CHILD USA
THE NATIONAL THINK TANK FOR CHILD PROTECTION

Discovery Rule Report: Discovery Tolling of Statutes of Limitation for Child Sexual Abuse Claims

A National Overview of Statutory and Common Law Discovery Rules for Civil Child Sexual Abuse Claims

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I. INTRODUCTION

Trauma impacts the victims of child sex abuse in ways that delay disclosure of their abuse—often for decades. For example, in 1968, a 27 year-old man began sexually abusing a 13 year-old boy from Massachusetts named James Ross.[1] While the sexual abuse was ongoing, James felt "guilt and shame" because he felt the abuse was "wrong" in the eyes of the Catholic Church.[2] He ended the abuse when he was 16 years-old, but he experienced trauma in the form of "numerous failed relationships," and "psychological and emotional difficulties" for the next 30 years without understanding the cause of his trauma.[3] It was not until 1998 that James underwent a psychiatric evaluation and began therapy for his abuse. His doctor concluded that he was suffering from PTSD and had only "'begun to make the connection between his childhood experiences and his [destructive] adult behavior.'"[4]

James filed a lawsuit against his abuser citing the 3-year discovery rule in Massachusetts. Fortunately, the court understood the reality of delayed disclosure and trauma, finding that even though the victim knew the abuse was "shameful and wrong" while it was happening, he did not have the '"knowledge required to trigger the statute of limitation.'"[5] The court correctly recognized that while James felt wrong about the abuse while it was happening, he did not know he was suffering "any appreciable or legally recognizable 'harm'" until many years later.[6] James's story of abuse and the resulting trauma is shared by millions of survivors of child sexual abuse.

Unlike James, child sex abuse victims in the U.S. who discover they suffer injuries long after they were abused often face insurmountable legal hurdles when they pursue justice. In 1973, a 13 year-old boy named Derran O'Neal entered a foster home where he was abused by his foster father for two years.[7] Although Derran always knew about the abuse, it was not until Derran was 26 years-old that he was able to tell his mother what had happened, because he had been "psychologically unable to reveal [it]."[8] Derran won a jury trial against his foster father, but the Utah Supreme Court reviewed it and reversed the decision, finding that, although Utah has a discovery rule which could theoretically allow victims to bring claims later than the 4-year statute of limitations, it applies only when a victim "did not know and could not reasonably have known" about the abuse.[9] In other words, the Utah law penalized Derran for his inability to disclose his abuse earlier, even though it acknowledged that he was so psychologically disturbed by the abuse, he could not disclose it until he was 26 years-old, keeping him from justice. Unfortunately, Derran's story is not uncommon.

To determine whether a lawsuit for child sex abuse is viable decades after the abuse occurred requires an understanding of the relevant statutes of limitation, or SOL—the arbitrary deadlines

[1] *Ross v. Garabedian*, 742 N.E.2d 1046, 1047 (Mass. 2001).
[2] *Id*.
[3] *Id*. at 1047-48.
[4] *Id.* at 1047.
[5] *Ross*, 742 N.E. at 1050 (citing *Phinney v. Morgan*, 654 N.E.2d 77, 82 (Mass. App. Ct. Aug. 28, 1995)).
[6] *Id.* (citing *Armstrong v. Lamy*, 938 F.Supp. 1018, 1040 (D. Ma. Aug. 27, 1996)).
[7] *O'Neal v. Div. of Family Serv's, State of Utah*, 821 P.2d 1139, 1140 (Utah 1991).
[8] *Id.* at 1140.
[9] *Id.* at 1144.

for filing claims.[10] While there is an SOL at the time of the abuse that may control, SOLs are often tolled. The most common tolling mechanism in this arena is a discovery rule. 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, which only tolls the SOL for 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, e.g., PTSD, depression, or substance abuse, 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 later in life.

The report that follows is a survey of the discovery rules for child sex abuse in every U.S. state and territory, including (1) the common law discovery rule and its applicability to child sexual abuse claims and (2) the statutory discovery rule, its trigger requirement, and its applicability to individual perpetrators, institutions, and the government. Discovery rules are only one means of tolling the SOL for a child sex abuse claim; there are multiple other theories of liability that can toll an SOL that are beyond the scope of this report (i.e., fraudulent concealment, equitable estoppel, breach of fiduciary duty, and civil conspiracy).

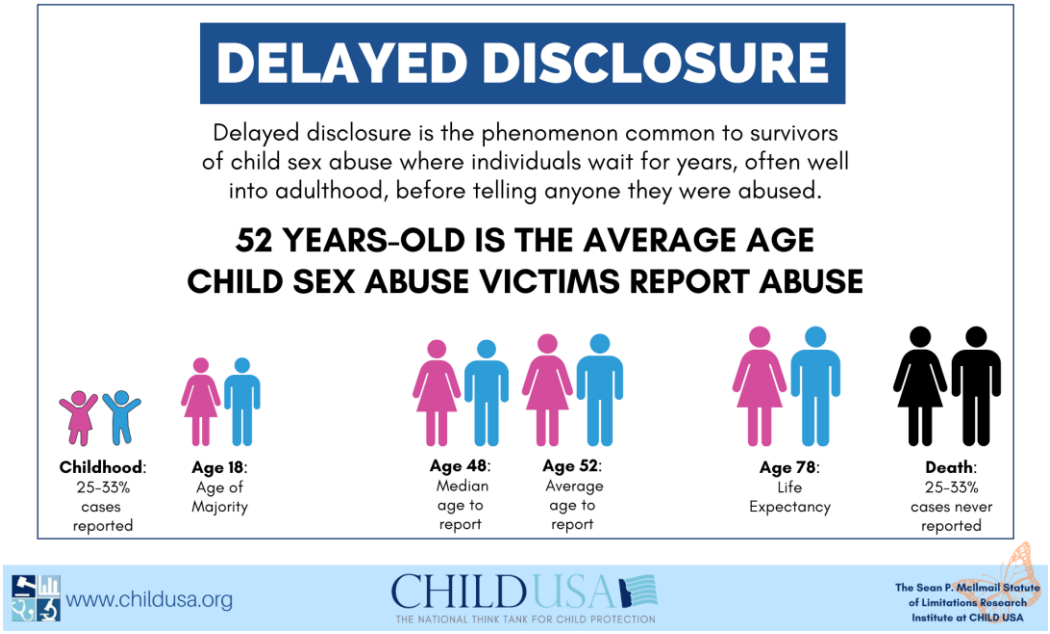
II. Public Policy for Discovery Rules

Child sexual abuse is a widespread health crisis, impacting 1 in 5 girls and 1 in 13 boys in North America, and 3.7 million children every year.[11] The trauma stemming from child sexual abuse is complex and individualized, and can impact a victim throughout their lifetime. There is an

[10] **There are several additional theories of liability beyond the scope of this report that victims can rely upon to pursue older claims of child sex abuse.** Most states recognize a cause of action for fraudulent concealment where a defendant either knowingly or in violation of a duty to the plaintiff takes action to prevent a plaintiff from discovering the existence of their cause of action arising from child sex abuse. For claims based in fraud, an SOL may not begin to run until a victim discovers the fraud, which can be long after the general SOL for the underlying claims expired. A handful of other states also recognize additional theories of liability including, but not limited to, fraud, vicarious liability, equitable estoppel, and duress. When properly pled, such theories can extend or toll an SOL so that it expires later than the general SOL for abuse. 18 states, Washington, D.C., and Guam have also passed legislation allowing victims of abuse a limited window of time to bring their claims, even if they were previously expired. These "revival windows" are an increasingly popular method for states to bring justice to victims. For more information on revival windows, see *Revival and Window Laws Since 2002*, CHILDUSA.ORG (last visited February 15, 2021), available at https://childusa.org/law/.

[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).

overwhelming body of science exposing the ways in which the trauma of sexual abuse during childhood impacts memory formation and the repression of memories.[12] It is now settled that PTSD, memory deficits, and complete disassociation are common coping mechanisms for child victims.[13]



Most victims of child sexual abuse do not tell anyone they were abused until many years later, if at all. Trauma is only one of the barriers 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."[14] Studies suggest that many victims, as much as 33%, never disclose their abuse.[15] 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

[12] VAN DER KOLK, B. THE BODY KEEPS THE SCORE: MEMORY & THE EVOLVING PSYCHOBIOLOGY OF POSTTRAUMATIC STRESS. Harvard Review of Psychiatry (1994) 1(5), 253-65; Jim Hopper, *Why Can't Christine Blasey Ford Remember How She Got Home?*, SCIENTIFIC AMER. (Oct. 5, 2018), available at https://blogs.scientificamerican.com/observations/why-cant-christine-blasey-ford-remember-how-she-got-home/; *see also* Hoskell, L. & Randall, M., *The Impact of Trauma on Adult Sexual Assault Victims*, JUSTICE CANADA 30 (2019), available at https://www.justice.gc.ca/eng/rp-pr/jr/trauma/trauma_eng.pdf (hereinafter "Hoskell").

[13] Jacobs-Kayam.A. and Lev-Weisel, R., *In Limbo: Time Perspective and Memory Deficit Among Female Survivors of Sexual Abuse*, FRONTIERS IN PSYCHOL. (April 24, 2019) available at https://www.frontiersin.org/articles/10.3389/fpsyg.2019.00912/full.

[14] 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).

[15] *Id.*

gradually and over time as a victim recovers their memories.[16] In fact, the average age of disclosure of child sexual abuse in a study of 1,000 victims was 52 years-old.[17]

Unfortunately, the SOLs on child sex abuse claims often expire long before victims tell anyone they were abused. Short SOLs demand too much of victims; it is unreasonable to require victims to litigate their claims against the person who sexually assaulted them and beloved community institutions before they are even able to disclose their abuse to relatives and friends. Discovery rules are one of the mechanisms in place to support child sex abuse victims who come to terms with their abuse and their injuries later in life. While discovery rules can be beneficial for victims, they also serve the public interest in learning the identities of perpetrators and complicit institutions.

III. Historical Overview of Discovery Rules

Traditional statutes of limitation were not enacted with child sexual abuse victims in mind. Historically, the SOLs applicable to civil claims for child sex abuse were the general SOLs for assault and battery, negligence, and fraud. These SOLs typically have ranged in length from 1 to 6 years and begin to run when the wrongful conduct occurs.

Discovery rules help to remedy the injustice of short SOLs for child sex abuse victims. Most states have common law discovery rules for torts, but only some states have recognized them as applicable to child sexual abuse injuries. Discovery rules recognize that the wrongful act and the personal injury don not always happen simultaneously, and it is unfair to bar victims' claims before they could have discovered the tort. The discovery rule stops an SOL from accruing—or beginning to run against a victim—until the time when the victim has or should have knowledge of all elements necessary to the cause of action. Discovery rules were developed in the context of toxic torts and medical malpractice, but courts and legislatures around the country have slowly expanded them to include other types of personal injury claims, like those for child sexual abuse. The earliest recognition that common law discovery rules should apply to child sex abuse occurred in cases where victims completely repressed memories of abuse and later recovered those memories.[18] Over time the discovery rule's application was broadened to claims by victims who did not reasonably realize they were abused or injured.

There are two types of discovery rules for child sexual abuse claims: common law discovery rules and statutory discovery rules. Common law discovery rules are crafted by courts in response to laws that would otherwise result in unjust decisions. They are not written into a state's legislative code, but they may be used by courts to toll the statute of limitations. Unlike judicially-crafted common law discovery rules, statutory discovery rules originate with state legislatures. They are

[16] Hoskell, at 24.
[17] See *Delayed Disclosure: A Factsheet Based on Cutting-Edge Research on Child Sex Abuse*, supra note 14.
[18] See e.g., *Hammer v. Hammer*, 418 N.W.2d 23, 26-27 (Wis. Ct. App. Nov. 19, 1987) (recognizing discovery rule for incest claims).

written into the statutory code of a state and usually specify whether the discovery rule applies to certain types of defendants and when the point of "discovery" starts.

The strength of a common law discovery rule is that once it is recognized by courts, it applies to claims that arise at any time, even those claims that had arisen before the court acknowledged the discovery rule. In those cases, the courts acknowledge that the discovery rule was always present, but that courts just had not interpreted it to apply to child sexual abuse yet. In general, common law discovery rules toll the SOL for claims against all types of defendants, including institutions.

Beginning in the 1980's and 1990's, states began to codify statutory discovery rules for child sex abuse claims so that the SOL would not begin to run until a victim's discovery. A statutory discovery rule typically runs from when the abuse occurred, when an individual realized (or should have realized) they were injured, or from the date when the individual realized (or should have realized) that their injury is a product of their abuse. Typically, discovery statutes help survivors whose claims had not already expired when the statute was enacted. However, a handful of states have discovery rules that fully revive civil claims that had expired before the rule was enacted. Discovery statutes commonly pair with state statutes that have an age limit for filing claims. Discovery statutes helps survivors who have not filed suit before reaching the age limit, because they have not discovered their abuse or injury, by allowing them to still be able to come into court with their claims.

IV. The Current SOL Reform Movement

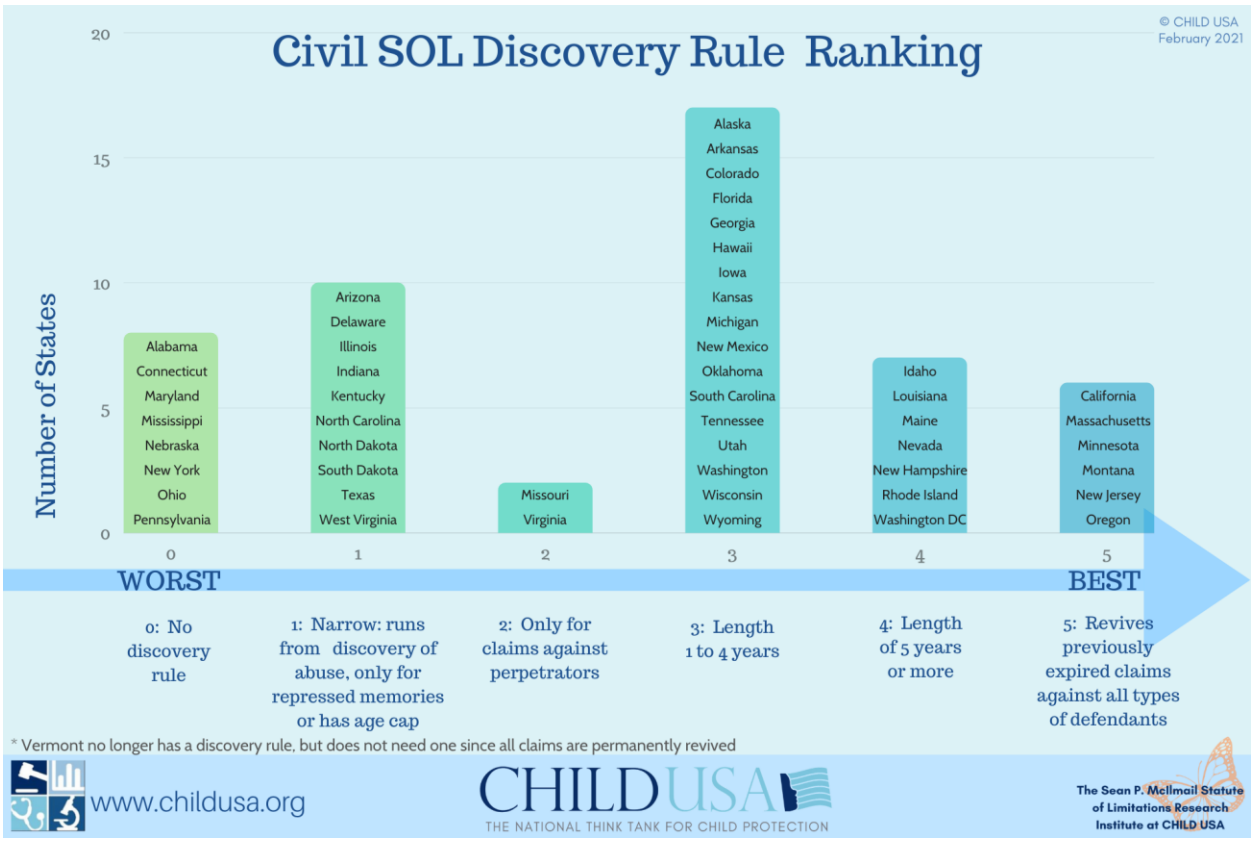
Historically, states began adopting discovery rules as the science of abuse traumatology and delayed disclosure evolved. Now, the science is well-established and over forty states have adopted discovery rules, with the quality of the discovery rules improving over time. Recent statutory amendments have broadened discovery rules to begin running when the victim makes the connection between their injuries and the abuse and run for longer from discovery. Discovery rules remain important in many states even after they reform their SOLs, because many improvements like eliminating or extending SOLs are prospective 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 included fully 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 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.[19]

[19] See generally CHILD USA, *History of U.S. SOL Reform: 2002-2020*, CHILDUSA.ORG, (February 2021) available at https://childusa.org/2020-sol-report/.

V. National Overview and Rankings

In this section, this study will take a snapshot of each state's discovery rule in effect in 2020 and grade 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.**[20] Vermont and Guam are the only jurisdictions without a discovery rule that do not need one because they allow past, present, and future survivors to file claims whenever they are ready. Vermont and Guam's laws eliminating civil SOLs and opening permanent revival windows for all previously expired claims are the gold standard for SOL reform. The graphic below illustrates the rankings of each state's civil SOL discovery rule for child sexual abuse claims.



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

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

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 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 them. 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.

VI. The State-by-State Developments in Discovery Rules for Child Sex Abuse

The following is a survey of discovery rules for child sex abuse in every state and U.S. territory.[21]

Alabama

Alabama does not have a common law or statutory discovery rule applicable to child sexual abuse claims.[22] On a scale of 0–5, it ranks as a 0.

Alaska

Alaska has a common law discovery rule that applies to claims from at least as far back as the 1950s, which provides that the 2-year SOL doesn't accrue, or begin to run, until "a reasonable person has enough information to alert that person that he or she has a potential cause of action or should begin an inquiry to protect his or her rights."[23] This common law discovery rule applies to claims against all types of defendants, including entities and the government.[24] There is a narrow statute of repose that can limit the discovery rule to 10 years after the abuse but only if the claim does not result from an intentional act, gross negligence, fraud, misrepresentation,

[21] This Report is intended to provide an overview of discovery rules 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 statutes 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.

[22] *Travis v. Ziter*, 681 So. 2d 1348, 1354 (Ala. 1996) (In Alabama there is no "discovery rule unless it is specifically prescribed by the Legislature" and there is no statutory discovery rule for child sex abuse).

[23] *Reasner v. State Dep't of Health & Soc. Servs.*, 394 P.3d 610, 616 (Alaska 2017), as amended (May 19, 2017). *See also Catholic Bishop of N. Alaska v. Does 1-6*, 141 P.3d 719, 725 (Alaska 2006) (recognizing common law discovery rule can toll SOL for delayed discovery of child sex abuse).

[24] *Reasner v. State Dep'' of Health & Soc. Servs.*, 394 P.3d 610, 616 (Alaska 2017), as amended (May 19, 2017). See also *Catholic Bishop of N. Alaska v. Does 1-6*, 141 P.3d 719, 725 (Alaska 2006) (recognizing common law discovery rule can toll SOL for delayed discovery of child sex abuse).

or breach of trust or fiduciary duty.[25] In 1990, Alaska added a statutory discovery rule of 3 years from discovery of when the act caused the injury or condition, only for claims against a perpetrator of sexual abuse of a minor under age 16.[26] Alaska courts have not yet interpreted the discovery provisions of this statute. Alaska eliminated the civil SOL for claims against a perpetrator for felony sexual abuse of a minor and sexual assault in 2001, unlawful exploitation in 2003, and felony sex trafficking in 2013, and so a discovery rule is no longer applicable or necessary for these claims. On a scale of 0–5, the current discovery rule ranks as a 3.

Arizona

Since before 2002, Arizona has had a narrow, common law discovery rule that is only applicable to cases involving repressed memories of child sex abuse.[27] Arizona's longstanding 2-year SOL was tolled until "the plaintiff retrieves repressed memories of abuse."[28] In 2019, Arizona upgraded from its general 2-year personal injury SOL[29] to a specific child sex abuse statute with a 12-year SOL. Because the new SOL does not run from accrual like the previous SOL, it is unclear whether its discovery rule for repressed memories will still be applicable to future actions.[30] On a scale of 0–5, the current discovery rule ranks as a 1.

Arkansas

Arkansas has not adapted its common law discovery rule to child sexual abuse claims.[31] In 1993, however, Arkansas enacted Ark. Code Ann. § 16-56-130, a 3-year statutory discovery rule specifically for child sex abuse claims.[32] Victims may file claims within 3 years after discovering their injury and "the effect of the injury or condition attributable to the childhood sexual abuse."[33] No Arkansas state court has interpreted the discovery statute or determined its applicability yet, however an Arkansas federal court did rule that the statute "cannot be used to revive" a time-barred claim and is not limited to actions against perpetrators.[34] On a scale of 0–5, the current discovery rule ranks as a 3.

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[25] 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).

[26] ALASKA STAT. ANN. § 09.10.140 ("three years after the plaintiff discovered or through use of reasonable diligence should have discovered that the act caused the injury or condition."). See ALASKA STAT. ANN. § 09.55.650 for conduct that falls within the statutory definition of "sexual abuse".

[27] *Doe v. Roe*, 955 P.2d 951, 960-61 (Ariz. 1998) (recognizing discovery rule applies to toll SOL in cases involving repressed memories of child sex abuse).

[28] *Id*.

[29] ARIZ. REV. STAT. ANN. § 12-542 ("there shall be commenced and prosecuted within two years after the cause of action accrues, and not afterward, the following actions: 1. For injuries done to the person of another . . ."). *See also* ARIZ. REV. STAT. ANN. § 12-502 (tolling 2-year SOL until plaintiff reaches age 18).

[30] ARIZ. REV. STAT. ANN. § 12-514 ("an action for the recovery of damages that is based on either of the following shall be commenced within twelve years after the plaintiff reaches eighteen years of age and not afterward: 1. An injury that a minor suffers as a result of another person's negligent or intentional act if that act is a cause of sexual conduct or sexual contact committed against the minor. . .").

[31] *See*, *McEntire v. Malloy*, 707 S.W.2d 773, 775-76 (Ark. 1986).

[32] ARK. CODE ANN. § 16-56-130.

[33] *Id*.

[34] *Miller v. Subiaco Acad.*, 386 F. Supp. 2d 1025, 1029 (W.D. Ark. 2005). *See also, Kolbek v. Twenty First Century Holiness Tabernacle Church, Inc.*, No. 10-CV-4124, 2013 WL 6816174, at *7 (W.D. Ark. Dec. 24, 2013) ("the Court finds no reason to limit the application of § 16–56–130 to claims against perpetrators").

California

California had a 1-year common law discovery rule for child sex abuse claims.[35] In 1991, it adopted a statutory 3-year discovery rule running from when an individual discovers or should have discovered that their injury was caused by their abuse.[36] The applicability of the discovery rule statute was interpreted narrowly by several California Supreme Court decisions[37] and amended again and again by the legislature to clarify it.[38] By 2002, the 3-year discovery rule was applicable to claims against all types of defendants without the prior age 26 cutoff for claims against third parties.[39] Though, the discovery rule was ineffective for claims against government entities where a victim failed to satisfy the claim presentment requirement.[40] Finally, in 2019, the legislature amended the discovery rule, extending it to 5 years and stipulating that it is retroactive and revives claims during the 3-year window and afterwards. Also, the discovery rule is applicable to claims against any type of defendant - perpetrators, individuals, private entities and the government.[41] On a scale of 0–5, the current discovery rule ranks as a 5.

Colorado

In 1999, Colorado recognized a statutory discovery rule that pushed accrual of a cause of action for child sex abuse to "the date, both the injury and its cause are known or should have been known by the exercise of reasonable diligence".[42] Colorado's accrual statute ensures that the SOL does not begin to run on claims based on child sex abuse until reasonable discovery.[43] Claims against perpetrators can be filed up to 6 years after a victim discovers or should have discovered both its injury and that its injury was caused by the sexual abuse. While claims

[35] *Quarry v. Doe I*, 53 Cal. 4th 945, 986, n.5 (2012) (discussing common law discovery rule's applicability to child sex abuse claims).
[36] CAL. CIV. PROC. CODE § 340.1 (3-year discovery rule runs from when "plaintiff discovers or reasonably should have discovered that psychological injury or illness . . . was caused by the sexual abuse.").
[37] *See e.g., Shirk v. Vista Unified Sch. Dist.*, 164 P.3d 630 (Cal. 2007), as modified (Oct. 10, 2007) superseded by CAL. GOV'T CODE § 905(m) as stated in *Rubenstein v. Doe No. 1*, Cal., August 28, 2017; *Quarry v. Doe I*, 272 P.3d 977, 985 (Cal. 2012) (statutory discovery rule substituted common law discovery and put upper limit on discovery rule of age 26 for claims against third party defendants); *Rubenstein v. Doe No. 1*, 400 P.3d 372, 378 (Cal. 2017), as modified on denial of reh'g (Nov. 1, 2017).
[38] CAL. CIV. PROC. CODE § 340.1's discovery rule was amended in 1994, 1998, 1999, 2002, and 2020 and CAL. GOV'T CODE § 905(m) which removed the claim presentment requirement for suing government entities was added in 2008.
[39] CAL. CIV. PROC. CODE § 340.1; 2002 Cal. Legis. Serv. Ch. 149 (S.B. 1779). *See Quarry v. Doe I*, 272 P.3d 977, 990 (Cal. 2012) (discussing 2002 discovery statute amendment).
[40] *Shirk v. Vista Unified Sch. Dist.*, 164 P.3d 630 (Cal. 2007), as modified (Oct. 10, 2007) superseded by CAL. GOV'T CODE § 905(m) as stated in *Rubenstein v. Doe No. 1*, 400 P.3d 372 (Cal. 2017).
[41] CAL. CIV. PROC. CODE § 340.1 (discovery rule applies after victim reaches age 40 only if "the person or entity knew or had reason to know, or was otherwise on notice, of any misconduct that creates a risk of childhood sexual assault by an employee, volunteer, representative, or agent, or the person or entity failed to take reasonable steps or to implement reasonable safeguards to avoid acts of childhood sexual assault").
[42] *Sailsbery v. Parks*, 983 P.2d 137, 138 (Colo. App. 1999) (quoting C.R.S. § 13-80-102) ("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.'").
[43] *Id.;* COLO. REV. STAT. §13-80-108 (accrual statute).

against institutions for negligence can be filed 2 years from discovery of injury and the negligent conduct.[44] On a scale of 0–5, the current discovery rule ranks as a 3.

Connecticut

Connecticut does not have a common law or statutory discovery rule for child sex abuse claims.[45] On a scale of 0–5, it ranks as a 0.

Delaware

In 2006, the judiciary recognized that repressed memories of child sex abuse fall within the common law discovery rule exception for "inherently unknowable injuries".[46] The 2-year SOL would not begin to run until a victim with repressed memories became aware of the abuse.[47] Even though Delaware eliminated the SOL prospectively and opened a 2-year revival window in 2007, the common law discovery rule is still applicable to claims involving repressed memories of abuse that occurred prior to July 9, 2005.[48] On a scale of 0-5, the current discovery rule ranks as a 1.

Florida

In 2000, the Florida Supreme Court recognized a common law delayed discovery doctrine for child sex abuse, holding that a cause of action would not accrue - the 4-year SOL would not begin to run - until a victim with repressed memories discovers the abuse.[49] Courts interpreting the discovery rule for repressed memories have limited its application to intentional tort actions against a perpetrator of abuse,[50] with the exception of a respondeat superior claim against an employer based on vicarious liability.[51] In 1992, Florida adopted a broader statutory discovery rule of 4 years after the individual reasonably discovers the causal connection between their injury and the sexual abuse.[52] Though the statutory discovery provision is not limited to claims

[44] *In re ARCHDIOCESE OF DENVER CASES -- GROUP I.*, 2007 WL 1234831 (Colo. Dist. Ct. Mar. 26, 2007) (negligent supervision claim for child sex abuse does not accrue until reasonable discovery of injury and facts giving rise to negligence claim); C.R.S. § 13-80-102 (2-year SOL).

[45] *Rosado v. Bridgeport Roman Catholic Diocese Corp.*, No. CV 94-031 63 94 S, 1997 WL 585779, at *1 (Conn. Super. Ct. Sept. 15, 1997) (§ 52-577d's "seventeen-year period does not relate back to the time of discovery of an injury or to the accrual of a cause of action. Rather, it relates back to the time the plaintiff attained the age of majority").

[46] *Eden v. Oblates of St. Francis de Sales*, 04C-01-069 CLS, 2006 WL 3512482, at *3 (Del. Super. Ct. Dec. 4, 2006). *See also Keller v. Maccubbin*, CIV.A. K11C-03015RBY, 2012 WL 1980417, at *3 (Del. Super. Ct. May 16, 2012).

[47] *Id*.

[48] *Sokolove*, at *6 (no SOL for child sex abuse claims arising after July 9, 2005).

[49] *Hearndon v. Graham*, 767 So. 2d 1179, 1186 (Fla. 2000); FLA. STAT. ANN. § 95.11(3) (4-year SOL for negligence and intentional torts).

[50] *Cisko v. Diocese of Steubenville*, 123 So. 3d 83, 84-85 (Fla. Dist. Ct. App. Sept. 4, 2013) (*citing Davis v. Monahan*, 832 So.2d 708 (Fla. 2002); *W.D. v. Archdiocese of Miami, Inc.*, 197 So. 3d 584, 588 (Fla. Dist. Ct. App. June 1, 2016) ("Hearndon's delayed discovery doctrine applies only to intentional tort claims against the perpetrator of the sexual abuse").

[51] *Doe v. St. John's Episcopal Par. Day Sch., Inc.*, 997 F. Supp. 2d 1279, 1287 (M.D. Fla. Feb. 12, 2014).

[52] FLA. STAT. ANN. § 95.11(7) ("4 years from the time of discovery by the injured party of both the injury and the causal relationship between the injury and the abuse").

against perpetrators, it has not been successfully applied to actions against non-perpetrator defendants.[53] On a scale of 0–5, the current discovery rule ranks as a 3.

Georgia

Prior to 2015, Georgia did not recognize a common law or statutory discovery rule for child sex abuse.[54] In 2015, Georgia added a 2-year statutory discovery rule for abuse committed on or after July 1, 2015.[55] Pursuant to the discovery rule, claims can be filed within 2 years from when a victim "knew or had reason to know of such abuse and that such abuse resulted in injury" that is "established by competent medical or psychological evidence".[56] While the discovery provision has yet to be interpreted by Georgia courts, the statute is clear that it does apply to actions against perpetrators, institutions, and the government.[57] On a scale of 0–5, the current discovery rule ranks as a 3.

Hawaii

In 1996 Hawaii recognized a common law discovery rule, which tolls the 2-year SOL from running until a victim is aware of her injuries and the "causal link" to the child sex abuse.[58] In 2012, Hawaii added a statutory 3-year discovery rule for claims against perpetrators only, that is triggered by the victim's reasonable discovery that "psychological injury or illness occurring after the minor's eighteenth birthday was caused by the sexual abuse."[59] On a scale of 0–5, the current discovery rule ranks as a 3.

Idaho

Prior to 2007, Idaho did not recognize a common law or statutory discovery rule for child sex abuse.[60] In 2007, Idaho added a statutory discovery provision, which gives the victim 5 years after reasonable discovery of the abuse and its "causal relationship to an injury or condition suffered by the child" to file a lawsuit.[61] The discovery rule is applicable to claims against all types of defendants,[62] but claims against government entities are still subject to the 180-day

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[53] *W.D. v. Archdiocese of Miami, Inc.*, 197 So. 3d 584, 588 (Fla. Dist. Ct. App. 2016). *Doe ex rel. Doe's Mother v. Sinrod*, 90 So. 3d 852, 855 (Fla. Dist. Ct. App. 2012) (discovery statute § 95.11(7) not applicable to negligence claims against public school for child sex abuse).

[54] *M.H.D. v. Westminster Sch.*, 172 F.3d 797, 805 (11th Cir. 1999) (holding under Georgia law discovery rule is only applicable to continuing torts and did not apply to toll the SOL for multiple instances of child sex abuse).

[55] GA. CODE ANN. § 9-3-33.1(b)(2).

[56] GA. CODE ANN. § 9-3-33.1(b)(2)(A)(ii).

[57] GA. CODE ANN. § 9-3-33.1(b)(2)(A) (For discovery rule to apply to action against an entity, statute requires gross negligence, knowledge and failure to remediate on the part of the "entity". "Entity" is defined as an "institution, agency, firm, business, corporation, or other public or private legal entity").

[58] *Dunlea v. Dappen*, 924 P.2d 196, 204 (Haw. 1996), abrogated by *Hac v. Univ. of Hawaii*, 73 P.3d 46 (Haw. 2003).

[59] HAW. REV. STAT. § 657-1.8(a).

[60] *Bonner v. Roman Catholic Diocese of Boise*, 128 Idaho 351, 352, 913 P.2d 567, 568 (Idaho 1996) ("Idaho is not a discovery jurisdiction").

[61] IDAHO CODE § 6-1704.

[62] *Steed v. Grand Teton Council of the Boy Scouts of Am., Inc.*, 172 P.3d 1123, 1127 (Idaho 2007) (Child sex abuse statute §§ 6-1701-5, which includes discovery provision, would apply to claims against a non-perpetrator, including corporations, based on willful conduct "even if the defendant did not actually harm the child").

after age of majority notice of claim requirements of the Idaho Tort Claims Act.[63] Also, it does not revive claims that were expired prior to July 1, 2007.[64] On a scale of 0–5, the current discovery rule ranks as a 4.

Illinois

Illinois has a common law discovery rule and in 1998 recognized it could toll the 2-year SOL for a victim of child sex abuse who repressed memories of his abuse and later remembered them.[65] In 1991, the Illinois legislature codified the 2-year common law discovery rule with a statute, but added an upper limit of age 30.[66] The statute provides that the SOL runs from "the date the person abused discovers or through the use of reasonable diligence should discover that the act of childhood sexual abuse occurred and that the injury was caused by the childhood sexual abuse."[67] In 1994, the discovery statute's upper limit was removed, and the only discovery claims that were blocked were those by survivors who turned 30 before 1994.[68] In 2003, the state extended the statutory discovery rule to 5 years, and again in 2010 to 20 years. It also added that discovery of the abuse alone does not start the discovery SOL from running.[69] The discovery rule is applicable to claims against any type of defendant - including individuals, institutions,[70] and the government.[71] In 2014 when Illinois eliminated its civil SOL, it also did away with its statutory discovery rule.[72] On a scale of 0–5, the current discovery rule ranks as a 1.

[63] *D.A.F. v. Lieteau*, 456 P.3d 193, 200 (Idaho 2019), reh'g denied (Jan. 30, 2020) (child sex abuse claims against the state are subject to ITCA's notice requirement); IDAHO CODE § 6-906A ("No person who is a minor shall be required to present and file a claim against a governmental entity or its employee under this chapter until one hundred eighty (180) days after said person reaches the age of majority or six (6) years from the date the claim arose or should reasonably have been discovered, whichever is earlier.").

[64] *Doe v. Boy Scouts of Am*., 224 P.3d 494, 498 (Idaho 2009).

[65] *Johnson v. Johnson*, 701 F. Supp. 1363, 1370 (N.D. Ill. 1988); See also *Horn v. Goodman*, 60 N.E.3d 922, 926 (Ill. App. Ct. 2016) (*citing Parks v. Kownacki*, 193 Ill.2d 164, 176, 249 Ill.Dec. 897, 737 N.E.2d 287 (Ill. 2000). (*quoting Knox College v. Celotex Corp.*, 88 Ill.2d 407, 415, 58 Ill.Dec. 725, 430 N.E.2d 976 (Ill. 1981)). But see *M.E.H. v. L.H.*, 669 N.E.2d 1228, 1236 (Ill. App. Ct. 1996), aff'd, 685 N.E.2d 335 (Ill. 1997) (declining to apply discovery rule to case of repressed memory of abuse).

[66] 735 ILL. COMP. STAT. 5/13-202.2.

[67] *Id*.

[68] 735 ILL. COMP. STAT. 5/13-202.2. *See also, Doe v. Boy Scouts of Am.*, 66 N.E.3d 433, 455 (Ill. App. Ct. 2016) ("the 12–year statute of repose included in the 1991 version of the childhood sexual abuse statute would apply to plaintiff's claim only if he had turned 30 years old before 1994.") (citing *Doe A. v. Diocese of Dallas*, 917 N.E.2d 475, 485 (Ill. 2009)).

[69] 735 ILL. COMP. STAT. 5/13-202.2.

[70] *Doe v. Hinsdale Twp. High Sch. Dist*., 86, 905 N.E.2d 343, 346–47 (Ill. App. Ct. 2009) (discovery "statute applies to both child abusers and those who had a duty to protect a child from abuse"); *Doe v. Boy Scouts of Am*., 66 N.E.3d 433, 455 (Ill. App. Ct. 2016); *Horn v. Goodman*, 60 N.E.3d 922, 928 (Ill. App. Ct. 2016).

[71] *Doe v. Hinsdale Twp. High Sch. Dist. 86*, 905 N.E.2d 343, 348-9 (Ill. App. Ct. 2009) (statute applies to municipal entities and tort immunity act is inapplicable); *Brookman as next friends of A.B. v. Reed-Custer Cmty. Unit, Sch. Dist. 255-U*, 18 C 7836, 2019 WL 4735395, at *3 (N.D. Ill. Sept. 27, 2019) (same).

[72] 735 ILL. COMP. STAT. 5/13-202.2.

Indiana

Indiana has recognized a common law discovery rule for child sex abuse, but it is extremely narrow and has not been helpful to survivors.[73] In 2002, the SOL was 2 years from accrual and in 2013 it was extended to 7 years from accrual for child sex abuse claims.[74] Under Indiana's common law discovery rule, a cause of action would accrue—and the SOL would begin to run—"when the plaintiff knew or, in the exercise of ordinary diligence, could have discovered that an injury had been sustained as a result of the tortious act of another."[75] On a scale of 0–5, the current discovery rule ranks as a 1.

Iowa

In 1990, Iowa recognized a common law discovery rule of 2 years for child sex abuse.[76] This discovery rule delays accrual of a cause of action until a person discovers or reasonably should have discovered the "nexus" between "some specific act or acts of sexual abuse" and "the claimed injuries."[77] The common law discovery rule is applicable to claims against all defendants - including some government entities.[78] Iowa added a statutory discovery rule in 1990 for victims abused while under age 14.[79] It gives these victims 4 years to file a claim "from the time of discovery by the injured party of both the injury and the causal relationship between the injury and the sexual abuse".[80] The statutory discovery rule applies to claims against perpetrators, individuals, and institutions, but not against some government entities.[81] On a scale of 0–5, the current discovery rule ranks as a 3.

Kansas

Kansas does not recognize a common law discovery rule, though it has had discovery statutes in effect for decades. An accrual statute provided that the 2-year personal injury SOL did not begin to run "until the fact of injury becomes reasonably ascertainable to the injured party" but

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[73] *See e.g., Doe v. United Methodist Church*, 673 N.E.2d 839, 842 (Ind. Ct. App. 1996); Michael W. Hoskins, *Little court guidance on repressed memory litigation results in trial court split*, Indiana Lawyer, Feb. 3, 2010, available at https://www.theindianalawyer.com/articles/23723-little-court-guidance-on-repressed-memory-litigation-results-in-trial-court-split.

[74] IND. CODE ANN. § 34-11-2-4.

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

[76] *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).

[77] *Frideres v. Schiltz*, 540 N.W.2d 261, 269 (Iowa 1995) (holding discovery rule is available for victim of child sex abuse who has always remembered some specific acts of abuse); *Woodroffe v. Hasenclever*, 540 N.W.2d 45, 49 (Iowa 1995) (clarifying inquiry notice considerations in application of common law discovery rule). *See also Schlichte v. Schlichte*, 828 N.W.2d 632 (Iowa Ct. App. 2013) (discussing inquiry notice).

[78] *See Callahan*, 464 N.W.2d at 272 (applying discovery rule to claims against the state under the state tort claims act Section 669). *But see contra Doe v. New London Cmty. Sch. Dist*., 848 N.W.2d 347, 360 (Iowa 2014) (finding "common law discovery rule does not apply to actions under the pre–2007 IMTCA" against school district).

[79] *Frideres*, 540 N.W.2d at 267 (IOWA CODE § 614.8A's discovery rule applies to sexual abuse of a child, which means a child under age 14).

[80] IOWA CODE § 614.8A.

[81] *Buszka v. Iowa City Cmty. Sch. Dist.*, 898 N.W.2d 202 (Iowa Ct. App. 2017) (Section 614.8A's statutory discovery rule is inapplicable to municipal tort claims against school district).

no later than 10 years after the abuse.[82] In 1992, Kansas adopted a broader discovery rule statute for child sex abuse claims giving victims "three years from the date the person discovers or reasonably should have discovered that the injury or illness was caused by childhood sexual abuse" to file a claim.[83] Though this statutory discovery rule removes the upper 10-year limit, child sex abuse claims that were already barred before it went into effect in 1992 do not benefit from this broader discovery statute.[84] It is not well settled which types of defendants are subject to the discovery statute, but claims have been asserted pursuant to it against perpetrators, institutions, individuals, and the government in Kansas.[85] On a scale of 0–5, the current discovery rule ranks as a 3.

Kentucky

In 1993, Kentucky recognized a common law discovery rule—tolling the 1-year SOL—though courts have been reluctant to apply it in child sex abuse cases.[86] In 2002, Kentucky adopted a statutory discovery rule, which gave victims "five (5) years from the date the victim knew, or should have known, of the act" to file a lawsuit.[87] In 2017, the discovery rule was extended to 10 years.[88] While the discovery statute appears to help victims with repressed memories of abuse, it has not been interpreted by courts. Also, most courts interpret the discovery statute as only applying to actions against perpetrators, though the Kentucky Supreme Court has yet to weigh in.[89] On a scale of 0–5, the current discovery rule ranks as a 1.

[82] *Doe v. St. Benedict's Abbey*, 189 P.3d 580 (Kan. Ct. App. 2008) (*quoting* K.S.A. 60–513)).
[83] KAN. STAT. ANN. § 60-523.
[84] *Popravak*, 421 P.3d at 762 (*citing Ripley v. Tolbert*, 260 Kan. 491, 498 (Kan. 1996)).
[85] *Cosgrove v. Kansas Dept. of Social and Rehabilitation Services*, 332 Fed. Appx. 463, 2009 WL 1546148 (claim against state department and foster parents pursuant to discovery statutes survives motion to dismiss); *Clark v. Blue Valley Unified Sch. Dist. No. 229*, 12-CV-2538, 2013 WL 3867532, at *1 (D. Kan. July 25, 2013) (discussing applicability of Section 60-515(a) to claims against non-perpetrators).
[86] *Secter*, 966 S.W.2d at 289 (declining application of discovery rule) (*citing Rigazio v. Archdiocese of Louisville*, 853 S.W.2d 295, 297 (Ky. Ct. App. 1993) ("The fact that his memory of these events was thereafter suppressed, only to return years later, would not seem to present a circumstance falling within the discovery rule which relates to injuries which cannot be discovered with reasonable diligence.")). *But see, Fayette Cty. Bd. Of Educ. v. Maner*, No. 2007-CA-002243-MR, 2009 WL 1423966, at *11 (Ky. Ct. App. May 22, 2009) ("the discovery rule cannot be used in a sexual abuse cause of action to toll the statute of limitation").
[87] KY. REV. STAT. ANN. § 413.249.
[88] *Id.*
[89] *Roman Catholic Bishop of Louisville v. Burden*, 168 S.W.3d 414, 417 (Ky. Ct. App. 2004) ("the language of KRS 413.249 . . . appears to be directed at perpetrators and not third parties since it sets forth sexual offenses which a third party, such as a church or a school would be incapable of committing"); *Doe v. Logan*, No. 2019-CA-000183-MR, 2020 WL 398796, at *9 (Ky. Ct. App. Jan. 24, 2020) ("The extended ten-year limitations period under KRS 413.249 does not apply to claims against non-perpetrator third parties.") (*citing B.L. v. Schuhmann*, 380 F.Supp.3d 614 (W.D. Ky. 2019)). *But see Doe v. Roman Catholic Diocese of Covington*, No. 03-CI-00181, 2006 WL 250694, at *2, n. 3 (Ky. Cir. Ct. Jan. 31, 2006) ("There is nothing in the language of the statute that suggests it is limited to claims against the actual abuser"); *B.L. v. Schuhmann*, 380 F.Supp.3d 614, n.13 (W.D. Ky. 2019) (The Court explains that KRS 413.249 can be applicable to non-perpetrators because the statute applies in "two instances" to "criminal actions that involve less direct forms of carrying out childhood sexual assault.").

Louisiana

In 1995, Louisiana recognized a common law discovery rule which tolls the SOL for child sex abuse claims.[90] The discovery rule provides that the SOL "commences to run not necessarily on the date the injury occurs or the damage is sustained, but from the date the affected individual knows or should have known of the injury or damage sustained."[91] The applicable discovery rule tolling for a specific case will be the length of the SOL that was in effect at the time of abuse.[92] The prior SOL in Louisiana was 1 year until 1988 when it was extended to 3 years in actions against parents or caretakers.[93] In 1993 the SOL for child sex abuse claims against all types of defendants was extended to 10 years.[94] Louisiana's common law discovery rule is applicable to claims against all types of defendants, including institutions.[95] On a scale of 0–5, the current discovery rule ranks as a 4.

Maine

Maine does not recognize a common law discovery rule for child sex abuse,[96] but it did have a statutory discovery rule in effect from 1989 until 2000.[97] That rule was eliminated in 2000, when the SOL was eliminated. The original 1989 discovery statute set the SOL at 3 years from discovery and in 1991 it was extended to 6 years from discovery.[98] The discovery rule ran from "the time the person discovers or reasonably should have discovered the harm."[99] It has not been settled yet whether the discovery statute applies also to claims against non-perpetrators.[100] Claims that were already expired as of 1989 were not revived by the discovery statute.[101] The

[90] *Doe v. Roman Catholic Church*, 656 So. 2d 5, 7 (La. App. 3 Cir. May 3, 1995), writ denied, 662 So. 2d 478 (La. Nov. 13, 1995) (discovery rule is applicable "where some cause of action is not known or reasonably knowable by the plaintiff, even though his ignorance is not induced by the defendant"); *See e.g*., *Doe v. Archdiocese of New Orleans*, 823 So. 2d 360, 366 (La. Ct. App. May 8, 2002), writ denied, 828 So. 2d 1127 (La. Nov. 8, 2002) (discovery rule applicable to repressed memory of abuse).
[91] *Id*.
[92] *See Johnson v. The Roman Catholic Church For The Archdiocese of New Orleans*, 844 So. 2d 65, 69 (La. Ct. App. Feb. 14, 2003), writ denied sub nom. *Johnson v. Roman Catholic Church for Archdiocese of New Orleans*, 843 So. 2d 401 (La. May 9, 2003), and writ denied sub nom. *Johnson v. The Roman Catholic Church*, 843 So. 2d 406 (La. May 9, 2003).
[93] See *Johnson v. The Roman Catholic Church For The Archdiocese of New Orleans*, 844 So. 2d 65, 68, (La. Ct. App. Feb. 14, 2003) writ denied sub nom. *Johnson v. Roman Catholic Church for Archdiocese of New Orleans*, 843 So. 2d 401 (La. 2003) (overview of historical changes to child sex abuse SOL); La. Civ. Code Ann. art. 3496.1 (prior version had 3-year SOL for action against parent or caretaker).
[94] LA. STAT. ANN. § 9:2800.9.
[95] *N. G. v. A. C*., 281 So. 3d 727, 735 (La. Ct. App. Oct. 2, 2019) (finding common law discovery rule applicable to claims against non-abusers as well).
[96] *McAfee v. Cole*, 637 A.2d 463, 466 (Me. 1994) ("We decline from the circumstances of this case to announce a judicially crafted discovery rule applicable to the predecessor of section 752–C.") (*citing Bozzuto v. Ouellette*, 408 A.2d 697 (Me. 1979)); *Harkness v. Fitzgerald*, 701 A.2d 370, 372 (declining to adopt discovery rule for child sexual abuse).
[97] ME. REV. STAT. TIT. 14 § 752-C.
[98] *Id*.
[99] *Id*.
[100] *See Picher v. Roman Catholic Bishop of Portland*, 82 A.3d 101, 102 (Me. 2013) (declining to address whether § 752-C is applicable to Diocese); *Fortin v. The Roman Catholic Bishop of Portland*, 871 A.2d 1208, 1214 (Me. 2005). *See contra Keene v. Maine Dep't of Corr.*, No. 1:17-CV-00403-JDL, 2018 WL 1737940, at *3 (D. Me. Apr. 11, 2018).
[101] *McAfee v. Cole*, 637 A.2d 463, 466 (Me. 1994).

discovery rule was taken out of the statute in 2000,[102] but it is unsettled whether older claims that were not expired in 1989 can be tolled in reliance on the 1989-2000 discovery rule that was in effect.[103] On a scale of 0–5, the current discovery rule ranks as a 4.

Maryland

Maryland has not recognized a common law discovery rule for child sex abuse claims and has not adopted a statutory discovery rule either.[104] On a scale of 0–5, it ranks as a 0.

Massachusetts

Since at least 1995, Massachusetts has recognized a common law discovery rule for child sex abuse claims which delays accrual of a cause of action, so the 3-year SOL does not begin to run until a victim discovered her injuries were caused by abuse.[105] It also adopted a statutory 3-year discovery rule in 1993 which ran from when a "victim discovered or reasonably should have discovered that an emotional or psychological injury or condition was caused by" the abuse and only applied against perpetrators.[106] In 2014, the statutory discovery rule was extended to 7 years from discovery and was made applicable to claims against any type of defendant - including, perpetrators, individuals, entities and the government.[107] The 2014 amendment was completely retroactive against perpetrators and non-perpetrators, reviving claims and giving a victim 7 years after discovering an injury was caused by the sex abuse to file suit.[108] On a scale of 0–5, the current discovery rule ranks as a 5.

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[102] ME. REV. STAT. TIT. 14§ 752-C.

[103] *See Picher v. Roman Catholic Bishop of Portland*, 82 A.3d 101, 102 (Me. 2013) (declining to address whether § 752-C is applicable to Diocese); *Fortin v. The Roman Catholic Bishop of Portland*, 871 A.2d 1208, 1214 (Me. 2005). *See contra Keene v. Maine Dep't of Corr.*, No. 1:17-CV-00403-JDL, 2018 WL 1737940, at *3 (D. Me. Apr. 11, 2018).

[104] *Doe v. Maskell*, 342 Md. 684, 695, 679 A.2d 1087, 1092 (1996) ("we hold that the mental process of repression of memories of past sexual abuse does not activate the discovery rule"); *Scarborough v. Altstatt*, 140 A.3d 497, 507 (2016) (affirming Maskell holding "the discovery rule does not apply to toll the statute of limitations in cases involving memory impairment relating to alleged childhood sexual abuse").

[105] *Koe v. Mercer*, 876 N.E.2d 831, 836 (2007) ("'until a plaintiff has first, an awareness of [his] injuries and, second, an awareness that the defendant caused [his] injuries."') (*quoting Doe v. Creighton*, 439 Mass. 281, 283, 786 N.E.2d 1211 (2003)); *Phinney v. Morgan*, 39 Mass. App. Ct. 202, 204, 654 N.E.2d 77, 79 (1995) (holding discovery rule applies to tort actions arising out of incestuous child abuse); MASS. GEN. LAWS ANN. ch. 260, § 2A.

[106] MASS. GEN. LAWS ANN. ch. 260, § 4C ("Actions for assault and battery alleging the defendant sexually abused a minor shall be commenced . . . within three years of the time the victim discovered or reasonably should have discovered that an emotional or psychological injury or condition was caused by said act"); *Ross v. Garabedian*, 742 N.E.2d 1046, 1048 (Mass. 2001) (discovery rule runs from when "plaintiff knew or should have known that he has been harmed by the defendant's conduct").

[107] MASS. GEN. LAWS ANN. ch. 260, §§ 4C and 4C½; *Lee v. Bos. Pub. Sch.*, No. 15-CV-10811-LTS, 2016 WL 11372334, at *5 (D. Mass. Feb. 1, 2016), report and recommendation adopted, No. 15-10811-LTS, 2016 WL 632198 (D. Mass. Feb. 17, 2016) (retroactive discovery rule eliminates need for claim presentment for actions against government).

[108] *Sliney v. Previte*, 473 Mass. 283, 287, 41 N.E.3d 732, 736 (Mass. 2015) (*quoting* 2014 Mass. Legis. Serv. Ch. 145 (H.B. 4126) (7-year discovery rule "shall apply regardless of when any such action or claim shall have accrued or been filed and regardless of whether it may have lapsed or otherwise be barred by time under the law of the commonwealth.")).

Michigan

In general, Michigan does not recognize a common law discovery rule for child sex abuse,[109] except, as of 1997, if a defendant admitted to the abuse.[110] In 2018, Michigan adopted a statutory 3-year discovery rule, which runs from "the date the individual discovers, or through the exercise of reasonable diligence should have discovered, both the individual's injury and the causal relationship between the injury and the criminal sexual conduct."[111] This discovery rule has not yet been interpreted by courts, but it does appear to apply to claims against all types of defendants.[112] On a scale of 0–5, the current discovery rule ranks as a 3.

Minnesota

Minnesota has not recognized a common law discovery rule for child sex abuse, but it did have a statutory discovery rule in effect from 1990 until 2013 when the SOL was eliminated.[113] As of 1990, a retroactive discovery statute gave victims 2 years from discovery to sue for intentional torts and 6 years from discovery to sue for claims of negligence, even if the SOL had already expired before it was enacted.[114] In 1991 this distinction was amended out and a 6-year discovery rule was available for all claims of abuse.[115] The 6-year SOL ran from reasonable discovery of injury after reaching age 18.[116] The discovery date is "the time at which the complainant knew or should have known that he/she was sexually abused".[117] The discovery statute is applicable to claims against all types of defendants — including institutions.[118] In 2013, Minnesota eliminated the civil SOL for all claims that were not expired as of the effective date and did away with its statutory discovery rule.[119] On a scale of 0–5, the current discovery rule ranks as a 5.

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[109] *Lemmerman v. Fealk*, 534 N.W.2d 695, 703 (1995) ("We therefore hold that neither the discovery rule nor the statutory grace period for persons suffering from insanity extends the limitation period for tort actions allegedly delayed because of repression of memory of the assaults underlying the claims.").

[110] *Demeyer v. Archdiocese of Detroit*, No. 189716, 1997 WL 33353353, at *1 (Mich. Ct. App. Feb. 28, 1997), vacated, 458 Mich. 861, 587 N.W.2d 637 (1998) (*citing Lemmerman v. Fealk*, 449 Mich. 56, n.15 (1995) (recognizing discovery rule may apply to toll the SOL if "[e]xpress and unequivocal admissions" by defendants); *Meiers-Post v. Schafer*, 427 N.W.2d 606, 610 (1988) ("the statute of limitations can be tolled under the insanity clause if (a) plaintiff can make out a case that she has repressed the memory of the facts upon which her claim is predicated, . . . and (b) there is corroboration for plaintiff's testimony that the sexual assault occurred.").

[111] MICH. COMP. LAWS ANN. § 600.5851b.

[112] *See Denhollander v. Michigan State Univ.*, No. 1:17-CV-29, 2018 WL 9945982, at *1 (W.D. Mich. Sept. 7, 2018).

[113] MINN. STAT. ANN. 541.073.

[114] *Id.*; *see K.E. v. Hoffman*, 452 N.W.2d 509, 512 (Minn. Ct. App. 1990) (1990 discovery statute applied retroactively to revive expired claims if the plaintiff consulted an attorney to file a lawsuit within 2 years of discovery); *Lickteig v. Kolar*, 782 N.W.2d 810, 819 (Minn. 2010) ("We hold that the delayed discovery statute applies retroactively").

[115] MINN. STAT. ANN. 541.073.

[116] *D.M.S. v. Barber*, 645 N.W.2d 383, 390 (Minn. 2002) ("[A]s a matter of law, a reasonable child is incapable of knowing that he or she has been sexually abused and . . . the six-year period of limitation under the delayed discovery statute begins to run when the victim reaches the age of majority.").

[117] *D.M.S. v. Barber*, 645 N.W.2d 383, 387 (Minn. 2002) (*quoting Blackowiak v. Kemp*, 546 N.W.2d 1, 3 (Minn.1996).

[118] *Dymit v. Indep. Sch. Dist. 717*, No. A04-471, 2004 WL 2857375, at *5 (Minn. Ct. App. Dec. 14, 2004) ("Since both the plain meaning of the statute and the caselaw indicate that sexual abuse actions should be brought under MINN. STAT. ANN. § 541.073, appellant's claim against the school district is governed by this section.").

[119] MINN. STAT. ANN. § 541.073. 2013 Minn. Sess. Law Serv. Ch. 89 (H.F. 681) ("this section applies to actions that were not time-barred before the effective date").

Mississippi

Mississippi has not recognized a common law discovery rule and has not applied its statutory discovery rule to claims for child sex abuse.[120] On a scale of 0–5, it ranks as a 0.

Missouri

Missouri has a common law discovery rule and in 2006 recognized its applicability to a child sex abuse case where a victim repressed memories of abuse and later recovered them.[121] The discovery rule runs from when "a reasonable person would have been put on notice that an injury and substantial damages may have occurred and would have undertaken to ascertain the extent of the damages."[122] In 1990 Missouri adopted a statutory discovery rule, which gives a victim 3 years from "the date the plaintiff discovers or reasonably should have discovered that the injury or illness was caused by child sexual abuse" to file a lawsuit.[123] This statutory discovery rule is only applicable to claims against the perpetrator of the abuse.[124] On a scale of 0–5, the current discovery rule ranks as a 2.

Montana

In 1989, Montana adopted a statutory discovery rule for all child sex abuse claims, including for older claims of abuse that were time-barred before the law went into effect.[125] The discovery statute permits filing a lawsuit for abuse "3 years after the plaintiff discovers or reasonably should have discovered that the injury was caused by the act of childhood sexual abuse."[126] The discovery rule is applicable to claims against all types of defendants.[127] On a scale of 0–5, the current discovery rule ranks as a 5.

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[120] *Doe v. Roman Catholic Diocese of Jackson*, 947 So. 2d 983, 986 (Miss. Ct. App. 2006) (refusing to apply Mississippi's statutory discovery rule to child sex abuse case where victim didn't psychologically comprehend the acts were abusive and caused her injury). *See* MISS. CODE ANN. § 15–1–49(2) (1972) (current version at § 15–1–49(2)). *But see Stevenson v. Bros. of the Sacred Heart*, No. 1:08CV285-LG-RHW, 2008 WL 4279611, at *2 (S.D. Miss. Sept. 12, 2008) ("Mississippi has yet to rule on the implications of unsound mind tolling or repressed memory in an abuse case, or its impact").

[121] *Powel v. Chaminade Coll. Preparatory, Inc*., 197 S.W.3d 576, 584 (Mo. 2006), *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 didn't know of his resulting injuries).

[122] *Powel v. Chaminade Coll. Preparatory, Inc.*, 197 S.W.3d 576, 584 (Mo. 2006), as modified on denial of reh'g (Aug. 22, 2006) (*citing* MO. REV. STAT. § 516.100 (cause of action accrues "when the damage resulting therefrom is sustained and is capable of ascertainment.")).

[123] MO. REV. STAT. § 537.046(2). *See also* MO. REV. STAT. § 537.047 (3-year discovery rule for victims of child pornography in effect since 2007).

[124] *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).

[125] MONT. CODE ANN. § 27-2-216; *Cosgriffe v. Cosgriffe*, 864 P.2d 776 (Mont. 1993) (holding retroactive application of discovery rule is constitutional).

[126] MONT. CODE ANN. § 27-2-216.

[127] *Werre v. David*, 913 P.2d 625, 630 (1996) (discovery statute applicable to "negligence claims which are based on intentional conduct" and not limited to actions against perpetrators).

Nebraska

Nebraska has not recognized a common law or statutory discovery rule applicable to child sexual abuse claims.[128] On a scale of 0–5, it ranks as a 0.

Nevada

Nevada has not recognized a common law discovery rule for child sex abuse,[129] though it does have a statutory discovery rule.[130] In 1991 it adopted a 10-year statutory discovery rule that runs from when a victim "[d]iscovers or reasonably should have discovered that his injury was caused by the sexual abuse."[131] In 2017, Nevada extended its statutory discovery rule to 20 years.[132] The discovery statute applies to claims "arising from" the abuse. While it appears to be applicable to claims against all types of defendants, there are no reported cases in Nevada interpreting its statutory discovery rule. On a scale of 0–5, the current discovery rule ranks as a 4.

New Hampshire

In 1994, New Hampshire recognized that its common law discovery rule was applicable to claims of child sex abuse[133] and the SOL is tolled until "'the plaintiff discovers, or in the exercise of reasonable diligence, should have discovered both the fact of [her] injury and the cause thereof.'"[134] Claims arising prior to 1986 benefit from a 6-year common law discovery rule that was previously in effect.[135] New Hampshire codified its common law discovery rule in 1986 with a general 3-year discovery statute for personal injury actions[136] that applies to

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[128] *See Teater v. State of Nebraska*, 252 Neb. 20, 559 N.W.2d 758 (Neb.1997) (refusing to toll SOL where victim repressed memories and later discovered abuse); *Van Sickle v. Mize*, No. 4:04CV3239, 2005 WL 2180239, at *4 (D. Neb. Sept. 9, 2005) (doubting "that repression of memories could toll a statute of limitations in Nebraska when repression occurs after the plaintiff has already 'discovered' the factual basis of his or her cause of action"); *Claar v. Archdiocese of Omaha*, No. 8:07CV156, 2007 WL 4553919, at *4 (D. Neb. Dec. 18, 2007) (declining to toll SOL for delayed discovery in negligent supervision abuse case against Archdiocese).

[129] *Petersen v. Bruen*, 792 P.2d 18, 24 (1990) (declining to apply a discovery rule to toll the SOL but recognizing that the SOL will not bar a claim against a perpetrator of child sex abuse where there is clear and convincing evidence of abuse).

[130] NEV. REV. STAT. ANN. § 11.215.

[131] *Id*.

[132] *Id*.

[133] *See McCollum v. D'Arcy*, 638 A.2d 797, 799 (1994) (In repressed memory of abuse case court recognized it has "never addressed the issue of applying the common law discovery rule to a civil sexual assault case, but find no reason why it should not apply.").

[134] *Durant v. Durant*, No. CIV. 94-007-JD, 1994 WL 312913, at *1 (D.N.H. June 27, 1994) (quoting *Heath v. Sears, Roebuck & Co.*, 464 A.2d 288, 294 (N.H. 1983)).

[135] *Conrad v. Hazen*, 665 A.2d 372, 375 (N.H. 1995).

[136] N.H. REV. STAT. ANN. § 508:4 (1986) (for personal injury actions "when the injury and its causal relationship to the act or omission were not discovered and could not reasonably have been discovered at the time of the act or omission, the action shall be commenced within 3 years of the time the plaintiff discovers, or in the exercise of reasonable diligence should have discovered, the injury and its causal relationship to the act or omission complained of."). *See Dobe v. Comm', New Hampshire Dep't of Health & Human Servs.*, 791 A.2d 184, 187 (2002).

claims for abuse that occurred after the statute went into effect.[137] In 2005, New Hampshire recodified its 3-year discovery rule with a specialized child sex abuse statute.[138] Pursuant to the statute, the discovery rule applies to a claim if "the injury and its causal relationship to the act or omission" were not reasonably discovered until later. The common law and statutory discovery rules are applicable to claims against all types of defendants.[139] In 2020, New Hampshire did away with its statutory discovery rule when it removed its civil SOL. On a scale of 0–5, the current discovery rule ranks as a 4.

New Jersey

New Jersey recognizes a discovery rule that runs "when the injured party discovers, or by an exercise of reasonable diligence and intelligence should have discovered that he may have a basis for an actionable claim."[140] In 1992, New Jersey enacted a statutory discovery rule allowing a victim of childhood sexual abuse to bring a claim two years after "discovery of the injury and its causal relationship to the act of sexual abuse."[141] The discovery is to be made from the perspective of a child sex abuse victim, not an ordinary observer.[142] The discovery rule did not apply in cases where the victims "were too traumatized, embarrassed, and ashamed of the sexual abuse directed at them to discuss the events with family or friends."[143] In 2019, New Jersey extended the rule to 7 years from discovery, even if a victim's claims have previously expired.[144] The statutory discovery rule applies to individual perpetrators and non-perpetrators.[145] On a scale of 0–5, the current discovery rule ranks as a 5.

New Mexico

New Mexico has a common law discovery rule that delays accrual of the cause of action until "the plaintiff knows or with reasonable diligence should have known of the injury and its cause."[146] New Mexico courts refused to apply the discovery rule to a child sex abuse case where the victim contracted venereal diseases and became pregnant prior to claiming discovery.[147] In 1993, New Mexico enacted a statutory discovery rule giving the victim three

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[137] *Taylor v. Litteer*, 925 F. Supp. 898, 902 (D.N.H. 1996) (*citing Conrad v. Hazen*, 665 A.2d 372, 375 (N.H. 1995) (discovery rule applicability is determined by the seriousness of the original injury and whether it was "'sufficiently serious to apprise the plaintiff that a possible violation of [her] rights had taken place"') (*quoting Rowe v. John Deere*, 533 A.2d 375, 377 (N.H. 1987)). *But see Sinclair v. Brill*, 857 F.Supp. 132 (D.N.H.1994) (discovery rule tolled SOL where victim knew of abuse and injury "but did not discover the causal relationship" until later).

[138] N.H. REV. STAT. ANN. § 508:4-g ("Three years of the time the plaintiff discovers, or in the exercise of reasonable diligence should have discovered, the injury and its causal relationship to the act or omission complained of").

[139] *Taylor v. Litteer*, 925 F. Supp. 898, 902 (D.N.H. 1996) (defendant church); *Patrisso v. Sch. Admin. Unit No. 59*, No. 08-CV-482-PB, 2010 WL 56023, at *2 (D.N.H. Jan. 5, 2010) (defendant school district).

[140] *J.L. v. J.F.*, 722 A.2d 558, 564 (N.J. Super. Ct. Jan. 21, 1999); *see also Lopez v. Swyer*, 300 A.2d 563, 566 (N.J. 1973).

[141] N.J. STAT. ANN. § 2A:61B-1(b).

[142] *R.L. v. Voytac*, 971 A.2d 1074, 1082–83 (N.J. 2009).

[143] *D.M. v. River Dell Regional High School*, 862 A.2d 1226, 1228 (N.J. Super. Ct. Dec. 23, 2004); *but see R.L. v. Voytac*, 971 A.2d 1074, 1085 (N.J. 2009) (remanding to the trial court to determine discovery in light of the totality of the evidence).

[144] N.J. STAT. ANN. § 2A:14-2; 2A:61B-1(b).

[145] *Hardwicke v. American Boychoir Sch.*, 845 A.2d 619, 629 (N.J. Super. Ct. Mar. 26, 2004).

[146] *Kirsh*, 884 P.2d at 509 *citing Roberts v. Southwest Community Health Servs.*, 837 P.2d 442, 451 (1992).

[147] *Kirsh*, 884 P.2d at 513.

years after they "knew or had reason to know, as established by competent medical or psychological testimony, that the injury was caused by childhood sexual abuse."[148] In 2017, the statutory discovery provision was revised to allow a case to be brought 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.[149] However, the plaintiff does not need to understand every aspect of their injury before the SOL will begin to run.[150] The discovery rule applies to perpetrators and non-perpetrators, as well as public entities when the claims are negligence-based.[151] On a scale of 0–5, the current discovery rule ranks as a 3.

New York

New York does not have a statutory or common law discovery rule applicable to child sexual abuse.[152] On a scale of 0–5, it ranks as a 0.

North Carolina

North Carolina has a common law discovery rule that could apply to cases of childhood sexual abuse, but it is construed narrowly and has not yet been successfully applied.[153] In 1971, North Carolina enacted a statutory discovery rule, setting accrual at the date "the injury was discovered, or ought reasonably to have been discovered" by the plaintiff.[154] In 1979, North Carolina rearticulated its statutory discovery rule which permitted a victim 3 years after the injury became apparent "or ought reasonably to have become apparent to the claimant" to bring a claim.[155] North Carolina courts have reasoned that sexual abuse puts a victim on inquiry notice, and the discovery rule is therefore triggered.[156] The discovery rule was applicable to individual perpetrators and institutions.[157] However, North Carolina's statute of repose placed an upper limit on the discovery rule of 10 years after the last act by the defendant, for actions to recover for personal injury.[158] On a scale of 0–5, the current discovery rule ranks as a 1.

[148] N.M. STAT. ANN. 1978, § 37-1-30.
[149] *Id*.
[150] *Kevin J. v. Sager*, 999 P.2d 1026, 1031 (N.M. Ct. App. No. 18, 1999).
[151] *R.P. v. Santa Fe Public Schs*, 2020 WL 435368, *2, *4 (D.N.M. Jan. 28, 2020); *Doe 1. v. Espanola Pub. Schs.*, 2019 WL 586661, *7, 13 (D.N.M. Feb. 12, 2019).
[152] *See Bassile v. Covenant House*, 575 N.Y.S.2d 233, 236 (N.Y. Sup. Ct. 1991), aff'd, 191 A.D.2d 188, 594 N.Y.S.2d 192 (1993) ("there is no discovery rule in sex abuse cases in [New York]"); *Anonymous v. Anonymous*, 584 N.Y.S.2d 713, 717 (N.Y. Sup. Ct. 1992) (same); *Schmidt v. Bishop*, 779 F. Supp. 321, 329 (S.D.N.Y. 1991) (same).
[153] *Doe v. Roman Catholic Diocese of Charlotte, NC*, 775 S.E.2d 918 (N.C. Ct. App. Aug. 18, 2015).
[154] *See* G.S. 1-15(b), repealed in 1979; *see also North Carolina State Ports Auth. v. Lloyd A. Fry Roofinc, Co.*, 240 S.E.2d 345, 351 (N.C.1978) overruled on other grounds.
[155] N.C. GEN. STAT. ANN. § 1-52(16); *Leonard v. England*, 445 S.E.2d 50, 52 (N.C. Ct. App. June 7, 1994); *Soderlund v. Kuch*, 546 S.E.2d 632, 638 (N.C. Ct. App. May 15, 2001).
[156] *Roman Catholic Diocese of Charlotte, NC*, 775 S.E.2d 918 (N.C. Ct. App. Aug. 18, 2015).
[157] *Id*.
[158] *Id.*; *Doe v. Catawba College*, 796 S.E.2d 822, 2017 WL 897654, *3 (N.C.Ct.App. Mar. 7, 2017).

North Dakota

North Dakota first recognized that its common law discovery rule was applicable to child sex abuse cases in 1989.[159] The 2-year SOL began to run when the plaintiff "ha[d] been apprised of facts which would place a reasonable person on notice that a potential claim exists."[160] In essence, the discovery rule tolls the SOL until a victim is aware of their injury, but "it does not require the plaintiff to know the full extent of the injury."[161] The common law discovery rule is a narrow one that makes it difficult for the victim to bring a claim years after the abuse occurred. 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."[162] In 2015, the discovery statute was extended to 10 years.[163] There are no decisions interpreting North Dakota's discovery statute, so it remains unclear whether it is helpful to victims and the types of defendants that could be held liable pursuant to it. On a scale of 0–5, the current discovery rule ranks as a 1.

Ohio

Ohio recognized in 1994 that its common law discovery rule applies to cases involving repressed memories of child sex abuse.[164] Ohio courts have declined to extend its discovery rule any further.[165] The Ohio Supreme Court later ruled the common law discovery rule no longer applies to any child sex abuse claims filed after 2006, as it was superseded by the newly enacted retroactive statute of limitations.[166] Currently, there is no statutory or common law discovery rule for child sexual abuse claims in Ohio.[167] On a scale of 0–5, it ranks as a 0.

Oklahoma

Oklahoma has a common law discovery rule that tolls the applicable SOL "until an injured party knows of, or *in the exercise of reasonable diligence,* should have known of or discovered the injury," but that discovery rule was never applied to most tort actions, including child sexual abuse.[168] In 1992, Oklahoma enacted a statutory 2-year discovery rule for victims with an upper limit of age 38 that accrued when they discovered their injury.[169] Claims under the discovery rule required both objective, verifiable evidence of psychological repression of the victim's memory and corroborating evidence that the sexual abuse occurred.[170] It is unclear whether the statutory discovery rule applies to all defendants, including non-perpetrator defendants. In 2017

[159] *Osland v. Osland*, 442 N.W.2d 907, 909 (N.D. 1989).
[160] *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); *see also Peterson v. Huso*, 552 N.W.2d 83, 85-86 (N.D. 1996).
[161] *Id., citing Erickson v. Scotsman, Inc.*, 456 N.W.2d 535, 539 (N.D. 1990).
[162] N.D. CENT. CODE ANN. § 28-01-25.1 (emphasis added).
[163] *Id*.
[164] *See Ault v. Jasko*, 637 N.E.2d 870, 873 (Ohio 1994); *Pratte v. Stewart*, 929 N.E.2d 415, 417 (Ohio 2010).
[165] *Doe v. Archdiocese of Cincinnati*, 849 N.E.2d 268, 273-74 (Ohio 2006).
[166] *Pratte v. Stewart*, 929 N.E.2d 415, 423 (Ohio 2010).
[167] OHIO REV. CODE ANN. § 2305.111.
[168] *Lovelace v. Keohane*, 831 P.2d 624, 629 (Okla. 1992).
[169] OKLA. STAT. ANN. § 95.
[170] *Id*.

when Oklahoma extended its civil SOL, it removed its discovery rule.[171] On a scale of 0–5, the current discovery rule ranks as a 3.

Oregon

Although there is a common law discovery rule in Oregon, it has not been applied in cases of child sexual abuse.[172] In 1991, Oregon created a 3-year discovery rule with an upper limit of age 40, running from when the injured person, in the exercise of reasonable diligence, either discovered their injury or the connection between the child abuse and their injury, whichever is later.[173] In 1993, Oregon removed the upper age cap. In 2010, it expanded the discovery rule to 5 years, and it runs from when a victim discovers that their injury was caused by their abuse.[174] The discovery rule applies retroactively to revive time barred actions[175] and it applies to claims against perpetrators, institutions, and the government.[176] On a scale of 0–5, the current discovery rule ranks as a 5.

Pennsylvania

Pennsylvania does not have a statutory or common law discovery rule applicable to child sexual abuse.[177] On a scale of 0–5, it ranks as a 0.

Rhode Island

In 1991, Rhode Island courts considered applying its common law discovery rule to child sex abuse for the first time.[178] In 1991, Rhode Island enacted a statutory discovery rule for child sex abuse claims of 3 years.[179] In 1993 this was extended to 7 years, which the U.S. District Court for the District of Rhode Island held applied only to claims against perpetrators and "did not alter" the 3-year rule for claims against non-perpetrators.[180] The discovery rule is measured by a reasonable diligence standard, and courts assess when a reasonable person in a similar situation to the plaintiff would discover the connection between their injury and their abuse.[181] In 2019, Rhode Island expanded its statutory 7-year discovery rule to apply against perpetrators, private organizations, and the government.[182] On a scale of 0–5, the current discovery rule ranks as a 4.

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[171] *Id*.
[172] *White v. Gurnsey*, 618 P.2d 975, 977 (Or. Ct. App. Oct. 27, 1980).
[173] OR. REV. STAT. ANN. § 12.117.
[174] *Id*.
[175] *Doe v. Silverman*, 401 P.3d 793, 796 (Or. 2017).
[176] OR. REV. STAT. ANN. § 12.117 (2009); *A.K.H. v. R.C.T.*, 822 P.2d 135, 137 (Or. Dec. 19, 1991); *P.H. v. F.C.*, 873 P.2d 465, 465 (Or. Ct. App. Apr. 27, 1994); *Lourim v. Swensen*, 977 P.2d 1157, 1161-62 (Or. 1999); *Sherman v. State*, 2020 WL 1873245, *7 (Or. Ct. App. Apr. 15, 2020).
[177] tit. 42 PA. STAT. AND CONS. STAT. ANN. § 5533; *see also Dalrymple v. Brown*, 701 A.2d 164, 170 (Pa. 1997); *E.J.M. v. Archdiocese of Philadelphia*, 622 A.2d 1388, 1394 (Pa. Super Ct. Apr. 7, 1993).
[178] *Doe v. La Brosse*, 588 A.2d 605, 605 (R.I. 1991); *Doe v. LaBrosse*, 625 A.2d 222, 222 (R.I. 1993).
[179] tit. 9 R.I. GEN. LAWS ANN. § 9-1-51; *Kelly v. Marcantonio*, 678 A.2d 873, 876-77 (R.I. 1996); *Smith v. O'Connell*, 997 F.Supp. 226, 232 (D.R.I. Mar. 17, 1998).
[180] *Smith v. O'Connell*, 997 F. Supp. 226, 231 (D.R.I. 1998), *aff'd sub nom. Kelly v. Marcantonio*, 187 F.3d 192 (1st Cir. 1999).
[181] *Ryan v. Roman Catholic Bishop of Providence*, 941 A.2d 174, 184 (R.I. 2008).
[182] tit. 9 R.I. GEN. LAWS ANN. § 9-1-51.

South Carolina

South Carolina has a common law discovery rule that tolls the SOL by giving a victim 3 years to bring a claim after "the person knew or by the exercise of reasonable diligence should have known that he had a cause of action."[183] South Carolina codified the 3-year discovery rule in 2001, which runs when a victim discovers the connection between their injury and their abuse.[184] However, the victim need not "comprehend the full extent of the damage" for the discovery rule to run.[185] The discovery rule is applicable to perpetrators and non-perpetrators, but not to government entities, and it does not revive previously expired claims.[186] On a scale of 0-5, the current discovery rule ranks as a 3.

South Dakota

South Dakota has not recognized a common law discovery rule.[187] Since 1991, South Dakota has had a narrow statutory discovery rule of 3-years after the victim discovers the connection between injury and abuse.[188] The discovery statute revives expired claims against individual perpetrators, but does not revive claims against others.[189] In 2010, the state put an upper limit on the discovery rule of age 40 for claims against all but the perpetrators, which immunized institutions.[190] There is also disagreement among courts about whether the discovery rule applies to both perpetrators and institutional defendants.[191] On a scale of 0–5, the current discovery rule ranks as a 1.

Tennessee

There is a common law discovery rule in Tennessee that runs from when the victim discovers the injury, "or when in the exercise of reasonable care and diligence" the injury should have been discovered.[192] However, that rule has not successfully been applied in cases of child sexual abuse.[193] In 2016, Tennessee created a statutory discovery rule of 3 years, triggered by the victim's connection of the injury to their abuse.[194] In the statute, Tennessee clarified that mere

[183] *Moriarty v. Garden Sanctuary of God*, 511 S.E.2d 699, 705 (S.C. Ct. App. Jan. 18, 1999).
[184] S.C. CODE ANN. § 15-3-555.
[185] *Doe v. Crooks*, 613 S.E.2d 536, 538 (S.C. 2005).
[186] *K.C. v. SCDSS*, 2016 WL 640669, *1 (D.S.C. Feb 18, 2016); *Doe v. Bishop of Charleston*, 754 S.E.2d 494, 500 (S.C. 2014); *Doe v. Crooks*, 613 S.E.2d 536, 538 (S.C. 2005).
[187] *Kurylas, Inc. v. Bradsky*, 452 N.W.2d 111, 114 (S.D. 1990); *Alberts v. Giebink*, 299 N.W.2d 454, 455 (S.D. Dec. 10, 1980).
[188] S.D. CODIFIED LAWS § 26-10-25; *Iron Wing v. Catholic Diocese of Sioux Falls*, 807 N.W.2d 108, 112 (S.D. 2011); *Rodriguez v. Miles*, 799 N.W.2d 722, 725 (S.D. 2011); *One Star v. Sisters of St. Francis*, 752 N.W.2d 668, 675 (S.D.2008).
[189] *Stratmeyer v. Stratmeyer*, 567 N.W.2d 220, 223-24 (S.D. 1997).
[190] S.D. CODIFIED LAWS § 26-10-25; *Bernie v. Blue Cloud Abbey*, 821 N.W.2d 224, 228-29 (S.D. 2012).
[191] *Blue Cloud Abbey*, 821 N.W.2d at 231; *DeLonga v. Diocese of Sioux Falls*, 329 F.Supp.2d 1092, 1104 (D.S.D. 2004) ("[T]he discovery statute of limitations . . . applies to all the Defendants in all of Plaintiff's causes of action.").
[192] *Potts v. Cleotex Corp.*, 796 S.W.2d 678, 680 (Tenn. 1990).
[193] *Hunter v. Brown*, 955 S.W.2d 49, 51 (Tenn. 1997); *Doe v. Catholic Bishop for Diocese of Memphis*, 306 S.W.3d 712, 728 (Tenn.Ct.App. Sept. 16, 2008); *Doe v. Coffee Cty. Bd. of Educ.*, 852 S.W.2d 899, 904 (Tenn.Ct.App. Dec. 4, 1992).
[194] TENN. CODE ANN. § 28-3-116(b)(2)(B).

knowledge of abuse is not enough to trigger the SOL; instead, discovery requires that "an injured person becomes aware that the injury or illness was caused by child sexual abuse."[195] The discovery rule applies to perpetrators and institutions, but it is unsettled whether it applies to the government.[196] On a scale of 0–5, the current discovery rule ranks as a 3.

Texas

Although there is a common law discovery rule in Texas running from a victim's discovery of abuse, it has not yet successfully tolled the SOL for sexual abuse claims.[197] To apply the discovery rule, a court must find that "the alleged wrongful act and the resulting injury are inherently undiscoverable at the time they occurred but may be objectively verified."[198] Additionally, the plaintiff need only know of the abuse and the injury, and not their causal connection, before the discovery rule is triggered.[199] In 1995, Texas added a very narrow statutory discovery rule that gives a plaintiff 30 days after "discover[ing] the identity of the defendant" to amend a previously filed petition with the court.[200] The discovery rule applies to individual perpetrators and to institutional defendants, but not to the government.[201] On a scale of 0–5, the current discovery rule ranks as a 1.

Utah

Utah's common law discovery rules applies to accrue claims when "the plaintiff learns of, or in the exercise of reasonable diligence should have learned of, the facts that give rise to the cause of action."[202] The discovery rule would apply in child sex abuse cases with "exceptional circumstances," that are identified through a balancing of the hardship of the limitations on plaintiffs and the prejudice to defendants.[203] Since 1992, Utah has had a statutory 4-year discovery rule for child sex abuse claims against all defendants, running from "when a victim knows or reasonably should know that the injury or illness was caused by the intentional or negligent sexual abuse."[204] After it eliminated the SOL against perpetrators in 2016, the discovery rule no longer applied to those claims, but still remains in effect for claims against non-perpetrator defendants. In 2019, Utah also added a statutory discovery provision for claims against government entities or employees, giving a victim 2 years from discovery of their claim to file a lawsuit.[205] On a scale of 0–5, the current discovery rule ranks as a 3.

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[195] TENN. CODE ANN. § 28-3-116(a)(2).
[196] TENN. CODE ANN. § 28-3-116(e).
[197] *S.V. v. R.V.*, 933 S.W.2d 1 (Tex. 1996); *Doe v. St. Stephen's Episcopal Sch.*, 382 F.Appx. 386, 388 (5th Cir. 2010) ("The Texas Supreme Court has not directly addressed the question of whether all sexual abuse cases are inherently undiscoverable, but other Texas courts have found that the discovery rule does not apply uniformly to these cases").
[198] *Doe v. Roman Catholic Archdiocese of Galveston-Houston ex. rel. Dinardo*, 362 S.W.3d 803, 810 (Tex. Ct. App. Jan. 26, 2012), *citing L.W. v. L.S*, 1997 WL 634343, *3 (Tex. Ct. App. Oct. 16, 1997).
[199] *Doe v. Linam*, 225 F.Supp.2d 731, 735 (S.D.T.X. Aug, 21, 2002).
[200] TEX. CIV. PRAC. & REM. CODE ANN. § 16.0045(d).
[201] *King-White v. Humble Indep. Sch. Dist.*, 636 Fed.Appx. 622 (5th Cir. May 6, 2016).
[202] *Olsen v. Hooley*, 865 P.2d 1345, 1348 (Utah 1993); *see generally Klinger v. Knightly*, 971 P.2d 868, 869 (Utah 1990); *Myers v. McDonald*, 635 P.2d 84, 86-87 (Utah 1981); *Foil v. Ballinger*, 601 P.2d 144, 147 (Utah 1979).
[203] *O'Neal v. Division of Family Services, State of Utah*, 821 P.2d 1139, 1143 (Utah 1991).
[204] UTAH CODE ANN. §§ 78B-2-308(2)(b); 78–12–25.1 (1992). *See also Roark v. Crabtree*, 893 P.2d 1058, 1060 (Utah 1995).
[205] UTAH CODE ANN. §§ 78B-2-308(2)(b); 78–12–25.1.

Vermont

Prior to 1989, the discovery rule had not been expressly applied to child sex abuse, but it allowed personal injury claims to accrue "when an injury reasonably should have been discovered."[206] In 1989, Vermont created a statutory discovery rule of 6 years.[207] 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, and it applied to individuals and entities.[208] The discovery rule was eliminated along with the SOL in 2019, and is no longer in effect. All claims for child sex abuse are revived in Vermont regardless of how long ago the abuse happened or when a victim discovered his/her injuries.[209] Therefore, Vermont does not need a discovery rule.

Virginia

Virginia has not recognized a common law discovery rule for child sex abuse.[210] In 1991, Virginia added a statutory 2-year discovery rule that applied only to individual persons, and accrued when "the fact of the injury and its causal connection to the sexual abuse is first communicated to the person by a licensed physician, psychologist, or clinical psychologist."[211] Originally, the discovery tolling was capped at age 28 or 10 years after the last act of abuse, until 1995 when this limitation was removed from the discovery statute.[212] In 2011, the state extended the discovery rule to 20 years from discovery for claims against persons, but not against institutions.[213] In 2013 it clarified its discovery rule, making clear that the 20-year discovery period runs from when the fact of the injury and its causal connection to the abuse is first communicated to the victim by a physician or psychologist.[214] On a scale of 0–5, the current discovery rule ranks as a 2.

Washington

From 1969, Washington had a narrow common law discovery rule that was not successfully applied to child sex abuse cases until 1998.[215] In 1991, Washington enacted a statutory 3-year

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[206] *Clarke v. Abate*, 80 A.3d 578, 581 (Vt. 2013).
[207] VT. STAT. ANN. TIT. 12, § 522 (1989).
[208] *Sabia v. State*, 669 A.2d 1187, 1198 (Vt. 1995) ("We find nothing in the statutory language suggesting that the Legislature intended to exclude non-perpetrators from the reach of the statute.").
[209] VT. STAT. ANN. TIT. 12, § 522.
[210] *Starnes v. Cayouette*, 419 S.E.2d 669, 671 (Va. 1992) ("A personal injury cause of action 'shall be deemed to accrue and the prescribed limitation period shall begin to run from the date the injury is sustained . . . and not when the resulting damage is discovered.'") (quoting V A. CODE ANN. §8.01-230), superseded by constitutional amendment as stated in Kerns v. Wells Fargo Bank, N.A., 818 S.E.2d 779 (Va. 2018).
[211] V A. CODE ANN. § 8.01-249; *Kopalchick v. Catholic Diocese of Richmond*, 645 S.E.2d 439, 442-43 (Va. 2007).
[212] V A. CODE ANN. § 8.01-249.
[213] *Id.*; *Graham v. City of Manassas Sch. Bd.*, 390 F. Supp. 3d 702, 710 (E.D. Va. 2019).
[214] V A. CODE ANN. § 8.01-249(6); V A. CODE ANN. § 8.01-243.
[215] *Tyson v. Tyson*, 727 P.2d 226 (Wash. 1986) (refusing to apply discovery tolling in case of repressed memories of child sex abuse), superseded by WASH. REV. CODE ANN. § 4.16.340; *Raymond v. Ingram*, 737 P.2d 314 (Wash. Ct. App. 1987) (refusing to apply discovery tolling in case of delayed discovery of the causal connection between injury and child sex abuse), superseded by WASH. REV. CODE ANN. § 4.16.340; *Funkhouser v. Wilson*, 950 P.2d 501, 512 (Wash.Ct.App. Jan. 26, 1998) (finding common law discovery tolling could be applicable to negligence claims against church for child sex abuse).

discovery rule that runs from either when the victim "discovered or reasonably should have discovered that the injury or condition was caused by said act" or "discovered that the act caused the injury for which the claim is brought."[216] Instead of running from the date a victim becomes aware of an initial injury "[t]he legislature intends that the earlier discovery of less serious injuries should not affect the statute of limitations for injuries that are discovered later."[217] The discovery rule applies to perpetrators, institutions, and the government.[218] On a scale of 0–5, the current discovery rule ranks as a 3.

West Virginia

West Virginia has a judicially crafted discovery rule of 2 years, tolling accrual until "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."[219] The common law discovery rule applies to perpetrators, non-perpetrators, and the government, and it is triggered when the victim discovers their abuse.[220] Some courts have applied a 20-year from injury statutory cap to limit the common law discovery rule, while others have not.[221] In 2016, the state added for claims against perpetrators only a statutory discovery rule of 4 years and removed the upper limit.[222] In 2020, West Virginia added a revival law and made its statutory 4-year discovery rule fully retroactive for claims against perpetrators. On a scale of 0–5, the current discovery rule ranks as a 1.

Wisconsin

In 1987, Wisconsin recognized a narrow common law discovery rule that allowed claims for incest to accrue when "the victim discovers, or in the exercise of reasonable diligence should have discovered, the fact and cause of the injury."[223] Wisconsin courts have treated the common law discovery provision as a "specialized discovery rule applicable only to cases of incest" and it has not been helpful in other child sex abuse cases.[224] In 1987, Wisconsin codified its 2-year discovery rule enacting a discovery statute for incest only.[225] In 2001, Wisconsin extended its

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[216] WASH. REV. CODE ANN. § 4.16.340(1)(b)-(c); *see also Korst v. McMahon*, 148 P.3d 1081, 1084 (Wash. Ct. App. Dec. 12, 2006).
[217] *Hollman v. Corcoran*, 949 P.2d 386, 333 (Wash. Ct. App. Dec. 23, 1997).
[218] *C.J.C. v. Corp. of Catholic Bishop of Yakima*, 985 P.2d 262, 265 (Wash. 1999); *see also KC v. Johnson*, 2017 WL 888600, *5 (Wash. Ct. App. Feb. 28, 2017); *K.C. v. State*, 2019 WL 4942457, *8 (Wash. Ct. App. Oct. 8, 2019).
[219] W. VA. CODE ANN. § 55-2-21(d); see also *Merrill v. W. Va. Dep't of Health & Human Res*., 632 S.E.2d 307, 312 (W. Va. 2006) (quoting *Gaither v. City Hosp., Inc.*, 487 S.E.2d. 901, 903 (W. Va. 1997)).
[220] *E.K. v. W.V. Dept. of Health*, 2017 WL 5153221, *6 (W.V. 2017) (*citing Dunn v. Rockwell*, 689 S.E.2d 255, 258 (W.V. 2009).
[221] *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).
[222] W. VA. CODE ANN. § 55-2-15.
[223] *Hammer v. Hammer*, 418 N.W.2d 23, 26-27 (Wis. Ct. App. Nov. 19, 1987) (recognizing discovery rule for incest claims); *see also, Bonchek v. Nicolet Unified School Dist.*, 418 N.W.2d 23, 27, *10 (E.D. Wis. Dec. 23, 2019).
[224] *Pritzlaff v. Archdiocese of Milwaukee*, 533 N.W.2d 780, 787 (Wis. 1995); See also, *Doe v. Archdiocese of Milwaukee*, 565N.W.2d 94, 96 (Wis. 1997); *John Doe 1 v. Archdiocese of Milwaukee*, 734 N.W.2d 827, 836 (Wis. 2007) ("In Wisconsin, accrual of a cause of action is not dependent upon knowing the full extent of one's injuries").
[225] WIS. STAT. ANN. § 893.587 (1993-94); *see also, Pritzlaff v. Archdiocese of Milwaukee*, 533 N.W.2d 780, 787 (Wis. 1995).

statutory discovery rule to 5 years and broadened it beyond incest to include sexual assault of a child. Based on the statutory text, it does appear the discovery rule was applicable to claims against non-perpetrator defendants, but it has not been interpreted by Wisconsin courts. Wisconsin removed its statutory discovery rule in 2004.[226] On a scale of 0–5, the current discovery rule ranks as a 3.

Wyoming

Wyoming did not recognize a common law discovery rule for child sex abuse claims, but it had a general discovery rule that extended the accrual of a claim in cases in which "damage is not immediately apparent."[227] Wyoming codified a statutory discovery rule in 1993 that gives a victim 3 years after discovery to bring a claim.[228] Case law explains that the discovery rule only applies when the plaintiff "discovered or in the exercise of reasonable diligence should have discovered" a secondary injury resulting from the abuse.[229] It is not settled whether the statutory discovery rule applies to any defendants other than a perpetrator. On a scale of 0–5, the current discovery rule ranks as a 3.

Washington, D.C.

Washington, D.C. recognized a narrow, common law discovery rule for child sexual abuse in 1994. The discovery rule applies if "as a result of the defendant's wrongful conduct, either plaintiff's recollection of the relevant facts has been repressed, and if she has thus been effectively precluded during the period of repression from seeking legal redress."[230] However, the discovery rule is triggered as soon as the plaintiff has "knowledge of a cause of action."[231] In 2009, Washington, D.C. adopted a 3-year statutory discovery rule, meant to codify the common-law discovery rule, that tolls the SOL until "the victim knew, or reasonably should have known, of any act constituting sexual abuse, whichever is later."[232] In 2019, it lengthened the discovery rule to 5 years after the victim discovers the act constituting their abuse.[233] It is unsettled whether the statutory discovery rule applies to defendants other than a perpetrator, but the statutory language and the caselaw make no mention of such a limitation.[234] On a scale of 0–5, the current discovery rule ranks as a 4.

American Samoa

There is no identified discovery rule in American Samoa for child sex abuse claims.

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[226] WIS. STAT. ANN. § 893.587.
[227] *McCreary v. Weast*, 971 P.2d 974, 979-81 (Wyo. 1999).
[228] WYO. STAT. ANN. § 1-3-105.
[229] *McCreary v. Weast*, 971 P.2d 974, 981 (Wyo. 1999).
[230] *Farris v. Compton*, 652 A.2d 49, 49 (D.C. 1994).
[231] *Cevenini v. Archbishop of Washington*, 707 A.2d 768, 771 (D.C. 1998).
[232] D.C. CODE §§ 12-301(11), 12-302, available at https://www.govinfo.gov/content/pkg/STATUTE-77/pdf/STATUTE-77-Pg478.pdf; *see also, Doe v. Kipp DC Supporting Corp.*, 373 F.Supp.3d 1, 10 (U.S.D.C. Jan. 3, 2019).
[233] D.C. CODE § 12-301(11).
[234] D.C. CODE § 12-301; *Doe v. Kipp DC Supporting Corp.*, 373 F.Supp.3d 1, 10-11 (U.S.D.C. Jan. 3, 2019).

Guam

There is no identified discovery rule in Guam for child sex abuse claims. Though in 2016, Guam opened a permanent revival window for all expired claims arising from child sexual abuse, so there is no need for a discovery rule.

Northern Mariana Islands

There is no identified discovery rule in the Northern Mariana Islands for child sex abuse claims.

Puerto Rico

In 1930, Puerto Rico enacted a general statutory discovery rule that tolls the running of the SOL for negligence claims until "the time the aggrieved person had knowledge thereof."[235] "The true starting point of the period of limitations of an action for damages is the date on which the aggrieved party learned of the damage *and could institute his/her action*."[236]

U.S. Virgin Islands

The U.S. Virgin Islands recognizes a common law discovery rule that tolls the SOL for personal injury claims when "the injury or its cause is not immediately evident to the victim."[237]

[235] P.R. LAWS ANN. TIT. 31, § 5298 (2009).
[236] *Sanchez et al., v. A.E.E.*, 142 D.P.R. 880, 1997 WL 878520 (P.R. 1997) *citing Vega v. J. Perez & Cia., Inc.*, 135 D.P.R. (1994).
[237] *Joseph v. Hess Oil*, 867 F.2d 179, 182 (3d Cir. Feb. 9, 1989).

VII. CONCLUSION

This report details the possibilities for justice for child sex abuse in each U.S. state and territory via a common law or statutory discovery rule. Discovery rules continue to be an important aspect of the SOL reform movement and are regularly amended by states seeking to improve access to justice for victims of abuse to serve the public interest. It is well-established that most victims miss the SOL deadlines due to the delayed disclosure that is caused by the trauma child sex abuse inflicts on the victim. The reasons for delay are specific to each individual, but often involve mental and/or physical health issues that result from the sex abuse (e.g., depression, PTSD, substance abuse, alcoholism, and physical ailments) and the large power differential between the child victim and the adult perpetrator, as well as the power dynamics of the institution. The historically short SOLs have silenced victims, endangered children, favored perpetrators, and held negligent and reckless institutions unaccountable. The compelling public interest in protecting children from abuse has been subverted by this procedural technicality. Discovery rules often save claims from expiring before victims have come to terms with their abuse and the injuries they suffer as a result of it. This report also documents why the movement for SOL reform remains a necessary part of the civil rights movement for children.

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