

**IN THE SUPREME COURT
STATE OF ARIZONA**

JOHN DOE, an adult individual;
Plaintiff/Appellant/Petitioner

v.

ARIZONA BOARD OF REGENTS; NATIONAL 4-H ACTIVITIES
FOUNDATION, a Foreign Non-Profit Corporation; NATIONAL 4-H COUNCIL,
a Foreign Non-Profit Corporation.

Defendants/Appellees/Respondents

Arizona Supreme Court
CV-22-0277-PR

Arizona Court of Appeals
Division One
1 CA-CV 21-0509

Maricopa County Superior Court
CV2020-017426

BRIEF OF AMICUS CURIAE CHILD USA

O'STEEN & HARRISON, PLC

Jonathan V. O'Steen, Esq. (024043)
300 W. Clarendon Ave., Suite 400
Phoenix, Arizona 85013-3424
(602) 252-8888
josteen@vanosteen.com

CHILD USA

Prof. Marci A. Hamilton, Esq.
University of Pennsylvania
3508 Market St., Suite 202
Philadelphia, Pennsylvania 19104
marcih@sas.upenn.edu

Alice A. Bohn, Esq.
Alice Nasar Hanan, Esq.
Carina Nixon, Esq.
3508 Market St., Suite 202
Philadelphia, Pennsylvania 19104
abohn@childusa.org
ahanan@childusa.org
cnixon@childusa.org

Counsel for Plaintiff/Appellant/Petitioner

TABLE OF CONTENTS

	PAGE
Table of Authorities	iii
Statement of Interest and Disclosure of Amicus Curiae	1
Preliminary Statement	1
Legal Argument	2
The Arizona Window Legislation’s revival window reflects science surrounding disclosure and addresses Arizona compelling interest in protecting children.	2
CSA uniquely prevents victims from filing timely notice of claims and causes of action for their injuries.	2
The Arizona Window Legislation addresses Arizona’s compelling interest in child protection.	5
Revival laws for CSA across the states support that a notice of claim is not required for Arizona window claims.	8
The plain language and legislative history of the Arizona window legislation confirm revived claims are not subject to a claim presentation deadline.	11
The plain language of the Arizona Window Legislation does not require notice for revived claims.	11
The plain language of the Notice of Claim statute conflicts with the Court of Appeals’ ruling that notice was required for revived claims.	12
The legislative history shows the Legislature intended to give victims with claims against the State a window unencumbered by notice deadlines.	13
Conclusion	14

TABLE OF AUTHORITIES

Cases

CAPTION	PAGE
<i>Coats v. New Haven Unified Sch. Dist.</i> , 259 Cal.Rptr.3d 784 (Cal. Ct. App. 2020)	11
<i>Packingham v. North Carolina</i> , 137 S. Ct. 1730 (2017)	6
<i>R.L. v. Voytac</i> , 971 A.2d 1074 (N.J. 2009)	5
<i>Roe v. Ram</i> , No. 14-00027, 2014 U.S. Dist. LEXIS 120830 (D. Haw. Aug. 29, 2014)	11
<i>State v. Berger</i> , 134 P.3d 378, 382 (Ariz. 2006)	6

Constitutional Provisions, Statutes and Rules

CITATION	PAGE
2021 Kentucky Laws Ch. 89	9
2021 N.M.I. Pub. L. No. 22-12 (HB 22-2, SDI)	10
A.R.S. § 12-514	8, 13
A.R.S. § 12-821	12
A.R.S. § 12-821.01	1, 11–13
ARK. CODE ANN. § 16-118-118	8
CAL. CIV. PROC. CODE § 340.1	8, 11
COLO. REV. STAT. § 13-20-1202	9
CONN. GEN. STAT. § 52-577d	9
DEL. CODE tit. 18, § 6856	9
DEL. CODE tit. 10, § 8145	9
FLA. STAT. ANN. § 95.11	9
GA. CODE § 9-3-33.1	9
7 G.C.A § 11306	9

7 G.C.A § 1301.1(b)	9
HAW. REV. STAT. § 657-1.8	9
LA. STAT. ANN. § 9:2800.9	9
MASS. GEN. LAWS ch. 260, § 4C	9
ME. REV. STAT. ANN. tit. 14 § 752-C	9
MICH. COMP. LAWS § 600.5851b	9
MINN. STAT. § 541.073	9
MO. REV. STAT. § 537.046	9
MONT. CODE § 27-2-216	9
NEV. REV. STAT. ANN. § 11.215	10
NEV. REV. STAT. ANN. § 41.1396	10
N.J. STAT. ANN. §§ 2A:14-2A & 2A:14-2B	10
NEW YORK CITY, N.Y., CODE § 10-1105 (2022)	10
N.Y. C.P.L.R. 214-g	10
N.C. GEN. STAT. § 1-17	10
OR. REV. STAT. § 12.117	10
R.I. GEN LAWS § 9-1-51	10
UTAH CODE ANN. § 78B-2-308	10
VT. STAT. ANN. tit. 12, § 522	10
VA. CODE ANN. § 8.01-249	10
D.C. CODE § 12-301	10
W. VA. CODE § 55-2-15	10

STATEMENT OF INTEREST AND DISCLOSURE OF AMICUS CURIAE

Amicus curiae, CHILD USA, is the leading national nonprofit think tank fighting for the civil rights of children. CHILD USA is the only organization to track and study child sex abuse statutes of limitations (SOLs), as part of its Sean P. McIlmail SOL Reform Institute. CHILD USA's Founder, Professor Marci A. Hamilton, is the foremost constitutional law scholar on revival laws, and has advised Congress and state governors, legislatures, and courts on revival laws for child sex abuse (CSA) throughout the United States.

CHILD USA is uniquely positioned to provide this Court with research and analysis on the science of delayed disclosure of abuse by victims, compelling public interests in revival of expired civil SOLs, the impact on public safety, and the national landscape of revival windows for CSA. This contribution will aid the Court's analysis beyond that which the parties' lawyers provide.

PRELIMINARY STATEMENT

CHILD USA respectfully submits this brief as *amicus curiae*. Plaintiff appeals the Court of Appeals' interpretation of House Bill 2466 (effective May 27, 2019), 2019 Ariz. Sess. Laws, Ch. 259 (1st Reg. Session) (hereinafter referred to as the "Arizona Window Legislation") as requiring CSA victims with revived claims against public entities to comply with a renewed notice of claim requirement pursuant to A.R.S. § 12-821.01 [A.R.S. § 12-821.01](#) ("Notice Statute"). CHILD USA submits that neither the Arizona Window Legislation nor the Notice Statute require filing such notice.

1 The Arizona Window Legislation reflects the Legislature’s understanding that CSA
2 inflicts a unique trauma on victims, rendering many of them unable to disclose their abuse
3 until decades later. A ruling that adds a notice requirement for claims brought during the
4 Arizona Window Legislation’s revival window would have negative ramifications for the
5 CSA victims throughout Arizona who are embracing the window in pursuit of long
6 overdue justice. It would also jeopardize the important public policies of justice, public
7 safety, and preventing future CSA that the Arizona Legislature sought to uphold and
8 improve when it passed the Arizona Window Legislation. Accordingly, CHILD USA
9 respectfully submits that this Court grant the *Petition for Review*.

13 LEGAL ARGUMENT

14 I. The Arizona Window Legislation’s revival window reflects science 15 surrounding disclosure and addresses Arizona’s compelling interest in 16 protecting children.

17 The Arizona Window Legislation acknowledges that victims of CSA often take
18 decades to disclose their abuse. The revival window provision corrects the injustice of
19 Arizona’s unreasonably short SOLs and claim presentation deadline that blocked CSA
20 victims’ access to courts and kept the public uninformed about predators and youth
21 serving institutions that endanger children.

23 A. CSA uniquely prevents victims from filing timely notice of claims and 24 causes of action for their injuries.

1 Child sexual abuse is a national public health crisis, with 3.7 million children
2 sexually abused every year.¹ It affects one in five girls and one in thirteen boys in the
3 United States.² An extensive body of evidence establishes that CSA survivors are
4 traumatized in a way that is distinguishable from victims of other crimes. Indeed, many
5 victims of CSA suffer in silence for decades before they speak to anyone about their
6 traumatic experiences. As children, they fear the negative repercussions of disclosure,
7 such as disruptions in family stability, loss of close relationships, or involvement with the
8 authorities.³ This is a crime that typically occurs in secret, and many victims assume no
9 one will believe them.⁴

13 Additionally, CSA victims may struggle to disclose their experiences due to the
14 effects of trauma and psychological barriers such as shame, self-blame, or fear, as well as

17 1. See *Preventing Child Sexual Abuse*, CDC.gov (last visited Feb. 22, 2022),
18 <https://www.cdc.gov/violenceprevention/pdf/can/factsheetCSA508.pdf>; see also D.
19 Finkelhor, *et al.*, *Prevalence of child exposure to violence, crime, and abuse: Results from the Nat'l*
20 *Survey of Children's Exposure to Violence*, 169(8) JAMA PEDIATRICS 746 (2015).

21 2. G. Moody, *et al.*, *Establishing the international prevalence of self-reported child maltreatment: a*
22 *systematic review by maltreatment type and gender*, 18(1164) BMC PUBLIC HEALTH (2018); M.
23 Stoltenborgh, *et al.*, *A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence*
24 *Around the World*, 16(2) CHILD MALTREATMENT 79 (2011); N. Pereda, *et al.*, *The prevalence of*
25 *child sexual abuse in community and student samples: A meta-analysis*, 29 CLINICAL PSYCH. REV.
26 328, 334 (2009).

27 3. Delphine Collin-Vézina *et al.*, *A Preliminary Mapping of Individual, Relational, and Social*
28 *Factors that Impede Disclosure of Childhood Sexual Abuse*, 43 CHILD ABUSE NEGL. 123 (2015),
<https://pubmed.ncbi.nlm.nih.gov/25846196/>.

29 4. See *Myths and Facts About Sexual Assault*, CAL. DEP'T OF JUST.,
30 <https://www.meganslaw.ca.gov/mobile/Education/MythsAndFacts.aspx> (last visited
31 June 2, 2022); National Child Traumatic Stress Network Child Sexual Abuse Committee,
32 *Caring for Kids: What Parents Need to Know about Sexual Abuse*, NAT'L CTR. FOR CHILD
33 TRAUMATIC STRESS 7 (2009), [https://www.nctsn.org/sites/default/files/resources/fact-](https://www.nctsn.org/sites/default/files/resources/factsheet/caring_for_kids_what_parents_need_know_about_sexual_abuse.pdf)
34 [sheet/caring_for_kids_what_parents_need_know_about_sexual_abuse.pdf](https://www.nctsn.org/sites/default/files/resources/factsheet/caring_for_kids_what_parents_need_know_about_sexual_abuse.pdf).

1 social factors such as gender-based stereotypes or the stigma of sexual victimization.⁵
2 Victims also often develop a variety of coping strategies—such as denial, repression, and
3 dissociation—to avoid recognizing or addressing the harm they suffer.⁶ Moreover, they
4 disproportionately develop depression, substance abuse, Post-traumatic Stress Disorder,
5 and challenges in personal relationships.
6

7
8 These mechanisms may persist well into adulthood, long past the date of abuse. In
9 fact, a study found that 44.9% of male CSA victims and 25.4% of female CSA victims
10 delayed disclosure by *more than twenty years*.⁷ This translates to a harsh reality: more victims
11 first disclose their childhood sex abuse between ages *fifty and seventy* than during any other
12 age.⁸ The Arizona Legislature understood delayed disclosure science, recognizing that due
13 to
14

15 “psychological, emotional, physical trauma, it takes [victims]
16 sometimes decades to come forward. I have multiple studies [that
17 have] looked at hundreds of victims, and the reasons why they’ve
18 delayed coming forward and how many years it took them to come
19 forward. And most victims don’t come forward until they’re in their
20 forties because that’s the time where they’ve been able to process and
21 when they’ve been able to come to grips with what has happened to
22 them.”

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

25 6. G.S. Goodman *et al.*, *A prospective study of memory for child sexual abuse: New findings*
26 *relevant to the repressed-memory controversy*, 14 PSYCHOL. SCI. 113–8 (2003),
<https://pubmed.ncbi.nlm.nih.gov/12661671/>.

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

28 8. CHILD USA’s data on those abused in Boy Scouts of America. For more
information, contact info@childusa.org.

1 Sen. Paul Boyer, S.B. 1101, Statute of Limitations; Sexual Assault: Video of Special
2 Meeting before the Arizona House Committee on Appropriations, 54th Leg., 1st Sess.
3 (April 4, 2019). Remarkably, it is estimated that 70–95% of child sexual assault victims
4 never report their abuse to the police.⁹ The reality is that trauma affects CSA victims in
5 serious and wide-ranging ways, necessitating decades for them to process their abuse,
6 much less report it.¹⁰

7
8
9 Before 2019, Arizona CSA victims only had until age twenty to file a civil suit for
10 their injuries; those abused within public institutions were further restricted and had to file
11 notice within 180 days after reaching age 18. *See* A.R.S. §§ 12-542; 12-502. This means
12 that a high school student that was sexually abused at their public school was required to
13 file a notice of claim with their school before they even graduated, in some instances.
14 Arizona justifiably ranked as one of the worst jurisdictions nationally for its SOLs for
15 CSA claims.¹¹ These limitation periods rendered it practically impossible for the vast
16 majority of victims to seek legal redress for their abuse.
17
18

19 **B. The Arizona Window Legislation addresses Arizona’s compelling interest**
20 **in child protection.**

21
22
23 9. D. Finkelhor, *et al.*, *Sexually Assaulted Children: National Estimates and Characteristics*, US
24 DEPT. OF JUSTICE, OFFICE OF JUSTICE PROGRAMS (2008),
<https://www.ojp.gov/pdffiles1/ojdp/214383.pdf>.

25 10. Rebecca Campbell, Ph.D., *The Neurobiology of Sexual Assault: Explaining Effects on the*
26 *Brain*, NAT’L INST. OF JUSTICE (2012),
[https://upc.utah.gov/materials/2014Materials/2014sexualAssault/TonicImmobility](https://upc.utah.gov/materials/2014Materials/2014sexualAssault/TonicImmobilityWebinar.pdf)
27 [Webinar.pdf](https://upc.utah.gov/materials/2014Materials/2014sexualAssault/TonicImmobilityWebinar.pdf); *R.L. v. Voytac*, 971 A.2d 1074 (N.J. 2009); Bessel A. van der Kolk M.D., *et*
28 *al.*, *Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body, and Society* (2006).

11. CHILD USA, *2019 Annual Report, Child Sex Abuse Statutes of Limitation Reform from 2002–2019* (May 5, 2020), <http://www.childusa.org/sol-report-2019>.

1 The Arizona Window Legislation serves Arizona’s “compelling” interest in child
2 protection. See, e.g., [Packingham v. North Carolina, 137 S. Ct. 1730, 1736 \(2017\); State v.](#)
3 [Berger, 134 P.3d 378, 382 \(Ariz. 2006\)](#). Importantly, the Legislation was designated as an
4 “emergency measure that is necessary to preserve the public peace, health or safety.”
5 Three important public purposes are served by the Legislature’s enactment of the Arizona
6 Window Legislation. It: (1) identifies previously unknown child predators and the
7 institutions that shield them; (2) shifts the cost of abuse from victims to those who caused
8 the abuse; and (3) educates the public to prevent future abuse.
9
10

11 First, the revival window facilitates the identification of hidden predators and
12 institutions that shield them. The decades before a victim is ready to disclose give
13 perpetrators and institutions wide latitude to suppress the truth to the detriment of
14 children, parents, and the public. Through the Arizona Window Legislation, the
15 Legislature empowered victims to tell us their stories and help prevent the perpetrators
16 that abused them and individuals and institutions that endangered them from harming
17 more children.¹²
18
19
20

21 Second, the Arizona Window Legislation educates the public about the dangers of
22 CSA and how to prevent such abuse. When predators and institutions are exposed,
23 particularly high-profile ones like Larry Nassar, Jeffrey Epstein, the Boy Scouts of
24 America, and the Catholic Church, the press publishes pieces that enlighten communities
25
26

27 12. See generally, *Making the Case: Why Prevention Matters*, PREVENTCHILDAUSE.ORG (last
28 visited February 22, 2022), <https://preventchildabuse.org/resource/why-prevention-matters/>; *Preventing Adverse Childhood Experiences*, CDC.GOV (last visited Feb. 23, 2022),
<https://www.cdc.gov/violenceprevention/pdf/preventingACES.pdf>.

1 about methods child molesters use to sexually assault children and the institutional failures
2 that enabled their abuse. This fosters a social awareness that inspires the public to
3 implement safe practices and accountability to prevent CSA in their family and
4 community institutions.
5

6 Third, the cost of CSA to survivors is enormous,¹³ and they, along with Arizona,
7 unjustly carry the burden of this expense.¹⁴ The estimated lifetime cost to society from
8 CSA cases that occurred in the U.S. in 2015 is \$9.3 billion, while the average cost per non-
9 fatal female victim was estimated at \$282,734.¹⁵ These staggering expenses gravely affect
10 victims and also impact the nation's health care, education, criminal justice, and welfare
11 systems.¹⁶ Window cases that result in awards and settlements equitably shift some of the
12 cost of abuse away from survivors and save the State money by reducing expenditures on
13 these public services.
14
15
16
17
18

19 13. See M. Merricka., *et al.*, *Unpacking the impact of adverse childhood experiences on adult mental*
20 *health*, 69 CHILD ABUSE & NEGLECT 10 (July 2017); Angelakis, I., Gillespie, E.L.,
21 Panagioti, M., *Childhood maltreatment and adult suicidality: a comprehensive systematic review with*
22 *meta-analysis*, PSYCHOLOGICAL MEDICINE 1-22 (2019); Gail Hornot, *Childhood Trauma*
23 *Exposure & Toxic Stress: What the PNP Needs to Know*, J. PEDIATRIC HEALTHCARE (2015);
24 Perryman Group, *Suffer the Little Children: An Assessment of the Economic Cost of Child*
25 *Maltreatment* (2014).

26 14. While one in four Arizonans receive Medicaid, sex abuse victims likely
27 disproportionately receive support due to the crippling effect of trauma. Stephanie Innes,
28 *Enrollment in Arizona's Medicaid program hits record 2M adults and children*, AZCENTRAL.COM
(Jul. 14, 2020 at 1:10 PM), <https://www.azcentral.com/story/news/local/arizona-health/2020/07/14/enrollment-arizonas-medicaid-program-hits-record-2-million/5429518002/>.

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

16. *Id.*

1 Thus, the Legislature’s enactment of the Arizona Window Legislation not only
2 remedies the long-standing injustice to CSA victims barred from bringing their claims
3 under unreasonably short time restraints; it also serves Arizona’s compelling interest in
4 keeping its children safe and preventing future CSA.
5

6 **II. Revival laws for CSA across the states support that a notice of claim is not**
7 **required for Arizona window claims.**

8 In 2019, Arizona joined the vibrant national movement to protect children from
9 sexual predators and honor justice for victims of CSA. Since 2002, revival legislation has
10 grown in popularity as legislatures recognized that CSA victims need more time to come
11 forward and SOLs and claim presentation deadlines have historically blocked their
12 claims.¹⁷ With Arizona’s exemplary revival window, it stands alongside at least thirty
13 states and territories that enacted civil revival laws for CSA claims. The following table
14 shows this prevailing trend:
15
16

Jurisdiction	Revival Law	Statute
Arizona	1.5-Year Window & Age 30 Limit (2019)	A.R.S. § 12-514; H.B. 2466, 54th Leg., 1st Reg. Sess. (Ariz. 2019)
Arkansas	2-Year Window (2021)	ARK. CODE ANN. § 16-118-118
California	3-Year Window & Age 40 Limit (2019)	CAL. CIV. PROC. CODE § 340.1 (2020)
	1-Year Window (2003)	CAL. CIV. PROC. CODE § 340.1 (2002)

17
18
19
20
21
22
23
24
25
26
27
28
17. CHILD USA, *Revival Laws for Child Sex Abuse Since 2002* (May. 5, 2022),
<https://childusa.org/windowsrevival-laws-for-csa-since-2002/>.

Colorado*	3-Year Window (2021)	COLO. REV. STAT. § 13-20-1202 * New cause of action opens window for prior CSA.
Connecticut	Age 48 Limit (2002)	CONN. GEN. STAT. § 52-577d (2002)
Delaware	2-Year Window (2010)	DEL. CODE tit. 18, § 6856
	2-Year Window (2007)	DEL. CODE tit. 10, § 8145
Florida	4-Year Window (1992)	FLA. STAT. ANN. § 95.11
Georgia	2-Year Window (2015)	GA. CODE § 9-3-33.1
Guam	Permanent Window (2016)	Tit. 7 G.C.A §§ 11306; 11301.1(b)
	2-Year Window (2011)	7 G.C.A. § 11306(2) (2011); Public Laws No.31-06 (2011)
Hawaii	2-Year Window (2018)	HAW. REV. STAT. § 657-1.8
	2-Year Window (2014)	HAW. REV. STAT. § 657-1.8
	2-Year Window (2012)	HAW. REV. STAT. § 657-1.8
Kentucky	Limited Window (2021)	2021 Kentucky Laws Ch. 89 (HB 472)
Louisiana	3-Year Window (2021)	LA. STAT. ANN. § 9:2800.9
Maine	Permanent Window (2021)	ME. REV. STAT. ANN. tit. 14 § 752-C
Massachusetts	Age 53 Limit (2014)	MASS. GEN. LAWS ch. 260, § 4C (2014)
Michigan	90-Day Window (2018)	MICH. COMP. LAWS § 600.5851b
Minnesota	3-Year Window (2013)	MINN. STAT. § 541.073
	1-Year Window (1989)	MINN. STAT. § 541.073
Missouri	Age 23 Limit (1990)	MO. REV. STAT. § 537.046
Montana	1-Year Window & Age 27 Limit (2019)	MONT. CODE § 27-2-216

Nevada	Permanent Window & Age 38 Limit (2021)	NEV. REV. STAT. ANN. § 11.215, 41.1396
New Jersey	2-Year Window & Age 55 Limit (2019)	N.J. STAT. ANN. §§ 2A:14-2A & 2A:14-2B
New York	2-Year Window (2022)	NEW YORK CITY, N.Y., CODE § 10-1105 (2022)
	1-Year Window (2020)	N.Y. C.P.L.R. 214-g
	1-Year Window (2019)	N.Y. C.P.L.R. 214-g
North Carolina	2-Year Window (2019)	N.C. GEN. STAT. § 1-17
Northern Mariana Islands	Permanent Window (2021)	2021 N.M.I. Pub. L. No. 22-12 (HB 22-2, SDI)
Oregon	Age 40 Limit (2010)	OR. REV. STAT. § 12.117
Rhode Island	Age 53 Limit (2019)	R.I. GEN LAWS § 9-1-51
Utah	3-Year Window & Age 53 Limit (2016)	UTAH CODE ANN. § 78B-2-308
Vermont	Permanent Window (2019)	VT. STAT. ANN. tit. 12, § 522
Virginia	1-Year Window (1991)	VA. CODE ANN. § 8.01-249
Washington D.C.	2-Year Window (2019)	D.C. CODE § 12-301
West Virginia	Age 36 Limit (2020)	W. VA. CODE § 55-2-15

Modern CSA revival laws do not distinguish between private and public defendants; this is because legislatures recognize the public interest in stopping predators from sexually abusing children is equally as compelling within public institutions as it is in the private sphere. Notably, in California and Hawaii, after judicial determinations that

1 the revival language was not explicit enough to overcome sovereign immunity, their
2 legislatures reconvened and passed subsequent legislation explicitly reviving claims against
3 state entities. *See* [Coats v. New Haven Unified Sch. Dist.](#), 259 Cal.Rptr.3d 784, 749 (Cal. Ct.
4 App. 2020); [Roe v. Ram](#), No. 14-00027, 2014 U.S. Dist. LEXIS 120830, at *3 (D. Haw.
5 Aug. 29, 2014).

6
7 Here, the Arizona Legislature was careful to include explicit language reviving
8 claims against public entities that were blocked not only by SOLs, but also by a “claim
9 presentation deadline.” *See* Arizona Window Legislation, H.B. 2466, 54th Leg., 1st Reg.
10 Sess. (Ariz. 2019); [A.R.S. § 12-821.01](#). Arizona’s statutory language is unique, as it is one
11 of the only window statutes with explicit applicability language to survivors of abuse
12 within state institutions. *See also* [CAL. CIV. PROC. CODE § 340.1\(Q\)](#) (2020). The
13 Legislature’s purposeful judgment to enact a broad revival window that gave victims with
14 claims against public institutions one year and seven months to bring their abuser’s
15 enablers to justice and help eradicate CSA in Arizona should be given deference and
16 upheld by this Court.

17
18
19
20
21 **III. The plain language and legislative history of the Arizona window legislation**
22 **confirm revived claims are not subject to a claim presentation deadline.**

23 When considering both the (1) plain language of the Arizona Window Legislation
24 and the Notice Statute, and (2) the legislative history and context for the Arizona Window
25 Legislation, it is clear that previously time-barred claims filed during the revival window
26 period are not subject to a renewed claim presentation deadline.
27
28

1 **A. The plain language of the Arizona Window Legislation does not require**
2 **notice for revived claims.**

3 The Arizona Window Legislation explicitly opened a window during which causes
4 of action for CSA that were blocked by a claim presentation deadline, or an SOL were
5 revived. The window provision states: “*Notwithstanding any other law, a cause of action*” for
6 CSA “*that would otherwise be time barred because of an applicable statute of limitations, [or] a*
7 *claim presentation deadline . . . may be commenced before December 31, 2020.*” See H.B. 2466, 54th
8 Leg., 1st Reg. Sess. (Ariz. 2019) (emphasis added). The inclusion of the
9 “notwithstanding”¹⁸ provision explicitly overrides the Notice Statute and SOL provisions
10 of the Arizona Tort Claims Act for CSA claims against public entities. [A.R.S. §§ 12-](#)
11 [821.01](#) and [12-821](#).
12
13
14

15 **B. The plain language of the Notice of Claim statute conflicts with the**
16 **Court of Appeals’ ruling that notice was required for revived claims.**

17 The 180-day clock for giving notice of any claim can only start running either on
18 (1) a survivor’s eighteenth birthday, or (2) when the cause of action accrues, which is
19 defined as the singular moment when a survivor realizes or should have realized the
20 connection between their injuries and the sexual abuse they suffered. [A.R.S. § 12-821.01](#).
21 There is no language in the Notice Statute that can logically support the Court of Appeals’
22 interpretation that the 180-day notice clock begins to run again on Plaintiffs revived
23 claims on May 27, 2019, the effective date of the bill. *Amicus* respectfully submits this
24 finding was in error. The statutory time of *accrual* should not be redefined by the judiciary
25
26
27

28 18 *Notwithstanding*, *Black’s Law Dictionary Free*, The Law Dictionary,
<https://thelawdictionary.org/?s=Notwithstanding>.

1 to accommodate another conventional meaning that conflicts with the statute's own
2 terms. Accordingly, revival of Plaintiff's cause of action for abuse has no impact on the
3 accrual date set in the Notice Statute; the notice requirement was triggered only once
4 when the cause of action first accrued or when Plaintiff reached majority. Therefore,
5 *Plaintiff's revived cause of action could not accrue again* pursuant to the Notice Statute.
6

7
8 **C. The legislative history shows the Legislature intended to give victims
9 with claims against the State a window unencumbered by notice
10 deadlines.**

11 The Legislature fully understood that the window statute would operate to
12 circumvent any notice of claim requirement for revived claims against the state; finding
13 otherwise would be an affront to the Legislature's tireless efforts to negotiate and pass this
14 revival window for all Arizona CSA survivors. The Legislature took pains to expressly
15 place state claims on equal footing as all other claims. Not only did it revive state claims
16 barred by "a claim presentation deadline", but it also included "*this state or a public or private*
17 *corporation, local government unit, public agency*" in its definition of a "person" whose conduct is
18 actionable and who revived claims can be brought against. [A.R.S. § 12-514\(B\)\(1\)](#)
19 (emphasis added). Imposing a new notice requirement would cut off justice for state
20 victims thirteen months before the window closed for other survivors and run afoul of
21 the Legislature's clear intent that *all* child victims have a full one year and seven months in
22 which to bring claims. See [A.R.S. § 12-821.01](#).
23
24
25

26 It is also an unreasonable and oppressive interpretation of a remedial statute
27 because 180 days is far too little time for survivors to find out about the new window,
28

1 come to terms with their abuse, weigh the enormous personal consequences of identifying
2 themselves as a victim, name the people who sexually abused them and the entities that
3 permitted the abuse, and ultimately, find a lawyer to file their claims.¹⁹

5 CONCLUSION

6 For these reasons, *Amicus Curiae* CHILD USA respectfully submits that the Court
7 grant the *Petition for Review*.

8
9 RESPECTFULLY SUBMITTED this 19th day of December 2022.

10 O'STEEN & HARRISON, PLC

11
12 /s/ Jonathan V. O'Steen

13 Jonathan V. O'Steen
14 300 W. Clarendon Ave., Suite 400
15 Phoenix, Arizona 85013-3424
16 josteen@vanosteen.com

17 CHILD USA

18 Prof. Marci A. Hamilton, Esq.
19 University of Pennsylvania
20 Founder & CEO, CHILD USA
21 3508 Market St., Suite 202
22 Philadelphia, Pennsylvania 19104
23 marcih@sas.upenn.edu

24 Alice A. Bohn, Esq.
25 Alice Nasar Hanan, Esq.
26 Carina Nixon, Esq.
27 3508 Market St., Suite 202
28 Philadelphia, Pennsylvania 19104
abohn@childusa.org
ahanan@childusa.org
cnixon@childusa.org

Counsel for Amicus Curiae CHILD USA

19. A detailed explanation of why victims need far longer than six months to disclose their abuse is included in Section III.