



TO: Honorable Members of the Senate Committee on Judiciary

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

RE: AR SB 204: To Amend the Justice For Vulnerable Victims of Sexual Abuse Act

DATE: February 8, 2023

Dear Honorable Members of the Senate Judiciary Committee,

Thank you for allowing us to submit testimony in support of SB 204, which will eliminate the statutes of limitation (“SOLs”) for child sexual abuse (“CSA”). This legislation will not only bring long overdue justice to survivors, but it will also greatly reduce the present danger to children in Arkansas by exposing hidden predators who are still abusing children today.

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.

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. 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.

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

- Childhood trauma, including CSA, can have **devastating impacts on a child’s brain**, including disrupted neurodevelopment; impaired social, emotional, and cognitive development; psychiatric and physical disease, such as post-traumatic stress disorder (PTSD); and disability.



- 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.
- 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.

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. 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. 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 a study of survivors of abuse in Boy Scouts of America, **51%** of survivors disclosed their abuse for the first time at **age 50 or older**.
- **One-third** of CSA survivors **never report** their abuse to anyone.

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. To effectively protect children from abuse, SOL 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.

CHILD USA and CHILD USAAdvocacy are leading the vibrant national and global movement to eliminate civil and criminal SOLs and revive expired civil claims as a systemic solution to the preventable CSA epidemic. **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.



Punishes Bad Actors & Shifts the Cost of Abuse
from the victims and taxpayers to those who caused it.



Prevents Further Abuse
by educating 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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A. SOL Reform Identifies Hidden Child Predators and Institutions that Endanger Children

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. SOL reform helps protect Arkansas children by identifying sexual predators in our midst. By extending, eliminating, and reviving short restrictive SOLs, especially 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 in Arkansas.

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.

It is unfair for the victims, their families, and Arkansas taxpayers to be the only ones who bear this burden; this bill levels 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, Arkansas 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 Prevents Further Abuse

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. 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. Arkansas Should Join the National Trend Toward SOL Reform for CSA

The gold standard of the SOL reform movement for CSA is for states to eliminate all civil and criminal SOLs and revive expired civil claims—like Vermont, Maine, Guam and NMI have already done. Arkansas has made recent progress towards reforming its SOLs for child sex abuse, yet there is still more that needs to be done.

A. Arkansas Should Eliminate Civil SOLs

With SB 204, Arkansas can remove more barriers to civil justice for survivors and advance towards the gold standard for SOL reform. As shown below, with this bill Arkansas can join the federal government, fifteen states, and two U.S. territories that no longer have civil SOLs for CSA. SB 204 will give more 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.

CHILD USA and CHILD USA Advocacy are proud to have played a major role working with bipartisan leaders on the new federal law eliminating the SOL for over a dozen federal civil CSA claims and permitting victims to bring a lawsuit against perpetrators and institutions for compensation for their injuries. 18 U.S.C. § 2255. Sen. Marsha Blackburn R-Tenn., correctly stated that “[t]he statute of limitations for sexual abuse offenses should never prohibit young survivors from getting the justice they deserve.” According to Sen. Richard Durbin, D-Ill., similarly acknowledged “the science of trauma is clear: it often takes years for victims to come forward.”

SB 204’s SOL elimination would improve Arkansas’s SOL significantly, as shown below. It is in line with the recent federal changes and the overall trend to give older victims more time to come forward in accordance with the delayed disclosure of abuse science.



B. Arkansas Should Keep its Revival Window Open for Longer

Arkansas has made great progress for adult survivors of child sex abuse with a revival window that is open for 2 years. Arkansas is one of two-dozen states across the U.S. and three territories with revival laws giving survivors an opportunity to file claims for decades old abuse that were blocked by short SOLs. Unfortunately, Arkansas’s window will close on January 31, 2024, and survivors in their 20’s and older who have not yet come to terms with their abuse will be shut out of court again by Arkansas’s prior age 21 civil SOL.

The following graphic is a revival window report card, grading each state’s window based on how helpful it is to survivors and to society by exposing hidden predators within the states. Arkansas’s window ranks as a B, with Maine, Vermont, Guam, and Northern Mariana Islands ranking higher because their windows are permanently open. Arkansas should join the states that improved upon their windows by reopening them or broadening them in subsequent years, like Hawaii, California, Delaware, and New York.

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Window Report Card

Window laws open access to justice for adult survivors of child sex abuse whose civil claims already expired. Survivors can sue while the window is open.

A+	Maine, Vermont, Guam & N. Mariana Islands	Window permanently open for claims against <u>all</u> types of defendants
B	Arkansas, California, Delaware, Hawaii, Louisiana, New Jersey, & New York	Window open for 2 or more years for claims against <u>all</u> types of defendants
C	Arizona, Colorado, Kentucky, Minnesota, Montana, North Carolina, & Washington D.C.	Window not explicitly for claims against all types of defendants
D	Georgia, Michigan, Nevada, & Utah*	Window open for claims against perpetrators only or for physician abuse only
F	All Other States	No window, hidden predators are protected


The Sean P. McMillan Statute of Limitations Research Institute

IV. Conclusion

Once again, we commend you for supporting this legislation, which is desperately needed to validate adult survivors of CSA and protect Arkansas children from preventable sexual abuse. Eliminating the civil SOL and reviving expired claims is a positive step for Arkansas's children and families. For more information about statute of limitations reform, visit childusa.org/sol/ or email info@childusa.org. 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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