

TO: Honorable Members of the Senate Judiciary Subcommittee on Civil Law

FROM: Marci Hamilton, Founder & CEO, CHILD USA; Professor, University of Pennsylvania, and Kathryn Robb, Executive Director, CHILD USA Advocacy

RE: SB 483 - Child abuse and neglect; limitations period on sexual abuse of a minor claims, background check

DATE: January 31, 2022

Dear Honorable Members of the Senate Judiciary Subcommittee on Civil Law:

Thank you for allowing us¹ to submit testimony in support of SB 483, which will eliminate the civil statutes of limitation (“SOLs”) for child sexual abuse (“CSA”) and open a revival window for expired claims against perpetrators and other individuals. The bill also requires background checks and training on child abuse prevention for youth sports coaches, staff, employees, and volunteers. This legislation will not only bring long overdue justice to survivors, but it will also greatly reduce the present danger to children in Virginia by exposing hidden predators who are still abusing children today and enhancing current child protection policies in youth sports.

I. Research on Trauma and Delayed Disclosure Supports SOL Reform for Child Sexual Abuse

A. There is a Nationwide Epidemic of CSA Causing Lifelong Damage to Victims

Currently, more than 10% of children are sexually abused, with at least one in five girls and one in thirteen boys sexually abused before they turn 18.² CSA is a social problem that occurs in all social groups and institutions, including familial, religious, educational, medical, and athletic. Nearly 90% of CSA perpetrators are someone the child knows; in fact, roughly one third of CSA offenses are committed by family members.³

The trauma stemming from CSA is complex and individualized, and it impacts victims throughout their lifetimes:⁴

- Childhood trauma, including CSA, can have **devastating impacts on a child’s brain**,⁵ including disrupted neurodevelopment; impaired social, emotional, and cognitive development; psychiatric and physical disease, such as post-traumatic stress disorder (PTSD)⁶; and disability.⁷
- CSA victims suffer an **increased risk of suicide**—in one study, female CSA survivors were two to four times more likely to attempt suicide, and male CSA survivors were four to 11 times more likely to attempt suicide.⁸

- CSA leads to an increased risk of **negative outcomes across the lifespan**, such as alcohol problems, illicit drug use, depression, marriage issues, and family problems.⁹

B. CSA Victims Commonly Delay Disclosure of Their Abuse for Decades

Many victims of CSA suffer in silence for decades before they talk to anyone about their traumatic experiences. As children, CSA victims often fear the negative repercussions of disclosure, such as disruptions in family stability, loss of relationships, or involvement with the authorities.¹⁰ Additionally, CSA survivors may struggle to disclose because of trauma and psychological barriers such as shame and self-blame, as well as social factors like gender-based stereotypes or the stigma surrounding victimization.¹¹ Further, many injuries resulting from CSA do not manifest until survivors are well into adulthood. These manifestations may coincide with difficulties in functioning and a further delay in disclosure of abuse.

Moreover, disclosure of CSA to the authorities for criminal prosecution or an attorney in pursuit of civil justice is a difficult and emotionally complex process, which involves the survivor knowing that he or she was abused, being willing to identify publicly as an abuse survivor, and deciding to act against their abuser. In light of these barriers to disclosure, it is not surprising that:

- In one study, 44.9% of male victims and 25.4% of female victims of CSA delayed discussing their abuse with anyone **by more than 20 years**.¹²
- Between **70% and 95%** of child sexual assault victims **never report** the abuse to authorities.¹³
- Research has found a **higher rate of PTSD** symptoms in CSA victims delaying disclosure compared to those who did not delay disclosure.¹⁴

For both children and adults, disclosure of CSA trauma is a process and not a discrete event in which a victim comes to terms with their abuse.¹⁵ To effectively protect children from abuse, CSA laws must reflect this reality.

II. SOL Reform Serves the Public Good by Giving Survivors Access to Justice and Preventing Future Abuse

Historically, a wall of ignorance and secrecy has been constructed around CSA, which has been reinforced by short SOLs that kept victims out of the legal system. Short SOLs for CSA play into the hands of the perpetrators and the institutions that cover up for them; they disable victims' voices and empowerment and leave future children vulnerable to preventable sexual assault.

There is a vibrant national and global movement to eliminate civil and criminal SOLs and revive expired civil claims as a solution to the CSA epidemic.¹⁶ **There are three compelling public purposes served by the child sexual abuse SOL reform movement**, which are explained in the graphic below:

HOW STATUTE OF LIMITATIONS REFORM HELPS EVERYONE



Identifies hidden child predators and the institutions that endanger children

to the public, shielding other children from future abuse.



Shifts the cost of abuse

from the victims and taxpayers to those who caused it.



Educates the public

about the prevalence, signs, and impact of child sex abuse so that it can be prevented in the future.



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CHILDUSA
THE NATIONAL THINK TANK FOR CHILD PROTECTION

The Sean P. McMillan Statute
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A. SOL Reform Identifies Hidden Child Predators and Institutions that Endanger Children and Holds Them Accountable

It is in society's best interest to have sex abuse survivors identify hidden child predators to the public—whenever the survivor is ready. The decades before public disclosure give perpetrators and institutions wide latitude to suppress the truth to the detriment of children, parents, and the public. Some predators abuse a high number of victims and continue abusing children well into their elderly years. For example, one study found that 7% of offenders sampled committed offenses against 41 to 450 children, and the highest time between offense to conviction was 36 years.¹⁷ By allowing claims for past abuse to be brought to court, hidden predators are brought into the light and are prevented from further abusing more children.

Additionally, SOL reform addresses the systemic issue of institutional CSA, which occurs with alarming frequency in athletic institutions, youth-serving organizations, medical facilities, and religious groups. Without institutional accountability for enabling or turning a blind eye to child sex abuse, the children these institutions serve remain at risk. SB 483 which also requires mandatory background checks and child protection training for those involved in youth sports, will incentivize these youth serving organizations to implement prevention policies and take action immediately to report abuse in real time. SOL reform as proposed in SB 483 sends a strong message that the state will not tolerate “passing the trash” or looking the other way when a person is raping or molesting a child in their midst.

B. SOL Reform Shifts the Cost of Abuse

CSA generates staggering costs that impact the nation's health care, education, criminal justice, and welfare systems. The estimated lifetime cost to society of child sexual abuse cases occurring in the US in 2015 is \$9.3 billion, and the average cost of non-fatal per female victim was estimated at \$282,734. Average cost estimates per victim include, in part, \$14,357 in child medical costs,

\$9,882 in adult medical costs, \$223,581 in lost productivity, \$8,333 in child welfare costs, \$2,434 in costs associated with crime, and \$3,760 in special education costs. Costs associated with suicide deaths are estimated at \$20,387 for female victims.¹⁸

It is unfair for the victims, their families, and Virginia taxpayers to be the only ones who bear this burden; these bills level the playing field by imposing liability on the ones who caused the abuse and alleviating the burdens on the victims and taxpayers. Further, if this revival window is passed, Virginia could gain millions of dollars in revenue from Medicaid reimbursements as a result of the settlement funds and damages awards that survivors recover.

C. SOL Reform Educates the Public to Prevent CSA

SOL reform also educates the public about the dangers of CSA and how to prevent it. When predators and institutions are exposed, particularly high-profile ones like Larry Nassar, Jeffrey Epstein, the Boy Scouts of America, and the Catholic Church, the media publish investigations and documentaries that enlighten the public about the insidious ways child molesters operate to sexually assault children and the institutional failures that enabled their abuse.¹⁹ By shedding light on the problem, parents and other guardians are better able to identify abusers and responsible institutions, while the public is empowered to recognize grooming and abusive behavior and pressure youth serving organizations to implement prevention policies to report abuse in real time. Indeed, CSA publicity creates more social awareness to help keep kids safe, while also encouraging institutions to implement accountability and safe practices.

III. Virginia Should Join the National Trend Toward SOL Reform for CSA in Eliminating Civil SOLs and Reviving All Expired Claims

The SOL reform trend for states is to eliminate civil and criminal SOLs and revive expired civil claims.²⁰ If SB 483 is passed, Virginia will join the fifteen states and two U.S. territories that no longer have civil SOLs for CSA.²¹ Further, there is only one way to restore justice to Virginia's CSA survivors blocked from pursuing their claims by unfairly short SOLs—to revive their expired civil claims. Twenty-seven United States and territories currently have revival laws for CSA claims.²² The states that have revived expired civil SOLs have gained valuable information about hidden child predators and the institutions that harbored them, enabling them to better empower victims. These revival laws do not yield a high number of cases, but instead provide long-overdue justice to older victims of child sex abuse.²³

With SB 483, Virginia can remove these barriers to civil justice for survivors and reach the gold standard for SOL reform. This legislation will give all survivors the time they need to do the legal and emotional work necessary to revisit their childhood traumas and coordinate with attorneys to file their cases. If there is sufficient evidence to prove civil liability, the mere passage of time should never prevent survivors from accessing justice.

IV. Conclusion

Once again, we commend you for supporting this legislation, which is desperately needed to validate adult survivors of CSA and protect Virginia children from preventable sexual abuse. Eliminating the civil SOL and reviving expired claims, as well as requiring background checks and child protection training in youth sports, are positive steps for Virginia's children and families.

Please do not hesitate to contact us if you have questions regarding SOL reform or if we can be of assistance in any way on other child protection issues.

Sincerely,



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¹ By way of introduction, Professor Marci Hamilton is a First Amendment constitutional scholar at the University of Pennsylvania who has led the national movement to reform statutes of limitations to reflect the science of delayed disclosure of childhood sexual abuse and who founded CHILD USA, a national nonprofit think tank devoted to ending child abuse and neglect. Kathryn Robb is the Executive Director of CHILD USA Advocacy, an advocacy organization dedicated to protecting children’s civil liberties and keeping children safe from abuse and neglect. Kathryn is also an outspoken survivor of child sex abuse.

² 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 CSA 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 CSA 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 CSA among North American boys and girls respectively).

³ Perpetrators often being parents, stepparents, siblings, and grandparents. Sarah E. Ullman, *Relationship to Perpetrator, Disclosure, Social Reactions, and PTSD Symptoms in Child Sexual Abuse Survivors*, 16 J. CHILD SEX. ABUSE 19 (2007); David Finkelhor & Anne Shattuck, *Characteristics of Crimes Against Juveniles*, University of New Hampshire, Crimes Against Children Research Center (2012), available at http://www.unh.edu/ccrc/pdf/CV26_Revised%20Characteristics%20of%20Crimes%20against%20Juveniles_5-2-12.pdf.

⁴ B. A. van der Kolk, *The Body Keeps the Score: Memory & the Evolving Psychobiology of Posttraumatic Stress*, 1(5) HARVARD REV. OF PSYCHIATRY 253-65 (1994); see also Hoskell, L. & Randall, M., *The Impact of Trauma on Adult Sexual Assault Victims*, JUSTICE CANADA (2019), https://www.justice.gc.ca/eng/rp-pr/jr/trauma/trauma_eng.pdf.

⁵ As explained by the Center for Disease Control, “Adverse Childhood Experiences” (“ACEs”), like CSA, “have a tremendous impact on future violence victimization and perpetration, and lifelong health and opportunity.” Vincent J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 14(4) AM. J. PREV. MED. 245 (1998); S.R. Dube et al., *Childhood Abuse, Household Dysfunction, and the Risk of Attempted Suicide Throughout the Life Span: Findings from the Adverse Childhood Experiences Study*, 286 JAMA 24, 3089 (Dec. 2001).

⁶ Josie Spataro et al., *Impact of Child Sexual Abuse on Mental Health: Prospective Study in Males and Females*, 184 Br. J. Psychiatry 416 (2004).

⁷ See Felitti, at 245–58; see also R. Anda, et al., *The Enduring Effects of Abuse and Related Adverse Experiences in Childhood*, 256 EUR. ARCH PSYCHIATRY CLIN. NEUROSCIENCE 174, 175 (Nov. 2005) (“Numerous studies have established that childhood stressors such as abuse or witnessing domestic violence can lead to a variety of negative

health outcomes and behaviors, such as substance abuse, suicide attempts, and depressive disorders”); M. Merricka., et al., *Unpacking the impact of adverse childhood experiences on adult mental health*, 69 CHILD ABUSE & NEGLECT 10 (July 2017); *see also* Sachs-Ericsson, et al., *A Review of Childhood Abuse, Health, and Pain-Related Problems: The Role of Psychiatric Disorders and Current Life Stress*, 10(2) J. TRAUMA & DISSOCIATION 170, 171 (2009) (adult survivors are thirty percent more likely to develop serious medical conditions such as cancer, diabetes, high blood pressure, stroke, and heart disease); T.L. Simpson, et al., *Concomitance between childhood sexual and physical abuse and substance use problems: A review*, 22 CLINICAL PSYCHOL. REV. 27 (2002) (adult survivors of CSA are nearly three times as likely to report substance abuse problems than their non-survivor peers).

⁸ Beth E. Molnar et al., *Psychopathology, Childhood Sexual Abuse and other Childhood Adversities: Relative Links to Subsequent Suicidal Behaviour in the US*, 31 PSYCHOL. MED. 965 (2001).

⁹ Shanta R. Dube et al., *Long-Term Consequences of Childhood Sexual Abuse by Gender of Victim*, 28 AM. J. PREV. MED. 430, 434 (2005).

¹⁰ Delphine Collin-Vézina et al., *A Preliminary Mapping of Individual, Relational, and Social Factors that Impede Disclosure of Childhood Sexual Abuse*, 43 CHILD ABUSE NEGL. 123 (2015).

¹¹ Ramona Alaggia et al., *Facilitators and Barriers to Child Sexual Abuse (CSA) Disclosures: A Research Update (2000-2016)*, 20 TRAUMA VIOLENCE ABUSE 260, 279 (2019).

¹² Patrick J. O’Leary & James Barber, *Gender Differences in Silencing following Childhood Sexual Abuse*, 17 J. CHILD SEX. ABUSE 133 (2008).

¹³ See David Finkelhor et al., *Sexually Assaulted Children: National Estimates and Characteristics*, US Dept. of Justice, Office of Justice Programs (2008), available at <https://www.ojp.gov/pdffiles1/ojdp/214383.pdf> (Based on an analysis of an estimated 285,400 child sexual assault victims, researchers found that only 30% of cases involved police contact.); Kamala London et al., *Review of the Contemporary Literature on How Children Report Sexual Abuse to Others: Findings, Methodological Issues, and Implications for Forensic Interviewers*, 16 MEMORY 29, 31 (2008) (“Researchers have found a range of 5% to 13% of child sexual abuse victims reporting abuse to authorities across different studies.”).

¹⁴ Sarah E. Ullman, *Relationship to Perpetrator, Disclosure, Social Reactions, and PTSD Symptoms in Child Sexual Abuse Survivors*, 16 J. CHILD SEX. ABUSE 19, 30 (2007).

¹⁵ Often, this happens in the context of therapy; sometimes it is triggered many years after the abuse by an event the victim associates with the abuse; other times it happens gradually or over time as a victim recovers their memory. Hoskell, at 24.

¹⁶ For an analysis of the SOL reform movement since 2002, *see* CHILD USA, *History of US SOL Reform: 2002-2020*, CHILDUSA.ORG (last visited Aug. 30, 2021), available at www.childusa.org/sol-report-2020.

¹⁷ Michelle Elliott et al., *Child Sexual Abuse Prevention: What Offenders Tell Us*, 19 CHILD ABUSE NEGL. 579 (1995).

¹⁸ Elizabeth J. Letourneau et al., *The Economic Burden of Child Sexual Abuse in the United States*, 79 CHILD ABUSE NEGL. 413 (2018).

¹⁹ *E.g.*, Netflix’s *Jeffrey Epstein: Filthy Rich*; HBO’s *At the Heart of Gold: Inside the USA Gymnastics Scandal*.

²⁰ *See 2022 SOL Tracker*, CHILDUSA.ORG (last visited Dec. 1, 2021), available at www.childusa.org/2022sol.

²¹ AK, AZ, CO, CT, DE, FL, IL, LA, ME, MN, NE, NV, NH, UT, VT, Guam, and NMI. For more information on civil SOL elimination, visit *2021 SOL Tracker*, CHILDUSA.ORG (last visited Dec. 1, 2021), available at www.childusa.org/2021sol.

²² *See Revival and Window Laws Since 2002*, CHILDUSA.ORG (last visited Dec. 1, 2021), available at <https://childusa.org/windowsrevival-laws-for-csa-since-2002/>.

²³ *See The Relative Success of Civil SOL Window and Revival Statutes State-by-State*, CHILDUSA.ORG (last visited Dec. 1, 2021), available at www.childusa.org/law.