CA).

1985. Fr. Gilbert Gauthe, Louisiana dioceses (LA).

1987. Bob Villard (CA).

1986. Thayer Academy (MA).

1991. Washington Times investigative report on pervasive sex abuse in Boy Scouts.

1992. Woody Allen (NY).

1993. Mount Alvernia High School (MA).

1995. Notre Dame Academy (MA); Phillips Academy (MA).

1996. USA Volleyball (IL).

1997. Washington Academy (ME).

1998. Cheverus High School (ME). Solomon Schechter Day School (MA).

2000. Austin Preparatory School (MA); Kent Hills School (ME); St. Paul’s School (NH).

2002. Boston Globe discloses Boston Archdiocese (MA); Boston College High School (MA); Catholic Memorial School (MA); Manchester Diocese (NH); Cincinnati Diocese (OH); Cardinal Spellman

¹⁰ Marci A. Hamilton, *The Time Has Come for a Restatement of Child Sex Abuse*, 79 BROOKLYN L. REV. 397, 402 (2014).

¹¹ G. Moody, et. al., *Establishing the international prevalence of self-reported child maltreatment: a systematic review by maltreatment type and gender*, 18(1164) BMC PUBLIC HEALTH (2018) (finding a 20.4% prevalence rate of child sexual abuse among North American girls); M. Stoltenborgh, et. al., *A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence Around the World*, 16(2) CHILD MALTREATMENT 79 (2011) (finding a 20.1% prevalence rate of child sexual abuse among North American girls); N. Pereda, et. al., *The prevalence of child sexual abuse in community and student samples: A meta-analysis*, 29 CLINICAL PSYCH. REV. 328, 334 (2009) (finding a 7.5% and 25.3% prevalence rate of child sexual abuse among North American boys and girls respectively); Preventing Child Sexual Abuse, CDC.GOV (last visited Nov. 14, 2020), available at <https://www.cdc.gov/violenceprevention/pdf/can/factsheetCSA508.pdf>; see also, D. Finkelhor, et. al., *Prevalence of child exposure to violence, crime, and abuse: Results from the Nat’l Survey of Children’s Exposure to Violence*, 169(8) JAMA PEDIATRICS 746 (2015).

High School (MA); Spokane Diocese (WA); Bridgeport Diocese (CT); Tucson Diocese (AZ); Davenport Diocese (IA); Toledo Diocese (OH).

- 2003.** Linden Hill School (MA); Riverview School (MA); Saint Thomas More School (CT); Philadelphia Archdiocese (PA); Los Angeles Diocese (CA); San Diego Diocese (CA); Orange Diocese (CA).
- 2004.** John Dewey Academy (MA); Jason Michael Handy (CA); Portland Archdiocese (OR).
- 2005.** Bill Cosby – first rape allegation made public; The Loomis Chaffee School (CT); Chicago Archdiocese (IL); Burlington Diocese (VT); Hartford Archdiocese (CT).
- 2006.** Berkshire School (MA); Eagle Hill School (CT); Lyndon Institute (VT); Maine Central Institute (ME); Milton Academy (MA); St. Dominic Savio Preparatory High School (MA). Charles Bennison – Episcopal Church (PA); Wilmington Diocese (DE).
- 2007.** Baptist Church (TX); USA Judo (OH); Miami Archdiocese (FL).
- 2008.** Buckingham Browne & Nichols School (MA); Cardigan Mountain School (NH); Tony Alamo Christian Ministries (AR, IN).
- 2009.** Cathedral High School (MA); Yona Weinberg, ultra-Orthodox Jew (NY); The Cambridge School of Weston (MA); Williston Northampton School (MA).
- 2010.** U.S. Women’s Swimming; Assumption Catholic School (CT); Brewster Academy (NH); Notre Dame Academy (MA); St. Stanislaus School (CT); Vermont Academy (VT); St. John’s School for the Deaf (WI).
- 2011.** Jerry Sandusky – Penn State (PA); Syracuse Basketball (NY); Fundamentalist Church of Jesus Christ of Latter-Day Saints (TX); Fessenden School (MA); LA United School District (CA); Christ the King Regional H.S. (NY); Riverside Church basketball program (NY).
- 2012.** Jehovah’s Witnesses (CA). Horace Mann (NY); James Madison High (NY); Monsignor Lynn (PA); Phillips Andover Academy (MA); Carrabassett Valley Academy (ME). Landmark School (MA); Maimonides School (MA); Westover School (CT); Orthodox Jewish Camp Shalva (NY); Yeshiva University (NY); Santa Fe Archdiocese (NM).
- 2013.** Ariel Castro (OH); USA Speed skating; Father Gerald “Jerry” Funcheon (MN); Nicole Dufault (NJ); Brooks School (MA); Brunswick School (CT); Choate Rosemary Hall (CT); Deerfield Academy (MA); Notre Dame Catholic High School (CT); The Park School (MA); The Pike School (MA); The Taft School (CT).
- 2014.** Patrick Henry College (VA); Paks Karate (FL); Fr. James Thoennes (MN). Fruits of the Minnesota Window (MN). Solebury School (PA); Doctor Franklin Perkins School (MA); Miss Porter’s School (CT); Quincy Catholic Academy (MA). Sacred Heart School (MA); Shaker Road School (NH); St. Mary of the Hills (MA). The Academy at Mount Saint John (CT). The Glenholme School (CT).
- 2015.** AAU Volleyball; Wrestling program, Yorkville High School (Dennis Hastert) (IL); Glade Run Lutheran Services (PA); James Madison High School (NY); Jared Fogle (Subway); Northeast Portland Boys & Girls Club (OR); Sequoia Charter School (AZ); Sunrise Mountain High School (AZ); U.S. Marines & Afghanistan; Plum School District (PA); Pomfret School (CT); Shaloh House Jewish Day School (MA); St. Joseph School (CT); The Hotchkiss School (CT).
- 2016.** St. George’s (RI); Emma Willard School (NY); Berwick Academy (ME); Little League (WV); ABC Child Care (OH); Phillips Exeter Academy (NH); Michigan State University (MI); USA Gymnastics (IN); U.S. Olympic Committee (CO); Metropolitan Opera (NY); Bethlehem Baptist Church (AL); First Baptist Church (GA); Northeast Georgia Council Boy Scouts of America (GA); Minuteman Border Patrol Group (AZ); Arkansas Department of Human Services (AR); “Mr. Wonder” Show on KNOE-TV (LA); Rawlins Middle School (WY).
- 2017.** Beth Tfiloh Dahan Community School (MD); Camp Shores (MD); Pacific Southwest Region of United Synagogue Youth (MN); Louisville Metro Police Department’s Youth Explorer Program (KY); Camp Lejeune (NC); Hollywood Film Industry (CA); Orange County High School (VA); Amateur Athletic Union (IL); Sports Performance Volleyball Club (IL); Daphne Elementary School

(AL); Apostolic Church of Jesus Christ (AL); University of Alabama in Huntsville (AL); The Darlington School in Rome (GA); Palo Alto Medical Foundation (CA); Dominican Hospital (CA); Roman Catholic Church in Phoenix (AZ); Mesa Police Department (AZ); St. Francis Xavier Church (NY); Stoddert Middle School (MD); Fusion Health Care and Silhouette Medspa (CA); Vungle (CA); Aggressive Christianity Missions Training Corps (NM); Satellite Hotel Churches (CO); Partners Program (CO); Dolores County Sheriff's Office (CO); Kent School (CT); The Brearley School (NY); Kidz Ink 2 Day Care (DE); Kamehameha School (HI); Midwest Academy (IA); Sioux Center Christian School (IA); Parkview Church (IA); The Learning Tree Child Care Center (WI); St. Pius X Catholic School (WI).

2018. Larry Nassar (MI); Pennsylvania Grand Jury Report (PA); (Jehovah's Witnesses Church (NV); U.S. Military (VA); Nichols School (NY); St. Mary's Academy (OR); Randolph Union High School (VT); The Awakening Church (TN); Mount Gilead Baptist Church (AL); City of Highfill Mayor's Office (AR); Highfill United Methodist Church (AR); Palestine-Wheatley High School (AR); The International Water Polo Club (CA); USA Water Polo (CA); Iglesia La Familia De Dios (CA); Fort Carson (CO); New Smyrna Beach Middle School (FL); Roman Catholic Diocese of Boise (ID); Wrestling program, Bergen Catholic H.S. (NJ); Jeffrey Epstein (FL).

2019. Michael Jackson (CA); R. Kelly (IL); Southern Baptist Convention (TX); Roman Catholic Dioceses (NJ, TX, MO, NY); John Coughlin (KS); Theodore McCarrick (DC); James "Doc" Jensen (MT); Roman Catholic Archdiocese of New York (NY); Boy Scouts of America (NY); Dr. Michael Dick (AL); Dr. George M. Tyndall (CA); Dr. Richard Strauss (OH); Dr. Reginald Archibald (NY); Dr. Stanley Weber (MT); Sterling Van Wagenen (UT); George Pell (Australia); Dr. Johnnie Barto (PA); Richard Callaghan (CA).

2020. Joseph Ruffalo (CA); Patricia Gucci (CA); Jerry Harris (TX); Christophe Girard (France); Ghislaine Maxwell (NH); Martin Weiss (CA); Keith Raniere (NY); Catholic Boy Scouts of Ireland (Ireland); Devereux Behavioral Health (PA, DE); Catholic Diocese of Buffalo (NY); Portsmouth Abbey School (RI); Archdiocese of Chicago (IL); The Children's Village (NY); Archdiocese of Denver (CO); St. Francis High of Athol Springs (NY); Cardinal O'Hara High School (NY); Bishop Fallon High School (NY); Newark Archdiocese (NJ); St. Joseph's Orphanage (VT); De La Salle High (LA); USA Cheer (TX); U.S. All Star Federation (TN); Church of Jesus Christ of Latter-day Saints (AZ).

With so many bad actors and institutions in the headlines and thousands of victims coming forward, the pressure for justice has increased. Most states and the federal government have made access to justice, or SOL reform, a priority. Forty-eight states and the District of Columbia, or 96%, have amended their child sex abuse SOLs since January 2002.¹² Many jurisdictions have amended their SOLs several times and continue to propose new SOL reform bills year after year.

Yet, with all the activity in the states since 2002, only one state, Vermont, and the U.S. territory of Guam have reached the pinnacle of SOL reform, which is to simply eliminate the criminal SOL going forward and the civil SOLs backwards and forwards. Guam was first to do this. First, it enacted a window, but no one took advantage of it. Then, in 2016, Guam became the first jurisdiction to dispense with the child sex abuse SOLs altogether.¹³ The result has been nearly 300 child sex abuse victims coming forward and the identification of perpetrators like Catholic Archbishop Apuron, who has been accused by at least 5

¹² The only states to make no improvements to child sex abuse SOLs since 2002 are South Carolina and Wyoming.

¹³ Haidee V. Eugenio, *Guam Gov. signs bill ending time limits in child sex cases*, USA TODAY (Sept. 23, 2016, 5:27 AM), <https://www.usatoday.com/story/news/nation-now/2016/09/23/guam-governor-signs-bill-ending-time-limits-child-sex-cases/90892188/>.

victims, and a number of other perpetrators in the church, Boy Scouts, and elsewhere.¹⁴ Vermont followed suit and in 2019 set an impressive example, eliminating the civil SOL going forward and enacting a permanently open window reviving all expired claims without any limitation. A permanent window is the best help for survivors whose claims have expired as it allows them to bring older claims when they are ready, since the window never closes. In other words, the system shifts from perpetrator-friendly to victim-centered, as it should. Vermont's law is the gold standard for SOL reform.

2020 marks another year of historic developments that have helped uncover hidden predators and shed light on the public health crisis that continues to ravage our nation's children, including: New York Attorney General Letitia James' lawsuit against the Buffalo Diocese and two former church leaders¹⁵; the arrest of former associate and ex-girlfriend of billionaire pedophile Jeffrey Epstein, Ghislaine Maxwell¹⁶; Sarah McClure's investigative report "*The Amish Keep To Themselves. And They're Hiding A Horrifying Secret*," which uncovered 52 cases of child sexual abuse, including rape and incest, in Amish communities across seven states over the past two decades¹⁷; and the publication of Nicholas Kristof's piece in the New York Times titled "*The Children of Pornhub*" which called out the company for its failure to enforce its protocols and thus contributing to the proliferation of child sexual exploitation, and the company's changes to its user policies in response to the same.¹⁸ The public was also educated through numerous documentaries and docuseries, including Netflix's *Jeffrey Epstein: Filthy Rich* and HBO's *At the Heart of Gold: Inside the USA Gymnastics Scandal*.

2019 was a banner year for helping child sex abuse survivors access justice by changing the statutes of limitation. With the public more awake than they've ever been to the injustice survivors face when denied justice, there was a surge of SOL reform, with twenty-three states and Washington D.C changing their SOLs for the better in 2019. The powerful SOL reform wave rode its way into 2020, with thirty states introducing legislation, but the outbreak of Covid-19 and its impact on legislatures and courts slowed its momentum. Despite significant disruptions by Covid-19 in 2020, a number of states passed new and improved SOL laws for child sex abuse. In particular, this year New Hampshire joined a growing number of states that have completely eliminated their civil SOLs for child sex abuse victims going forward and New York helped survivors from the past by extending its revival window by another year.

¹⁴ For a summary, see *Bishops Accused of Sexual Abuse and Misconduct: A Global Accounting*, BISHOPACCOUNTABILITY.ORG, http://www.bishop-accountability.org/bishops/accused/global_list_of_accused_bishops.htm#%E2%80%9CApuron%E2%80%9D; <https://www.guampdn.com/story/news/2019/08/15/guam-clergy-sex-abuse-claims-filed-archdiocese-bankruptcy-case/2016819001/> (last visited Sept. 26, 2019); see also James Barron, *Nearly 8,000 Boy Scout Leaders Have Been Accused of Sexual Abuse Since 1944, Researcher Found*, NEW YORK TIMES (Apr. 23, 2019), <https://www.nytimes.com/2019/04/23/nyregion/boy-scouts-sex-abuse.html>; Haidee Eugenio Gilbert, *Former Guam Archdiocese Chancellor Loses Priest Role for Sexual Abuse of Minors, Vatican Rejects Adrian Cristobal's Appeal*, THE GUAM DAILY POST (Jan. 28, 2021), https://www.postguam.com/news/local/former-guam-archdiocese-chancellor-loses-priest-role-for-sexual-abuse-of-minors/article_930d461c-605a-11eb-98e8-a3427d17845f.html.

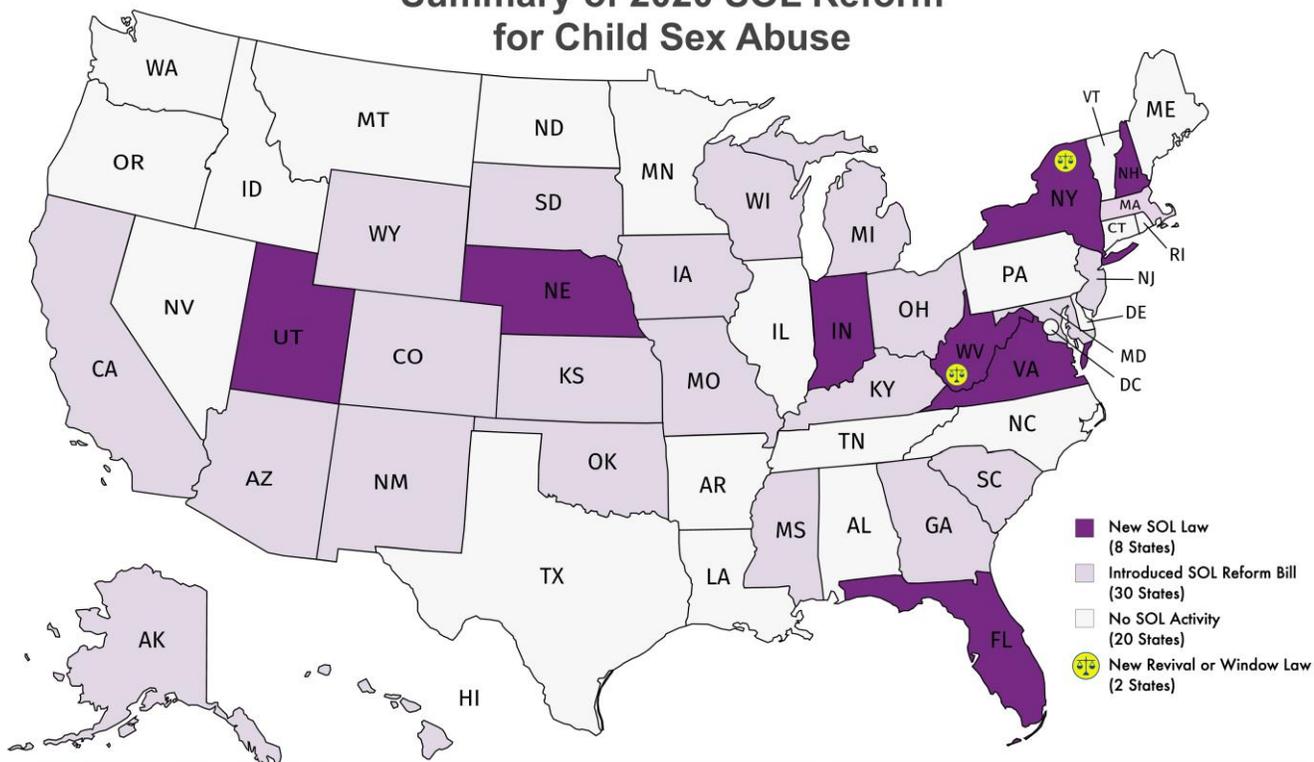
¹⁵ *New York Attorney General sues Buffalo Diocese for 'sex abuse cover up'*, BBC News (Nov. 23, 2020), available at <https://www.bbc.com/news/world-us-canada-55050959#:~:text=New%20York's%20Attorney%20General%20has,to%20the%20Vatican%20for%20removal>.

¹⁶ Caroline Hallemann, *Everything We Know So Far About the Case Against Ghislaine Maxwell*, TOWN & COUNTRY (Oct. 20, 2020), available at <https://www.townandcountrymag.com/society/money-and-power/a33076249/ghislaine-maxwell-arrest-case-details/>.

¹⁷ Sarah McClure, *The Amish Keep to Themselves. And They're Hiding a Horrifying Secret*, (Jan. 14, 2020), available at <https://www.typeinvestigations.org/investigation/2020/01/14/amish-sexual-abuse-assault/>.

¹⁸ Nicholas Kristof, *The Children of Pornhub* (Dec. 4, 2020), available at <https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html>.

Summary of 2020 SOL Reform for Child Sex Abuse



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In 2020, eight states amended their SOLs, and many states have plans to revisit the issue in 2021.¹⁹ The movement is occurring on three fronts: (1) elimination of criminal SOLs; (2) extension and elimination of civil SOLs; and (3) revival of expired civil SOLs.

¹⁹ See CHILDUSA's 2020 SOL Tracker for full SOL legislative activity last year at CHILDUSA.ORG, <https://www.childusa.org/2020sol> (last visited Dec. 23, 2020) and CHILDUSA's 2021 SOL Tracker for new SOL legislative activity this year at CHILDUSA.ORG, <https://www.childusa.org/2021sol> (last visited Jan. 10, 2021).



This study reports on the pace of child sex abuse SOL reform in the 50 states, the District of Columbia, the U.S. Territories and the Federal Government since 2002. It also ranks the states. Each state is assigned a score for its current civil SOL, current criminal SOL, and an average overall SOL score.

The best states for criminal SOLs are: Connecticut, Delaware, Illinois, Maryland, Missouri, Montana, South Carolina and Wyoming.²⁰ In each of these states, there is simply no criminal SOL for child sex abuse crimes, whether felonies or misdemeanors. The worst are Iowa, Nevada, New Hampshire, North Dakota, Ohio, Oklahoma, and Oregon, each of which forces victims to press charges before age 50 (unless there is DNA evidence).

The best states for civil SOLs are Minnesota, New Jersey, and Vermont, and the worst are Alabama, Indiana, Mississippi, North Dakota, Ohio, and South Dakota. Moreover, the worst are in a class by themselves as they have set an age cap on civil claims that is so short as to guarantee that most victims will be denied justice. The rigidity of their formulas combined with the reality of delayed disclosure means that child abusers have the upper hand. Their short deadlines for filing claims incentivize pedophiles to abuse more children.

Using CHILD USA’s metrics, the best state for child sex abuse SOL reform since 2002 is Vermont. The worst states—Mississippi, North Dakota, and Ohio—are well behind other states and standing still during this active movement, which means that they are increasingly out of step with the rest of the country.

²⁰ It is important to understand, however, that for the states that only recently eliminated or extended the criminal SOL, there are still many victims who do not have access to justice. For those victims whose SOLs expired before the recent extension or elimination, there is nothing that can be done for them on the criminal side. It is unconstitutional to revive the expired criminal SOLs. *Stogner v. California*, 539 U.S. 607 (2003). For them, the only hope is to revive expired civil SOLs.

II. The State-by-State Developments in Child Sex Abuse Statutes of Limitations After January 2002

The states have enacted a patchwork of complicated criminal and civil statutes of limitations, tolling mechanisms, and theories of liability relating to child sex abuse.²¹

The following is a survey of the current SOLs for child sex abuse and SOL developments since 2002 in every state and U.S. territory, in particular, the (1) criminal SOLs, including age limits, SOL extensions and eliminations, and DNA provisions, and (2) civil SOLs, including age limits, SOL extensions and eliminations, revivals, and discovery rules.²²

A. The States

Alabama

Alabama expanded its criminal SOL and made only one minor improvement to its civil SOL since 2002. Alabama eliminated some of its criminal SOLs in 1985 expanding the list since then, and finally extended its civil SOL in 2019, but it remains one of the five worst states for civil claims. Overall, on a scale of 0–5, where 0 is the worst and 5 is the best, Alabama ranks as a 1.25 (where 0.75 is the lowest average score).

Criminal. There is currently no SOL for rape and felony and misdemeanor sex offenses against victims under the age of 16, and an SOL of 5 years and 1 year after commission for all other felonies and misdemeanors, respectively. In 1985, Alabama eliminated the criminal SOL for rape at any age, and any felony involving the use, attempted use, or threat of violence; for victims under the age of 16, it eliminated the criminal SOL for all other felony and misdemeanor sexual offenses.²³ This put Alabama near the forefront of child sex abuse criminal SOLs. In successive years, Alabama clarified and expanded the list of sex offenses against victims under age 16 for which there is no SOL: 2011 (rape, sodomy, sexual misconduct, sexual torture, sexual abuse of a child, sexual abuse, indecent exposure enticing, prostitution, incest, pornography, human trafficking); 2016 (foster parent engaging in sex act); 2017 (sexual extortion, directing a child to engage in a sex act); 2018 (foster parent engaging in sex act).²⁴ The SOL for remaining felonies is five years after the commission of the offense and the SOL for misdemeanors is one year after the commission of the offense.²⁵

²¹ Discovery rules are the most common tolling mechanism that stop the SOL from running on civil claims. Typically, the law permits a victim a set number of years to file after until discovery of an injury in connection with the sexual abuse they endured as a child. Discovery rules are only one means of extending or tolling the general SOL; there are multiple other theories of liability that are beyond the scope of this report (i.e., fraudulent concealment, equitable estoppel, breach of fiduciary duty, vicarious liability, duress, and civil conspiracy). These theories can extend or toll a civil SOL so that it expires later than the general SOL for abuse.

²² This Compilation is intended to provide an overview as of February 2021 and is not intended to provide legal advice. The reader is encouraged to conduct a complete reading and analysis of the cited legislation and case law and to seek legal advice before making a significant decision on any particular matter. Nothing contained herein should be construed as a position or opinion by the authors with respect to the law or any specific claim.

²³ ALA. CODE § 15-3-5 (eliminated SOL). See *Kirby v. State*, 500 So. 2d 79, 80 (Ala. Crim. App. 1986) (no criminal SOL for rape as rape is a capital offense for SOL purposes).

²⁴ ALA. CODE § 15-20A-5 (sex offense list).

²⁵ ALA. CODE §§ 15-3-1 (five years); 15-3-2 (one year).

Civil. The current SOL in Alabama for all sex offenses against all defendants where the victim is under age 19 is age 25. In 2002 Alabama’s civil SOLs were some of the shortest in the country. Its SOL was 2 years for personal injury and 6 years for assault, battery, or false imprisonment.²⁶ However, it did have a tolling provision in effect which gave minors an additional 3 years after reaching the age of majority to sue for their injuries, until age 22 (age 19, plus 3 years).²⁷ The tolling provision placed an upper limit on filing claims of 20 years from the date of accrual,²⁸ which means no later than 20 years from the last date of the abuse.²⁹ In 2019, Alabama extended the civil SOL for all sex offenses, including sex abuse, prostitution, pornography, and trafficking against a person under 19 years of age to age 25 (age 19, plus 6 years).³⁰ Alabama has not passed a window or other SOL revival legislation.

Alaska

Alaska has made several changes to its criminal and civil SOLs since 2002. By 2001, it had eliminated SOLs for certain crimes (felony sexual abuse) and civil claims. It expanded the list of eliminated criminal SOLs in 2013, and it eliminated the civil SOL for some other claims in 2003 and more in 2013. On a scale of 0–5, overall, it ranks as a 3.

Criminal. There is currently no SOL in Alaska for most child sex abuse crimes, with an SOL of 5 years for remaining felonies and misdemeanors. By 2001 Alaska had eliminated the criminal SOL for felony sexual abuse of a minor, sex trafficking, and many other crimes involving child sex abuse, including misdemeanor sexual assault in the fourth degree. Other felonies and misdemeanors had an SOL of 5 years from the crime.³¹ In 2013 it removed the SOL for more felonies, including child pornography and sex trafficking of a person age 18–20.³²

Civil. In Alaska, there is no civil SOL for sexual abuse/assault, trafficking, or exploitation against perpetrators. The SOL is age 21 or 3 years from discovery for some other claims against perpetrators, and for the remaining child sex abuse claims against all defendants it is age 20 or 2 years from discovery. In 1990 Alaska’s SOL for claims against perpetrators for sexual abuse of a minor under age 16, was age 21 (age of majority, 18, plus 3 years) or 3 years from discovery, pursuant to a discovery statute.³³ Any remaining claims against perpetrators and other defendants expired at age 20 (age of majority, 18, plus 2 years) or 2 years after discovery, pursuant to a common law discovery rule.³⁴ In 2001, Alaska eliminated the civil SOL for claims against a

²⁶ ALA. CODE §§ 6-2-38(1) (two years), 6-2-34(1) (six years), 6-2-8 (six years tolling).

²⁷ ALA. CODE § 6–2–8 (1975) (majority tolling); *see Love v. Wyeth*, 569 F. Supp. 2d 1228, 1232 (N.D. Ala. 2008) (quoting *Black v. Pratt Coal & Coke Co.*, 85 Ala. 504, 507, 5 So. 89, 91 (1888)); *Ex parte Trawick*, 959 So. 2d 51, 63 (Ala. 2006) (Noting “because J.V. and R.V. were minors, § 6–2–8, ALA. CODE 1975, suspends the statute of limitations, allowing them a period of three years after reaching the age of majority to file a civil case.”)

²⁸ *See* ALA. CODE § 6–2–8 (1975); *Warren by and Through Robinson v. Alabama Dep’t of Mental Health*, 2019 WL 1002505, *1, n. 2 (N.D.Al. Mar. 1, 2019).

²⁹ *Travis v. Ziter*, 681 So.2d 1348, 1355 (Ala. July 12, 1996) (“Each cause of action alleged . . . accrued no later than the last alleged actionable contact”).

³⁰ *Id.*

³¹ ALASKA STAT. ANN. § 12.10.010(b)(2) (five years).

³² ALASKA STAT. ANN. § 12.10.010 (ten years).

³³ ALASKA STAT. ANN. §§ 09.55.650 (sex abuse statute), 09.10.140 (discovery rule).

³⁴ ALASKA STAT. ANN. §§ 09.10.140 (minority tolling), 09.10.170 (stay statute), 25.20.010 (age of majority); *See Reasner v. State Dep’t of Health & Soc. Servs.*, 394 P.3d 610, 614 (Alaska 2017), *as amended* (May 19, 2017) (discussing common law discovery rule and when claim accrues for child sex abuse). There is a narrow statute of repose that can limit the discovery

perpetrator for felony sexual abuse of a minor and sexual assault. In 2003, the SOL for actions against perpetrators was extended to age 21 (age of majority, 18, plus 3 years) or 3 years from discovery for incest, felony indecent exposure or misdemeanor sexual abuse of a minor or misdemeanor sexual assault.³⁵ The civil SOL for claims against a perpetrator for unlawful exploitation of a minor was eliminated in 2003, and for felony sex trafficking, in 2013.³⁶ Alaska has not passed a window or other SOL revival legislation.

Arizona

Since 2002, Arizona has made some changes to criminal SOLs, and it expanded the civil SOLs in 2019 for the first time. There is no criminal SOL for many felonies, but for the remaining felonies, the SOL expires 7 years after the state discovers the offense. In 2019 Arizona opened a 19-month revival window for expired claims and extended its civil SOL to age 30. On a scale of 0–5, overall, it ranks as a 2.25.

Criminal. There is currently no SOL in Arizona for many felony child sex abuse crimes. The SOL for all other felonies is 7 years after the state discovers the offense and 1 year after the state’s discovery for misdemeanors. As of 2001, Arizona had no SOL for many felony sexual offenses against minors.³⁷ For the remaining felonies it imposes a short criminal SOL for prosecution: 7 years after the state discovers the offense. The SOL for misdemeanor offenses is one year after the state discovers the offense. The SOL is tolled, which is to say the clock stops running on the 7 or 1-year limit, when the perpetrator is out of state or has no “reasonably ascertainable place of abode within the state.” The criminal SOL is also tolled when the identity of the perpetrator is unknown.³⁸ The criminal SOL was eliminated for additional felony offenses against minors under age 15: aggravated luring for sexual exploitation in 2008, unlawful sexual conduct by probation department or court employee in 2011, unlawful sexual conduct by peace officer in 2015, and sexual extortion in 2018.³⁹

Civil. The current SOL in Arizona for civil claims for child sex abuse against all defendants is age 30 with a common law discovery rule and revival up to age 30. The civil SOL in 2002 was capped at age 20 (age of majority, 18, plus 2 years).⁴⁰ There is also a common law discovery rule that tolls the SOL until “the plaintiff retrieves repressed memories of the abuse.”⁴¹ In 2019, Arizona enacted the Arizona Child Protection Act which extended the civil SOL to age 30, opened a 19-month revival window for expired claims, and revived claims for victims up to age 30, even after the window closes on December 30, 2020.⁴²

rule to 10 years after the abuse but only if the claim does not result from an intentional act, gross negligence, fraud, misrepresentation, or breach of trust or fiduciary duty. *See* ALASKA STAT. ANN. § 09.10.055; *Dapo v. State*, 454 P.3d 171, 175 (Alaska 2019) (discussing applicability of statute of repose to child sex abuse claims).

³⁵ ALASKA STAT. ANN. §§ 09.10.065 (SOL), 09.10.140 (minority tolling), 25.20.010 (age of majority).

³⁶ ALASKA STAT. ANN. § 09.10.065 (SOL).

³⁷ ARIZ. REV. STAT. ANN. §§ 13-107 (no SOL), 13-1423 (violent sexual assault).

³⁸ ARIZ. REV. STAT. ANN. § 13-107 (no SOL).

³⁹ ARIZ. REV. STAT. ANN. §§ 13-3560 (aggravated luring a minor), 13-1409 (unlawful sexual conduct), 13-1412 (unlawful sexual conduct), and 13-1428 (sexual extortion).

⁴⁰ ARIZ. REV. STAT. ANN. §§ 12-542, 12-502 (majority tolling).

⁴¹ *Doe v. Roe*, 955 P.2d 951, 959 (Ariz. 1998).

⁴² ARIZ. REV. STAT. ANN. § 12-514 (age 30 SOL). The revival window will close on December 31, 2020.

Arkansas

Arkansas has made multiple changes to its criminal SOLs and no changes to its civil SOLs since 2002. Arkansas extended the criminal SOL in 2011 and then 2 years later eliminated it for some felony offenses, but it has made no changes to its civil SOL since 1993. On a scale of 0–5, overall, it ranks as a 1.75 (where 0.75 is the lowest average score).

Criminal. There is currently no SOL in Arkansas for multiple crimes, including but not limited to felony rape, sex assault, incest, and exploitation. The SOL for other felonies and misdemeanors is age 28. As of 2002, Arkansas’s criminal SOL was 15 years from the offense for felony rape and for some child sex abuse felonies it was age 24 (age of majority, 18, plus 6 years) if the crime was not previously reported to police. The remaining felonies had an SOL of 6 years from the offense and 1 year for misdemeanors. In 2003, more sex abuse crimes were added to the list of offenses for which the 6-year SOL could be tolled until age 18. In 2005, Arkansas extended and then in 2009 eliminated the SOL if the perpetrator is identified by DNA evidence. In 2011, Arkansas changed the SOL for many sex abuse felonies and misdemeanors to age 28, and then eliminated the criminal SOL for felony rape, sex assault, incest, exploitation and others in 2013.⁴³

Civil. The current SOL in Arkansas for civil claims for child sex abuse against all defendants is age 21, with a discovery rule of 3 years. In 2002, those who were sexually abused in Arkansas had until age 21 (age of majority, 18, plus 3 years) or 3 years after the victim discovers she was injured and the injury was caused by the sex abuse.⁴⁴ This civil SOL has not changed since 1993 and Arkansas has not passed a window or other SOL revival legislation.

California

California has been a leader in child sex abuse civil SOL innovation since 2002. In 2014, it extended the criminal SOL to age 40 and then eliminated it for felony sex crimes in 2017. In 2003, it enacted a one-year civil window. In 2019, California enacted another, longer, 3-year window and extended the SOL to age 40 or 5 years after discovery. On a scale of 0–5, overall, it ranks as a 3.75 (where 4.5 is the highest average score).

Criminal. There is currently no SOL in California for many felony sex offenses, age 40 for other felonies, and 1–3 years for misdemeanors. Before 2002, California enacted a law that would revive expired criminal SOLs by allowing prosecution one year after reporting to law enforcement for abuse that happened while a victim was a minor, but it was held unconstitutional in *Stogner v. California*.⁴⁵ As of 2002, the SOL for felony sex offenses was 3 or 6 years from the offense depending on the crime or age 19, whichever was later.⁴⁶ Misdemeanor annoying or molesting a child under 18 has an SOL of 3 years after the date of the offense where the victim is under 14 years of age.⁴⁷ All other misdemeanors have an SOL of one year after the date of the offense. California also has had a DNA statute that permits prosecution within 1-year of DNA identification for sex crimes if the DNA is analyzed in a timely manner since 2005.⁴⁸ In 2004, the criminal SOL

⁴³ ARK. CODE ANN. § 5-1-109 (SOL).

⁴⁴ ARK. CODE ANN. §§16-56-130(a) (3-year SOL), 16-56-116 (minority tolling), 9-25-101 (age of majority).

⁴⁵ *Stronger v. California*, 539 U.S. 607 (2003) (holding West’s Ann. Cal. Penal Code § 803 unconstitutional).

⁴⁶ CAL. PENAL CODE §§ 799 (no SOL), 800 (8-year SOL), 801 (3-year SOL), 801.1 (age 40 SOL), 803 (tolling statute).

⁴⁷ CAL. PENAL CODE § 802 (misdemeanor SOL).

⁴⁸ CAL. PENAL CODE § 803 (tolling statute).

for felonies was extended to 10 years after the offense and in 2006 pornography was added to this SOL.⁴⁹ In 2014, California extended the criminal SOL from age 28 to age 40 and expanded the crimes included for this SOL in 2018.⁵⁰ In 2017, California eliminated the SOL for many felony sex offenses, including rape at any age, molestation, and sexual abuse.⁵¹

Civil. The current SOL in California for civil claims for child sex abuse against all defendants is age 40, with a discovery rule of 5 years, and an open revival window until December 31, 2022. In 2002, the SOL was age 26 or discovery plus 3 years, whichever was later. In 2003, California enacted a 1-year window, which revived civil claims during the 2003 calendar year.⁵² In 2008, it broadened liability for government entities for sexual abuse by removing the claim presentment requirement for suing them.⁵³ In 2019, California successfully passed an SOL amendment that retroactively extends the civil SOL to age 40 (age of majority, 18, plus 22 years), extends the discovery rule to 5 years, and opens a 3-year revival window starting January 1, 2020. This new window is an improvement over the 2003 window, because it is longer and, unlike its predecessor, it allows previously expired claims to be brought against the government as well as perpetrators and institutions. The SOL amendment also added a provision allowing victims to recover treble damages against any defendant who covered up the abuse.⁵⁴

Colorado

Colorado has made few changes to its SOLs since 2002. By 2006, Colorado had eliminated all criminal SOLs for child sex abuse, which put it in front of most states. But its short civil SOL, which is below average, has not changed since 1999. On a scale of 0–5, overall, it ranks as a 1.75 (where 0.75 is the lowest average score).

Criminal. There is currently no SOL in Colorado for felony sex offenses against children, but the SOL is 18 months for misdemeanors. In 2002, Colorado set the SOL for sex crimes against children at age 28 (age of majority, 18, plus 10 years). As of 2006, Colorado eliminated the SOLs for all felony sex offenses against children.⁵⁵ In 2019, Colorado added unlawful electronic sexual communication to its list of felony sex offenses against children for which there is no SOL, however misdemeanor crimes still have an SOL of 18 months from the offense.⁵⁶

Civil. The current SOL in Colorado for civil claims for child sex abuse against perpetrators is age 24 with a 6-year discovery rule, and against other defendants it is age 20 with a 2-year discovery rule. In 1990, Colorado set the SOL for claims against perpetrators of a sexual offense against a child at age 24 (age of majority, 18, plus 6 years) or 6 years from accrual.⁵⁷ Other claims are subject to Colorado's general 2-year SOL for negligence and expire at age 20 (age of majority, 18

⁴⁹ CAL. PENAL CODE §§ 799 (no SOL), 801.1 (age 40 SOL), and 801.2 (10-year SOL).

⁵⁰ *Id.*; CAL. PENAL CODE § 803 (tolling statute).

⁵¹ *Id.*

⁵² CAL. CIV. PROC. CODE § 340.1 (age 40 SOL).

⁵³ CAL. GOV'T CODE § 905(m) (gov't liability).

⁵⁴ A.B. 218, 2019 Gen. Assemb., Reg. Sess. (Cal. 2019).

⁵⁵ COLO. REV. STAT. ANN. §§ 16-5-401(1)(a) (SOL), 18-3-411 (SOL).

⁵⁶ *Id.*

⁵⁷ COLO. REV. STAT. ANN. § 13-80-103.7 (6-year SOL).

plus 2 years) or 2 years from accrual.⁵⁸ The courts recognized a discovery rule in 1999, which pushes accrual of the SOL out to any age at which the victim discovers that an injury was caused by the sex abuse.⁵⁹ Several attempts have been made to enact a window, which would revive expired SOLs, but they have been unsuccessful.⁶⁰

Connecticut

Connecticut has amended its criminal and civil SOLs since 2002 with the most significant changes for criminal in 2019 and for civil in 2002. In 2019, Connecticut eliminated the criminal SOL for all sex abuse felonies and misdemeanors; it also extended its civil SOL to age 51. On a scale of 0–5, overall, it ranks as a 3.25, making it one of the highest-ranking states.

Criminal. There is currently no SOL in Connecticut for any felony or misdemeanor child sex abuse offense. By 2002, Connecticut eliminated the criminal SOL for first degree sexual assault and in 2007, for aggravated sexual assault of a minor.⁶¹ For all other sex abuse crimes, the SOL was age 48 (age of majority, 18, plus 30), or within 5 years of reporting to police, whichever was earlier.⁶² By 2000, there was a DNA statute which extended the SOL for sexual assault to 20 years from the offense and then in 2007 eliminated it completely, if it was reported within 5 years and there was a match.⁶³ In 2010, it eliminated the SOL for felony criminal assistance of a person who commits sexual assault.⁶⁴ In 2019, the state significantly broadened the elimination of criminal SOLs by removing the SOL for any felony or misdemeanor offense against a minor involving sexual abuse, sexual exploitation, or sexual assault.⁶⁵

Civil. There is currently no SOL in Connecticut against any defendant, either individual perpetrator or other, if the perpetrator of the abuse has been convicted of first-degree sexual assault. For all other cases, the SOL is age 51, but revival only up to age 48. Before 2002, Connecticut’s civil SOL was age 35.⁶⁶ In 2002, the state eliminated the civil SOL for any claim that led to a first degree aggravated or sexual assault conviction, and for all other claims, extended the SOL to age 48. The extension was retroactive so that Connecticut victims up to age 48 (age of majority, 18, plus 30 years), whether or not the claim previously expired, can sue for damages.⁶⁷ If a cause of

⁵⁸ COLO. REV. STAT. ANN. §§ 13-80-101 (3-year SOL), 13-80-102 (2-year SOL). In 1986 the SOL for negligence was reduced to 2 years, though in the years prior negligence had a 6-year SOL. *In re ARCHDIOCESE OF DENVER CASES - GROUP I*, 2008 WL 5082788 (Colo. Dist. Ct. Jan. 29, 2008).

⁵⁹ The discovery rule tolls the civil SOL, until the victim has discovered that the injury and its cause are known or should have been known by reasonable diligence. *Sailsbery v. Parks*, 983 P.2d 137, 138 (Colo. App. 1999) (Section “13–80–108, C.R.S.1998, provides that a cause of action accrues on the date ‘both the injury and its cause are known or should have been known by the exercise of reasonable diligence.’”).

⁶⁰ Justice Denied, at 54-58, 90-109.

⁶¹ CONN. GEN. STAT. §§ 54-193 (SOL), 53a-70c (aggravated sexual assault of a minor). The SOL was eliminated for Class A felonies, which included first degree sexual assault, first degree aggravated sexual assault and aggravated sexual assault of a minor.

⁶² CONN. GEN. STAT. § 54-193 (SOL); CONN. GEN. STAT. § 54-193a (SOL).

⁶³ CONN. GEN. STAT. § 54-193b (SOL).

⁶⁴ CONN. GEN. STAT. § 54-193a (SOL).

⁶⁵ CONN. GEN. STAT. § 54-193 (SOL); SB 3, 2019 Gen. Assemb. Reg. Sess. (Conn. 2019).

⁶⁶ CONN. GEN. STAT. § 52-577d (51-year SOL). In general, Connecticut has no common law or statutory discovery rule for sex abuse, but for claims of fraudulent concealment of a cause of action pursuant to § 52-595 the SOL does not begin to run until the existence of the cause of action is discovered. CONN. GEN. STAT. § 52-595 (fraudulent concealment); *Rosado v. Bridgeport Roman Catholic Diocese Corp.*, CV 94-031 63 94 S, 1997 WL 585779, at *2 (Conn. Super. Ct. Sept. 15, 1997).

⁶⁷ CONN. GEN. STAT. §§ 52-577d (51-year SOL), 52-577e (sexual assault).

action is fraudulently concealed from a plaintiff, the cause of action does not accrue until the plaintiff discovers it.⁶⁸ In 2019, Connecticut extended the SOL again to age 51 (age of majority, 21, plus 30 years). This extension is prospective, meaning it only applies to actions based on conduct occurring after October 1, 2019, but it applies to non-minors ages 18, 19 and 20 too.⁶⁹ Connecticut stands alongside Massachusetts and Rhode Island in enacting an age-limit for the revival of expired civil SOLs.

Delaware

Since 2002, Delaware has become one of the most progressive states in the country for criminal and civil child sex abuse SOL reform. There is no SOL for criminal prosecution or civil claims, and there was a window in place from 2007–2009 that revived previously expired civil claims. On a scale of 0–5, Delaware ranks as a 3.75 (where 4.5 is the highest average score).

Criminal. There is currently no SOL in Delaware for all felony or misdemeanor child sex abuse crimes. In 2002, Delaware’s criminal SOL was 2 years following the initial disclosure of the crime to child protection services or law enforcement, or 10 years from the offense if there was a DNA match.⁷⁰ The next year, in 2003, the state eliminated the SOL for all felony and misdemeanor child sex abuse offenses. Delaware added felony sex trafficking to the crimes for which there is no SOL in 2014.⁷¹

Civil. There is currently no SOL in Delaware for civil claims against any defendants. In 2002, Delaware’s civil SOL was age 21 (age of majority, 18, plus 3 years).⁷² In 2006, the judiciary recognized that a victim’s repressed memory of child sex abuse could fall within its “time of discovery rule” and the SOL would not begin to run until the victim discovered the abuse.⁷³ The next year, Delaware enacted the 2007 Child Victim’s Act, which eliminated the civil SOL going forward and put in place a 2-year window for expired claims that ran from July 2007 to July 2009.⁷⁴ In 2010, Delaware removed the SOL for child sex abuse claims by a patient against a health care provider and added a 2-year window for these claims, because the original window inadvertently did not apply to actions against healthcare providers.⁷⁵

Florida

Since 2002, Florida has partially eliminated the criminal and civil SOLs. In 2020, it eliminated the criminal SOL for all felony sexual battery of minors. It also eliminated the civil SOL for claims based on child sexual battery in 2010. On a scale of 0-5, overall, it ranks as a 2.75.

Criminal. There is currently no SOL in Florida for certain felony child sex abuse crimes, and the SOL for misdemeanors is 2 years from the offense. As of 2002, there was no criminal SOL for

⁶⁸ CONN. GEN. STAT. § 52-595 (1949) (fraudulent concealment).

⁶⁹ *Id.*

⁷⁰ DEL. CODE ANN. tit. 11 § 205(e) (no SOL).

⁷¹ *Id.*

⁷² DEL. CODE ANN. tit 10 §§ 8107 (2-years), 8116 (minority tolling); *Eden v. Oblates of St. Francis de Sales*, 04C-01-069 CLS, 2006 WL 3512482, at *3 (Del. Super. Ct. Dec. 4, 2006) (For personal injury action for child sex abuse, “the statute of limitations extends to three years after he reaches the age of majority”).

⁷³ *Keller v. Maccubbin*, CIV.A. K11C-03015RBY, 2012 WL 1980417, at *3 (Del. Super. Ct. May 16, 2012).

⁷⁴ DEL. CODE ANN. tit 10 § 8145(b) (revival window).

⁷⁵ DEL. CODE ANN. tit 18 § 6856 (general limitations).

capital or life felonies which included some sexual battery offenses.⁷⁶ The SOL for other first degree child sex abuse crimes was age 22 (age of majority, 18, plus 4 years) and age 21 (age of majority, 18, plus 3 years) for the remaining felonies. There was also no SOL for first and second-degree sexual battery if it was reported to law enforcement within 72 hours of the crime.⁷⁷ Florida eliminated the criminal SOL for first degree felony sexual battery in 2003 and for second and third-degree sexual battery of children under 16 in 2010.⁷⁸ It added a 1-year extension to the SOL in 2004 and in 2006 eliminated the SOL if there is a DNA match. Florida extended the SOL for child pornography in 2008 by adding it to the DNA statute and not running the SOL until the victim reaches age 18. In 2014, Florida removed the SOL for lewd and lascivious conduct of children under 16 and for all forms of trafficking. A 2015 amendment extended the SOL for second and third-degree sexual battery of 16 and 17 year-old children to age 26 (age of majority, 18, plus 8 years). A 2020 amendment eliminated the SOL for second and third-degree sexual battery of 16 and 17 year-old children for offenses committed on or after July 1, 2020.⁷⁹ The SOL for misdemeanors remains 2 years from the offense.⁸⁰

Civil. There is currently no SOL in Florida against any defendants for civil claims involving sexual battery of children under age 16, and an SOL of age 25, plus a 4-year discovery rule for sexual battery claims involving 16 and 17 year-olds and any other claims relating to child sex abuse. As of 1992, Florida's civil SOL for child sex abuse was age 25 (age of majority, 18, plus 7 years) or date of discovery plus 4 years, whichever is later.⁸¹ In 2010, the state eliminated the civil SOL for sexual battery offenses only against victims under age 16.⁸² Florida has not passed a window or other SOL revival legislation since 2002.

Georgia

Georgia has made some changes to its criminal and civil child sex abuse SOLs since 2002. It eliminated the criminal SOL for some felonies in 2012. Then, in 2015, it added a 2-year discovery rule to the civil SOL and enacted a narrow window that revived expired civil claims against perpetrators, but not institutions. On a scale of 0–5, overall, it ranks as a 2.25.

Criminal. There is currently no SOL in Georgia for many felony child sex abuse crimes, and the SOL is age 31 or 32 for some rape offenses. For the remaining felonies the SOL is 7 years from the offense and for misdemeanors it is 2 years. As of 2002, the criminal SOL for some felony and misdemeanor sex abuse crimes of children under age 16 was age 23 (age 16, plus 7 years) or when reported to law enforcement, whichever was earlier. The SOL for forcible rape was the earlier of 31 years-old (age 16, plus 15 years) or when reported to law enforcement for victims under age 16, or 32 years-old (age 17, plus 15 years) for victims age 17. Also, there has not been an SOL for certain sex offenses when DNA evidence is used to establish the perpetrator's identity.⁸³ The SOL for other felonies was 7 years from the offense and 2 years for misdemeanors.⁸⁴ In 2012, the

⁷⁶ FLA. STAT. § 775.15 (SOL).

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ FLA. STAT. § 775.15(20) (no SOL).

⁸⁰ FLA. STAT. § 775.15(2)(c) (2-year SOL).

⁸¹ FLA. STAT. § 95.11(7) (age 25 SOL).

⁸² FLA. STAT. § 95.11(9) (no SOL).

⁸³ GA. CODE ANN. §§ 17-3-1 (SOL), 17-3-2.1 (tolling statute).

⁸⁴ GA. CODE ANN. § 17-3-1 (SOL).

state eliminated the SOL for some felony offenses against children under 16 years-old, including rape, trafficking, molestation, and incest and extended the SOL for forcible rape to 15 years after the offense when there is no DNA evidence.⁸⁵

Civil. The current civil SOL in Georgia is age 23, with a 2-year discovery rule against all defendants. In 2002, the Georgia civil SOL was age 23 for claims against perpetrators and age 20 against other defendants, which made it one of the worst in the United States.⁸⁶ In 2015, Georgia passed the Hidden Predator Act, which opened a window for victims to bring civil claims against perpetrators from 2015–17. The state also extended the SOL to age 23 for non-perpetrators and added a discovery rule for claims against all defendants, which gives a victim up to 2 years after they discover that the abuse caused a current injury.⁸⁷ Georgia's was the first window that was limited to claims against perpetrators and did not include institutions. Very few cases were brought, and, therefore, it is not looked upon as a model. In 2018, 2019 and 2020, Georgia considered a window that would encompass institutions, but the measures failed.⁸⁸

Hawaii

Hawaii has enacted progressive SOL changes in both criminal and civil realms since 2002. In 2014, it eliminated the criminal SOL for some felonies, and in 2012 it extended the civil SOL by 6 years and enacted a 3-year discovery rule. Hawaii also has the longest civil window, which revived expired civil SOLs for a total of 6 years. On a scale of 0–5, overall, it ranks as a 3.

Criminal. There is currently no SOL in Hawaii for some sexual assault felonies, SOLs of age 21 and 24 for other felonies, and 2 years from the offense for misdemeanors. In 2002, the Hawaii criminal SOL was age 24 (age of majority, 18, plus 6 years) for Class A felony sex offenses, and age 21 (age of majority, 18, plus 3 years) for all other felony sex offenses. In 2005, it added a provision that, if DNA evidence was collected, the SOL for felonies was extended to 10 years after the applicable SOL would have expired. In 2014, the state eliminated the criminal SOL for felony first and second-degree sexual assault and continuous sexual assault of a minor under age 14.⁸⁹ Misdemeanors have an SOL of 2 years from the offense.⁹⁰

Civil. The current civil SOL in Hawaii is age 26 or 3 years from discovery against perpetrators and age 20 with a 2-year discovery rule against other defendants. In 2002, the Hawaii civil SOL was age 20 (age of majority, 18, plus 2 years) with a 2-year discovery rule.⁹¹ In 2012, for claims

⁸⁵ GA. CODE ANN. § 17-3-2.1 (tolling statute).

⁸⁶ GA. CODE ANN. § 9-3-33.1(a)(2) (age 23 SOL), § 9-3-33 (2-year SOL); § 9-3-90 (minority tolling).

⁸⁷ GA. CODE ANN. § 9-3-33.1(a)(2) (age 23 SOL), (b)(2).

⁸⁸ Letter from Prof. Marci Hamilton to Rep. Spencer, analyzing 2018 window bill (Feb. 26, 2018) at https://static1.squarespace.com/static/5a120b962aeba581dd692cd4/t/5a97527a419202f909ef78cf/1519866492894/Georgia_HPA2018_Letter_sent.pdf; see Kate Brumback, *Georgia Bill Aiming to Help Child Sex Abuse Victims Fails*, ASSOCIATED PRESS (Mar. 30, 2018, 3:41 PM), <https://www.usnews.com/news/best-states/georgia/articles/2018-03-30/georgia-bill-aiming-to-help-child-sex-abuse-victims-fails>. For more information on SOL Reform in Georgia, see EMMA HETHERINGTON, ET. AL., STATUTE OF LIMITATIONS FOR CHILD SEXUAL ABUSE CIVIL LAWSUITS IN GEORGIA (Wilbanks Child Endangerment and Sexual Exploitation Clinic 2019), <http://cease.law.uga.edu/sites/default/files/u61/2018-2019%20CEASE%20White%20Paper%20April%208%202019.pdf>.

⁸⁹ HAW. REV. STAT. § 701-108 (SOL).

⁹⁰ *Id.*

⁹¹ HAW. REV. STAT. §§ 657-7 (2-year SOL), 657-13 (minority tolling); *Dunlea v. Dappen*, 924 P.2d 196, 204 (Haw. 1996), *abrogated by Hac v. Univ. of Hawaii*, 73 P.3d 46 (Haw. 2003) (recognizing a discovery rule for child sex abuse claims).

against perpetrators, Hawaii increased the civil SOL to age 26 (age of majority, 18, plus 8 years) and added a 3-year discovery rule, which is triggered by the victim discovering that psychological illness or injury after age 18 was caused by the sex abuse,⁹² whichever comes later. Hawaii has enacted the longest civil window, during which the civil SOLs were lifted for all civil claims, regardless of whether the SOL previously expired. In 2012, the state enacted a 2-year window allowing victims whose claims had been previously time-barred to bring civil actions against a perpetrator or entity that employed the person accused and had a duty of care to the child.⁹³ Two years later, the state added another 2 years to the window and broadened it to include claims against the government.⁹⁴ In 2018, Hawaii added another 2-year extension, which left the window open until April 24, 2020. This means that Hawaii has had 6 years during which civil claims have been revived. This is far longer than the closest other time-limited revival windows, which includes its own 4-year window and the 3-year windows in Minnesota and California.⁹⁵ Hawaii has made strong efforts to extend or eliminate its civil SOL in 2019 and 2020, but even with strong support in the legislature, the bills died in committee.⁹⁶

Idaho

Idaho has only minimally improved criminal and civil SOLs since 2002. It eliminated the criminal SOL for certain felonies in 2006 and extended the age 23 civil SOL to include a 5-year discovery rule in 2007. On a scale of 0–5, overall, it ranks as a 2.

Criminal. There is currently no criminal SOL in Idaho for rape, sexual abuse, or lewd conduct, and for other felonies the SOL expires 5 years after the offense, and for misdemeanors 1 year after the offense. As of 2002, Idaho had no SOL for rape and an SOL of age 23 (age of majority, 18, plus 5 years) for felony sex abuse or lewd conduct with a child.⁹⁷ In 2006, the state eliminated the criminal SOL for felony sex abuse or lewd conduct with a child.⁹⁸ For other crimes against children, Iowa hearkens back to a bygone era when SOLs were measured from the date of the abuse and not from the age of majority. The SOL for the remaining felonies is 5 years from commission of the crime and for misdemeanors 1 year.⁹⁹

Civil. The current civil SOL in Idaho is age 23, with a 5-year discovery rule against all defendants. In 2002, the civil SOL in Idaho was age 23 (age of majority, 18, plus 5 years). In 2007, it added a 5-year discovery rule, which gives the victim up to age 23 or 5 years after they discover that the abuse caused current injuries or conditions, whichever is later.¹⁰⁰ Idaho has not passed a window or other SOL revival legislation.

⁹² HAW. REV. STAT. § 657-1.8 (age 26 SOL and discovery rule).

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Relating to Limitation of Actions For Sexual Assault: Hearing on H.B. 415 Before the H. Comm. On Jud. and Lab.*, 29th Cong. (2017) (statement of Prof. Marci Hamilton regarding Hawaii proposed 2018 amendments to child sex abuse SOLs). https://www.capitol.hawaii.gov/session2018/testimony/HB415_TESTIMONY_JUD_02-07-17_.PDF.

⁹⁶ HB 18, 2019 Leg., Gen. Assemb., Reg. Sess. (Haw. 2019); SB 1035, 2019 Leg. Gen. Assemb., Reg. Sess. (Haw. 2019).

⁹⁷ IDAHO CODE §§ 19-401 (no SOL), 402 (5-year SOL).

⁹⁸ IDAHO CODE § 19-401 (no SOL).

⁹⁹ *Id.*; IDAHO CODE §§ 19-402 (5-year SOL), 403 (misdemeanors).

¹⁰⁰ IDAHO CODE § 6-1704 (discovery rule).

Illinois

Illinois has made significant changes to its criminal and civil SOLs since 2002. In 2017, it eliminated the criminal SOLs for numerous sex abuse felonies and has increased the SOLs for other crimes as well. In 2014, SOLs for civil claims were eliminated. On a scale of 0–5, overall, it ranks as a 2.75.

Criminal. There is currently no criminal SOL in Illinois for felony and misdemeanor sex offenses committed against children. By 2002, the criminal SOL was age 28 with an exception that felony and misdemeanor sexual offenses can be prosecuted at any time if there is DNA evidence and it was reported to law enforcement within 2 years. In 2003, the state increased the SOL to age 38 for child sex abuse felonies. In 2008, it extended the time for reporting to 3 years for the DNA statute. In 2009, it eliminated the SOL for child pornography and added an SOL of age 28 for child sex abuse misdemeanor crimes. In 2014, it eliminated the criminal SOL for felony sex offenses against children, but only if there was corroborating evidence or an individual with responsibility to report the abuse failed to do so.¹⁰¹ In 2017, following the Dennis Hastert sex abuse scandal, Illinois eliminated the evidentiary limitations.¹⁰² It also increased the SOL for sex trafficking to age 43, but the SOL for soliciting a child for sex remains at age 19 or 3 years from the offense, whichever is later. In 2019, the SOL was eliminated for many sex abuse crimes that involve sexual conduct or sexual penetration, including misdemeanor criminal sexual abuse.¹⁰³

Civil. There is currently no civil SOL in Illinois for child sex abuse civil claims against any defendants. In 2002, the civil SOL was age 20 or discovery plus 2 years. In 2003, the state changed it by adding 8 years so that the SOL was age 28, adding a 5-year discovery rule. In 2010, it added another ten years, bringing the civil SOL to age 38 (age of majority, 18, plus 20 years) and extending the discovery rule to 20 years. Finally, in 2014, it eliminated the civil SOL completely.¹⁰⁴ Illinois has not passed a window; previous SOL revival legislation was found unconstitutional.¹⁰⁵

Indiana

In 2002, Indiana had some of the more restrictive criminal and civil SOLs in the country. Since then it has made modest progress by extending the criminal SOL for many felonies to age 31, eliminating the criminal SOL for felony child sex trafficking, and expanding the civil SOL modestly, with a longer discovery rule. On a scale of 0–5, overall, it ranks as a 1.25 (where 0.75 is the lowest average score).

Criminal. There is currently no SOL for Class A felony rape and felony child sex trafficking in Indiana, and the SOL for other offenses varies from age 31 to 10 years after the offense or 4 years after the victim ceased to be a dependent on the perpetrator. In 2002, there was no SOL for Class A felony (L1 and L2) rape and the SOL was age 31 for certain sex offenses against children, including molesting, solicitation, and incest. There was also a DNA statute which extended the

¹⁰¹ 720 ILL. COMP. STAT. 5/3-5 (no SOL) and 5/3-6(j) (no SOL) and (l) (discovery rule). In 2014 a 1-year discovery rule was added for offenses involving unauthorized video recordings and live video transmissions in violation of 5/26-4.

¹⁰² 720 ILL. COMP. STAT. 5/3-5 (no SOL) and 5/3-6(j) (no SOL).

¹⁰³ 720 ILL. COMP. STAT. 5/3-5 (no SOL).

¹⁰⁴ 735 ILL. COMP. STAT. 5/13-202.2 (no SOL).

¹⁰⁵ *Doe A. v. Diocese of Dallas*, 917 N.E.2d 475, 486 (Ill. 2009).

SOL for Class B and C felonies (L3, L4, L5) to 1 year after a DNA match. For the remaining crimes, the SOL was 5 years for felonies and 2 years for misdemeanors, running from the date of the crime. By 2013, Indiana extended its SOL for all other sex offenses against children, including trafficking, prostitution and pornography to either 10 years after the crime or 4 years after the victim ceased to be a dependent of the perpetrator, whichever is later.¹⁰⁶ In 2018, the criminal SOL was eliminated for felony child sex trafficking.¹⁰⁷ In 2019, Indiana extended its SOL for sexual misconduct with a minor and any level child molesting to age 31.¹⁰⁸ In 2020, Indiana extended the criminal SOL for certain sex offenses against children, including molestation, solicitation, and incest, by 5 years after the earliest date of discovery of DNA, recording, or confession evidence.¹⁰⁹

Civil. The current SOL in Indiana for child sex abuse civil claims is age 20 against all defendants, or a period of time from discovery/elimination of dependency status. In 2002, the civil SOL was age 20 (age of majority, 18, plus 2 years) with a 2-year discovery rule.¹¹⁰ In 2013, Indiana added a provision extending the SOL to 4 years after the victim ceases to be dependent on the abuser and extending the discovery rule to 7 years, whichever is later.¹¹¹ Indiana's discovery rule is extremely narrow and has not been helpful to survivors.¹¹² Indiana has not passed a window or other SOL revival legislation.

Iowa

Since 2002, Iowa has only made minor changes to its criminal and civil SOLs. Iowa has modestly improved its criminal SOL four times but remains one of the most restrictive states for child sex abuse victims. Iowa's one change to civil SOLs since 1990 related only to abuse by school employees in 2003. On a scale of 0–5, it ranks as a 1.25 (where 0.75 is the lowest average score).

Criminal. The current SOL for child sex abuse crimes in Iowa is age 28 or 33, with a DNA rule giving the government 3 years after identification of the perpetrator to file charges. In 2002, the criminal SOL in Iowa was age 28 (age of majority, 18, plus 10 years) for first, second, and third-degree sexual abuse, incest, and sexual exploitation. Iowa also has a DNA discovery rule, enacted in 2005, which extends the SOL to three years after the date the alleged perpetrator is identified via DNA.¹¹³ It extended the SOL for other sexual offenses to age 28 in 2014 and again in 2016 to include trafficking.¹¹⁴ In 2019, Iowa extended its criminal SOL to age 33 (age of majority, 18, plus 15 years) for felony sexual abuse of a minor, incest and felony and misdemeanor sexual exploitation. Iowa is one of only 8 states that has not eliminated the SOL for any felony sex crimes against children.¹¹⁵

Civil. The current SOL in Iowa for child sex abuse civil claims is age 19 against all defendants, with some limited special rules for abuse by a counselor or school employee, and a discovery rule

¹⁰⁶ IND. CODE ANN. § 35-41-4-2(c) (no SOL), (e) (age 31 SOL), (m) (10-year SOL).

¹⁰⁷ IND. CODE ANN. § 35-42-3.5-1.3 (child sex trafficking).

¹⁰⁸ IND. CODE ANN. § 35-41-4-2(e) (age 31 SOL).

¹⁰⁹ IND. CODE ANN. § 35-41-4-2 (p)(1), (2), (3) (tolling statutes).

¹¹⁰ IND. CODE ANN. §§ 34-11-2-4 (SOL), 34-11-6-1 (majority tolling), 1-1-4-5(24) (legal disability).

¹¹¹ IND. CODE ANN. § 34-11-2-4 (SOL).

¹¹² *Doe v. United Methodist Church*, 673 N.E.2d 839, 842 (Ind. Ct. App. 1996).

¹¹³ IOWA CODE §§ 802.2 (SOL), 802.2A (Incest).

¹¹⁴ IOWA CODE §§ 802.2B (age 28 SOL), 802.2D (Human trafficking)

¹¹⁵ States that have not eliminated any criminal SOL for child sex abuse: IA, NH, ND, OH, OK, and PA.

of 4 years for some cases. Since 1990, the civil SOL in Iowa for child sex abuse claims has been capped at age 19 (age of majority, 18, plus 1 year) with a 2-year common law discovery rule.¹¹⁶ Iowa also has a 4-year discovery statute applicable to victims abused while under age 14 that had not discovered the injury and the causal relationship between the injury and the abuse until after they reached age 18.¹¹⁷ In the case of sexual abuse by a counselor or therapist, the SOL was the later of 5 years from the last treatment or age 19 (age of majority, 18, plus 1 year). In 2003, Iowa extended the SOL for sexual abuse by a school employees to the later of 5 years from the last date victim attended the school or age 19 (age of majority, 18, plus 1 year).¹¹⁸ Other than this minor change for school employee abuse, Iowa has not updated its civil SOLs since 1990. Iowa has not passed a window or other SOL revival legislation.

Kansas

Kansas has made few changes to either criminal or civil SOLs since 2002. It eliminated the criminal SOL for rape in 2013 and extended the SOL for other crimes, but has made no changes to its civil SOL. On a scale of 0–5, overall, it ranks as a 1.75 (where 0.75 is the lowest average score).

Criminal. There is currently no criminal SOL in Kansas for felony rape and aggravated sodomy, an SOL of age 28 for other felonies, and five years from commission for misdemeanors, with a limited DNA rule. The criminal SOL in Kansas in 2002 varied depending on the crime or was 1 year after the date the perpetrator was identified via DNA testing.¹¹⁹ In 2012, it added a majority tolling provision, so the SOL would not begin to run until the victim turned 18, with an age cap of 28 for prosecution. In 2013, Kansas eliminated the SOL for felony rape and aggravated sodomy and extended the SOL for other crimes to age 28 (age of majority, 18, plus 10 years) or 1 year after the perpetrator is identified via DNA testing, whichever is later.¹²⁰ The SOL for misdemeanors is five years after the crime occurs.¹²¹

Civil. The current SOL for child sex abuse crimes in Kansas is age 21 against all defendants with a limited discovery rule. Kansas has not changed its civil SOL since 1992. It provides for age 21 (age of majority, 18, plus 3 years) or 3 years after discovery, whichever is later.¹²² Despite a seemingly generous discovery rule, any child sex abuse claims that were barred before 1992 do not get the benefit of the discovery rule because of a statute of repose that was previously in effect.¹²³ Kansas has not passed a window or other SOL revival legislation.

¹¹⁶ IOWA CODE §§ 614.8 (majority tolling) 614.8A (discovery rule), 614.1 (SOL); *See Callahan v. State*, 464 N.W.2d 268, 272 (Iowa 1990) (applying common law discovery rule in case against the state for child sex abuse under the tort claims act); *Doe v. Cherwitz*, 518 N.W.2d 362, 363-64 (Iowa 1994) (applying common law discovery rule for adult sex abuse claim).

¹¹⁷ IOWA CODE §§ 614.8 (majority tolling) 614.8A (discovery rule), 614.1 (SOL); *Frideres v. Schiltz*, 540 N.W.2d 261, 267 (Iowa 1995) (IOWA CODE § 614.8A's discovery rule applies to sexual abuse of a child, which means a child under age 14).

¹¹⁸ *Id.*

¹¹⁹ KAN. STAT. ANN. § 21-5107(c) (DNA rule).

¹²⁰ KAN. STAT. ANN. § 21-5107(a) (no SOL), (c) (DNA), and (e) (tolling provisions).

¹²¹ KAN. STAT. ANN. § 21-5107(d) (5-year SOL).

¹²² KAN. STAT. ANN. § 60-523(a) (SOL and discovery).

¹²³ KAN. STAT. ANN. § 60-515(a) (minority tolling); *see also, Doe v. Popravak*, 421 P.3d 760, 762 (Kan. 2017).

Kentucky

Kentucky has made minimal changes to criminal and civil SOLs since 2002. Kentucky amended its criminal SOL for child sex abuse by eliminating the SOL for felonies early in 1974. In 2017, it extended its civil SOL to age 28 with a discovery rule. On a scale of 0–5, overall, it ranks as a 1.5 (where 0.75 is the lowest average score).

Criminal. There is currently no criminal SOL in Kentucky for felonies and an SOL of age 23 for misdemeanors. In Kentucky there has not been a criminal SOL for any child sex abuse felonies since at least 1974.¹²⁴ In 2008, Kentucky added the SOL of age 23 (age of majority, 18, plus 5 years) for misdemeanor sexual offenses.¹²⁵

Civil. The current civil SOL for child sex abuse claims in Kentucky is age 28 for claims against perpetrators and age 19 for claims against other defendants, with discovery and criminal conviction rules. In 2002, Kentucky’s civil SOL for claims against individuals and entities was age 19,¹²⁶ and for claims against perpetrators it was the later of age 23 (age of majority, 18, plus 5 years) or 5 years from discovery.¹²⁷ In 2007, child trafficking claims involving commercial sexual exploitation joined the list of offenses with a 5-year SOL against perpetrators.¹²⁸ In 2017, it extended the civil SOL against perpetrators to the later of age 28 (age of majority, 18, plus 10 years), 10 years from discovery, or 10 years after conviction of the defendant for child sex abuse or assault.¹²⁹ The SOL is tolled, which is to say the clock stops running, when the perpetrator is out of state, conceals himself or obstructs the case.¹³⁰ Kentucky has not passed a window or other SOL revival legislation.

Louisiana

Louisiana has altered criminal, but not civil, SOLs since 2002. Its criminal SOL is average amongst the states, despite 3 updates since 2002. Louisiana has some of the shortest civil SOLs in the United States, capping civil claims at age 28. On a scale of 0–5, overall, it ranks as a 2.25.

Criminal. There is currently no criminal SOL in Louisiana for aggravated and forcible rape, an SOL of age 48 for other felonies, and an SOL of 2 years from commission for certain misdemeanors with a limited DNA rule. In 2002, Louisiana had no SOL for crimes punishable by death or life imprisonment, which included aggravated rape (first degree rape), and forcible rape (second degree rape). For most felony sex offenses against minors under age 17, though, the SOL was age 28 (age of majority, 18, plus 10 years).¹³¹ For any remaining felonies, including sex offenses committed against 17 year-olds, the SOL was either 4 years from the offense or 6 years from the offense if the crime was punishable by hard labor.¹³² Misdemeanors have an SOL of 2 years from the offense where the crime is punishable by imprisonment and six months if

¹²⁴ KY. REV. STAT. ANN. § 500.050 (SOL).

¹²⁵ *Id.*

¹²⁶ KY. REV. STAT. ANN. §§ 413.140 (1-year SOL) & 413.170 (minority tolling).

¹²⁷ KY. REV. STAT. ANN. § 413.249 (SOL).

¹²⁸ *Id.*

¹²⁹ *Id.*; see *B.L. v. Schuhmann*, 380 F. Supp. 3d 614, 637 (W.D. Ky. 2019).

¹³⁰ KY. REV. STAT. ANN. § 413.190 (tolling statute).

¹³¹ LA. CODE CRIM. PROC. ANN. 571 (no SOL) ; 571.1 (SOL).

¹³² LA. CODE CRIM. PROC. ANN. 572 (SOL).

punishable by only a fine.¹³³ In 2003, Louisiana added a DNA evidence rule, allowing felony and misdemeanor sex offenses to be prosecuted 3 years after the offender is identified by DNA.¹³⁴ In 2005, it expanded the SOL for most felony sex offenses against minors under age 17 from age 28 to age 48 (age of majority, 18, plus 30 years). It added felony trafficking, prostitution of, and pornography of minors under age 17 to its age 48 SOL in 2012.¹³⁵

Civil. The current civil SOL for child sex abuse claims in Louisiana is age 28 against all defendants, with a 10-year discovery rule. Louisiana has not revisited its civil SOL since 1995. The civil SOL expires at age 28 (age of majority, 18, plus 10 years); the 10-year SOL does not begin to run until “the affected individual knows or should have known of the injury.”¹³⁶ Louisiana has not passed a window or other SOL revival legislation.

Maine

Since 2002, Maine only extended its criminal SOL for sex abuse crimes and has not changed its civil SOL. By 1999, Maine eliminated its criminal SOL for sex abuse of victims under age 16 and its civil SOL for sexual abuse of minors by 2000. On a scale of 0–5, overall, it ranks as a 3.25.

Criminal. There is currently no criminal SOL in Maine for certain child sex abuse crimes, and an SOL of either 6 or 20 years for remaining felonies, and 3 years for misdemeanors. As of 2002, Maine had no criminal SOL for felonies and misdemeanors for victims under age 16 for: incest, unlawful sexual contact, sexual abuse of a minor, rape, and gross sexual assault. For victims age 16 and older, the SOL for felonies was 6 years with misdemeanors at 3 years from the offense. In 2013, Maine extended the SOL for victims ages 16 and older for felony unlawful sexual contact or gross sexual assault to 8 years from the offense, and, in 2019, extended it further to 20 years from the offense.¹³⁷

Civil. There is currently no civil SOL for child sex abuse claims in Maine against any defendant. In 2000, Maine eliminated the civil SOL for child sex abuse.¹³⁸ Maine has not passed a window or other SOL revival legislation.

Maryland

Maryland has not changed its criminal SOL, but it did make two changes to its short civil SOLs since 2002. Maryland has never had any criminal SOLs. It extended its civil SOL in 2003 and 2017, and it currently caps actions at age 38. On a scale of 0–5, overall, it ranks as a 2.

Criminal. There is currently no criminal SOL in Maryland for any felonies or misdemeanors under common law.¹³⁹

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ LA. CODE CRIM. PROC. ANN. 571 (no SOL); 571.1 (SOL).

¹³⁶ LA. STAT. ANN. § 9:2800.9 (age 28 SOL), LA. CIV. CODE ANN. art. 29 (majority statute); *Doe v. Roman Catholic Church*, 656 So.2d 5, 7 (La. Ct. App. 1995). See also *Chenevert v. Redemptorists/Denver Province*, CIV.A. 09-473-JJB, 2010 WL 1609971, at *4 (M.D. La. Apr. 20, 2010).

¹³⁷ ME. REV. STAT. ANN. tit. 17-A § 8 (SOL).

¹³⁸ ME. REV. STAT. ANN. tit. 14§ 752-C (no SOL).

¹³⁹ *Massey v. State*, 579 A.2d 265, 267 (1990) (“there was no general period of limitations applicable to criminal proceedings.”).

Civil. The current civil SOL for child sex abuse claims in Maryland is age 38 against all defendants, with a conviction extension for claims against perpetrators, and additional evidentiary requirements for claims against other defendants when a victim is over age 25. In 2002, the general 1-year SOL for assault, and a majority tolling rule applied to child sexual abuse cases, giving a victim until age 21 (age of majority, 18, plus 3 years) to bring their claim.¹⁴⁰ The civil SOL was extended in 2003 to age 25 (age of majority, 18, plus 7 years). In 2017, Maryland extended the civil SOL further to age 38 (age of majority, 18, plus 20 years). It also added a provision extending the SOL for claims against perpetrators to 3 years after the perpetrator is convicted of a crime related to the victim's abuse under the law of the federal government or any state. For an action brought after a victim is age 25 against defendants other than the perpetrator, duty of care, control and gross negligence must be proven.¹⁴¹ Despite strong efforts in 2019 and 2020, Maryland has not passed a window or other SOL revival legislation since 2002.

Massachusetts

Massachusetts has been an innovative state for both criminal and civil SOL reform since 2002. It eliminated the criminal SOL for felonies in 2006. In 2014, Massachusetts retroactively extended the civil SOL to age 53 with a discovery rule of 7 years. On a scale of 0–5, overall, it ranks as a 3.5.

Criminal. There is currently no criminal SOL in Massachusetts for most sex abuse felonies, with certain requirements, and an SOL of 6 years for all remaining felonies and misdemeanors. In 2002, the criminal SOL for felonies related to sex abuse was 15 years from the offense. All remaining felony and misdemeanor crimes had an SOL of 6 years after the crime was committed. Massachusetts eliminated the criminal SOL for most sex abuse felonies in 2006 with a limitation that, if prosecuting an offense more than 27 years after the crime, corroborating or DNA evidence is required.¹⁴² In 2011, sex trafficking was added to the list of no SOL crimes.

Civil. The current civil SOL for all child sex abuse claims against any defendants in Massachusetts is age 53, with revival up to age 53 against perpetrators only and a revival 7-year discovery rule against both perpetrators and institutions. In 2002, the civil SOL for sexual abuse of minors in Massachusetts was age 21 (age of majority, 18, plus 3 years) or 3 years from discovery of the abuse, whichever is later.¹⁴³ In 2010 and 2011, the list of sex abuse crimes this SOL applied to was expanded to apply to more crimes, including sex trafficking.¹⁴⁴ By 2014, Massachusetts retroactively extended the civil SOL to age 53 (age of majority, 18, plus 35 years) and its discovery rule to 7 years.¹⁴⁵ This age 53 SOL applied to claims against perpetrators even if they had previously expired, but it did not revive claims against institutions. The discovery rule, however, was completely retroactive, reviving claims and giving a victim 7 years after discovering an injury was caused by the sex abuse to file suit.¹⁴⁶ Massachusetts joined Connecticut in enacting a civil

¹⁴⁰ MD. CODE ANN., CTS. & JUD. PROC. §§ 5-105 (SOL) and 5-201 (majority tolling); *see also Roe v. Doe*, 998 A.2d 383, 385 (Md. Ct. Special App. July 7, 2010).

¹⁴¹ MD. CODE ANN., CTS. & JUD. PROC. § 5-117(b) (SOL).

¹⁴² MASS. GEN. LAWS ANN. ch. 277 § 63 (SOL).

¹⁴³ MASS. GEN. LAWS ANN. ch. 260 §§ 2A (3-year SOL) and 4C (age 53 SOL). *Koe v. Mercer*, 450 Mass. 97, 101, 876 N.E.2d 831, 836 (2007) (discovery tolling).

¹⁴⁴ MASS. GEN. LAWS ANN. ch. 260 § 4D (trafficking remedies).

¹⁴⁵ MASS. GEN. LAWS ANN. ch. 260 §§ 4C (age 53 SOL), 4C ½ (negligent supervision).

¹⁴⁶ *Id.*; *Lee v. Boston Pub. Sch.*, 15-CV-10811-LTS, 2016 WL 11372334, at *4 (D. Mass. Feb. 1, 2016), report and recommendation adopted, 15-10811-LTS, 2016 WL 632198 (D. Mass. Feb. 17, 2016).

SOL that is both retroactive and has an age cap, but, unlike its neighbor, the revival up to age 53 in Massachusetts only applied to actions against perpetrators. This is a different model from the revival windows in other states where there is a limited time period during which claims can be retroactively revived.

Michigan

Having been one of the worst in the United States, Michigan has made improvements in the criminal and civil arenas in the recent past. Michigan does not have a criminal SOL for felony sex abuse. Its civil SOL was extended to age 28 in 2018 and now includes a 3-year discovery rule. Michigan was the first state to enact a window tailored to one group of victims. On a scale of 0–5, overall, it ranks as a 2.25.

Criminal. There is currently no criminal SOL in Michigan for trafficking and first degree criminal sexual conduct, while the SOL is either age 21, 25, or 28 for other crimes, with a DNA rule. In 2001, Michigan eliminated the criminal SOL for first-degree criminal sexual conduct. All other felonies and misdemeanors had an SOL of 10 years from the offense or from DNA identification, or age 21, whichever is later. In 2014 the SOL was removed for trafficking offenses punishable by life imprisonment and extended to 25 years from the offense for the remaining trafficking crimes. In 2018, Michigan extended the criminal SOL for second and third-degree criminal sexual conduct to 15 years from the offense or from DNA identification, or age 28, whichever is later.¹⁴⁷

Civil. The current civil SOL for child sex abuse claims against any defendants in Michigan is age 28 with a limited discovery rule. Since at least 1986 up until 2018, Michigan had one of the shortest civil SOL in the United States, with civil claims expiring at the age of 19. In 2018, the law was amended to allow civil claims to be brought until age 28 with a 3-year discovery rule. Michigan also opened a 90-day revival window for post-1996 offenses that would only apply to cases where the perpetrator was a physician who had been convicted of sexual misconduct under the guise of a medical procedure, essentially limiting the retroactivity to victims of Larry Nassar.¹⁴⁸

Minnesota

Minnesota has made minor changes to its criminal SOLs and has made major improvements to its civil SOLs since 2002. In 2013 it eliminated the civil SOL going forward and created a 3-year window during which victims could bring civil claims that were previously time barred by the former SOL. On a scale of 0–5, it ranks as a 3.75 (where 4.5 is the highest average score).

Criminal. The current criminal SOL in Minnesota for many sex abuse felonies is 9 years from commission or 3 years from reporting, or 3 years from commission of other felonies and misdemeanors. As of 2000, the criminal SOL in Minnesota for criminal sexual conduct was 9 years after the offense or 3 years after it is reported to the authorities, and the SOL was 3 years from the crime for all other felonies and misdemeanors. The state had no SOL for criminal sexual conduct if DNA evidence was collected. In 2009, Minnesota clarified that its SOL for criminal sexual conduct was 9 years from the offense or 3 years after it was reported, whichever is later. The 9-year SOL with a DNA statute was amended to include solicitation, inducement, and

¹⁴⁷ MICH. COMP. LAWS ANN. § 767.24 (SOL).

¹⁴⁸ MICH. COMP. LAWS ANN. §§ 600.5805 (SOL), 600.5851 (minority tolling), 600.5851b (SOL).

promotion of prostitution and sex trafficking in 2015.¹⁴⁹ Minnesota is still one of only 8 states not to eliminate the SOL for any felony crimes.

Civil. There is currently no SOL for child sex abuse claims against any defendants in Minnesota. In 2002, the civil SOL was age 24 (age of majority, 18, plus 6 years) or 6 years from discovery, whichever was later.¹⁵⁰ In 2013, the child sex abuse civil SOL was eliminated.¹⁵¹ In addition, a window was added, which was open for three years from 2013 until 2016.¹⁵²

Mississippi

Mississippi has made modest changes to criminal and civil SOLs since 2002. In 2003, Mississippi eliminated its criminal SOL for most child sex abuse felonies. However, it has made no changes to its civil SOL since the 1990's and it remains one of the shortest in the country, expiring at age 24. On a scale of 0–5, overall, it ranks as a 1 (where 0.75 is the lowest average score).

Criminal. There is currently no criminal SOL for most child sex abuse offenses in Mississippi; the SOL for sexual battery or fondling is 5 years after the offence, and the SOL for other felonies and misdemeanors is 2 years from commission. By 2002, Mississippi eliminated the criminal SOL for rape.¹⁵³ Most other child sex abuse felonies had an SOL of age 21.¹⁵⁴ The remaining felonies and misdemeanors were subject to an SOL of 2 years from the offense. In 2003, it removed the SOL for most child sex abuse felonies. In 2004 the state removed the SOL for sexual battery of 16 and 17 year-olds by a person in a position of trust and again in 2013 for promoting prostitution and sex trafficking of a child.¹⁵⁵

Civil. The current civil SOL for child sex abuse claims in Mississippi is age 24 against all defendants. Mississippi has made no changes to its civil SOL since 1990, when it set the age at 24 (age of majority, 21, plus 3 years).¹⁵⁶ This makes it one of the most restrictive civil SOLs in the country. Mississippi has not passed a window or other SOL revival legislation since 2002.

Missouri

Missouri has made a few criminal and civil changes to its SOLs since 2002. It eliminated felony and misdemeanor criminal SOLs in 2004 and even further in 2018. It extended its civil SOL to age 31 and added a 3-year discovery rule in 2004. On a scale of 0–5, overall, it ranks as a 2.25.

Criminal. There is currently no criminal SOL for child sex abuse offenses in Missouri. In 2002, it was age 28.¹⁵⁷ In 2004, the criminal SOL was eliminated for forcible rape and sodomy and

¹⁴⁹ MINN. STAT. ANN. § 628.26(e) (9-year SOL), (f) (9-year SOL).

¹⁵⁰ MINN. STAT. ANN. §§ 541.073 (SOL); 541.15 (minority tolling); *D.M.S. v. Barber*, 645 N.W.2d 383, 390 (Minn. 2002) ("[T]he six-year period of limitation under the delayed discovery statute begins to run when the victim reaches the age of majority.").

¹⁵¹ MINN. STAT. ANN. § 541.073 (SOL).

¹⁵² *Id.* HF 681, 88th Leg., Reg. Sess. (Minn. 2013).

¹⁵³ See Section 2437, Code of 1942; see also *Blakeney v. State*, 228 Miss. 162, 165, 87 So. 2d 472, 473 (1956).

¹⁵⁴ MISS. CODE ANN. § 99-1-5 (SOL).

¹⁵⁵ *Id.*

¹⁵⁶ MISS. CODE ANN. §§ 15-1-49(1) (discovery tolling), 15-1-59 (minority tolling).

¹⁵⁷ MO. REV. STAT. § 556.037 (no SOL).

attempts¹⁵⁸ and extended to age 38 (age of majority, 18, plus 20 years) for all other unlawful sexual offenses.¹⁵⁹ In 2011, the SOL for the remaining unlawful sexual offenses was extended by another 10 years so that the age cap was 48 (age of majority, 18, plus 30 years).¹⁶⁰ In 2018, Missouri eliminated the SOL for all unlawful felony and misdemeanor sex offenses against those who are 18 years-old and younger.¹⁶¹

Civil. The current civil SOL for child sex abuse claims in Missouri is age 31 against perpetrators, and age 26 against institutions, with a limited discovery rule. Since 1990, Missouri had a general personal injury SOL of age 26 (age of majority, 21, plus 5 years) with a narrow discovery rule¹⁶² and a specific child sex abuse statute for claims against perpetrators with an SOL of age 23 (age 18, plus 5 years) or 3 years from discovery, whichever was later.¹⁶³ In 2004, Missouri extended the civil SOL against perpetrators to age 31 (age of majority, 21, plus 10 years) and kept the 3-year discovery rule intact.¹⁶⁴ In 2007, Missouri added a statute for victims of child pornography and set the SOL also at age 31 with a 3-year discovery rule.¹⁶⁵ Missouri has not passed a window or other SOL revival legislation since 2002.

Montana

Montana made monumental improvements to its criminal and civil SOLs in 2019 after 30 years of no activity. It completely eliminated the criminal SOL for felonies and misdemeanors. It also modestly extended its civil SOL, but more significantly, it opened a limited revival window against perpetrators and institutions. On a scale of 0–5, overall, it ranks as a 3.75 (where 4.5 is the highest average score).

Criminal. There is currently no criminal SOL for child sex abuse offenses in Montana. In 2002, the criminal SOL for felony sexual assault, intercourse without consent and incest was age 28 (age of majority, 18, plus 10 years) and for other sexual abuse felonies and misdemeanors it was age 23 (age of majority, 18, plus 5 years).¹⁶⁶ A 1-year SOL was added in 2007 if DNA established the identity of the perpetrator at any time. That same year the SOL was also broadened to include more incest-related offenses. In 2017, the age 28 SOL for felonies was raised to age 38 (age of majority, 18, plus 20 years) and broadened to include sexual abuse of children. Montana

¹⁵⁸ MO. REV. STAT. § 556.036 (SOL).

¹⁵⁹ MO. REV. STAT. § 556.037 (no SOL).

¹⁶⁰ *Id.*

¹⁶¹ *Id.* While the legislature sought to apply the new SOL even to claims that would have been expired already, the Missouri Supreme Court held that the revival provisions “contravene the [Missouri] constitutional prohibition against retrospective laws.” *Doe v. Roman Catholic Diocese of Jefferson City*, 862 S.W.2d 338, 339 (Mo. 1993).

¹⁶² MO. REV. STAT. §§ 516.120(4) (5-year SOL), 516.170 (minority tolling); *Powel v. Chaminade Coll. Preparatory, Inc.*, 197 S.W.3d 576, 584 (Mo. 2006) (recognizing common law discovery rule applies to repressed memories of abuse), *as modified on denial of reh’g* (Aug. 22, 2006). *But see Dempsey v. Johnston*, 299 S.W.3d 704, 706 (Mo. Ct. App. 2009) (common law discovery rule inapplicable where “Plaintiff always remembered what had happened to him and knew it was wrong” even though he did not know of his resulting injuries).

¹⁶³ MO. REV. STAT. § 537.046 (SOL).

¹⁶⁴ *Id.*; *see also, State ex rel. Heart of Am. Council v. McKenzie*, 484 S.W.3d 320, 325 (Mo. 2016) (finding childhood sexual abuse statute does not apply to claims against non-perpetrators).

¹⁶⁵ MO. REV. STAT. § 537.047 (pornography SOL).

¹⁶⁶ MONT CODE ANN. § 45-1-205 (SOL).

eliminated its criminal SOL for felony and misdemeanor sexual abuse of children, including prostitution and trafficking in 2019.¹⁶⁷

Civil. The current civil SOL for child sex abuse claims in Montana is age 27 against all defendants, with a limited 3-year discovery rule and revival up to age 27. The civil SOL was amended in 1989 and capped claims at age 24 (age of majority, 21, plus 3 years) or discovery plus 3 years.¹⁶⁸ In addition, the SOL was retroactive so that it applied even to claims that had expired before 1989.¹⁶⁹ Also, the 3-year discovery rule permitted some breathing room as it also applied retroactively.¹⁷⁰ In 2019 Montana extended its civil SOL and opened a revival window, significantly improving access to justice for victims. It modestly extended its civil SOL to the earlier of age 27 or 3 years from discovery. A 1-year revival window opened on May 7, 2019 against institutions and perpetrators, yet contained a highly unusual limitation that actions against perpetrators could only be brought if the perpetrator is alive and has been convicted of or admitted to the abuse.¹⁷¹

Nebraska

Nebraska has been making steady progress on criminal and civil child sex abuse SOLs since 2002. It amended the criminal SOLs in 2004, 2005, 2006, 2009, 2019, and in 2020, it broadened its list of offenses with no SOL. It also eliminated the civil SOL in 2017. On a scale of 0–5, overall, it ranks as a 2.25.

Criminal. There is currently no criminal SOL in Nebraska for most crimes, and the SOL for lesser degrees of those offenses is age 25 or age 23, with an 18-month SOL for misdemeanors. As of 2002 in Nebraska, the criminal SOL for many child sex abuse felonies and misdemeanors was age 23 (age 16, plus 7 years) or 7 years after the offense, whichever is later. Any remaining felonies had an SOL of 3 years from the crime and misdemeanors had an SOL of 18 months from the crime, or only 1 year if the punishment was restricted to a \$100 fine or a three-month prison sentence.¹⁷² In 2004, Nebraska eliminated the criminal SOL for felony first-degree sexual assault of a child and felony first, second and misdemeanor third-degree sexual assault if the victim is under age 16.¹⁷³ It was amended in 2005 to eliminate the SOL for felony first and second-degree sexual assault without a limitation on the victim's age. It was amended again in 2006 to add felony sexual assault of a child in the second and third-degrees and in 2009 added felony incest to the list of eliminated offenses.¹⁷⁴ A 2019 amendment eliminated the SOL for felony sex trafficking of minors and felony child pornography and extended the SOL to 7 years after the victim reaches age 18 for lower levels of these offenses.¹⁷⁵ In 2020, Nebraska added a new crime: sexual contact of a student age 16-18 by a school employee with an SOL of 3 years from the offense.¹⁷⁶ It also

¹⁶⁷ *Id.*

¹⁶⁸ MONT CODE ANN. §§ 27-2-216 (SOL and discovery rule) and 27-2-401 (majority tolling).

¹⁶⁹ *Cosgriffe v. Cosgriffe*, 864 P.2d 776 (Mont. 1993).

¹⁷⁰ *Id.*

¹⁷¹ MONT CODE ANN. § 27-2-216 (SOL and discovery rule); *see also Cosgriffe*, 864 P.2d 776.

¹⁷² NEB. REV. STAT. § 29-110 (SOL).

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ NEB. REV. STAT. § 27-413 (sexual assault).

extended the criminal SOL for failure to report child abuse or neglect to 18 months after the offense or age 19 and a half (age 18 plus 1 1/2 years).¹⁷⁷

Civil. There is currently no civil SOL for child sexual assault claims against perpetrators, an SOL of age 33 for child sexual assault claims against all other defendants, and age 25 for all other claims in Nebraska. Nebraska has amended its civil SOL twice since 2002, when it was age 25 (age of majority, 21, plus 4 years) for child sex abuse claims.¹⁷⁸ In 2012, it extended the SOL to age 33 (age of majority, 21, plus 12 years) for claims by victims of the crime of sexual assault of a child. Then in 2017, Nebraska eliminated the civil SOL for claims against individuals directly causing an injury suffered from the crime of sexual assault of a child.¹⁷⁹ Nebraska has not passed a window or other SOL revival legislation since 2002.

Nevada

Nevada has made several changes to criminal and civil child sex abuse SOLs since 2002. In 2013, it extended its criminal SOL to age 36 (unless the abuse was not reasonably discoverable, which would extend the SOL to age 43). The civil SOL was extended in 2017 to age 38. Nevada also established the longest discovery period in the country, permitting victims to bring claims 20 years past the date of discovery of injury and its cause. On a scale of 0–5, overall, it ranks as a 2.75.

Criminal. There is no criminal SOL in Nevada for sexual assault rising out of the same facts as murder, or for sex trafficking and sexual assault, with certain reporting requirements. The SOL is age 36 for sexual abuse, with a discovery rule for remaining felonies. In 2002, the criminal SOL in Nevada was age 21, or 28 years of age if the victim did not and could not have reasonably discovered that they were a victim of sexual abuse by age 21. It also has a provision which removes the SOL for sexual assault and trafficking if a written report is filed with law enforcement before the SOL expires.¹⁸⁰ In 2013, the criminal SOL for sexual abuse and sex trafficking was extended to age 36, or age 43 if the abuse was not reasonably discoverable by age 36 for felonies and misdemeanors.¹⁸¹ In 2019, Nevada added a DNA discovery rule, eliminating the criminal SOL for felony sexual assault where the identity of an accused perpetrator is established by DNA evidence.¹⁸² It also added a very narrow criminal elimination statute for a sexual assault arising out of the same facts as murder.¹⁸³ Nevada is still 1 of only 8 states that has not eliminated the SOL for any felony crimes.

Civil. Currently, there is no SOL for claims against perpetrators where there is clear and convincing evidence, and it is otherwise age 38 for claims against all defendants with a 20-year discovery rule. In 2002, there was no civil SOL for claims against a perpetrator if there was clear and convincing evidence of the abuse.¹⁸⁴ Otherwise, the civil SOL was age 28 (age of majority, 18, plus 10 years) or 10 years from discovery. In 2017, it was extended to age 38 (age of majority, 18, plus 20 years) and a generous discovery rule was added that gives the victim 20 years to file a

¹⁷⁷ NEB. REV. STAT. § 29-110 (10) (minority tolling).

¹⁷⁸ NEB. REV. STAT. §§ 25-207 (4-year SOL), 25-213 (SOL).

¹⁷⁹ NEB. REV. STAT. § 25-228 (age 33 SOL).

¹⁸⁰ NEV. REV. STAT. ANN. § 171.083 (no SOL).

¹⁸¹ NEV. REV. STAT. ANN. §§ 171.095 (sex trafficking SOL), 171.083 (no SOL).

¹⁸² NEV. REV. STAT. ANN. § 171.082; AB 142, 80th Leg. (Nev. 2019).

¹⁸³ SB 9, 80th Leg. (Nev. 2019); NEV. REV. STAT. ANN. § 171.080 (no SOL).

¹⁸⁴ *Petersen v. Bruen*, 792 P.2d 18, 25 (Nev. 1990).

claim following discovery that injury was caused by the sex abuse.¹⁸⁵ Nevada has not passed a window or other SOL revival legislation since 2002.

New Hampshire

New Hampshire has not changed its criminal SOL since 2002, but it has made remarkable changes to its civil SOL. The civil SOL was extended in 2005 and then eliminated in 2020. On a scale of 0–5, overall, it ranks as a 2.75.

Criminal. The current criminal SOL in New Hampshire is age 40 for sexual assault and incest, age 38 for trafficking offenses, age 24 for other felonies, and age 19 for misdemeanors. In 1990, New Hampshire set the SOL for felony sex abuse at age 40 (age of majority, 18, plus 22 years).¹⁸⁶ In 2000, incest was added to the list of felonies with an SOL of age 40. In 2014, the SOL for trafficking in persons was extended to age 38 (age of majority, 18, plus 20 years). The SOL for all other felony crimes is age 24 and age 19 for all misdemeanors. New Hampshire is still one of only 8 states that has not eliminated the SOL for any felony crimes.

Civil. There is no SOL in New Hampshire for incest and sexual assault of minors against any defendants, and the remaining claims have an SOL of age 30. The civil SOL in New Hampshire in 2002 was age 21 (age of majority, 18, plus 3 years) with a 3-year discovery rule. In 2005, it was extended to age 25 (age of majority, 18, plus 7 years) and in 2008, it was extended again to age 30 (age of majority, 18, plus 12 years). The 3-year discovery rule also remained intact.¹⁸⁷ In 2020, New Hampshire eliminated the civil SOL for incest and sexual assault of minors and adults.¹⁸⁸ The new law also removes the notification requirements for actions against the government.¹⁸⁹ New Hampshire has not passed a window or other SOL revival legislation since 2002.

New Jersey

Before 2019, New Jersey had not made any changes to its criminal or civil child sex abuse SOLs since 2002. It eliminated the criminal SOL for some felonies in 2001 and subjects all other crimes to an age limit of 23. In 2019, civil claims were extended to age 55 or 7 years from discovery, and a 2-year revival window opened. On a scale of 0–5, overall, it ranks as a 4, making it one of the highest-ranking states.

Criminal. There is no SOL for felonious sexual assault, the SOL for criminal sexual conduct and endangering the welfare of a child is age 23, the SOL for other felonies is 5 years from the offense, and 1 year for misdemeanors, with discovery and DNA rules. Since 2001, New Jersey’s criminal SOL has been eliminated for felonious sexual assault. Felony criminal sexual contact and endangering the welfare of a child are subject to an SOL of age 23 (age of majority, 18, plus 5 years) or 2 years following discovery of the abuse.¹⁹⁰ Remaining felonies have an SOL of 5 years

¹⁸⁵ NEV. REV. STAT. ANN. § 11.215 (sexual abuse, child pornography).

¹⁸⁶ N.H. REV. STAT. ANN. § 625:8 (SOL).

¹⁸⁷ N.H. REV. STAT. ANN. § 508:4-g (right to civil action).

¹⁸⁸ *Id.*

¹⁸⁹ N.H. REV. STAT. ANN. § 507-B:7(II) (no SOL).

¹⁹⁰ N.J. STAT. ANN. § 2C:1-6 (SOL).

and misdemeanors 1 year, and run from when the offense is committed.¹⁹¹ However, if the identity of the perpetrator is supported by DNA or fingerprint testing, the SOL for prosecution of any crime does not begin to run until the State is in possession of both the physical evidence and the DNA or fingerprint evidence that identifies the perpetrator.¹⁹²

Civil. The current civil SOL for child sex abuse claims against any defendants in New Jersey is age 55 with a 7-year discovery rule, revival up to age 55, and an open revival window until November 30, 2021. New Jersey's prior civil SOL dated back to 1992, and provided for age 20 (age of majority, 18, plus 2 years) and a 2-year discovery rule.¹⁹³ The discovery rule ran from discovery of the causal connection between the abuse and the injury and was determined from the perspective of a child sex abuse victim.¹⁹⁴ In 2019, 25 years later, New Jersey amended its extremely short SOL. It retroactively extended the civil SOL to age 55 or 7 years from discovery, whichever is later. On December 1, 2019, a 2-year window opened and revived all expired claims in New Jersey for child sex abuse victims and those sexually abused as adults.¹⁹⁵

New Mexico

New Mexico has made only minor changes to its civil and criminal SOLs since 2002. It has no criminal SOL for some felonies and in 2003 added a DNA provision for remaining crimes. The civil SOL was broadened in 2017, but is still short at age 24 or 3 years after disclosure. On a scale of 0–5, overall, it ranks as a 1.75 (where 0.75 is the lowest average score).

Criminal. There is currently no criminal SOL for first-degree felonies in New Mexico, an age 23 SOL for abandonment or abuse, criminal sexual penetration, or criminal sexual contact, and the SOL for other felonies is between 5-6 years from commission, and 2 years for misdemeanors. Since 1997, there has been no criminal SOL for first-degree felonies in New Mexico.¹⁹⁶ The SOL for other felonies is between 5 and 6 years from when the crime is committed, and the SOL for misdemeanors is 2 years from when the crime is committed.¹⁹⁷ The SOL for felony and misdemeanor abandonment or abuse of a child, criminal sexual penetration, and criminal sexual contact with a minor does not run until either a victim reaches the age of 18 or until the violation is reported to a law enforcement agency, whichever comes first.¹⁹⁸ A DNA statute was added for the crime of sexual penetration in 2003, which provides that if DNA is collected the SOL only starts running after a match is found.¹⁹⁹ In 2019, the state was poised to pass a bill that would have extended the criminal SOL for additional felonies, but the Governor vetoed that bill because of a drafting error that would have shortened the SOL for some felonies.²⁰⁰

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ N.J. STAT. ANN. § 2A:14-2 (2-year SOL); 2A:61B-1(b) (discovery rule).

¹⁹⁴ *R.L. v. Kenneth Voytac*, 199 N.J. 285 (2009).

¹⁹⁵ A.B. 3648, 218th Leg., Reg. Sess., (N.J. 2018); *see* N.J. STAT. ANN. §2A:14-2a (effective Dec. 1, 2019).

¹⁹⁶ N.M. STAT. ANN. 1978, § 30-1-8 (no SOL).

¹⁹⁷ *Id.*

¹⁹⁸ N.M. STAT. ANN. 1978, § 30-1-9.1 (majority tolling).

¹⁹⁹ N.M. STAT. ANN. 1978, § 30-1-9.2 (DNA).

²⁰⁰ Colleen Heild, *Fatal flaw: Drafting error sinks child sex crime bill*, ALBUQUERQUE JOURNAL (May 5, 2019, 12:05 AM), <https://www.abqjournal.com/1311227/fatal-flaw-drafting-error-sinks-child-sex-crime-bill.html>.

Civil. The current civil SOL for child sex abuse claims against all defendants in New Mexico is age 24 with a discovery rule. In 2002, the civil SOL was age 24 or 3 years from discovery.²⁰¹ In 2017, the SOL discovery provision was revised to run within 3 years from the date a person first disclosed the abuse to a licensed medical or mental health care provider when seeking or receiving health care from that provider.²⁰² New Mexico has not passed a window or other SOL revival legislation since 2002.

New York

As of 2002, New York was one of the worst states for access to justice for child sex abuse victims in the country, with poor criminal and civil SOLs. In 2006, New York eliminated the criminal SOL for some felonies. The Child Victims Act in 2019 modestly extended its criminal SOL. But more significantly, it extended the civil SOL to age 55 and created a 1-year revival window for victims to file claims. Just before the initial window was set to close, New York passed a law extending the original 1-year window by an additional year so that it is now open until August 14, 2021. On a scale of 0–5, overall, it ranks as a 2.75 .

Criminal. There is currently no criminal SOL for first degree child sex abuse offenses in New York, and the SOL for other felonies is either age 28, 33 or 43, and age 25 for misdemeanors. In 2002, New York had an SOL of the earlier of age 18 or the time of reporting to law enforcement for sexual offenses committed against children.²⁰³ In 2006, New York eliminated the criminal SOL for the felonies of first-degree rape, first-degree aggravated sexual abuse, and first-degree course of sexual conduct against a child.²⁰⁴ The SOL for all other felonies was age 23 (age of majority, 18, plus 5 years) and age 20 for misdemeanors (age of majority, 18, plus 2 years).²⁰⁵ Case law interpreted the statute to toll the statute of limitations for felonies and misdemeanors until the DNA identification of a perpetrator.²⁰⁶ In 2019, New York made several improvements to its criminal SOLs. Now there is no SOL for first-degree incest. For rape and criminal sexual act in the second degree, the SOL is age 43 and in the third degree, it is age 33. The SOL for all other felonies is age 28 and for misdemeanors age 25.²⁰⁷

Civil. The current civil SOL for child sex abuse claims against all defendants in New York is age 55 with an open revival window until August 14, 2021. In 2002, the civil SOL was up to 10 years from the date of conviction of any first-degree felony.²⁰⁸ In 2006, it was extended to age 23 for claims against perpetrators and age 21 for personal injury claims against other defendants.²⁰⁹ In 2019, the Child Victim’s Act extended the civil SOL to age 55 for civil suits against any party, including perpetrators and public and private institutions. There is no discovery rule. The CVA rule removed the unreasonably short 90-day notice of claim requirement for claims against public

²⁰¹ N.M. STAT. ANN. 1978, § 37-1-30 (age 24 SOL). Pursuant to the discovery rule, the SOL ran from when a victim knew or had reason to know of the abuse and that it resulted in an injury, "as established by competent medical or psychological testimony".

²⁰² N.M. STAT. ANN. 1978, § 37-1-30 (discovery rule).

²⁰³ N.Y. CRIM. PROC. LAW § 30.10 (McKinney) (1996) (SOL).

²⁰⁴ N.Y. CRIM. PROC. LAW § 30.10 (McKinney) (SOL).

²⁰⁵ *Id.*

²⁰⁶ N.Y. CRIM. PROC. LAW § 30.10 (McKinney)(4)(a)(ii) (tolling); *People v. Ramos*, 921 N.E.2d 598, 599 (N.Y. 2009).

²⁰⁷ *Id.*

²⁰⁸ N.Y. C.P.L.R. § 213-b (McKinney) (10-years post-conviction).

²⁰⁹ N.Y. C.P.L.R. § 213-c (McKinney) (revival); N.Y. C.P.L.R. §214(5) (3-year SOL); See *Green v. Emmanuel African Methodist Episcopal Church*, 718 N.Y.S.2d 324, 324-25 (N.Y.S.Ct. Dec. 21, 2000).

institutions that protected them from civil liability for so long. The Act also included a 1-year revival window for previously time barred claims that opened on August 14, 2019.²¹⁰ Due to Covid-19-related court closures, on May 8, 2020, Governor Cuomo signed an executive order extending the window to remain open until January 14, 2021.²¹¹ On August 5, 2020, a new bill was signed into law extending the original 1-year window by an additional year so that it is now open until August 14, 2021.²¹² Over 4,500 suits have already been filed pursuant to New York’s Child Victim’s Act revival window.

North Carolina

North Carolina enacted sweeping SOL reform in 2019, after not changing its criminal and civil SOLs in decades. There is no criminal SOL for felonies, and, for misdemeanors it was extended to 10 years from the crime. The civil SOL was extended to age 28 and a 2-year revival window opened on January 1, 2020 for civil claims that had previously expired. On a scale of 0–5, overall, it ranks as a 2.25.

Criminal. There is currently no criminal SOL for felonies, and an SOL of 10 years from commission for most misdemeanors.²¹³ Its criminal SOL for misdemeanors was 2 years from the offense, and in 2019, it was extended to 10 years from the commission of the crime.²¹⁴

Civil. The current civil SOL for child sex abuse claims in North Carolina is age 28 against all defendants with a very narrow discovery rule, and an open revival window until December 31, 2021. In 2002, the civil SOL in North Carolina was age 21 (age of majority, 18, plus 3 years) or 3 years from discovery with limitations.²¹⁵ The judicial interpretation of the discovery rule permits the victim to have 3 years after the victim discovers he was injured by the perpetrator’s actions.²¹⁶ North Carolina, however, has a statute of repose, which places an upper limit on the discovery rule of 10 years after the last act by the defendant.²¹⁷ In 2019, the North Carolina legislature unanimously passed sweeping SOL reform that was signed into law by Governor Roy Cooper. The new law extended the civil SOL to age 28, adds a 2-year extension from criminal conviction of a perpetrator for a related felony sexual offense, and opens a 2-year revival window for expired claims. Claims of child sex abuse stemming from criminal convictions had been excluded from the 10-year statute of repose.²¹⁸ In 2019, North Carolina also extended the civil SOL for human trafficking, which includes sexual servitude of a minor, to age 28 (age of majority, 18, plus 10 years).²¹⁹

North Dakota

North Dakota had some of the shortest criminal and civil SOLs until 2019. It has made amendments, finally extending the criminal SOL to age 39. The civil SOL is now a narrow

²¹⁰ S. 2440, 242nd Leg., Reg. Sess. (N.Y. 2019).

²¹¹ 2020 Sess. Law News of N.Y. Exec. Order 202.29 (McKinney).

²¹² 2020 Sess. Law News of N.Y. Exec. Order 202.55 (McKinney).

²¹³ See *State v. Johnson*, 275 N.C. 264, 279 (1969).

²¹⁴ N.C. GEN. STAT. ANN. § 15-1 (misdemeanor SOLs); S 199, 2019 Leg., Reg. Sess. (N.C. 2019).

²¹⁵ N.C. GEN. STAT. ANN. § 1-52(16) (SOL).

²¹⁶ *Doe v. Roman Catholic Diocese of Charlotte, NC*, 775 S.E2d 918 (N.C. App. 2015).

²¹⁷ *Id.*; *Doe v. Doe*, 973 F.2d 237 (4th Cir. N.C. 1992).

²¹⁸ S 199, 2019 Leg., Reg. Sess. (N.C. 2019).

²¹⁹ S 200, 2019 Leg., Reg. Sess. (N.C. 2019).

discovery rule of 10 years, and 10 years for trafficking. On a scale of 0–5, overall, it ranks as a 0.75, making it the lowest ranking state.

Criminal. The current criminal SOL for child sex abuse offenses in North Dakota is age 36 for sex abuse of victims under age 15, age 22 for human trafficking of victims under age 15, 7 years for trafficking of victims older than age 15, and 2-3 years for other felonies and misdemeanors, with a DNA rule. The criminal SOL in 2002 for felony and misdemeanor sexual abuse of minors was 7 years from the offense or 3 years after reporting to law enforcement, whichever was more recent. A tolling rule for victims under age 15 stopped the 7-year SOL from running until they were 15 years-old, effectively extending the SOL to age 22.²²⁰ Other felony sex offenses had an SOL of 3 years and misdemeanors had an SOL of 2 years from the offense. For victims under age 15 the SOL did not start running until they reached age 15.²²¹ In 2015, North Dakota extended the criminal SOL for sexual abuse of minors to 10 years from the offense or 3 years after reporting. It also added a 3-year discovery rule, which extended the SOL for sexual abuse of minors to 3 years after the offense is reported or DNA identifies the perpetrator. In 2017, it added identification via fingerprinting too. Like the previous SOL, the 10-year SOL was tolled for victims under age 15 so that prosecution was permitted until a victim reaches age 25 (age of tolling, 15, plus 10 years).²²² In 2015 North Dakota extended the SOL for prosecution of felony human trafficking to 7 years from the offense if a victim is age 15, 16 or 17 and age 22 (age of tolling, 15, plus 7 years) if victim is under age 15.²²³ In 2019, North Dakota extended the criminal SOL again. Now, the SOL for sexual abuse of minors under age 15 is 21 years from the offense or 3 years after it is reported to law enforcement or DNA or fingerprint evidence establishes the identity of the perpetrator, even if the prior SOLs expired, whichever is later. Under the tolling rule for sexual abuse of minors under age 15, prosecution is permitted until a victim reaches age 36 (age of tolling, 15, plus 21 years).²²⁴ North Dakota is still one of only 8 states that has not eliminated the SOL for any felony crimes.

Civil. The current civil SOL for child sex abuse claims against all defendants in North Dakota is age 28 for trafficking and age 19 for other claims, with a discovery rule. In 2002, North Dakota’s civil SOL was age 19 (age of majority, 18, plus 1 year) with a narrow 2-year discovery rule.²²⁵ In 2011, a 7-year discovery statute was added for gross sexual imposition and use of a minor in a sexual performance and runs from the date the victim “knew or reasonably should have known that a *potential* claim exists.”²²⁶ In 2015, the discovery statute was extended to 10 years. There are no decisions interpreting North Dakota’s discovery statute, so it remains unclear whether it is helpful to victims or what types of defendants that could be held liable pursuant to it. In 2015, the state added an SOL for trafficking of age 28 (age of majority, 18, plus 10 years) or 10 years from

²²⁰ N.D. CENT. CODE ANN. §§ 29-04-03.1 (SOL), 29-04-03.2 (minority tolling). *See also State v. Goebel*, 725 N.W.2d 578, 585 (N.D. 2007).

²²¹ N.D. CENT. CODE ANN. §§ 29-04-02, 29-04-03 and 29-04-03.2 (majority tolling).

²²² N.D. CENT. CODE ANN. § 29-04-03.1 (SOL).

²²³ N.D. CENT. CODE ANN. §§ 29-04-02.1 (human trafficking) and 29-04-03.2 (majority tolling).

²²⁴ N.D. CENT. CODE ANN. § 29-04-03.1 (SOL).

²²⁵ N.D. CENT. CODE ANN. §§ 28-01-18 (2-year SOL), 28-01-25 (majority tolling). *See also Dunford v. Tryhus*, 2009 ND 212, ¶ 7, 776 N.W.2d 539, 541 (N.D. 2009); *Osland v. Osland*, 442 N.W.2d 907, 909 (N.D. 1989) (recognizing common law discovery rule); *Dunford v. Tryhus*, 776 N.W.2d 539, 542 (N.D. Dec. 15, 2009) *citing Wall v. Lewis*, 393 N.W.2d 758, 761 (N.D. 1986); *Peterson v. Huso*, 552 N.W.2d 83, 85-86 (N.D. 1996).

²²⁶ N.D. CENT. CODE ANN. § 28-01-25.1 (emphasis added).

when trafficking ended, whichever is later.²²⁷ North Dakota has not passed a window or other SOL revival legislation since 2002.

Ohio

While Ohio has made changes to its criminal and civil SOLs since 2002, it still lags behind most of the country. Ohio has not yet eliminated any criminal SOL, placing it alongside only 7 other states to fail to eliminate any criminal SOLs. It amended the criminal SOL in 2015 by extending the age for some felonies to age 43. The civil SOL is also relatively short as it is capped at age 30. On a scale of 0–5, it ranks as a 1 (where 0.75 is the lowest average score).

Criminal. The current criminal SOL for child sex abuse offenses in Ohio is age 43 for rape and sexual battery, age 38 for other felonies, and age 20 for misdemeanors, with a DNA rule. In 2002, the criminal SOL was age 24 for felony offenses and age 20 for misdemeanor crimes.²²⁸ In 2015, the criminal SOL was extended to age 43 for rape and sexual battery, 38 for other felonies, and age 20 for misdemeanors. That same year it also added a DNA provision for rape and sexual battery which eliminated the SOL if there was a DNA match within 25 years of the offense or if after 25 years, it extended the SOL by 5 years.²²⁹ Ohio is still one of only 8 states that has not eliminated the SOL for any felony crimes.

Civil. The current civil SOL for child sex abuse claims in Ohio is age 30 against all defendants with a fraudulent concealment rule. The Ohio civil SOL was age 19 (age of majority, 18, plus 1 year) in 2002.²³⁰ In 2006, though, the civil SOL was extended to age 30 (age of majority, 18, plus 12 years). It also added a special provision for claims of fraudulent concealment that the SOL does not begin to run until a victim discovers the facts that form the basis of its fraud claim.²³¹ Ohio also came very close to enacting a window that would have permitted revival of expired civil SOL claims, but the measure was defeated by the Catholic bishops.²³² Ohio has not passed a window or other SOL revival legislation since 2002.

Oklahoma

Oklahoma amended its short criminal and civil SOLs a few times since 2002, with the most improvements in 2017. Oklahoma extended the criminal SOL for felonies to age 45 in 2017, but it has yet to join the mainstream in eliminating the criminal SOL for at least some felonies. The civil SOL was also extended to age 45 against perpetrators in 2017. On a scale of 0–5, overall, it ranks as a 2.

Criminal. The current criminal SOL for most child sex abuse offenses in Oklahoma is age 45 with reporting and DNA rules, and 3 years after the offense for other felonies and misdemeanors. The criminal SOL in 2002 for most child sexual abuse felonies was 7 years after the crime was reported to law enforcement with a requirement that the crime must be reported before age 20, so the latest crimes could be prosecuted was age 26. It also had a DNA statute that extended the SOL to 3

²²⁷ N.D. CENT. CODE ANN. § 12.1-41-15 (majority tolling).

²²⁸ OHIO REV. CODE ANN. § 2901.13 (SOL).

²²⁹ *Id.*

²³⁰ OHIO REV. CODE ANN. § 2305.111(C) (12-year).

²³¹ *Id.*

²³² See Justice Denied, *supra* note 10, at 56-59, 80-85.

years after a DNA match if it was reported before age 20.²³³ In 2005, it was amended to up to 12 years after being reported to the authorities before age 20, with an upper limit for the SOL of age 32.²³⁴ In 2015, the list of crimes until the SOL was extended to include aggravated possession of child pornography. Then, in 2017, the SOL was extended to age 45 for child sex abuse crimes and the DNA statute no longer required that the crime be reported.²³⁵ Prosecution for any remaining felonies and misdemeanors must commence within 3 years after the crime is committed.²³⁶ Oklahoma is still one of only 8 states that has not eliminated the SOL for any felony crimes.

Civil. The current civil SOL for child sex abuse claims in Oklahoma is age 45 against perpetrators and age 20 against all other defendants. In 2002, the civil SOL was age 20 with a 2-year discovery rule for victims up until age 38.²³⁷ Oklahoma added a provision in 2004 extending the SOL against an imprisoned perpetrator to 5 years after the perpetrator's release. It was further extended in 2017 to age 45 for actions against perpetrators, with no discovery rule. However, the state left the SOL for claims against other defendants at age 20, and removed the discovery rule.²³⁸ Oklahoma has not passed a window or other SOL revival legislation since 2002.

Oregon

Oregon has made changes to both criminal and civil SOLs since 2002. In 2005, it extended the criminal SOL to age 30, and in 2009, added a provision eliminating the SOL for first degree crimes if there is a DNA match in 2009. The civil SOL at age 40 with a 5-year discovery rule, which is applied liberally, makes it one of the most progressive civil SOLs in the country, short of a revival window. On a scale of 0–5, overall, it ranks as a 3.

Criminal. The current criminal SOL for child sex abuse offenses in Oregon is age 30 for most felonies and age 22 for third-degree sexual abuse, with a DNA rule that eliminates the SOL for certain crimes. In 2002, the criminal SOL for felonies was the earlier of age 24 or 6 years after reporting and for misdemeanors age 22 or 4 years after reporting.²³⁹ In 2005, it moved the SOL for felonies to age 30 or 12 years after reporting to law enforcement, whichever occurs first. But then it set the SOL at age 30 for several first-degree crimes regardless of when it was reported in 2015.²⁴⁰ In 2007, the SOL for first-degree crimes where DNA identifies a perpetrator was extended from 12 to 25 years from the crime and then in 2009 it was eliminated completely.²⁴¹ Oregon is still one of only 8 states that has not eliminated the SOL for any felony crimes.

Civil. The current civil SOL for child sex abuse claims against all defendants in Oregon is age 40 with a 5-year discovery rule and revival up to age 40. In 2002, the civil SOL was age 24 (age of majority, 18, plus 6 years) with a 3-year discovery rule.²⁴² In 2010, this was extended to age 40

²³³ OKLA. STAT. ANN. tit. 22, § 152 (SOL).

²³⁴ OKLA. STAT. ANN. tit. 22, § 152 (L) (“As used in paragraph 1 of subsection C of this section, “discovery” means the date that a physical or sexually related crime involving a victim under the age of eighteen (18) years of age is reported to a law enforcement agency, up to and including one (1) year from the eighteenth birthday of the child.”).

²³⁵ OKLA. STAT. ANN. 22, § 152 (SOL).

²³⁶ OKLA. STAT. ANN. 22, § 152 (H) (3-year SOL).

²³⁷ OKLA. STAT. ANN. § 95 (SOL).

²³⁸ *Id.*

²³⁹ OR. REV. STAT. ANN. § 131.125 (SOL).

²⁴⁰ OR. REV. STAT. ANN. § 131.125 (SOL).

²⁴¹ *Id.*

²⁴² OR. REV. STAT. ANN. § 12.117 (age 40 SOL).

and a 5-year discovery rule.²⁴³ The expanded SOL applies retroactively to revive time-barred actions with the 5-year discovery rule or until a victim reaches age 40.²⁴⁴ The discovery rule is very liberal in application. Oregon has not passed a revival window or additional revival legislation since 2002.

Pennsylvania

Pennsylvania has improved both its criminal and civil SOLs since 2002. It extended, and then in 2019 eliminated, the criminal SOL for many felonies. The civil SOL was extended to age 55, which is average amongst the states. On a scale of 0–5, overall, it ranks as a 1.75.

Criminal. There is currently no SOL for most child sex abuse offenses in Pennsylvania and the SOL is age 55 for all other child sex abuse felonies and misdemeanors. The criminal SOL was extended in 2002 from age 23 to 30 (age of majority, 18, plus 12 years).²⁴⁵ A 1-year SOL extension was added in 2004 if DNA identified the perpetrator. Following the 2005 Philadelphia District Attorney’s Grand Jury Report on sex abuse in the Philadelphia Archdiocese, it was extended to age 50.²⁴⁶ In 2014, trafficking and sexual servitude were added to the list of offenses for which the SOL is age 50. In 2019, Pennsylvania eliminated the criminal SOLs for certain felonies (trafficking, sexual servitude, rape, statutory sexual assault, involuntary deviate sexual intercourse, sexual assault, institutional sexual assault, aggravated indecent assault, and incest), and it extended the criminal SOL for other felony and misdemeanor sexual offenses to age 55.

Civil. The current civil SOL for child sex abuse claims against all defendants in Pennsylvania is age 55. Before 2002, the civil SOL in Pennsylvania was age 20.²⁴⁷ In 2002, Pennsylvania’s civil SOL was extended to age 30.²⁴⁸ Pennsylvania has generated the most grand jury reports on child sex abuse in the country, and despite many efforts at SOL reform they were not successful until recently.²⁴⁹ In 2019, Pennsylvania extended the civil SOL to age 55 for victims sexually abused as minors and expanded liability for government institutions by providing exceptions to the laws of government immunity and limitations on damages.²⁵⁰ Pennsylvania also passed a resolution

²⁴³ *Id.*

²⁴⁴ *Doe v. Silverman*, 401 P.3d 793, 796 (Or. 2017).

²⁴⁵ tit. 42 PA. STAT. AND CONS. STAT. ANN. § 5552 (SOL).

²⁴⁶ *Id.*

²⁴⁷ tit. 42 PA. STAT. AND CONS. STAT. ANN. § 5533 (age 20 SOL).

²⁴⁸ *Id.*

²⁴⁹ In addition to the first diocesan grand jury reports, *see, Reports of Attorneys General, Grand Juries, Individuals, Commissions, and Organizations*, BISHOPACCOUNTABILITY.ORG, <http://www.bishop-accountability.org/AtAGlance/reports.htm> (last visited Sept. 26, 2019), *see also, Sandusky Presentment*, NPR, https://www.npr.org/assets/news/2011/11/sandusky_presentment.pdf; *see also, Commonwealth of Pennsylvania Office of the Bucks County District Attorney, Grand Jury Report on Solebury School Sexual Abuse Released*, BUCKSCOUNTY.ORG (Feb. 1, 2017), available at <http://www.buckscounty.org/about/trail-study-lower-bucks-news/2017/02/01/grand-jury-report-on-solebury-school-sexual-abuse-released>; *see, Ed Mahon, Six dioceses now under investigation in Pa.*, YORK DAILY RECORD (Sept. 16, 2016, 9:16 P.M.), available at <https://www.ydr.com/story/news/2016/09/16/some-hope-harrisburg-diocese-investigation-gives-answers/90510824/>.

²⁵⁰ In 2019, the Superior Court of Pennsylvania found that whether a victim exercised reasonable diligence in discovering her injury and whether she had a confidential relationship with a diocese is a question of fact for a jury. Some argue that this case may create an opportunity for some victims to bring claims of fraudulent concealment and civil conspiracy in court, despite their expired statute of limitation. *See Rice v. Diocese of Altoona-Johnstown*, 212 A.3d 1055 (Pa. Super Ct. 2019). The Pennsylvania Supreme Court granted a request to hear the case that was made by Defendants and the Court heard oral arguments on October 20, 2020. It is unclear when the Court will issue its decision on this matter. *See Rice v. Diocese of Altoona-Johnstown*, 226 A.3d 560 (Pa., Mar. 02, 2020).

proposing an amendment to the Pennsylvania Constitution to open a 2-year revival window for victims of child sex abuse. The resolution was set to be passed again by the legislature in 2021 and then presented to voters for approval by referendum for the window to become law.²⁵¹ Unfortunately, the amendment was defeated by the State Department's failure to meet the advertising requirements for the referendum.²⁵²

Rhode Island

Rhode Island made no changes to criminal SOLs since 2002 and made some progress on civil SOL reform in 2019. It is in the mainstream of states, with no criminal SOLs for most felonies. In 2019, it extended its civil SOL to age 55, and revived claims up to age 55 against perpetrators only. On a scale of 0–5, overall, it ranks as a 3.25.

Criminal. There is currently no criminal SOL in Rhode Island for certain child sex abuse felonies and the SOL for all other crimes is three years from the commission of the act. Rhode Island eliminated the criminal SOLs for some felonies in 1985.²⁵³ The SOL for all other child sex abuse felonies and misdemeanors is 3 years from the offense.²⁵⁴

Civil. The current civil SOL for all child sex abuse claims against all defendants in Rhode Island is age 53 with a 7-year discovery rule and revival up to age 53 against perpetrators only. Since 1993, the Rhode Island civil SOL for child sex abuse was age 25 (age of majority, 18, plus 7) or 7 years after discovery against the perpetrator, and age 21 (age of majority, 18, plus 3 years) against other defendants.²⁵⁵ The discovery rule is applied liberally in favor of the victim. In 2019, Rhode Island extended its civil SOL to age 53 (age of majority, 18, plus 35 years) with an expanded 7-year delayed discovery rule against perpetrators, private organizations, and the government. The new SOL has a retroactive element and revives expired claims up to age 53 against perpetrators only.²⁵⁶

South Carolina

South Carolina has made no changes to its criminal or civil SOLs since 2002. It is among the leaders in the country for child sex abuse criminal SOLs, because it has eliminated all of them. However, the civil SOL is short at age 27 with a 3-year discovery rule. On a scale of 0–5, overall, it ranks as a 2.5.

Criminal. There is currently no criminal SOL in South Carolina for felonies or misdemeanors for child sex abuse.²⁵⁷ This has been the case since 2002.

²⁵¹ HB 963, 2019 Leg., Gen. Assemb. (Pa. 2019); HB 962, 2019 Leg., Gen. Assemb. (Pa. 2019).

²⁵² Angela Columbus, *A Pa. Dept. of State error means some sex-abuse victims will again have to wait for justice*, SPOTLIGHT PA (Feb. 1, 2021) available at <https://www.inquirer.com/politics/pennsylvania/spl/kathy-boockvar-resign-pennsylvania-election-official-constitutional-amendment-20210201.html>.

²⁵³ tit. 12 R.I. GEN. LAWS ANN. § 12-12-17 (no SOL).

²⁵⁴ *Id.*

²⁵⁵ tit. 9 R.I. GEN. LAWS ANN. § 9-1-51 (SOL) and § 9-1-14(b) (institutional defendant SOL).

²⁵⁶ tit. 9 R.I. GEN. LAWS ANN. § 9-1-51 (SOL).

²⁵⁷ S.C. CODE ANN. § 16-3-655 (criminal sexual conduct). Unlike many states, South Carolina has no statute of limitations on criminal cases.

Civil. The current civil SOL for child sex abuse claims against all defendants in South Carolina is age 27 with a discovery rule. Since 2001, the South Carolina civil SOL has been age 27 or 3 years from discovery.²⁵⁸ South Carolina has not changed its civil SOL or passed a window or other SOL revival legislation since 2002.

South Dakota

South Dakota is the only state to retract SOLs since 2002. It has no criminal SOL for felonies. The civil SOL runs to age 21 with a 3-year discovery rule. Since 2010, the discovery rule has been capped at age 40, blocking all claims against anyone other than the perpetrator at age 40. On a scale of 0–5, overall, it ranks as a 1.25 (where 0.75 is the lowest average score).

Criminal. There is currently no criminal SOL in South Dakota for most felonies and an SOL of age 25 for all other child sex abuse crimes. South Dakota eliminated the criminal SOL for Class A, B, and C felonies in 1978, over 40 years ago.²⁵⁹ All other felonies and misdemeanors are subject to an SOL of age 25 (age of majority, 18, plus 7 years).²⁶⁰

Civil. The current civil SOL for child sex abuse claims against all defendants in South Dakota is age 21 with a 3-year discovery rule that has an upper age limit of 40 years for claims against institutions. South Dakota is the only state to backtrack on child sex abuse SOLs since 2002. In 1991, the civil SOL was age 21 or 3 years from discovery, whichever was later.²⁶¹ In 2010, the state limited the discovery rule by adding an upper limit of age 40 for claims against all but the perpetrator, which immunized institutions.²⁶² The targets that were intentionally kept out of court were Native American victims who had attended boarding schools on Native American Reservations where Catholic priests taught.²⁶³ The 40-year-old limit for institutions meant the church would not be held liable for the abuse on Reservations that occurred. South Dakota has not passed a window or other SOL revival legislation since 2002.

Tennessee

Since 2000, Tennessee has made some of the most changes to criminal SOLs compared to every other state, while making two changes to civil SOLs. Before finally eliminating its criminal SOL, it was amended seven different times, in 2006, 2007, 2012, 2013, 2014, 2015, 2016, and 2019. Tennessee has expanded the civil SOL twice, to age 33 with a liberal 3-year discovery rule. On a scale of 0–5, overall, it ranks as a 2.25.

Criminal. There is currently no SOL for certain child sex abuse offenses in Tennessee with a reporting rule. Tennessee has expanded its criminal SOL eight times since 2002. In 2002, Tennessee had no SOL for offenses punishable by death or life imprisonment, and for other felonies it was age 21 or 4 years from the offense, whichever is later. In 2006, it extended the SOL

²⁵⁸ S.C. CODE ANN. § 15-3-555 (age 27 SOL).

²⁵⁹ S.D. CODIFIED LAWS § 23A-42-1 (no SOL).

²⁶⁰ S.D. CODIFIED LAWS § 23A-42-2 (7-year SOL).

²⁶¹ S.D. CODIFIED LAWS § 26-10-25 (3-year SOL).

²⁶² *Id.*

²⁶³ Patrick Anderson, *Native American Victims of Sex Abuse at Catholic Boarding Schools Fight for Justice*, Argus Leader, (March 12, 2020), <https://www.argusleader.com/story/news/2019/05/16/native-american-sex-abuse-victims-catholic-boarding-schools-south-dakota/1158590001/>.

for rape, sexual battery, and incest to age 43.²⁶⁴ It broadened its SOL of age 43 to include more crimes of child sex abuse in 2007, child pornography and sexual exploitation in 2012, and promoting prostitution in 2015.²⁶⁵ In 2013, the state extended the criminal SOL for crimes of child sex trafficking and sexual exploitation to age 33, and patronizing and promoting prostitution to age 28. Tennessee eliminated the SOL for rape in 2014 if it was reported within 3 years of the crime. In 2016, it extended the criminal SOL for aggravated statutory rape to age 33. Most recently, in 2019, it eliminated the criminal SOL for all child sex abuse felonies and many misdemeanors, including trafficking, pornography and prostitution. There is an evidentiary limitation though for prosecutions after the victim is age 43 and was at or between ages 13 and 17 at the time of the offense, the victim never reported the offense to another person before reaching age 23, admissible and credible evidence corroborating the charge or similar acts by defendant is required.²⁶⁶

Civil. The current civil SOL for child sex abuse claims against all defendants in Tennessee is age 33 with a 3-year discovery rule. The civil SOL in 2002 was age 19.²⁶⁷ In 2016, Tennessee added to the civil SOL by including a 3-year discovery rule that is triggered by the victim's awareness that his or her current injury or illness was caused by the sex abuse. The civil SOL was extended in 2019 to age 33 (age of majority, 18 plus 15 years) with a 3-year discovery rule.²⁶⁸ Tennessee has not passed a window or other SOL revival legislation since 2002.

Texas

Since 2002, Texas has amended its criminal SOL three times and its civil SOLs four times. Texas's current criminal SOL is in the mainstream with its elimination of the SOL for most crimes. The civil SOL was extended in 2019 to age 48. On a scale of 0–5, overall, it ranks as a 1.75.

Criminal. There is currently no SOL for most child sex abuse offenses in Texas, and the SOL is 2 years from commission for misdemeanors. In 2002, the criminal SOL for felonies was age 28 unless there was DNA evidence, which eliminated the SOL.²⁶⁹ In 2007, Texas eliminated the criminal SOLs for felony sexual assault and continuous sexual abuse of a child and extended the SOL to age 38 for sexual performance. It eliminated the SOL for sex trafficking in 2011 and added the crime of compelling prostitution to its age 38 SOL. Four years later, it removed the SOL for compelling prostitution, too.²⁷⁰ The SOL for misdemeanors remains 2 years from the offense and is not subject to the DNA evidence rule.²⁷¹

Civil. The current civil SOL for child sex abuse claims against all defendants in Texas is age 48 with a very narrow discovery rule. In 2002, the Texas civil SOL was date of accrual plus 5 years.²⁷² In Texas, the date of accrual may be the age of majority, 18, but it also may be extended somewhat by a narrow discovery rule requiring that a victim file a petition to toll the statute of limitations where the perpetrator's identity is unknown. For most cases, the civil SOL would have expired

²⁶⁴ TENN. CODE ANN. § 40-2-101 (felonies).

²⁶⁵ *Id.*

²⁶⁶ *Id.*

²⁶⁷ TENN. CODE ANN. § 28-3-104 (SOL).

²⁶⁸ TENN. CODE ANN. § 28-3-116 (SOL).

²⁶⁹ TEX. CRIM. PROC. CODE ANN. § 12.01.

²⁷⁰ *Id.*

²⁷¹ TEX. CRIM. PROC. CODE ANN. § 12.02 (2-year SOL).

²⁷² TEX. CIV. PRAC. & REM. CODE ANN. § 16.0045 (5-year SOL).

by age 23 (age of majority, 18, plus 5 years). It added to its 5-year SOL the offense of continuous sexual abuse of a child in 2007 and trafficking and prostitution in 2011. In 2015, Texas added 10 years to its civil SOL to make it the date of accrual plus 15 years, which in most cases amounted to age 33 (age of majority, 18, plus 15 years). In 2019, it extended the civil SOL again by another 15 years to age 48 (age of majority, 18, plus 30 years).²⁷³ Although there is a common law discovery rule in Texas, it has not yet successfully tolled the SOL for sexual abuse claims.²⁷⁴ Texas has not passed a window or other SOL revival legislation since 2002.

Utah

Utah has made several changes to its criminal and civil SOLs since 2002. Its 2008 elimination of the criminal SOL for felonies places it in the mainstream compared to other states. Its civil SOL is better than many states as of its 2015 and 2016 changes, but the improvements have mostly been applicable to claims against perpetrators and not other defendants. On a scale of 0–5, overall, it ranks as a 2.75.

Criminal. There is currently no SOL for most felony child sex abuse offenses in Utah, an age 28 SOL for claims involving unlawful sexual activity, an SOL that concludes 4 to 8 years after a crime is reported for other felonies, and 2 years after commission for misdemeanors. In 2002, the Utah criminal SOL was 4 years after the crime,²⁷⁵ with a provision that rape, sodomy and sexual abuse of a child can be prosecuted within 4 years after reporting to law enforcement.²⁷⁶ In 2003, it enacted a DNA statute, which extended the SOL if DNA evidence was collected, and if the perpetrator is identified by DNA, 1 year was added to the SOL. Then, in 2005, it increased the SOL for many felony sex offenses to 8 years after the offense if it is reported within 4 years. The DNA statute was also broadened to apply to more sex abuse crimes.²⁷⁷ In 2008, Utah eliminated the criminal SOL for most sex offense felonies. The SOL for incest was extended to 8 years after the offense if it is reported within 4 years in 2009. In 2013, it added trafficking and prostitution to its list of crimes that can be prosecuted at any time.²⁷⁸ Utah expanded its DNA statute again in 2019 to allow prosecution 4 years after a perpetrator is identified by DNA and broadened elimination for trafficking offenses.²⁷⁹ In 2020, Utah extended the criminal SOL for felony unlawful sexual activity with a minor and unlawful sexual conduct with a 16 or 17-year old to age 28 (age of majority, 18, plus 10 years).²⁸⁰ Misdemeanors have an SOL of 2 years after the offense is committed.²⁸¹

Civil. There is currently no civil SOL for child sex abuse claims against perpetrators in Utah and an SOL of age 22 against other defendants, with a 4-year discovery rule, as well as an SOL of 2 years from abuse or discovery for claims against the government. In 2002, the civil SOL in Utah

²⁷³ *Id.*

²⁷⁴ *S.V. v. R.V.*, 933 S.W.2d 1 (Tex. 1996).

²⁷⁵ UTAH CODE ANN. § 76-1-302 (SOL).

²⁷⁶ UTAH CODE ANN. § 76-1-303 (Repealed) (limitations for fraud) (If the SOL “has expired, a prosecution may nevertheless be commenced for . . . rape of a child, object rape of a child, sodomy upon a child, or sexual abuse of a child within four years after the report of the offense to a law enforcement agency.”); *State v. Toombs*, 380 P.3d 390, 394 (Utah Ct. App. 2016).

²⁷⁷ UTAH CODE ANN. § 76-1-302 (SOL).

²⁷⁸ UTAH CODE ANN. § 76-1-301 (no SOL).

²⁷⁹ UTAH CODE ANN. § 76-1-302 (SOL).

²⁸⁰ UTAH CODE ANN § 76-1-301.1 (age 28 SOL)

²⁸¹ UTAH CODE ANN. § 76-1-302 (1)(b) (misdemeanors).

was age 22 (age of majority, 18, plus 4 years) with a 4-year discovery rule.²⁸² In 2015, Utah eliminated its civil SOL for actions against the perpetrator. In 2016, it enacted a revival law, which opened a 3-year window for victims of any age and revived claims up to age 53 (age of majority, 18, plus 35) for previously expired claims against a perpetrator or a living individual who would be criminally liable,²⁸³ but the Utah Supreme Court held the window unconstitutional.²⁸⁴ In 2020, Utah removed governmental immunity for claims of abuse and implemented an SOL for claims against government entities or employees of 2 years from the abuse or discovery of the claim.²⁸⁵

Vermont

Since 2002, Vermont has made significant changes to both criminal and civil SOLs. Vermont eliminated the criminal SOLs for most felonies in 2009. In 2019, it eliminated the civil SOL entirely and went beyond a temporary revival window, permanently reviving all expired claims without any time limitation. Vermont led the way in 2019 with the most victim-centered SOL reform. On a scale of 0–5, overall, it ranks as a 4.5, making it the highest-ranking state.

Criminal. There is currently no criminal SOL for certain child sex abuse offenses against all defendants in Vermont, and an SOL of age 40 for certain felonies, and 3 years from commission for all other offenses. The Vermont criminal SOL in 2002 for felony sex offenses was age 24 or 6 years after reporting, whichever is earlier.²⁸⁶ In 2009, Vermont eliminated the criminal SOL for felony aggravated sexual assault of a child and extended the remaining SOL to include 17 year-olds. For crimes other than felony aggravated sexual assault of a child, the SOL became the earlier of age 24 or 10 years after reporting. In 2011, Vermont removed the SOL for trafficking. In 2013, Vermont extended the SOL for other felonies to 40 years from the offense, and, in 2017, it added more felony offenses to its 40-year SOL. In 2019, Vermont added felony sexual exploitation of a minor to its criminal elimination statute. The SOL for the remaining felonies and misdemeanors is 3 years from an offense. Criminal actions in Vermont are not tolled until a victim reaches age 18.²⁸⁷

Civil. There is currently no civil SOL for child sex abuse claims in Vermont and all claims against all defendants are permanently revived. The civil SOL in place since 1989 was age 24 (age of majority, 18, plus 6 years) or discovery plus 6 years, whichever was later. The discovery rule was liberal in that the victim did not make the discovery unless he discovered that the injury was caused by the sex abuse. In 2019, Vermont eliminated its civil SOL and permanently revived all claims from the past that had expired.²⁸⁸

Virginia

Virginia has only made minor improvements to its criminal and civil SOLs since 2002. Virginia eliminated the criminal SOL for felonies, placing it firmly in the mainstream of other states. Its

²⁸² UTAH CODE ANN. § 78B-2-308 (SOL).

²⁸³ *Id.*

²⁸⁴ *Mitchell v. Roberts*, 2020 UT 34, 469 P.3d 901, reh'g denied (July 13, 2020).

²⁸⁵ UTAH CODE ANN. §§ 63G-7-201 (gov't immunity), 63G-7-403(2)(b) (SOL); 63G-7-401(1)(b) (discovery rule).

²⁸⁶ VT. STAT. ANN. tit. 13, § 4501 (SOL).

²⁸⁷ *Id.*

²⁸⁸ VT. STAT. ANN. tit. 12, § 522 (no SOL and revival).

civil SOL was relatively short at age 20 until 2011 when it extended it to age 38 against individuals only and extended its 2-year discovery rule to 20 years. On a scale of 0–5, overall, it ranks as a 2.

Criminal. There is currently no criminal SOL for felony child sex abuse offenses in Virginia, and the SOL for misdemeanors is age 23 or age 19, depending on the age difference between the victim and the offender. In 2002, Virginia had no criminal SOL for felonies and for misdemeanors related to child sex abuse the SOL was 1 year from the offense.²⁸⁹ In 2016, the SOL for misdemeanors was extended to age 19 (age of majority, 18, plus 1 year).²⁹⁰ In 2020, Virginia extended the criminal SOL for misdemeanor sexual abuse of minors by adults more than three years older than the victim from age 19 to age 23 (age of majority, 18, plus 5 years).²⁹¹

Civil. The current civil SOL for child sex abuse claims in Virginia is age 38 with a 20-year discovery rule against a person, and it is age 20 against institutions. In 2002, Virginia’s general civil SOL was age 20 (age of majority, 18, plus 2 years), with a 2-year discovery rule that only applied to claims against individual persons, but not against institutions.²⁹² In 2011, the state extended its civil SOL for claims against individuals to age 38 (age of majority, 18, plus 20) or 20 years from discovery.²⁹³ In 2013, it clarified its discovery rule, making clear that a cause of action accrues the later of age 18 or when the fact of the injury and its causal connection to the abuse is first communicated to the victim by a physician or psychologist.²⁹⁴ Virginia has not passed a window or other SOL revival legislation since 2002.

Washington

Washington has made many changes to its criminal SOLs and no changes to its civil SOLs since 2002. It previously had an age 30 criminal SOL for most felonies and in 2019 it eliminated it for multiple sex abuse crimes. The civil SOL, which has been in place since 1991, at age 21 with a liberal 3-year discovery rule, is also short compared to most states. On a scale of 0–5, overall, it ranks as a 1.75 (where 0.75 is the lowest average score).

Criminal. There is currently no criminal SOL for most child sex abuse offenses in Washington, and an SOL of age 30 for incest and felonies related to commercial sex abuse, a 10-year SOL for trafficking, and age 20 for misdemeanors. In 2002, the criminal SOL in Washington state for first and second-degree rape was the later of age 21 (age of majority, 18, plus 3 years) or, if reported within a year, 10 years after the crime. For other felony sex offenses, the SOL was age 21 or 7 years after the crime, whichever is later, and for misdemeanors it was age 19 or 20.²⁹⁵ In 2006, it added a DNA statute which extended the SOL to one year after a perpetrator is identified by DNA. In 2009, Washington extended the SOLs for all sex offenses to age 28 and then again in 2013 to

²⁸⁹ *Anderson v. Commonwealth*, 634 S.E.2d 372, 375 (Va. Ct. App. 2006) (“Consistent with the common law, Virginia has no general statute of limitation on felonies.”).

²⁹⁰ VA. CODE ANN. § 19.2-8 (SOL).

²⁹¹ *Id.*

²⁹² VA. CODE ANN. §§ 8.01-243 (2-year SOL), 8.01-229 (tolling), 1-204 (age of majority), 8.01-249 (accrual). In 2007, the Virginia Supreme Court explained that the discovery rule in § 8.01-249 only applies to actions against individual persons and not institutions. *Kopalchick v. Catholic Diocese of Richmond*, 645 S.E.2d 439, 442-43 (Va. 2007). The current civil SOL for claims against institutional defendants is age 20 (age of majority, 18, plus 2 years) with no discovery rule. *See id.*

²⁹³ *Id.*

²⁹⁴ VA. CODE ANN. § 8.01-249(6) (discovery rule); *see also Kopalchick*, 645 S.E.2d at 442 (“finding that the discovery rule applies only to natural persons, and not to an institution.”)

²⁹⁵ WASH. REV. CODE ANN. § 9A.04.080 (SOL).

age 30.²⁹⁶ In 2017, the state expanded its age 30 SOL to include commercial sex abuse and extended the SOL for trafficking to 10 years from the crime.²⁹⁷ Then, in 2019, Washington extended the SOL for incest to age 30 and eliminated the SOL for rape, sexual misconduct, child molestation, and sexual exploitation. It also extended its DNA statute to 2 years, from one year.²⁹⁸

Civil. The current civil SOL for child sex abuse claims against all defendants in Washington is age 21 with a 3-year discovery rule. As of 1991, Washington’s civil SOL was age 21 (age of majority, 18, plus 3 years) or 3 years from discovery of the connection between a victim’s abuse and their injury.²⁹⁹ No changes have been made in the interim. Washington has not passed a window or other SOL revival legislation since 2002.

West Virginia

West Virginia has not changed its criminal SOLs but amended its civil SOL twice since 2002. West Virginia is in the mainstream with no criminal SOL for felonies and an average civil SOL and revival law. On a scale of 0–5, overall, it ranks as a 2.5.

Criminal. There is currently no criminal SOL for felonies related to child sex abuse, and an SOL of 1 year after commission for misdemeanors.³⁰⁰ The criminal SOL has remained the same since 2002.

Civil. The current civil SOL for child sex abuse claims against all defendants in West Virginia is age 36 with a 4-year discovery rule and a revival law, reviving claims up to age 36. Since 2002, the civil SOL in West Virginia was age 20 (age of majority, 18, plus 2 years)³⁰¹ with a judicially crafted 2-year discovery rule and equitable tolling at the court’s discretion.³⁰² Some courts have limited the common law discovery rule to 20 years from the injury, while others have not.³⁰³ In 2016, West Virginia extended its SOL against perpetrators of the abuse to age 22 (age of majority, 18, plus 4) with a 4-year discovery rule that had no upper age limit.³⁰⁴ In 2020, West Virginia again extended the civil SOL against perpetrators from age 22 to age 36 (age of majority, 18, plus 18 years) or 4 years after the discovery of the sexual assault or abuse, whichever is later and revived claims up to age 36 (age of majority, 18, plus 18 years) or 4 years from discovery.³⁰⁵ The law also

²⁹⁶ *Id.*

²⁹⁷ WASH. REV. CODE ANN. § 9A.04.080 (SOL).

²⁹⁸ *Id.*

²⁹⁹ WASH. REV. CODE ANN. § 4.16.340 (SOL).

³⁰⁰ *State v. King*, 140 W. Va. 362, 367 (W. Va. 1954) (Noting “the felony charged in the indictment is subject to no limitation.”); W. VA. CODE ANN. §§ 61-11-9 (SOL); 61-8D-3(d) (child sex abuse).

³⁰¹ W. VA. CODE ANN. §§ 55-2-12 (general SOL), 2-3-1 (tolling provision), and 55-2-15 (majority tolling).

³⁰² W. VA. CODE ANN. § 55-2-21(d) (tolling); *see also Merrill v. W. Va. Dep’t of Health & Human Res.*, 219 W. Va. 151, 156, (W. Va. 2006) (“this Court held that [i]n tort actions, unless there is a clear statutory prohibition to its application, under the discovery rule the statute of limitations begins to run when the plaintiff knows, or by the exercise of reasonable diligence, should know (1) that the plaintiff has been injured, (2) the identity of the entity who owed the plaintiff a duty to act with due care, and who may have engaged in conduct that breached that duty, and (3) that the conduct of that entity has a causal relation to the injury.” (quoting *Gaither v. City Hosp., Inc.*, 487 S.E.2d 901, 903 (W. Va. 1997))).

³⁰³ W. VA. CODE ANN. § 55-2-15 (majority tolling). *See Merrill v. W. Virginia Dep’t of Health & Human Res.*, 632 S.E.2d 307 (W. Va. 2006); *Miller v. Monongalia County Bd. of Educ.*, 219 W. Va. 151 (W. Va. 2009); *Albright v. White*, 503 S.E.2d 860 (W. Va. 1998).

³⁰⁴ W. VA. CODE ANN. § 55-2-15 (majority tolling).

³⁰⁵ W. VA. CODE ANN. § 55-2-15(a) (majority tolling).

extends the civil SOL against other individuals or organizations from age 20 to age 36 (age of majority, 18, plus 18 years) and revives claims up to age 36.³⁰⁶

Wisconsin

Wisconsin has made modest improvements to its criminal and civil SOLs since 2002. After amendments in 2003, 2005, 2007, 2011, and 2017, Wisconsin now has no SOL for the most serious felonies and for others it is age 45. The civil SOL was extended up to age 35 in 2004; on a scale of 0–5, overall, it ranks as a 2.25.

Criminal. There is currently no SOL for first degree sexual assault or attempt in Wisconsin; the current SOL for most other child sex abuse claims is age 45 for felonies and 3 years for misdemeanors. Since 2002, Wisconsin has amended its criminal SOLs several times. As of 2002, the criminal SOL for child sex abuse felonies was age 31 with a DNA statute that extends the SOL for one year if there is a match.³⁰⁷ In 2003, the state extended the criminal SOL to age 45.³⁰⁸ Finally, in 2005, it eliminated the criminal SOL for first-degree sexual assault of a child and repeated sexual assault of the same child, and it broadened the classes of felonies included within those crimes in 2007.³⁰⁹ Wisconsin added an age 24 SOL for sex trafficking in 2007 and extended it to age 45 in 2011.³¹⁰ In 2017, it added soliciting a child for prostitution to the crimes for which the SOL is age 45.³¹¹ The SOL for misdemeanors is 3 years from the crime with no tolling until age of majority for the victim.³¹²

Civil. The current civil SOL for child sex abuse claims against all defendants in Wisconsin is age 35. In 2002, the general civil SOL in Wisconsin was age 20 (age of majority, 18, plus 2 years),³¹³ with a narrow, 5-year discovery rule for incest and sexual assault claims only.³¹⁴ In 2004, the SOL was extended to age 35 and the discovery rule was removed.³¹⁵ Despite many efforts, Wisconsin has not yet passed a window or other SOL revival legislation since 2002.

Wyoming

Wyoming has made no changes to its civil or criminal SOLs since 2002. Wyoming has no criminal SOL for either felonies or misdemeanors, making it a leader among the states for criminal laws.

³⁰⁶ *Id.*

³⁰⁷ WIS. STAT. ANN. § 939.74 (SOL); *State v. MacArthur*, 750 N.W.2d 910, 915 (Wis. 2008) (1997 amendment increased statute of limitation for prosecution to time that “victim reaches the age of 31”).

³⁰⁸ WIS. STAT. ANN. § 939.74 (SOL); SB 207, 2003 Leg., Reg. Sess. (Wis. 2003).

³⁰⁹ WIS. STAT. ANN. § 939.74 (SOL); AB 47, 2005 Leg., Gen. Assemb. (Wis. 2006); SB 103, 2007 Leg., Reg. Sess. (Wis. 2007).

³¹⁰ WIS. STAT. ANN. § 939.74 (SOL); 2007 Leg., Reg. Sess. (Wis. 2007); SB 536, 2011 Leg., Reg. Sess. (Wis. 2011).

³¹¹ WIS. STAT. ANN. § 939.74 (SOL); SB 396, 2017 Leg., Reg. Sess. (Wis. 2017).

³¹² WIS. STAT. ANN. § 939.74 (SOL).

³¹³ WIS. STAT. ANN. §§ 893.16 (majority tolling), 893.54 (3-year SOL), 893.57 (3-year SOL), 893.93 (SOL), SB 55, Act 16, 2001-2002 Wisc. Leg. Serv. Act. 16. See *Bonchek v. Nicolet Unified Sch. Dist.*, No. 19-CV-425-JPS, 2019 WL 7049803, at *10 (E.D. Wis. Dec. 23, 2019) (negligence claims are derivative of the sexual assault and so accrued the later of negligence SOL which is 3-years after the abuse or the age 20). See also *Doe v. Archdiocese of Milwaukee*, 565 N.W.2d 94, 108 (Wis. 1997).

³¹⁴ WIS. STAT. ANN. § 893.587 (1993); *Byrne v. Bercker*, 501 N.W.2d 402, 406 (Wis. 1993) (2-year SOL); *Pritzlaff v. Archdiocese of Milwaukee*, 533 N.W.2d 780, 787 (Wis. 1995) (narrow incest discovery rule).

³¹⁵ *Id.*; SB 207, 2003 Leg., Reg. Sess. (Wis. 2003), available at <https://docs.legis.wisconsin.gov/2003/related/acts/279>; see also *John Doe I v. Archdiocese of Milwaukee*, 734 N.W.2d 827, 845 (Wis. 2007).

For civil claims, its SOL of age 26 with a 3-year discovery rule puts it in the middle of the other states. On a scale of 0–5, overall, it ranks as a 2.5.

Criminal. There is currently no criminal SOL for felonies or misdemeanors related to child sex abuse in Wyoming.³¹⁶ This has been the case since 2002.

Civil. The current civil SOL for child sex abuse claims against all defendants in Wyoming is age 26 with a 3-year discovery rule. The civil SOL in Wyoming has been the same since at least 1993: age 26 (age of majority, 18, plus 8 years) or 3 years from discovery, whichever is later.³¹⁷ It is not settled whether the discovery rule applies to any defendants other than a perpetrator. Wyoming has not passed a window or other SOL revival legislation since 2002.

Washington D.C.

Washington D.C. has made progress on criminal and civil SOLs since 2002, but it was not until 2019 that the jurisdiction made monumental improvements. It had a short criminal SOL, which had been in place since 1981, and it finally eliminated the criminal SOL for felonies in 2019. It also significantly improved its civil SOL in 2019 by extending it to age 40 and opening a 2-year revival window for some expired claims. On a scale of 0–5, overall, it ranks as a 3.25.

Criminal. There is currently no criminal SOL for most child sex abuse and incest offenses in Washington D.C., an SOL of age 31 for trafficking-related felonies, an SOL of age 27 for other felonies, and 3 years from commission for misdemeanors. In 2002, D.C. had a criminal SOL of 6 years from an offense for felonies and 3 years for other offenses.³¹⁸ In 2004, D.C. pushed the SOL to age 36 (age of majority, 21, plus 15 years) for child sex abuse felonies in the first and second degree, and age 31 (age of majority, 21, plus 10 years) for third and fourth-degree sexual abuse, incest, and pornography. In 2010, D.C. added an SOL of age 31 (age of majority, 21, plus 10 years) for sex trafficking of children. In 2019, D.C. eliminated the criminal SOL for most sex abuse felonies. Though, it left the SOL for trafficking, pornography, and prostitution at age 31.³¹⁹ The SOL for misdemeanor sexual abuse is 3 years from the date it is committed.³²⁰

Civil. The current civil SOL for child sex abuse claims against all defendants in Washington D.C. is age 40, with a 5-year discovery rule and an open revival window until May 2, 2021. The civil SOL in 2002 was age 24 (age of majority, 21, plus 3 years) with a narrow common law discovery rule for repressed memories.³²¹ The SOL was extended in 2009 to age 25 (age of majority, 18, plus 7 years) or discovery plus 3 years, whichever is later.³²² In 2019, D.C. extended the civil SOL to age 40 with a 5-year discovery rule. It also opened a 2-year revival window for child sex abuse

³¹⁶ *Story v. State*, 721 P.2d 1020, 1026 (Wyo. 1986) (“At common law there is no limitation period for the prosecution of any criminal offense.”).

³¹⁷ WYO. STAT. ANN. § 1-3-105 (general SOL).

³¹⁸ D.C. CODE § 23-113 (SOL), available at <https://code.dccouncil.us/dc/council/laws/docs/4-104.pdf>.

³¹⁹ D.C. CODE § 23-113 (SOL).

³²⁰ D.C. CODE § 23-113(5) (3-year SOL).

³²¹ D.C. CODE §§ 12-301 (SOL), 12-302 (majority tolling). Available at <https://www.govinfo.gov/content/pkg/STATUTE-77/pdf/STATUTE-77-Pg478.pdf>; *Farris v. Compton*, 652 A.2d 49, 49 (D.C. 1994) (recognizing discovery rule); *Cevenini v. Archbishop of Washington*, 707 A.2d 768, 771 (D.C. 1998).

³²² *Id.*

victims currently under age 40, older victims who discovered their abuse within the last 5 years, and, in some circumstances, those sexually assaulted as adults.³²³

B. U.S. Territories

American Samoa

Criminal. As of 2004,³²⁴ American Samoa had no criminal SOL for child molesting, a class A felony.³²⁵ For remaining sexual abuse or sexual assault felonies, the territory imposes a short 3-year criminal SOL for prosecution after the offense is committed.³²⁶ The SOL for misdemeanors is one year from the offense.³²⁷

Civil. As of 2002, American Samoa has a civil SOL of 2 years from the time a cause accrues, or age 22 (age of majority, 21, plus 1 year) against all defendants.³²⁸ The territory has not amended its SOL since 1962.

Guam

Criminal. Before 2011, the SOL for prosecution of felony sex crimes was age 22 (age of majority, 19, plus 3 years), and the SOL for misdemeanors was one year after it was committed.³²⁹ In 2011, the Guam legislature removed the SOL for first and second-degree criminal sexual conduct, and for all sexual offense crimes committed against minors.³³⁰ All other felony and misdemeanors have an SOL of age 22 (age of majority, 19, plus 3 years).³³¹

Civil. Before 2016, the SOL in Guam was age 20 (age of majority, 18, plus 2 years).³³² In 2011, Guam passed a 2-year revival window that revived all claims of child sexual abuse.³³³ In 2016, the Guam legislature successfully passed a bill eliminating the civil SOL for child sexual abuse claims against all defendants.³³⁴ The bill also contained a permanent revival window for all claims of child sexual abuse that were barred under the previous law.³³⁵

³²³ *Id.*

³²⁴ Research by CHILD USA did not find criminal SOL prior to 2004.

³²⁵ A.M.C.A. §46.3106(a).

³²⁶ A.M.C.A. §46.3106(a)(1).

³²⁷ A.M.C.A. §46.3106(a)(2).

³²⁸ A.S.C.A § 43.0120(2) & A.S.C.A § 43.0126 (majority tolling).

³²⁹ tit. 8 G.C.A. §§ 10.15 (2009); 10.30 (2009).

³³⁰ Tit. 7 G.C.A. § 10.16 & 10.17 (no SOL).

³³¹ Tit. 7 G.C.A. § 10.17 (3-year SOL).

³³² Bill No. 326-33, I Liheslaturan Guahan, 2016 Reg. Sess. (May 23, 2016), available at http://www.bishop-accountability.org/legislation/Guam_Bill_No_326_33_COR.pdf; *see also* http://guamlegislature.com/Public_Laws_33rd/P.L.%20No.%2033-187.pdf. *See also* Shawn Raymundo, *Law limits sexual abuse charges*, PACIFIC DAILY NEWS (May 23, 2016), available at <https://www.guampdn.com/story/news/2016/05/22/law-limits-sexual-abuse-charges/84640416/>.

³³³ Tit. 7 G.C.A. § 11306 (2011) (revival window).

³³⁴ Tit. 7 G.C.A. § 11301.1(a) (no SOL).

³³⁵ Tit. 7 G.C.A. § 11301.1(b) (revival window).

Northern Mariana Islands

Criminal. As of 2002, there is no SOL for child sexual abuse crimes.³³⁶

Civil. The SOL for assault and battery claims is age 20 (age of majority, 18, plus 2 years) against all defendants.³³⁷

Puerto Rico

Criminal. As of 2002, the criminal SOL for felony sexual crimes committed against minors is age 26 (age of majority, 21, plus 5 years) for felonies and age 22 (age of majority, 21, plus 1 year) for misdemeanors.³³⁸ Any remaining crimes are subject to an SOL of 5 years for felonies and 1 year for misdemeanors.³³⁹

Civil. Since 2002, the civil SOL for child sexual abuse claims against all defendants has been age 22 (age of majority, 21, plus 1 year).³⁴⁰

U.S. Virgin Islands

Criminal. As of 2002, there was no SOL for prosecution of felony child sex abuse crimes.³⁴¹ The SOL for misdemeanors is 1 year.³⁴²

Civil. As of 2002, the civil SOL for child sexual abuse was age 23 (age of majority 21, plus 2 years) against all defendants.³⁴³ The discovery rule was recognized by courts before 2002 and it tolls personal injury claims “when, despite the exercise of due diligence, the injury or its cause is not immediately evidence to the victim.”³⁴⁴

C. The Federal Government

The federal government has made some changes to both criminal and civil SOLs since 2002. In 2003, the federal government removed the criminal SOLs for crimes related to child sex abuse. After several amendments, the civil SOL for federal child sex abuse crimes is age 28 or 10 years from discovery.

Criminal. As of January 2002, the federal criminal SOL for child sex abuse crimes was age 25.³⁴⁵ In 2003, the SOL was eliminated during the life of a child for all sex crimes against children.³⁴⁶

³³⁶ tit. 6 N.M.I. §107(a) (SOL), available at https://cnmilaw.org/pdf/cmc_section/T6/107.pdf.

³³⁷ tit. 7 N.M.I. §§ 2503(a) (2-year SOL); 2506 (minority tolling), available at https://cnmilaw.org/pdf/cmc_section/T7/2503.pdf and https://cnmilaw.org/pdf/cmc_section/T7/2506.pdf.

³³⁸ P.R. LAWS ANN. tit. 33, § 3412 (SOL).

³³⁹ *Id.*

³⁴⁰ P.R. LAWS ANN. TIT. 31, § 5298(2) & P.R. LAWS ANN. TIT. § 254(1).

³⁴¹ V.I. CODE ANN. tit. 5, § 3541(a)(1) (no SOL).

³⁴² V.I. CODE ANN. tit. 5, § 3541(a)(3) (1-year SOL).

³⁴³ V.I. CODE ANN. TIT. 5, § 31(5)(a) (SOL); V.I. CODE ANN. TIT. 5, § 36(a)(1) (minority tolling). *See also Cintron v. Bermudez*, 6 V.I. 692, 693 (D.V.I. July 26, 1968).

³⁴⁴ *Santiago v. Virgin Islands Hous. Auth.*, 57 V.I. 256, 273 (V.I. 2012).

³⁴⁵ 18 U.S.C. § 3283 (10-year SOL).

³⁴⁶ *Id.*

In 2006, the SOL was eliminated for most felony child sex abuse crimes³⁴⁷ and for the remaining crimes prosecution was permitted anytime while the child victim was alive or 10 years after the offense, whichever is later.³⁴⁸

Civil. In 2002, the statute of limitations for child sex abuse crimes against all defendants was 6 years from the date the cause of action accrued or age 21 (age of majority, 18, plus 3 years).³⁴⁹ In 2005, statutory damages of \$150,000.00 were added for each violation as an alternative to actual damages.³⁵⁰ Masha's Law is the federal statute creating civil liability to compensate child pornography victims, a subset of the child sex abuse universe. It was originally passed in 2006 with an SOL of age 21.³⁵¹ In 2013, the SOL was further amended to allow for 10 years from the date the cause of action accrued, in addition to the age 21 limit. Then, in 2018 as part of the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act, trafficking was added to the list of child sex abuse crimes and the SOL was further extended. The SOL was changed to age 28 (age of majority, 18, plus 10 years) with the addition of a 10-year discovery rule wherein a victim has 10 years from the date on which the victim understands that her injuries were caused by the abuse to bring a claim.³⁵² The Federal Government has not passed a window or other SOL revival legislation since 2002.

Other federal laws that can create civil liability for child sex abuse include the civil rights statutes as applied to public schools, wherein the SOL is typically borrowed from the state SOL where the abuse occurred.³⁵³

III. The Pace of SOL Reform

A. The Pace of Child Sex Abuse SOL Change Since 2002

Child sex abuse SOL reform has been a very active area of the law, with 2020 adding to the unprecedented success of 2019 as shown by the following graphs. Overall, there have been more amendments to criminal SOLs than civil SOLs since 2002, but both have experienced transformative reform. This study actually underemphasizes legislative activity in that it only tracks the bills that became law; there were many more

³⁴⁷ 18 U.S.C. § 3299 (no SOL). The list of felonies that SOL was eliminated for includes violations of: 18 U.S.C. 2241 (aggravated sexual abuse), 2242 (sexual abuse), 2243 (sexual abuse of a ward or child), 2244 (abusive sexual contact), 2245 (sexual abuse resulting in death), 2250 (failure to register as a sex offender), 2251 (sexual exploitation of children), 2251A (selling or buying children), 2252 (transporting, distributing or selling child sexually exploitive material), 2252A (transporting or distributing child pornography), 2252B (misleading names on the Internet), 2260 (making child sexually exploitive material overseas for export to the U.S.), 2421 (transportation for illicit sexual purposes), 2422 (coercing or enticing travel for illicit sexual purposes), 2423 (travel involving illicit sexual activity with a child), 2424 (filing false immigration statement), 2425 (interstate transmission of information about a child relating to illicit sexual activity), and § 1591 (sex trafficking by force, fraud or of a child).

³⁴⁸ 18 U.S.C. § 328310-year SOL).

³⁴⁹ 18 U.S.C. § 2255 (1986) (civil remedy).

³⁵⁰ *Id.* See also James Marsh, *Masha's Law: A Federal Civil Remedy for Child Pornography Victims*, 61 SYRACUSE L. REV. 459 (2011).

³⁵¹ 18 U.S.C. § 2255 (2006) (civil remedy).

³⁵² 18 U.S.C. § 2255 (2018) (civil remedy).

³⁵³ 20 U.S.C § 1681 (sex); *Bougher v. Univ. of Pittsburgh*, 882 F.2d 74, 77 (3d Cir. 1989).

bills introduced.³⁵⁴ Moreover, for some states, bills were introduced repeatedly, e.g., New York Assembly members repeatedly introduced the Child Victims Act for over a decade until it finally became law in 2019. The pace of change continued to grow in 2020 with 30 jurisdictions introducing legislation to reform SOLs and 8 states passing new laws.

1. *For Criminal SOLs: The Move of Choice Has Been to Eliminate and/or Extend SOLs*

Since 2002, 29 states and D.C. eliminated SOLs for at least some child sex abuse crimes, felonies and/or misdemeanors.³⁵⁵

- 32 states extended at least some SOLs for child sex abuse crimes.³⁵⁶
- 21 states both extended and eliminated criminal SOLs.³⁵⁷
- The federal government effectively eliminated criminal SOLs.

The current net result (including states that previously eliminated the criminal SOL) the net result is that 42 states, the federal government and D.C. have *eliminated* at least some criminal SOLs.³⁵⁸

2. *For Civil SOLs: Three Paths Were Taken: Extension, Elimination, and/or Revival*

Since 2002, 18 states, D.C. and Guam passed laws that revived expired civil SOLs.³⁵⁹

- 10 states eliminated some civil SOLs.³⁶⁰
- 37 states, the federal government, and D.C. extended the civil SOLs.³⁶¹
- 7 states extended and eliminated at least some civil SOLs.³⁶²

Only 1 state, South Dakota, backtracked on an earlier extension.

3. *Some States Took No Action After January 2002*

Most states instituted amendments to the child sex abuse criminal or civil SOLs following January 2002.

³⁵⁴ See Child USA 2020 SOL Tracker for full SOL legislative activity this year at CHILDUSA.ORG, <https://www.childusa.org/2020sol> (last visited Dec. 23, 2020).

³⁵⁵ States that eliminated at least some criminal SOLs for felonies, and/or misdemeanors since 2002: AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, KS, MA, MI, MO, MS, MT, NE, NY, OR, TN, TX, UT, VT, WA, WI.

³⁵⁶ States that have extended at least some criminal SOLs: AK, AR, CA, FL, HI, IL, IA, IN, KS, KY, LA, ME, MN, MO, MT, NC, NE, NV, NH, NY, ND, OH, OK, OR, PA, TN, TX, UT, VT, VA, WA, WI.

³⁵⁷ 21 states that both extended and eliminated criminal SOLs: AK, AR, CA, FL, HI, IL, IN, KS, MN, MO, MT, NE, NY, OR, PA, TN, TX, UT, VT, WA, WI.

³⁵⁸ 8 states that have not yet eliminated criminal SOLs are: IA, MN, NV, NH, ND, OH, OK, OR.

³⁵⁹ States that revived civil SOLs: AZ, CA, CT, DE, GA, HI, MA, MI, MN, MT, NJ, NY, NC, OR, RI, UT, VT, WV. Note Utah's revival window was invalidated.

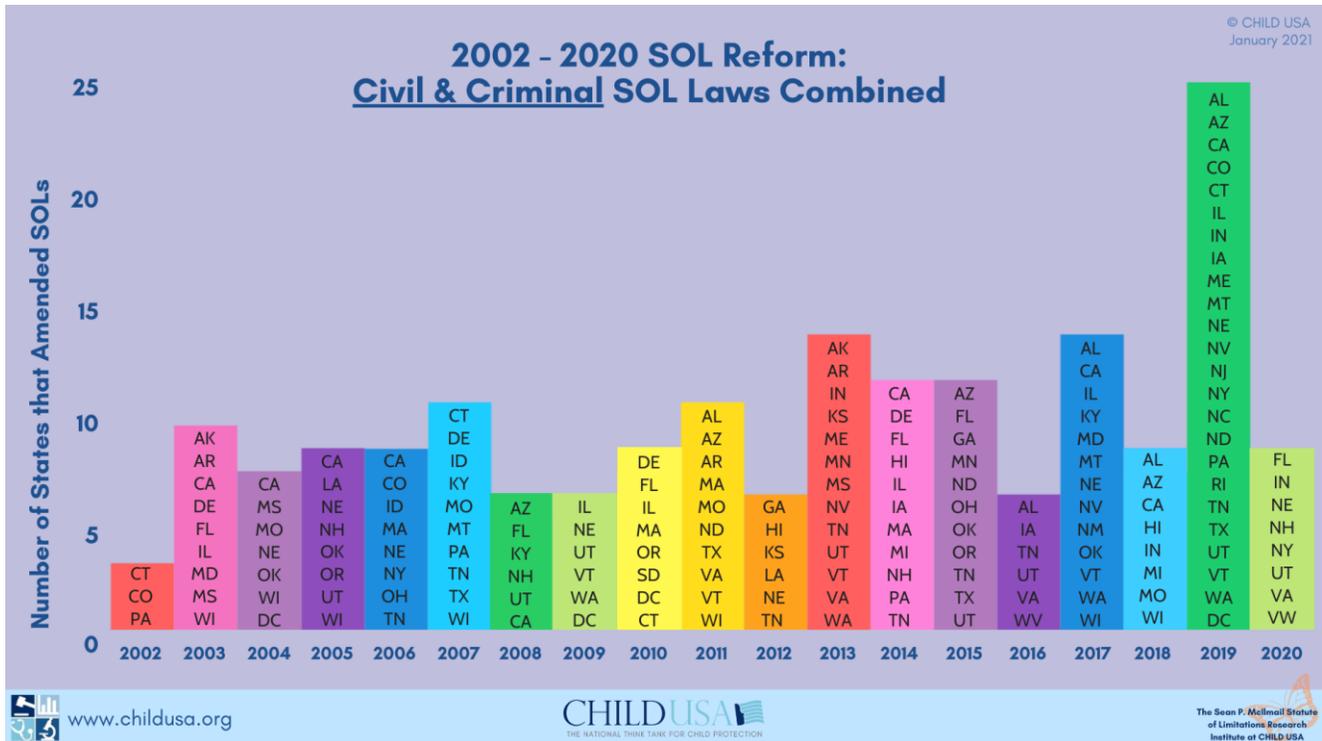
³⁶⁰ States that eliminated at least some civil SOLs: AK, CT, DE, FL, IL, MN, NE, NH, UT, VT.

³⁶¹ States that extended civil SOLs: AL, AK, AZ, CA, CT, FL, GA, HI, IA, ID, IL, IN, KY, MD, MA, MI, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, TN, TX, UT, VA, WV, WI.

³⁶² States that extended and eliminated some civil SOLs: AK, CT, FL, IL, NE, NH, UT.

- 42, or 84%, of states made changes to the criminal SOLs following 2002; 8, or 16% of states, did not.³⁶³
- 40, or 80%, of states amended the civil SOLs; 10, or 20% of states, made no changes to the civil SOLs following 2002.³⁶⁴
- Only 2 states took no action since January 2002, South Carolina and Wyoming. However, SOL reform was introduced in these states even if not enacted.

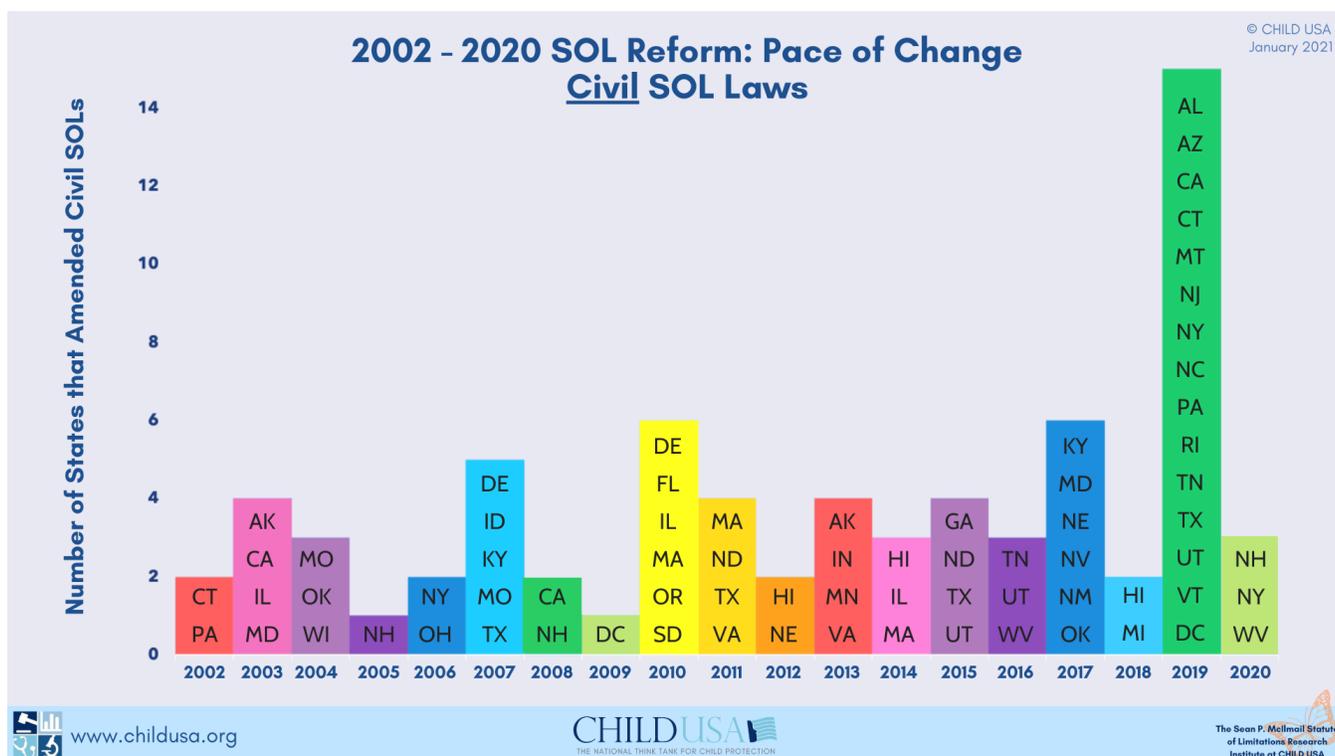
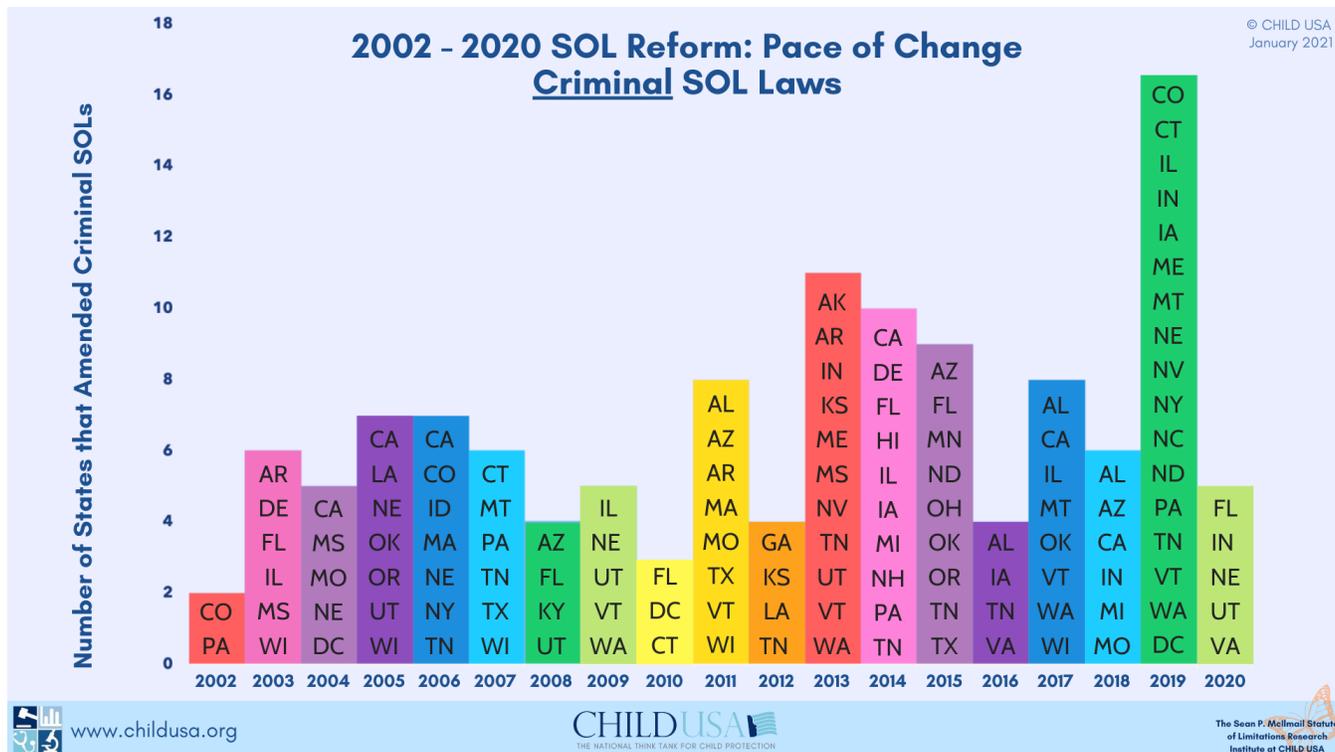
The following graphs illustrate the pace of SOL change since 2002 and the number of states to engage in such change each year.³⁶⁵



³⁶³ The 8 states that did not make changes to their **criminal** SOLS after 2002: MD, NJ, NM, RI, SC, SD, WV, WY.

³⁶⁴ The 10 states that did not make changes to their **civil** SOLS after 2002: AR, CO, IA, KS, LA, ME, MS, SC, WA, WY. Though Maine had already eliminated civil SOLs by 2002.

³⁶⁵ State SOL amendments for each year included in these pace-of-change graphs are limited to the following types of SOL reform: criminal elimination, criminal age extension, civil elimination, civil age extension, civil discovery rule extension and civil revival law/window. DNA/evidence provisions and very minor changes have been excluded.



B. Changes to the Civil and Criminal SOLs State-by-State

The following chart summarizes the changes made to the civil and criminal statutes of limitation for child sex abuse in each state since 2002.

State	Change to Criminal SOL	Change to Civil SOL
Alabama	Eliminated for more felonies and misdemeanors	Extended to age 25
Alaska	Eliminated for more felonies	Eliminated for more felonies
Arizona	Eliminated for more felonies	Extended to age 30 19-month revival window (2019)
Arkansas	Eliminated for some felonies	None
California	Eliminated for some felonies (Attempted revival of criminal SOL ruled unconstitutional)	Extended to age 40 or discovery + 5 yrs 1-yr revival window (2003) 3-yr revival window (2019)
Colorado	Eliminated for felonies	None
Connecticut	Eliminated for felonies and misdemeanors	Eliminated if perpetrator convicted Revival up to age 48 and extension to age 51
Delaware	Eliminated for felonies and misdemeanors	Eliminated 2-yr + 2-yr revival window (2007 and 2010)
Florida	Eliminated for some felonies	Eliminated for some felonies
Georgia	Eliminated for some felonies	Extended to age 23 or discovery + 2 yrs 2-yr revival window against perpetrator (2015)
Hawaii	Eliminated for some felonies	Extended to age 26 or discovery + 3 2-yr + 2-yr + 2-yr revival window (2012, 2014 and 2018)
Idaho	Eliminated for some felonies	Extended to age 23 or discovery + 5 yrs
Illinois	Eliminated for felonies and misdemeanors	Extended to age 38 or discovery + 20 yrs and then Eliminated
Indiana	Extended for more felonies	Extended to discovery + 7 yrs, or 4 yrs after not dependent on perpetrator
Iowa	Extended for felonies and misdemeanors to age 33	None
Kansas	Eliminated for some felonies	None
Kentucky	Extended for misdemeanors to age 23	Extended to age 28, discovery + 10 yrs or conviction + 10 yrs
Louisiana	Extended for non-capital felonies and misdemeanors to age 48	None
Maine	Extended to age 38 for some felonies against victims age 16 and older	None (already eliminated)

Maryland	None (already eliminated for felonies and misdemeanors)	Extended to age 38 or conviction + 3 yrs
Massachusetts	Eliminated for some felonies	Revival and extension up to age 53 or discovery +7 yrs against perpetrator Extension to age 53 or discovery +7 yrs against entities
Michigan	Eliminated for more felonies	Extended to age 28 or discovery + 3 yrs 90-day revival window (2018)
Minnesota	Extended for more felonies	Eliminated 3-yr revival window (2013)
Mississippi	Eliminated for most felonies	None
Missouri	Eliminated for felonies and misdemeanors	Extended to age 31 or discovery + 3 yrs
Montana	Eliminated for felonies and misdemeanors	Extended to age 27 or discovery + 3 yrs 1-yr revival window (2019)
Nebraska	Eliminated for most felonies and misdemeanors	Eliminated
Nevada	Extended to age 36 or 43, if not discoverable, for felonies and misdemeanors	Extended to age 38 or discovery + 20 yrs
New Hampshire	Extended for trafficking to age 38	Extended to age 30 or discovery + 3 yrs and then Eliminated
New Jersey	None (already eliminated for some felonies)	Extended to age 55 or discovery + 7 yrs 2-yr revival window (2019)
New Mexico	None (already eliminated for some felonies)	Revised discovery rule to run from disclosure to healthcare professional
New York	Eliminated for some felonies	Extended to age 55 1-yr + 1-yr revival window (2019 and 2020)
North Carolina	Extended for misdemeanors to 10 yrs from crime	Extended to age 28 or conviction + 2 yrs 2-yr revival window (2019)
North Dakota	Extended to age 36 or 3 yrs after reporting/ DNA identification	Extended to discovery + 10 yrs
Ohio	Extended to age 43 for rape and sexual battery, 38 for felonies and 20 for misdemeanors	Extended to age 30 yrs
Oklahoma	Extended to age 45	Extended to age 45 against perpetrators
Oregon	Extended for some felonies to age 30; eliminated if DNA identification	Extended to age 40 or discovery + 5 yrs

Pennsylvania	Eliminated for some felonies and extended to age 55 for other felonies and misdemeanors	Extended to age 55
Rhode Island	None (already eliminated for some felonies)	Revival and extension up to age 53 against perpetrator Extended to age 53 or discovery + 7 yrs against entities
South Carolina	None (already eliminated for felonies and misdemeanors)	None
South Dakota	None (already eliminated for most felonies)	Only state to backtrack: Restricted age 21 or discovery + 3 yrs, by adding upper limit of age 40 for discovery rule
Tennessee	Eliminated for felonies and some misdemeanors	Extended to age 33 or discovery + 3 yrs
Texas	Eliminated for most felonies	Extended to age 48
Utah	Eliminated for most felonies and extended to age 28 for others	Eliminated against perpetrator Added 4-yr discovery rule against non-perpetrator Revival up to age 53 and 3-yr window against perpetrator or someone criminally responsible
Vermont	Eliminated for most felonies	Eliminated Revival of all expired claims (2019)
Virginia	Extended for misdemeanors to age 19 and then again to age 23	Extended to age 38 or discovery + 20 yrs
Washington	Eliminated for most felonies and extended to age 30 for others	None
West Virginia	None (already eliminated for felonies)	Extended to age 36 or discovery + 4 yrs Revival up to age 36 (2020)
Wisconsin	Elimination for most felonies	Extended to age 35
Wyoming	None (already eliminated for felonies and misdemeanors)	None
Washington D.C.	Eliminated for most felonies	Extended to age 40 or discovery + 5 yrs 2-yr window up to age 40 (2019)
Federal Government	Effective elimination	Extended to age 28 or discovery + 10 yrs

IV. A Note on Discovery Rules

The SOLs on child sex abuse claims often expire long before victims even realize or tell anyone they were abused. Most victims of child sexual abuse do not tell anyone they were abused until many years later, if at all. Trauma is a major barrier preventing children from disclosing abuse. “Among other barriers, children often lack the knowledge needed to recognize sexual abuse, lack the ability to articulate that they have been abused, don’t have an adult they can disclose their abuse to, don’t have opportunities to disclose abuse, and aren’t believed when they try to disclose.”³⁶⁶ Studies suggest that many victims, as much as 33%, never disclose their abuse.³⁶⁷ The disclosure of child sexual abuse is a process and not a discrete event in which a victim comes to terms with their abuse. Often this happens in the context of therapy; sometimes it is triggered many years after the abuse by an event the victim associates with the abuse; other times it happens gradually and over time as a victim recovers their painful memories.³⁶⁸ In fact, the average age of disclosure of child sexual abuse in a study of 1,000 victims was 52 years-old.³⁶⁹

In addition to extending and eliminating age caps on SOLs, discovery rules can help to remedy the injustice of traditionally short SOLs. Discovery rules recognize that the wrongful act and the personal injury do not always happen simultaneously, and it is unfair to bar victims claim before they could have discovered their injuries. Injuries include depression, substance abuse, and PTSD, among many others. All discovery rules stop the SOL from running on claims until a victim makes a discovery in connection with the sexual abuse they endured as a child. What constitutes discovery varies significantly from state to state. A minority of states like North Dakota that take a narrow approach to discovery, say discovery occurs when a victim discovers the act of abuse, only helping victims who were not conscious during the abuse or who repressed memories of abuse. The more common discovery rule is like that of Oregon, which provides that discovery occurs when a victim discovers the causal connection between their injury and the abuse. Hence, a victim that knew of the wrongful sexual abuse could still benefit from discovery tolling if they did not draw the connection between their injuries and the abuse until much later in life.

Historically, states began adopting discovery rules as the science of abuse traumatology and delayed disclosure began to evolve in the 1980’s and 1990’s. Now, the science is well-established and over forty states have adopted discovery rules, with the quality of the discovery rules improving over time. Recent statutory amendments have broadened discovery rules that do not begin to run until the victim makes the connection between their injuries and the abuse and extended tolling until discovery. Discovery rules remain important in many states even after they reform their SOLs, because many improvements like eliminating or extending SOLs are prospective only and do not help victims who were abused years ago.

The trend for remedying the injustice to survivors via SOL reform has renewed its focus on older victims of abuse who were sexually abused decades ago as children. The modern approach is to enact revival windows for expired claims, which give all survivors of any age a limited opportunity to file claims for abuse that happened years ago, regardless of the time of discovery. There are a few states that have combined retroactive discovery rules with their revival windows (i.e., California and New Jersey). These states recognize that survivors who have not yet discovered their abuse will not benefit from a temporary

³⁶⁶ CHILD USA, *Delayed Disclosure: A Factsheet Based on Cutting-Edge Research on Child Sex Abuse*, CHILDUSA.ORG, 3 (Mar. 2020) available at <https://childusa.org/wpcontent/uploads/2020/04/Delayed-Disclosure-Factsheet-2020.pdf>. (citing N. Spröber et. al., *Child sexual abuse in religiously affiliated and secular institutions*, 14 BMC PUB. HEALTH 282, 282 (2014).

³⁶⁷ *Id.*

³⁶⁸ Hoskell, at 24.

³⁶⁹ CHILD USA, *Delayed Disclosure: A Factsheet Based on Cutting-Edge Research on Child Sex Abuse*, CHILDUSA.ORG, 3 (Mar. 2020) available at <https://childusa.org/wpcontent/uploads/2020/04/Delayed-Disclosure-Factsheet-2020.pdf>.

window, and a discovery rule is still needed for them. Only Vermont and Guam have no need at all for a discovery rule because they eliminated their civil SOLs for child sex abuse and revived all expired claims for abuse.³⁷⁰ Currently, there is a discovery rule that could toll the SOL for child sex abuse claims in 41 states, Washington D.C., Puerto Rico, and the U.S. Virgin Islands.³⁷¹ For more detail on discovery rules, see CHILD USA's Discovery Rule Report.

V. A Focus on SOL Revival Laws, Including Windows, Since January 2002

There is only one way to restore justice to adult victims of child sex abuse whose civil SOL has expired, and that is to revive their civil claims. In other words, to fix the wrongs done to them, they deserve the opportunity to file civil lawsuits if they so choose. Revival laws are not solely about justice for victims; there are also important public safety reasons for allowing older claims of abuse to proceed. When victims are empowered to disclose their abuse and sue for their injuries, the public benefits from finding out who the perpetrators are, the cost of abuse is shifted to those who created it and it learns how to prevent child sex abuse.

It is a medical fact that victims of child sex abuse often need decades to come forward. They are traumatized from the abuse, incapable of processing what happened to them, and often dependent on the adults who perpetrated or caused the abuse. Based on the best science, age 52 is the average age of disclosure for victims of child sex abuse.³⁷² By the time most victims are ready to come forward, the courthouse doors are locked. Revival laws honor and empower the victims of child sex abuse who had faced locked courthouse doors due to unfairly short SOLs.

There are three compelling public purposes served by revival laws: (1) they help identify previously unknown predators and institutions responsible to protect abuse in the future; (2) they shift the cost of the abuse from the victims back to those who caused it; and (3) they educate the public about the prevalence and harm from child sex abuse so that families and the legal system can protect victims more effectively, with the goal of prevention.

³⁷⁰ See generally CHILD USA, *Child Sex Abuse Statutes of Limitation Reform from 2002 to 2019*, CHILDUSA.ORG, (May 2020) available at <https://childusa.org/wp-content/uploads/2020/05/CHILD-USA-2019-Annual-SOL-Report-May-2020.pdf>.

³⁷¹ The 9 states currently without any discovery tolling are AL, CT, MD, MN, NE, NY, OH, PA, & VT.

³⁷² N. Spröber et al., *Child sexual abuse in religiously affiliated and secular institutions*, BMC PUBLIC HEALTH, Vol.14, at p.282 (March 27, 2014).

HOW REVIVAL WINDOW/LAWS HELP EVERYONE



Identifies previously unknown predators and institutions responsible

to the public, shielding other children from future abuse.



Shifts the cost of abuse

from the victims and society to the perpetrators and the institutions that enabled them.



Educates the public

about the prevalence and harm from child sex abuse so that families and the legal system can prevent abuse.



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The Sean P. Mehlman Statute
of Limitations Research
Institute at CHILD USA

A. Analysis of SOL Revival Laws

This section analyzes the 20 jurisdictions that, since 2002, have enacted laws that revive civil suits for victims of child sex abuse whose SOL has already expired. There are two types of revival laws: (1) revival windows, open permanently or temporarily, and (2) revival laws that have an age cap. So far, the most popular means of reviving for states has been with a revival “window.” A window is a law that eliminates the civil SOL for a set period of time after the law takes effect for victims whose claims have already expired. Similarly, a revival age limit law removes the civil SOL until the victim reaches a certain age that is set by the state. Some state revival laws include both windows and age limits, while some states have chosen to revive via one or the other. Both types of law enable adult victims of child sex abuse to sue their abusers and/or the institutions responsible years after they were abused. These revival laws have been instrumental in giving thousands of victims across America a long overdue opportunity for justice and educating the public about hidden predators and responsible institutions in their communities.

1. Explanation of Revival Window Laws

California became the first state to enact revival legislation to help past victims of abuse with its 1-year revival window in 2003. Since then, 12 more states—Delaware, Hawaii, Minnesota, Georgia, Utah, Michigan, New York, Montana, New Jersey, Arizona, Vermont, North Carolina, Washington D.C. and Guam—have opened revival windows. These windows have varied in length and by the types of defendants that are permitted to be sued.

The most effective way to remedy the wrong of having unreasonably short SOLs for so long is to completely revive all expired claims with a permanently open revival “window.” This is exactly what Guam did in 2016 and Vermont did the same in 2019. Now any person that was sexually abused as a child in Vermont or Guam may sue their abuser or any responsible person or institution when they are ready. In effect, the law was shifted to accommodate the inherent barriers to disclosure.

The next best windows are those in California, Delaware, Hawaii, New Jersey and New York because the windows are open for 2 or more years and apply to claims against any type of defendant: perpetrators, individuals, institutions and the government. The less effective windows are those that only revived claims against perpetrators like Georgia’s and Utah’s. The least generous window is Michigan’s, which only helped victims of Dr. Larry Nassar and left a gaping hole of injustice for all other Michigan victims of child sex abuse.

Window Report Card

A window is a law that revives expired civil claims and allows adult survivors to sue for child sex abuse they endured years ago while the window is open

A+	Vermont & Guam	Window permanently open for claims against <u>all</u> types of defendants
A	California, Delaware, Hawaii New Jersey & New York	Window open for 2 or more years for claims against <u>all</u> types of defendants
B	Arizona, Minnesota & North Carolina	Window open for more than 1 year, but not explicitly applicable to claims against all types of defendants
B-	Montana	Window open for 1 year only
C	Washington D.C.	Window open for claims by survivors under age 40 only, with some exceptions
C-	Georgia & Utah*	Window open for claims against perpetrators only
D	Michigan	Window open for claims of abuse by perpetrator doctors only (Larry Nassar)
F	All Other States	No window, hidden predators are protected



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2. Explanation of Revival Age Limit Laws

The revival age limit laws have opened the courthouse doors to adult victims by allowing them to bring suits for previously expired claims up until they reach a certain age. The cutoff age varies from West Virginia's age 36 to Connecticut's age 48 and age 53 in Massachusetts and Rhode Island. The upside of these laws is that victims younger than the age limit are less pressured to bring claims within a set few years whether or not they are ready to come forward, which is the case with temporary windows. The downside is that older victims that are above the cutoff age are still shut out of court. These laws also vary by which defendants are open to suit, with Connecticut as the best one, reviving suits against any type of defendant, and Massachusetts and Rhode Island with worse versions that only revive claims against the perpetrator.

3. Explanation of Laws with Both Revival Windows & Age Limits

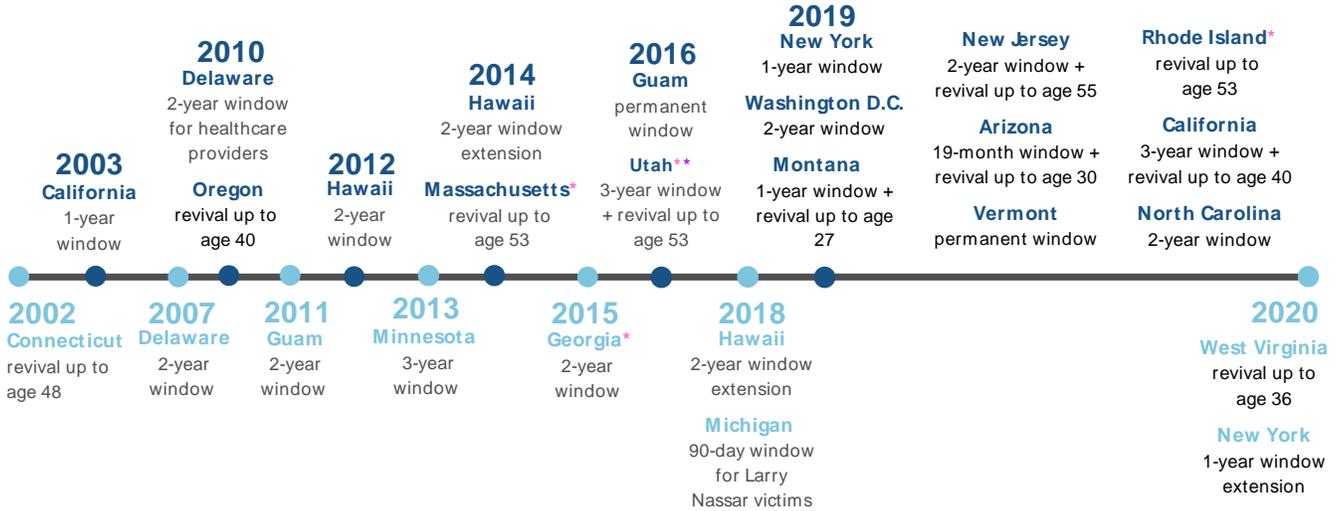
There is a growing trend to revive expired claims of abuse via laws that open temporary windows for victims of all ages and allow victims to file claims until they reach a certain age, even after the window closes. The benefit of this hybrid approach is that it gives victims of all ages an opportunity to file claims and allows more victims to sue on a schedule that fits their needs. This approach is particularly helpful for younger victims who are not fully aware of the abuse or its effects and have not disclosed it yet. It also benefits all victims younger than the age limit who, for whatever reason, are not yet ready to file a lawsuit against their abuser or those responsible for their abuse before the window closes. Revival via both a window and an age limit is a promising new trend in those states that set the age cap at or above the average age of disclosure, which is 52.

Utah was the first state to pass this type of revival law in 2016 when it attempted to open a 3-year window and revival until a victim reaches age 53 for claims against perpetrators only. However Utah's revival law was held unconstitutional.³⁷³ In 2019, Arizona, California, Montana and New Jersey improved on Utah's approach and all passed revival laws that included a window and an age limit for claims against perpetrators and other types of defendants. New Jersey's law is the strongest and empowers the most victims with its 2-year window and revival up to age 55. Second best is California's which has a 3-year window and revival until a victim reaches age 40. Arizona and Montana's windows are less effective with shorter windows and younger revival age limits, age 30 and 27, respectively.

³⁷³ *Mitchell v. Roberts*, 2020 UT 34, 469 P.3d 901, *reh'g denied* (July 13, 2020).

4. State-by-State Overview of All Revivals Laws Since 2002

**A BRIEF HISTORY OF
SOL REVIVAL LAWS
FOR CHILD SEX ABUSE**



* Revival law was invalidated
 ** Revival only applies for claims against perpetrators

A full list of the revival laws in 18 states, Washington D.C., and Guam is provided in the following chart.³⁷⁴

State	Date	Revival Law Type	Revival Law Description
Arizona	2019	19-Month Window & Age 30 Limit	Permanently revived SOL up to age 30 and 19-month window opened on May 27, 2019 for expired claims against perpetrators, private organizations, and government. (2019-20 window closed). ³⁷⁵
California	2003, 2019	1-Year Window, 3-Year Window & Age 40 Limit	1-year window revived SOL against private organizations only. (2003-04 closed). In 2019 permanently revived SOL up to age 40 and 3-year window opened on January 1, 2020 for expired claims against perpetrators, other individuals, private organizations, and government (2020-22 window open). ³⁷⁶
Connecticut	2002	Age 48 Limit	Permanently revived SOL up to age 48 against perpetrators, other individuals, private organizations,

³⁷⁴ Description only indicates that a law revives against the government if the statute explicitly mentions public entities or case law clearly supports that conclusion. This list also does not include revival via delayed discovery rule.

³⁷⁵ H.B. 2466, 54th Leg., 1st Reg. Sess. (Ariz. 2019).

³⁷⁶ CAL. CIV. PROC. CODE § 340.1.

			and government. ³⁷⁷
Delaware	2007 2010	2-Year Window 2-Year Window	2-year window revived SOL against perpetrators, other individuals, private organizations, and government. (2007-09 window closed). In 2010 added 2-year window for claims against healthcare providers because original window did not apply to them. (2010-12 window closed). ³⁷⁸
Georgia	2015	2-Year Window	2-year window revived SOL against perpetrators only. (2015-17 window closed). ³⁷⁹
Guam	2011 2016	2-Year Window Permanent Window	2-year window revived SOL for expired civil claims. (2011-2013 window closed). ³⁸⁰ Revived SOL with permanently open revival window on September 23, 2016 for all expired claims against perpetrators, other individuals, private organizations, and government. (window open). ³⁸¹
Hawaii	2012 2014 2018	2-Year Window 2-Year Window 2-Year Window	In 2012, 2-year window revived SOL against perpetrators, other individuals, and private organizations. In 2014 extended original window for another 2 years and expanded to include claims against the government. (2012-16 window closed). In 2018 extended window again for another 2 years. (2018-20 window closed). ³⁸²
Massachusetts	2014	Age 53 Limit	Permanently revived SOL up to age 53 against perpetrators only. ³⁸³
Michigan	2018	90-Day Window	90-day window revived SOL for victims of Larry Nassar only. (2018 window closed). ³⁸⁴
Minnesota	2013	3-Year Window	3-year window revived SOL against perpetrators, other individuals, and private organizations. (2013-16 window closed). ³⁸⁵
Montana	2019	1-Year Window & Age 27 Limit	Permanently revived SOL up to age 27 and 1-year window opened on May 7, 2019 for expired claims against perpetrators and entities. (2019-20 window closed). ³⁸⁶
New Jersey	2019	2-Year Window & Age 55 Limit	Permanently revived SOL up to age 55 and 2-year window opened on December 1, 2019 for expired claims against perpetrators, other individuals, private

³⁷⁷ CONN. GEN. STAT. § 52-577d.

³⁷⁸ DEL. CODE tit. 10, § 8145 and tit. 18, § 6856.

³⁷⁹ GA. CODE § 9-3-33.1.

³⁸⁰ Tit. 7 G.C.A § 11306 (2011).

³⁸¹ Tit. 7 G.C.A § 11301.1(b).

³⁸² HAW. REV. STAT. § 657-1.8.

³⁸³ MASS. GEN. LAWS ch. 260, § 4C.

³⁸⁴ MICH. COMP. LAWS § 600.5851b.

³⁸⁵ MINN. STAT. § 541.073, 2013 Minn. Sess. Law Serv. Ch. 89 (H.F. 681).

³⁸⁶ MONT. CODE § 27-2-216.

			organizations, and government. Window applies to child sex abuse victims and those sexually assaulted as adults. (2019-21 window open). ³⁸⁷
New York	2019 2020	1-Year Window 1-Year Window	1-year window opened on August 14, 2019 for expired claims against perpetrators, other individuals, private organizations, and government. In 2020 extended original window by one year to be open until August 14, 2021. (2019-21 window open). ³⁸⁸
North Carolina	2019	2-Year Window	2-year window opened on January 1, 2020 for expired civil claims. (2020-21 window open). ³⁸⁹
Oregon	2010	Age 40 Limit	Permanently revived SOL up to age 40 against perpetrators, other individuals, and private organizations. ³⁹⁰
Rhode Island	2019	Age 53 Limit	Permanently revived SOL up to age 53 against perpetrators only. ³⁹¹
Utah	2016	3-Year Window & Age 53 Limit	Permanently revived SOL up to age 53 against perpetrators or persons criminally liable and 3-year window opened on May 10, 2016 for expired claims against perpetrators and persons criminally liable. ³⁹² The revival was held unconstitutional in <i>Mitchell v. Roberts</i> , 2020 UT 34, 469 P.3d 901, reh'g denied (July 13, 2020).
Vermont	2019	Permanent Window	Revived SOL with permanently open revival window on May 28, 2019 for all expired claims against perpetrators, other individuals, private organizations, and government. (window open). ³⁹³
West Virginia	2020	Age 36 Limit	Permanently revived SOL up to age 36 against perpetrators and private organizations. ³⁹⁴
Washington D.C.	2019	2-Year Window	2-year window opened on May 3, 2019 for expired claims against perpetrators, other individuals, and entities. Window applies to all child sex abuse victims up to age 40 and, in some circumstances, older victims and those sexually assaulted as adults. (2019-21 window open). ³⁹⁵

³⁸⁷ S. 477 2019 Gen. Assemb., Reg. Sess. (N.J. 2019).

³⁸⁸ N.Y. C.P.L.R. 214-g; S.B. 7082, 2020 Leg., Reg. Sess. (N.Y. 2020).

³⁸⁹ S 199, 2019 Leg., Reg. Sess. (N.C. 2019).

³⁹⁰ O.R.S. § 12.117.

³⁹¹ tit. 9 R.I. GEN. LAWS § 9-1-51.

³⁹² UTAH CODE ANN. § 78B-2-308.

³⁹³ B. 330, 2019 Leg., Reg. Sess. (Vt. 2019).

³⁹⁴ W.V. CODE § 55-2-15; HB 4559, 2020 Leg., Reg. Sess. (W.V. 2020).

³⁹⁵ D.C. CODE § 23-113.

VI. Revival Laws Extending into 2021

There are multiple revival laws in effect that can help survivors of child sex abuse gain access to justice. The states with age limit revivals in place in 2021 include Arizona (30), California (40), Connecticut (48), Massachusetts (53), Montana (27), New Jersey (55), Oregon (40), Rhode Island (53), and West Virginia (36). The states with open revival windows in 2021 include California, New Jersey, New York, North Carolina, Vermont, Washington D.C., and Guam. The revival windows in Vermont and Guam are permanently open, and the end dates for the other revival windows are in the graphic below.



VII. Grading the States on Their Child Sex Abuse SOLs

Since 2002, the pace of change had been consistent and persistent until 2019 when it rapidly accelerated. 2019 was a banner year for SOL reform with 23 states and Washington D.C. improving their SOLs. The momentum continued into 2020, and despite the Covid-19 pandemic, 8 states were successful in changing their SOLs for the better. One can expect the landscape to continue to improve in 2021. No two states are identical, which means that child sex abuse SOL reform is a prime example of Justice Louis Brandeis' concept of the states as "laboratories."³⁹⁶ This is truly a 50-state experiment.

In this section, this study will take a snapshot of the states in 2020 and grade them according to how far they have advanced toward elimination of the criminal and civil SOLs for present and future victims and revival of expired SOLs for victims from the past. The graphic below shows where states currently stand on achieving these goals. On these metrics Vermont is the "best" state and North Dakota is the "worst."

³⁹⁶ *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting) (stating that a "state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.").

THE BEST CHILD SEX ABUSE STATUTES OF LIMITATION BY JURISDICTION

42

States & DC

NO CRIMINAL SOL FOR SOME OR ALL CSA CRIMES

All States, DC, the Federal Government, and US Territories eliminated SOLs except IA, MN, NV, NH, ND, OH, OK, OR, and Puerto Rico

12

States

NO CIVIL SOL FOR SOME OR ALL CSA CLAIMS

AK, CT, DE, FL, IL, ME, MN, NE, NV, NH, UT, VT, and Guam

18

States & DC

REVIVAL OR WINDOW LAW FOR EXPIRED CIVIL CLAIMS

AZ, CA, CT, DE, GA, HI, MA, MI, MN, MT, NJ, NY, NC, OR, RI, UT*, VT, WV, DC, and Guam



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Institute at CHILD USA

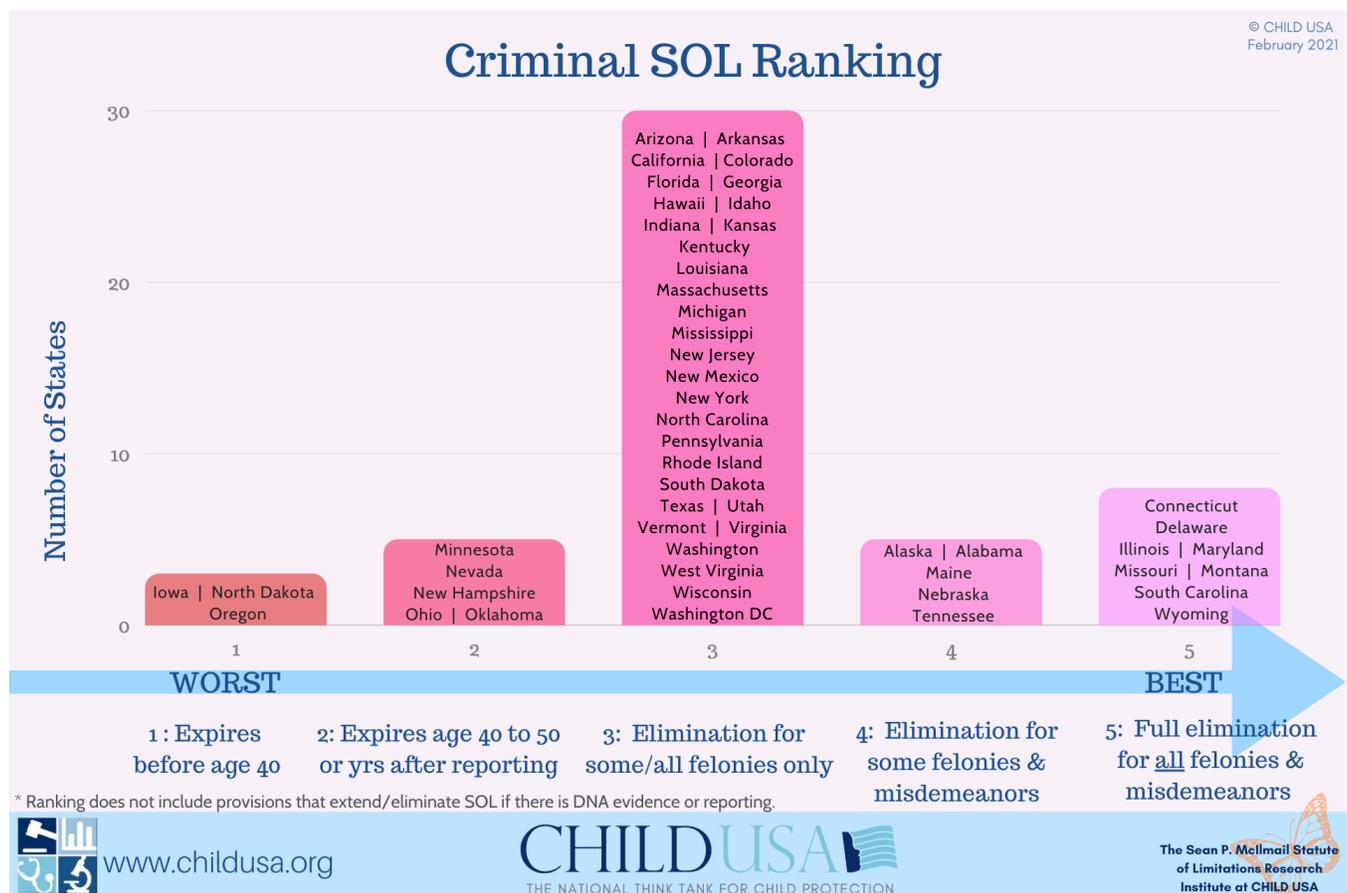
A. Criminal SOL Ranking by State

This section takes a snapshot of each state’s criminal SOLs in effect in 2020 and grades them accordingly. Criminal SOLs put a time limit on how long after the crime the government can prosecute child sex crimes and put the perpetrator behind bars, impose restitution, and/or place them on a state sex offender registry. Unfortunately, criminal prosecution of perpetrators is uncommon, and can be difficult to prove because child sex abuse is rarely reported to the authorities. In the rare instance that a victim pursues criminal charges, they are often too late and the SOL for prosecuting the crime has expired. Even when a crime is within the SOL for prosecution, prosecutors tend not to pursue those cases where the child is very young, because the child may be deemed a potentially “unreliable” witness. When DNA is collected and tested, this calculus changes, as it is a very strong identifier of the perpetrator. Without physical evidence, which is rarely available, though, the cases rest on corroborating evidence like witnesses and other victims of the same perpetrator, which may not be strong enough to withstand the “beyond a reasonable doubt” burden of proof.

Child sex abuse often violates various criminal codes with different SOLs for each crime (i.e., rape, assault, sex trafficking, exploitation). The ranking does not take into account provisions that extend or eliminate the SOL based on DNA evidence, because it is so rare. In general, the time limit for prosecuting a particular crime is the SOL that was in effect at the time of the offense. Eliminating the criminal SOL allows prosecutors time to prosecute a defendant for child sexual abuse crimes. With criminal SOL reform it is important to understand, that for the states that only recently eliminated or extended the criminal SOL, there are still many victims who do not have access to justice. For those victims whose SOLs expired before the recent extension or elimination, there is nothing that can be done for them on the criminal side. It is unconstitutional to revive the expired criminal SOLs.³⁹⁷ When it is too late to prosecute perpetrators, the only hope for victims to pursue justice is to revive expired civil SOLs.

³⁹⁷ *Stogner*, 539 U.S. 607 (2003), <https://supreme.justia.com/cases/federal/us/539/607/>.

The criminal rankings are based on the age limit for victims to prosecute child sex abuse crimes and whether the state has eliminated the SOL for some or all felony and misdemeanor crimes. The states whose criminal SOLs rank the highest are those that have eliminated the SOL for all felony and misdemeanor child sex abuse crimes—Connecticut, Delaware, Illinois, Maryland, Missouri, Montana, South Carolina and Wyoming. There are only 8 states that have not yet eliminated the SOL for any child sex abuse crimes. They are the worst states for criminal SOLs—Iowa, Minnesota, Nevada, New Hampshire, North Dakota, Ohio, Oklahoma, and Oregon. The graphic below illustrates the rankings of each state’s criminal SOL for child sexual abuse crimes.



B. Average Civil SOL Ranking by State³⁹⁸

This section takes a snapshot of each state’s civil SOLs in effect in 2020 and grades them according. Civil SOLs are ranked based on the length of the age cap, the breadth of the state’s discovery rule, and the existence and quality of any revival or window law. The goal of civil SOL reform is to allow survivors of child sex abuse to file claims against those that abused them and enabled their abuse when they are ready. Short civil SOLs benefit perpetrators and harm victims. The states with the highest overall average ranking of their civil SOLs include Minnesota, New Jersey, and Vermont. Conversely, the states with the

³⁹⁸ The average civil ranking score is the average of each state’s (1) SOL age cap ranking from 0-5, (2) SOL discovery rule ranking from 0-5 and (3) SOL revival law ranking from 0-5. It is calculated by adding the ranking scores for each of these three categories together and dividing by 3. For this calculation, states without revival laws are given a zero for their revival law ranking. For example, Alabama has a civil age cap ranking of 1, discovery rule ranking of 0, and a revival law ranking of 0 (because it has no revival law). Its average ranking is calculated by adding (1 + 0 + 0) and dividing by 3, which equals 0.33, placing it in the worst average civil SOL bar.

lowest overall ranking of their civil SOLs include Alabama, Indiana, Mississippi, North Dakota, Ohio, and South Dakota.

Civil claims serve a distinct purpose of redressing the impact of abuse on society and the victims—past, present, and future. They shift the costs of the abuse from the victim to the person and/or institution that caused the abuse. Like the criminal justice system which prevents more victims through incarceration and sex offender registration of the perpetrator, the civil system exposes hidden predators and shines light on the truth which helps prevent future abuse. It also creates a deterrent against institutions that have engaged in negligent oversight of employees and volunteers endangering children. The worst civil SOL states provide the least deterrence for organizations by cutting off claims when the victim is in their early twenties.

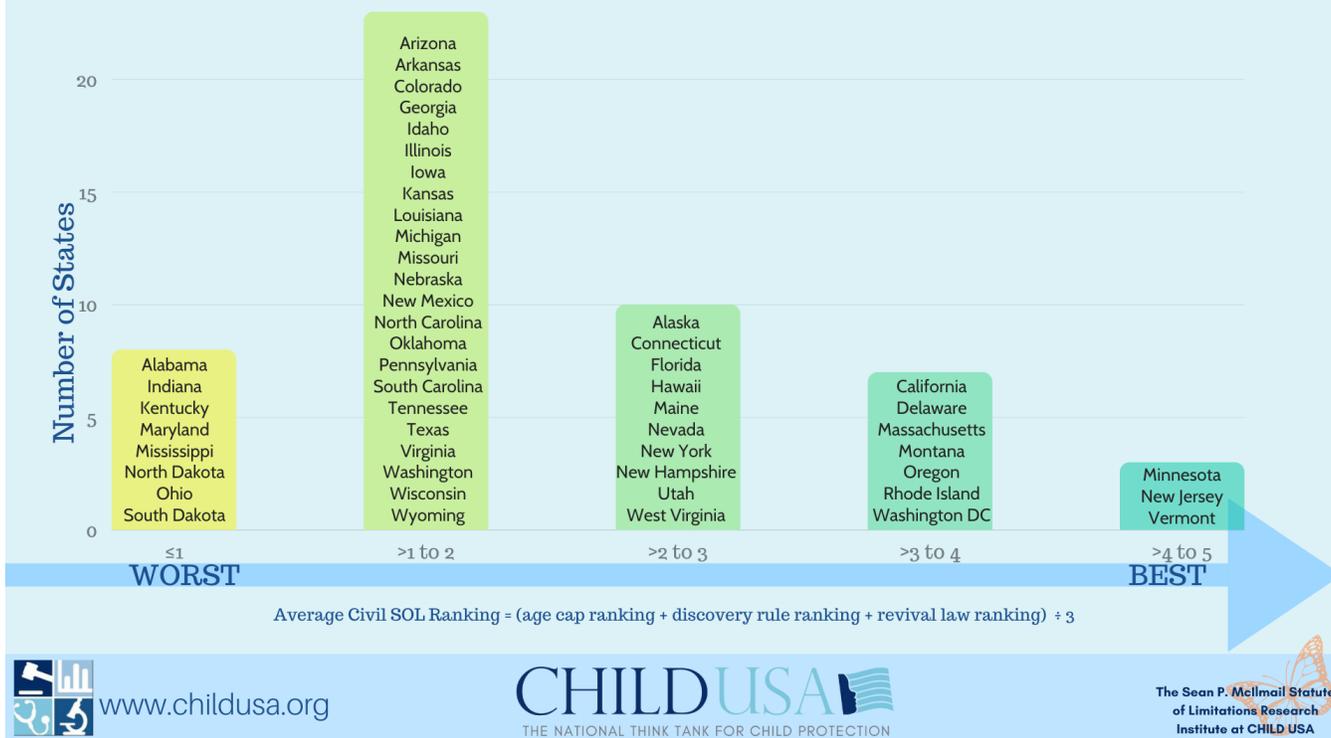
For civil claims, there are two categories of victims: those from the past and those being abused now and into the future. For future victims, the strongest states have eliminated their civil SOLs so future victims can bring claims at any point during their lifetime. Historically, victims from the past have been excluded from justice from unfairly short SOLs in many states. In an effort to give these victims access to justice, 18 states and D.C. have revived expired SOLs. Those jurisdictions that only extend or eliminate the civil SOLs going forward sometimes leave earlier victims without recourse, which in turn means that there is a strong risk that their perpetrators may never be named publicly. There is also a subset of past victims that have not come to terms with their abuse and have not discovered that their injuries are caused by the sex abuse they endured as a child. For these victims, broad discovery rules are helpful, particularly those that apply retroactively and run from when a victim makes the connection between their injuries and the abuse.

The states to revive expired SOLs with a discovery rule and/or window and to eliminate the SOLs going forward—Minnesota and Vermont—have done the most for all categories of victims, past, present, and future. The civil SOL rankings consider whether a state has helped both past and future victims (with revival legislation and forward elimination or extension, respectively) or only those going forward (through forward elimination or extension). The graphic below illustrates each state's average civil SOL ranking.

Average Civil SOL Ranking

ranking score is average of each state's:

(1) SOL age cap ranking, (2) SOL discovery rule ranking and (3) SOL revival law ranking



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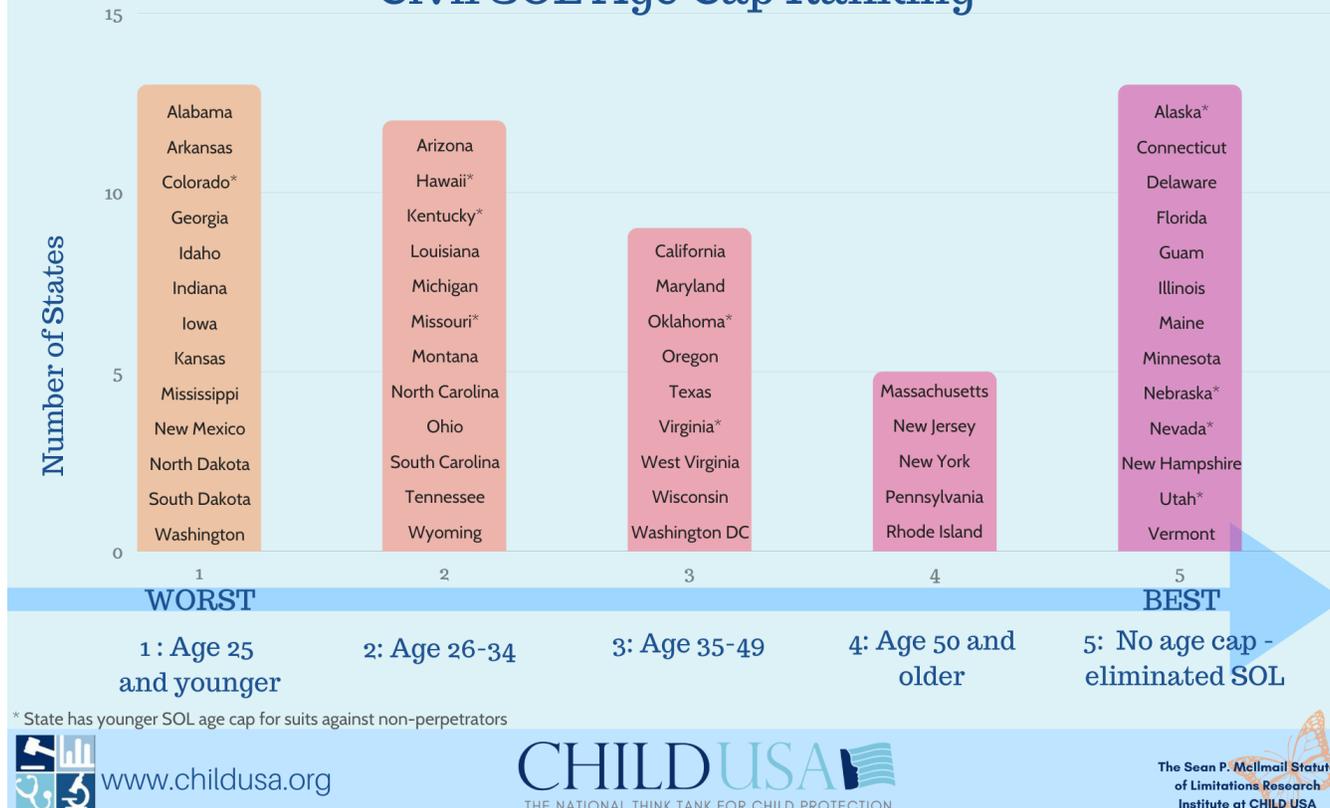
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1. Civil SOL Age Cap Ranking

This subsection takes a snapshot of each state’s SOL age cap in effect in 2020 and grades them accordingly. While the average age of disclosure of abuse is age 52, many victims take longer than that to come forward. The states that rank the highest on the age cap ranking are the states that have eliminated their SOL, abolishing the age cap and allowing victims to bring their claims at any time. This is the only way to ensure that each victim will have the time they need to come forward. Some of the states are given credit for their elimination, even though it is only applicable to claims against perpetrators, and they still have a shorter SOL in place for claims against other types of defendants. The seven most noteworthy states that have abolished their age cap for all claims against perpetrators and other defendants are Delaware, Florida, Illinois, Maine, Minnesota, New Hampshire, and Vermont. The worst states with age limits that block claims when victims are in their 20’s are out of touch with science and the realities of child sex abuse trauma. The states with the youngest age caps of age 25 or younger are Alabama, Arkansas, Colorado, Georgia, Idaho, Indiana, Iowa, Kansas, Mississippi, New Mexico, North Dakota, South Dakota, and Washington. The graphic below illustrates the rankings of each state’s civil age cap for child sexual abuse claims.

Civil SOL Age Cap Ranking



2. Civil SOL Discovery Rule Ranking

This subsection takes a snapshot of each state’s discovery rule in effect in 2020 and grades them according to how they serve the public interest in disclosure and justice. There is a discovery rule that could toll the SOL for child sex abuse claims in 41 states, Washington D.C., Puerto Rico, and the U.S. Virgin Islands.³⁹⁹ Vermont and Guam are the only jurisdictions without a discovery rule that do not need one because their laws allow past, present, and future survivors to file claims whenever they are ready.

The “best” discovery rules, ranking as a “5,” are in California, Massachusetts, Minnesota, Montana, New Jersey, and Oregon, because they apply retroactively even to claims that were already expired when the discovery statute went into effect. They are the most helpful to older survivors who were abused decades ago, but only recently made the connection between their current injuries and the abuse.

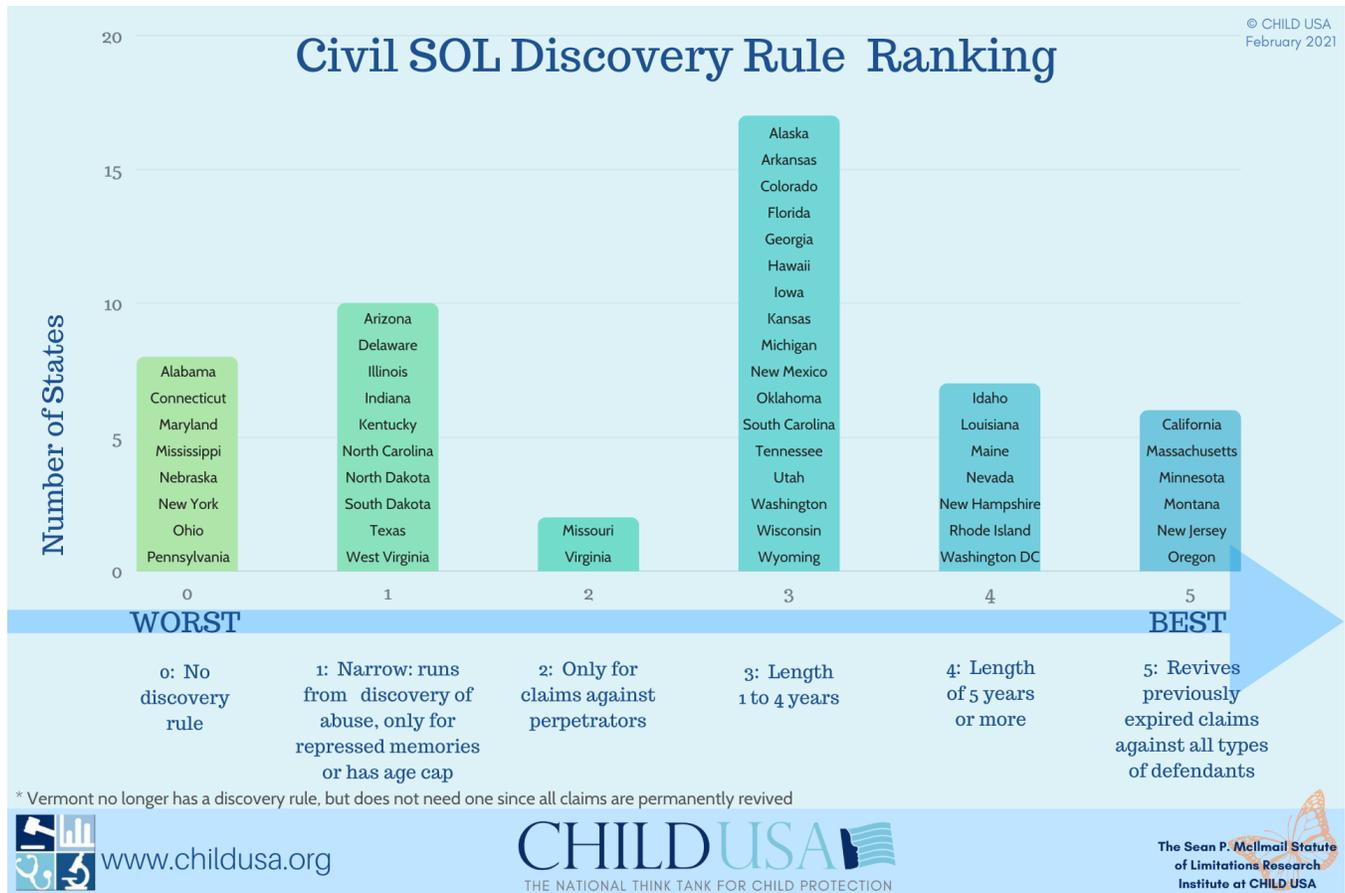
The states ranking as a “4” have very good discovery rules mainly because they give survivors at least 5 years from their discovery to move forward with a lawsuit against those that caused their abuse. A longer discovery rule is helpful for survivors who often need time after discovery to first come to terms with their abuse before filing a lawsuit. The states ranking as a “3” are mediocre, because their discovery rules are shorter. The states ranking as a “2” have discovery rules only for claims against the person who committed the sexual abuse, which is not preferable because it leaves reckless institutions unaccountable for enabling child sex abuse even in the most egregious circumstances. The states ranking as a “1” have discovery rules that are narrow in their application and do less to serve the public interest. They are only helpful to

³⁹⁹ The 9 states currently without any discovery tolling are AL, CT, MD, MN, NE, NY, OH, PA, & VT*.

a small subset of survivors who were either unconscious during the abuse, repressed their memories, or are younger than a specific cutoff age set by the state.

The “worst” states ranking as a “0” do not have discovery rules, but need one. Ohio ruled that its prior discovery rule, which was helpful only for repressed memories, was abrogated by statute and no longer applicable to any claims. Alabama, Connecticut, Maryland, Mississippi, Nebraska, New York, and Pennsylvania have not yet recognized a discovery rule for child sex abuse claims.

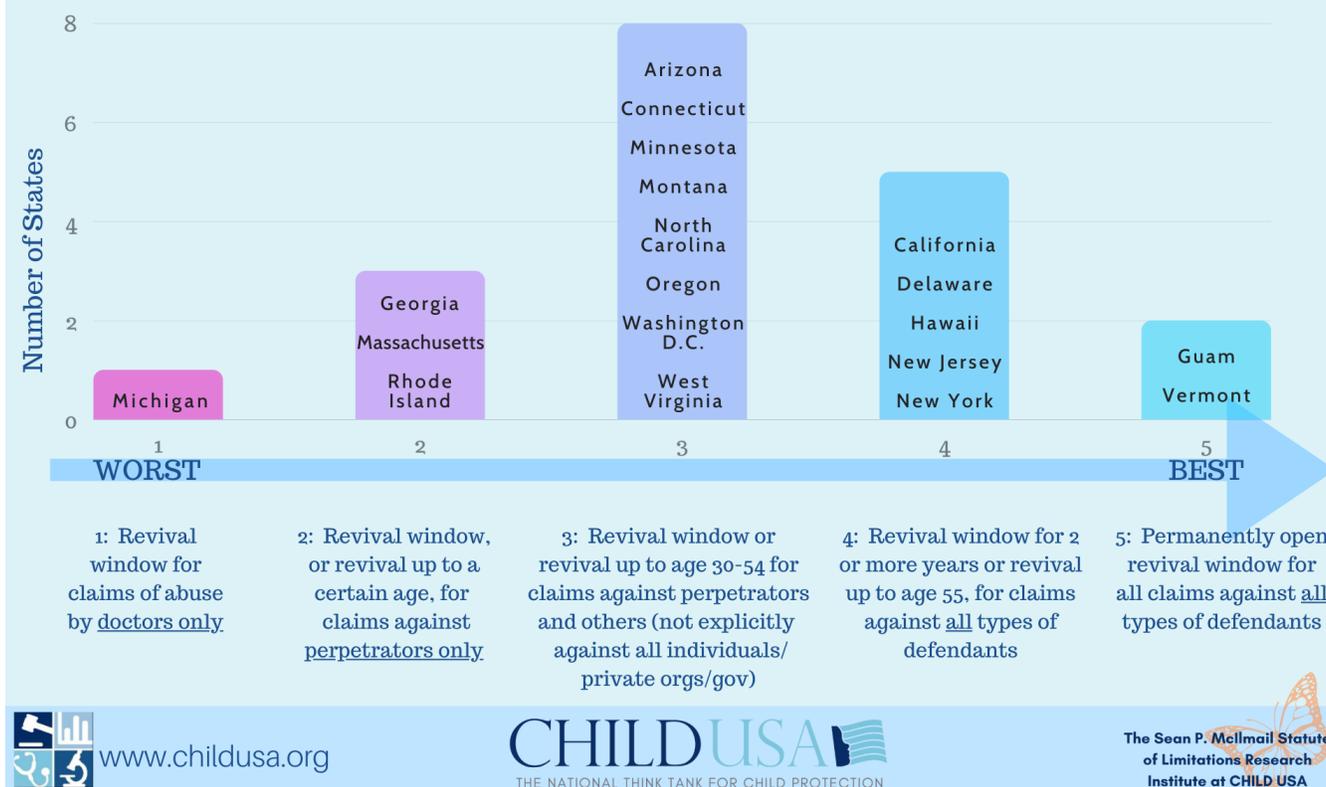
The graphic below illustrates the rankings of each state’s civil SOL discovery rule for child sexual abuse claims.



3. Civil SOL Revival Law Ranking

This subsection takes a snapshot of all the jurisdictions that have revived claims for victims whose SOL had already expired. It analyzes all three types of revival laws with a focus on who they help and for how long. The states are ranked in the chart below based on what age or type of victims the revival law covers, the length of time the revival window is open, and which individuals and entities can be sued. Vermont and Guam have the best revival laws, because they are permanently open for claims against all defendants and Michigan has the worst because it was limited to claims of abuse by Larry Nassar. The graphic below illustrates the rankings of each state’s civil SOL revival law for child sexual abuse claims.

Revival Law Ranking



C. Combined SOL Ranking by State⁴⁰⁰

The graphic below depicts the overall average ranking of each state’s criminal and civil SOLs. The average criminal and civil SOL ranking is based on each state’s civil rankings (including age caps, discovery rules, and revival laws) and the criminal rankings of each state. The state with the highest average ranking is Vermont. Vermont currently has the best overall SOLs for child sex abuse. In 2019, Vermont eliminated the civil SOL for all child sexual abuse claims, and it created a permanent revival window so anyone who has ever had a claim may bring it without a deadline. Vermont also eliminated the criminal SOL for most felonies. Vermont stands as the leader since 2019.

⁴⁰⁰ The average SOL ranking is the average of each state’s (1) criminal SOL ranking from 0-5, (2) civil SOL age cap ranking from 0-5, (3) civil SOL discovery rule ranking from 0-5 and (4) civil SOL revival law ranking from 0-5. It is calculated by adding the ranking scores for each of these four categories together and dividing by 4. For this calculation, states without revival laws are given a zero for their revival law ranking. While the ranking system is from 0 to 5 from worst to best, the lowest average SOL was a 0.75 (North Dakota) and the highest was a 4.5 (Vermont).

Average Criminal & Civil SOL Ranking

ranking score is average of each state's criminal and civil SOL rankings



Average Criminal & Civil SOL Ranking = (criminal ranking + civil age cap ranking + civil discovery rule ranking + civil revival law ranking) ÷ 4



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VIII. CONCLUSION

Child sex abuse SOL reform has been very active across the United States since January 2002 when the *Boston Globe's* Spotlight team first disclosed institution-based sex abuse in a trusted institution, the Boston Archdiocese. The movement has been mobilized by the appearance in the public square of victims of child sex abuse who were previously invisible to the public. With 1 in 5 girls and 1 in 13 boys sexually abused, there are millions of victims in the United States and most even today have not disclosed their abuse to the public. While the opposition to victims' greater access to justice persists from certain corners, it is apparent that with the #MeToo movement and a new wave of child sex abuse victims coming forward and revival windows now open in many states, the movement remains strong. The rapid pace of change is unlikely to slow down anytime soon.

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