

TO: Honorable Members of the Senate Codes Committee

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

RE: SB00349 – Eliminating the criminal Statute of Limitations (“SOL”), extend the civil SOL, remove the Notice of Claims requirement, and open a 2-year revival window for sex trafficking offenses

DATE: February 5, 2024

Dear Honorable Members of the Senate Codes Committee,

Thank you for allowing us, Professor Marci Hamilton of CHILD USA and Kathryn Robb of CHILD USAAdvocacy, to submit testimony in support of SB00349, which will eliminate the criminal statute of limitation (“SOL”) and Notice of Claim requirement, extend the civil SOL, and open a 2-year revival window for sex trafficking offenses and claims. If passed, this legislation will maintain New York’s position as a leader in the fight to protect children’s rights.

By way of introduction, 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 the Founder and CEO of CHILD USA, an interdisciplinary think tank dedicated to the prevention of child abuse and neglect at the University of Pennsylvania, where she is a Professor in the Fels Institute of Government. She authored *Justice Denied: What America Must Do to Protect Its Children* (Cambridge University Press 2008, 2012), which makes the case for statute of limitations (SOL) reform in the child sex abuse arena and is the leading expert on the history and constitutionality of SOL reform.

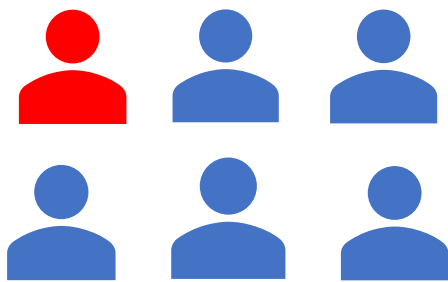
CHILD USA is the leading nonprofit think tank dedicated to the prevention of child abuse and neglect. It is also the leader in the field of statute of limitations reform, including The Sean P. McIlmail Research Institute, and the only organization to track child sex abuse SOLs in every state, D.C., and the federal government.

Kathryn Robb is the Executive Director of CHILD USAAdvocacy, a 501(c)(4) 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 sexual abuse.

SB00349 would eliminate the criminal SOL and notice of claim requirements for sex trafficking offenses, as well as extend the civil SOL and open a 2-year revival window for related civil claims. If passed, this legislation would strengthen New York’s laws combatting human trafficking, and provide an avenue for justice for New York’s child trafficking victims.

I. The Science of Delayed Disclosure Supports SOL Reform for Child Sex Trafficking

There is a worldwide epidemic of child sex trafficking, with millions of people being trafficked for sex, 94% of which are women and girls.ⁱ In 2019, Polaris Project worked on trafficking situations involving 22,326 individual survivors in the United States through the National Trafficking Hotline.ⁱⁱ According to the National Center for Missing and Exploited Children, **1 out of 6 children reported missing is “likely [a victim] of child sex trafficking”** based on case information.ⁱⁱⁱ There are currently more than 200 missing children from New York, many of whom are believed to be trafficking victims.^{iv}



1 in 6 missing children is likely a victim of child sex trafficking

The trauma stemming from child sexual abuse is complex and individualized, and it impacts victims throughout their lifetimes. There is an overwhelming body of science exposing the ways in which the trauma of sexual abuse during childhood impacts memory formation and the repression of memories.^v It is now settled that PTSD, memory deficits, and complete disassociation are common coping mechanisms for child victims.^{vi} As a result, it can take years for a victim to acknowledge their abuse.

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.”^{vii} Studies suggest that many victims, as much as 33%, never disclose their abuse.^{viii} The disclosure of child sexual abuse is a process and not a discrete event in which a victim comes to terms with their abuse. Often this happens in the context of therapy; sometimes it is triggered many years after the abuse by an event the victim associates with the abuse; other times it happens gradually and over time as a victim recovers their memory.^{ix}

In fact, the best science indicates that the **average age of disclosure of child sexual abuse, including child sex trafficking, is 52 years old.**^x Yet, until recently, many states blocked criminal charges and civil lawsuits well before age 52. By the time most victims were ready to come forward, the courthouse doors were locked, shutting victims out of justice.



It is a medical fact that victims of child sex trafficking often need decades to come forward. They are traumatized from the abuse, incapable of processing what happened to them, and often dependent on the adults who perpetrated or caused the abuse. Short SOLs for child sex trafficking play into the hands of the perpetrators and the institutions enable them; they disable victims' voices and empowerment. The SOL for laws combatting child sexual abuse, including child sex trafficking, should reflect the reality that sexual abuse victims suffer lifelong effects on health and well-being that can erect high barriers to disclosure. SB00349 seeks to bring the law closer in line with this fact.

II. SB00349 Will Serve the Public Good by Increasing Victims' Access to Justice and Preventing Future Abuse

Statutes of limitations or SOLs are judicial housekeeping rules: they set the deadline for pressing criminal charges or filing a civil lawsuit. An SOL is an arbitrary and technical legal rule that has prevented victims from naming their perpetrators publicly for fear of retaliation and from obtaining justice. SB00349 would extend the arbitrary deadline for filing civil claims resulting from child sex trafficking, allowing more victims to come forward and access justice. SOL reform serves three important public purposes: (1) it identifies previously unknown predators; (2) it shifts the cost of abuse from the victim and the tax payers to the perpetrators; and (3) it educates the public on the prevalence of child sexual abuse and its attendant harms.

HOW STATUTE OF LIMITATIONS REFORM HELPS EVERYONE



Identifies previously unknown predators and institutions responsible

to the public, shielding other children from future abuse.



Shifts the cost of abuse

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



Educates the public

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



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CHILDUSA
THE NATIONAL THINK TANK FOR CHILD PROTECTION

The Sean P. McInnis Institute
of Limitations Research
at CHILD USA

Historically, a wall of ignorance and secrecy has been constructed around child sex abuse, which has been reinforced by short SOLs that kept victims out of the legal system. Perpetrators and institutions have benefitted from short SOLs and until recently, most states have shut down most cases. That is a major reason we knew so little about the epidemic of child sex abuse and child sex trafficking. Yet, it is in society's interest to have sex abuse survivors identify hidden child predators to the public—whenever the survivor is ready.

As well as providing already-existing victims of abuse a path to justice, SOL reform protects society at large. By allowing prosecutors and victims all the time they need to prosecute a child sex trafficking case, hidden predators are brought into the light and are prevented from further abusing more children. Preventing further abuse only serves to help—society—by reducing the costs of healthcare for victims, allowing more healthy people into the workforce, and increasing the ability of children to grow into healthy adults. SOL reform also educates the public about the danger of child sexual abuse.

III. New York Should Join the National Trend Toward Meaningful SOL Reform for Child Sex Abuse by Extending the Civil SOL for Child Sex Trafficking

There is a national and global movement for SOL reform. The trend is toward elimination of civil and criminal SOLs and the revival of expired civil claims. For an analysis of the SOL reform movement from 2002 through 2020, see CHILD USA's 2020 SOL Report.^{xi} The gold standard of the SOL reform movement for CSA is for states to eliminate civil and criminal SOLs and revive expired civil claims—like Maryland, Vermont, Maine, Guam, and NMI have already done. New York has made tremendous progress regarding protection of trafficking survivors, adding trafficking to claims with an SOL of age 28 in 2015, and extending it further to age 33 in 2021. SB00349 will continue to expand New York's trend toward protecting children and the general public from sex trafficking offenses.

Once again, we commend you for supporting this legislation, which is desperately needed to help survivors of childhood sexual abuse, and for taking up the cause of sex trafficking victims. New York children deserve SOL reform to protect them today and into the future. Eliminating the criminal SOL and Notice of Claim requirements, and extending/reviving the time for survivors to file suit is a positive step for New York 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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ⁱ *Global Report on Trafficking in Persons*, UNODC, 33 (2018), available at https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP_2018_BOOK_web_small.pdf.

ⁱⁱ *Myths, Facts, and Statistics*, POLARIS PROJECT (last visited February 11, 2021), available at <https://polarisproject.org/myths-facts-and-statistics/>.

ⁱⁱⁱ K. Tate Chambers, Ed., *Human Trafficking*, 65 U.S. ATTORNEY'S BULLETIN, 33 (Nov. 2017), available at <https://www.justice.gov/usao/page/file/1008856/download>.

^{iv} *The National Center for Missing and Exploited Children Database*, available at <https://www.missingkids.org/search>

^v VAN DER KOLK, B. THE BODY KEEPS THE SCORE: MEMORY & THE EVOLVING PSYCHOBIOLOGY OF POSTTRAUMATIC STRESS, HARVARD REV. 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").

^{vi} 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>.

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

^{viii} *Id.*

^{ix} Hoskell, at 24.

^x 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>.

^{xi} 2020 SOL Report, CHILDUSA.ORG (last visited Feb. 10, 2021), available at www.childusa.org/sol-report-2020.