

# CV-23-328

IN THE ARKANSAS COURT OF APPEALS

HC, LS, RT and TK

APPELLANTS

vs.

JAMES NESMITH

APPELLEE

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ON APPEAL FROM THE  
CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS

THE HONORABLE TIMOTHY FOX, CIRCUIT JUDGE

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BRIEF OF *AMICUS CURIAE* CHILD USA

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**TABLE OF CONTENTS**

TABLE OF CONTENTS.....2

TABLE OF AUTHORITIES.....3

STATEMENT OF INTEREST.....11

ARGUMENT.....13

    1. Child sexual abuse uniquely prevents victims from bringing timely claims.....14

    2. Arkansas’s revival window comports with due process because it is a reasonable legislative response to the injustice of short statute of limitations for child sex abuse claims.....20

    3. Arkansas’s revival window is consistent with the general trend to enact child sexual abuse revival laws across the United States.....21

REQUEST FOR RELIEF.....30

CERTIFICATE OF SERVICE.....31

CERTIFICATE OF COMPLIANCE.....32

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## TABLE OF AUTHORITIES

### Cases

<i>A.B. v. S.U.</i> , No. 22-AP-200, 2023 WL 3910756 (Vt. June 9, 2023).....	28
<i>ARK269 v. Archdiocese of New York</i> , No. 950301/2020, 2022 WL 2954144 (N.Y. Sup. Ct. July 19, 2022) .....	27
<i>B.A. v. Golabek</i> , No. 18-cv-7523, 2021 WL 5195665 (D.N.J. Nov. 8, 2021).....	26
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<i>Coats v. New Haven Unified Sch. Dist.</i> , 46 Cal. App. 5th 415, 259 Cal. Rptr. 3d 784 (2020).....	23
<i>Doe v. Hartford Roman Cath. Diocesan Corp.</i> , 317 Conn. 357 (Conn. 2015).....	23
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<i>Dupuis v. Roman Cath. Bishop of Portland</i> , No. BCD-CIV-2022-00044, 2023 WL 2117841 (Me. Bus. & Consumer Ct. Feb. 13, 2023) .....	25
<i>Edwardo v. Gelineau</i> , No. PC-2019-10530, 2020 WL 6260865 (R.I. Super. Ct. Oct. 16, 2020) .....	28
<i>Farrell v. United States Olympic &amp; Paralympic Committee</i> , No. 120CV1178FJSCFH, 2021 WL 4820251 (N.D.N.Y. Oct. 15, 2021) .....	27
<i>Gaines v. State</i> , 354 Ark. 89, 118 S.W.3d 102 (2003) .....	21
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<i>Harvey et al. v. Merchan</i> , 860 S.E.2d 561 (Ga. 2021) .....	24
<i>Hernandez v. Church of the Most Holy Crucifix</i> , No. 950671/2021, 2023 WL 3480954 (N.Y. Sup. Ct. May 15, 2023).....	27
<i>J.T. v. Ark. Dep’t of Hum. Servs.</i> , 329 Ark. 243, 947 S.W.2d 761 (1997) .....	21
<i>John C D Doe v. Big Brothers Big Sisters of Am.</i> , No. CV2020-014920 (Ariz. Super. Ct. Aug. 26, 2021), <i>rev. denied</i> , No. CV-22-0003-PR (Ariz. April 8, 2022).....	22
<i>JurisDictionUSA, Inc. v. Loislaw.com, Inc.</i> , 357 Ark. 403, 183 S.W.3d 560 (2004) .....	19
<i>Killary v. Thompson</i> , No. 2020-CA-0194, 2022 WL 2279865 (Ky. Ct. App. June 24, 2022).....	25
<i>Landgraf v. USI Film Products</i> , 511 U.S. 244 (1994) .....	19
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<i>McGourty v. Archdiocese of New York</i> , No. 950410/2020, 2022 WL 2715904 (N.Y. Sup. Ct. July 12, 2022) .....	27
<i>McGuire v. State</i> , 288 Ark. 388, 706 S.W.2d 360 (1986) .....	20
<i>McKinney v. Goins</i> , 21 CVS 7438, North Carolina, Wake County Superior Court (Dec. 20, 2021)....	27
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<i>Roe v. Ram</i> , No. CIV. 14-00027 LEK-RL, 2014 WL 4276647 (D. Haw. Aug. 29, 2014).....	25
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<i>Rupley v. Balajadia</i> , No. 20-00030 (D. Guam June 3, 2021) .....	24
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<i>Sliney v. Previte</i> , 41 N.E.3d 732 (Mass. 2015).....	26
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<i>Taylor v. Piney Grove Volunteer Fire &amp; Rescue Department</i> , 20 CVS 13487 (N.C., Wake Cnty. Super. Ct. (Dec. 20, 2021).....	27
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2018 Mich. Legis. Serv. P.A. 183 (S.B. 872).....	26
2019 MONT. LAWS CH. 367 (H.B. 640).....	26
2019 N.C. Laws S.L. 2019-245 (S.B. 199).....	27
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2021 Ky. Laws Ch. 89 (HB 472).....	25
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2021 Nev. Laws Ch. 288 (S.B. 203).....	26
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2023 Md. Laws Ch. 5 (S.B. 686).....	25
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7 GUAM CODE ANN. §§ 11306 .....	24
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ARIZ. REV. STAT. ANN. § 12-514 .....	22
CAL. CIV. PROC. CODE § 340.1.....	23

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DEL. CODE tit. 10, § 8145 .....	24
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HAW. REV. STAT. § 657-1.8 .....	24
KAN. STAT. ANN. § 60-523 .....	25
KY. REV. STAT. ANN. § 413.249 .....	25
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NEV. REV. STAT. ANN. § 41.1396 .....	26

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O.R.S. § 12.117.....28

P.L. 33-187:2.....24

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## **STATEMENT OF INTEREST**

*Amicus* CHILD USA is the leading non-profit think tank focused on the civil rights of children and its mission is to employ in-depth legal analysis and cutting-edge social science research to protect children, prevent future abuse and neglect, and bring justice to survivors. Distinct from an organization engaged in the direct delivery of services, CHILD USA produces evidence-based solutions and information needed by policymakers, courts, youth-serving organizations, media, and the public to increase child protection and the common good. CHILD USA's Founder, Professor Marci A. Hamilton, has advised state governors, legislatures, and judiciaries on the constitutionality of revival window laws for child sex abuse throughout the country, including in Arkansas.

CHILD USA has an interest in this appeal. Its outcome affects the ability of child sex abuse victims who have been harmed by individuals and institutions pursue and obtain justice. More specifically, voiding the “revival window” provision of Arkansas’s JVSAA will have immediate and broad implications on the ability of victims of child sex abuse to hold perpetrators and their enabling institutions accountable in the state of Arkansas—it will erase these victims means of recourse against the enabling institutions and perpetrators of the sexual abuse they suffered as children, thereby rendering the Act’s promise of a two-year “revival window” hollow for Appellants and other victims.

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To be clear, though, CHILD USA does not seek to convince this Court that new theories support the constitutionality of the Act's "revival window" in child sex abuse civil suits should be adopted. Appellants-Plaintiffs adequately and correctly explain why the Act's window is constitutional under either the vested-right doctrine or substantive due process doctrine. CHILD USA will not simply echo those arguments; CHILD USA'S point is that a holding supporting the constitutionality of the Act's revival window is not only necessary to protect vulnerable children who have been subjected to CSA but also is consistent with the growing national trend of revival statutes for CSA claims.

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## ARGUMENT<sup>1</sup>

Historically, a wall of ignorance and secrecy has been constructed around child sex abuse (“CSA”), which has been reinforced by short statutes of limitation (“SOLs”) that kept victims out of court. Short SOLs for child sex abuse have played into the hands of the perpetrators and their enabling institutions. This has created an emergency for lawmakers to redress, halt, and prevent. The Justice for Vulnerable Victims of Sexual Abuse Act (“the Act” or “Arkansas’s JVVSA”) enables victims of sexual abuse whose claims were previously time-barred to bring their claims which in turn will expose hidden perpetrators to the public, shift the cost of abuse from victims to those who perpetrated and enabled the abuse, and it will ultimately educate the public and help prevent future abuse. By passing the Act, the Arkansas General Assembly has taken a proactive stance to address access to justice for victims who—through no fault of their own—were unable to come forward with

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This brief was authored in whole by undersigned counsel for CHILD USA, and no counsel for a party authored any part of it. No counsel for a party or a party made any monetary contribution intended to fund the preparation or submission of the brief or otherwise collaborated in the preparation or submission of the brief. No person or entity other than CHILD USA, its donors/members, or its counsel made any such monetary contribution to the brief or collaborated in its preparation.

their claims until long after limitations period had expired. This is consistent with the general trend across the United States to take action and, through the civil justice system, provide child sex abuse victims with an avenue to seek redress against the perpetrators and the institutions who enable them. The development and enactment of a narrowly tailored “revival window” seeks to remedy a long-hidden epidemic haunting this State’s and our country’s youth—many of whom are now adults.

Retroactive revival of civil sex abuse claims is not only a rational means of remedying the longstanding injustice of short statutes of limitation, but also the only means. Because it is unconstitutional to revive a criminal SOL, *Stogner v. California*, 539 U.S. 607, 610 (2003), filing civil claims under the revival window is the sole avenue of justice available to many victims and the single most effective way of fulfilling significant public policy interests. This case presents an opportunity for the Court to correct the injustice of the trial court’s ruling and hold the Act’s revival window to be constitutional.

**1. CHILD SEXUAL ABUSE UNIQUELY PREVENTS VICTIMS FROM BRINGING TIMELY CLAIMS.**

Child sexual abuse is an epidemic, affecting approximately 3.7 million children each year. Preventing Child Sexual Abuse, CDC.gov, <https://www.cdc.gov/violenceprevention/pdf/can/factsheetCSA508.pdf> (last accessed Nov. 29, 2023); 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). The victims of CSA—**1 in 5 girls and 1 in 13 boys** in the United States—often go years or decades suffering in silence. An extensive body of evidence establishes that CSA victims are traumatized in a way that is distinguishable from victims of other crimes. 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); M. Stoltenborgh et. al., A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence Around the World, 16(2) CHILD MALTREATMENT 79 (2011); 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). The traumatic effects of CSA are complex and individualized, and they impact victims throughout their lifetime. See Hoskell, L. & Randall, M., The Impact of Trauma on Adult Sexual Assault Victims, JUSTICE CANADA 30 (2019), [https://www.justice.gc.ca/eng/rp-pr/jr/trauma/trauma\\_eng.pdf](https://www.justice.gc.ca/eng/rp-pr/jr/trauma/trauma_eng.pdf) (last accessed Nov. 29, 2023); 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). Sexual abuse can disrupt a child’s social, emotional, and cognitive development and place them at a significantly higher risk for psychological problems including, but not limited to, substance abuse, suicidality, and Post Traumatic Stress Disorder. See, e.g., U.S. DEP’T HEALTH &

HUMAN SERVICES, The Adverse Childhood Experiences (ACEs) Study, Centers for Disease Control & Prevention, <https://www.cdc.gov/violenceprevention/childabuseandneglect/acestudy/> (last accessed Nov. 29, 2023); 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. 245-58 (1998); *see also* 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, 3089-96 (Dec. 2001) (explaining that childhood trauma can lead to negative health outcomes).

Nevertheless, CSA remains one of the most underreported crimes in the United States. It is estimated that 70–95% of CSA victims never report their abuse. *See* D. Finkelhor et al., Sexually Assaulted Children: National Estimates and Characteristics, US DEP'T. OF JUSTICE, (2008), <https://www.ojp.gov/pdffiles1/ojjdp/214383.pdf> (last accessed Nov. 29, 2023). Again, many victims suffer in silence for decades before they speak to *anyone* about their traumatic experiences. As children, sex abuse victims often fear the negative repercussions of disclosure, such as disruptions in family stability, loss of close relationships, or involvement with the authorities. *See* 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), <https://pubmed.ncbi.nlm.nih.gov/25846196/> (last visited Nov. 29, 2023). This is a crime that typically occurs in secret, and many CSA victims assume no one will believe them. See Myths and Facts About Sexual Assault, CAL. DEP'T OF JUST., [https://www.meganslaw.ca.gov/mobile/Education\\_MythsAndFacts.aspx](https://www.meganslaw.ca.gov/mobile/Education_MythsAndFacts.aspx) (last visited Nov. 30, 2023); see also National Child Traumatic Stress Network Child Sexual Abuse Committee, Caring for Kids: What Parents Need to Know about Sexual Abuse, NAT'L CTR. FOR CHILD TRAUMATIC STRESS 7 (2009), [https://www.nctsn.org/sites/default/files/resources/fact-sheet/caring\\_for\\_kids\\_what\\_parents\\_need\\_to\\_know\\_about\\_sexual\\_abuse.pdf](https://www.nctsn.org/sites/default/files/resources/fact-sheet/caring_for_kids_what_parents_need_to_know_about_sexual_abuse.pdf) (last accessed Nov. 29, 2023).

Further, the very nature of the relationship between the perpetrator and the victim itself may preclude discovery of the injury and thus impact disclosure timing. Perpetrators of sexual abuse tend to stand in positions of trust in relation to their victim—for example, parents, teachers, coaches, clergy, and physicians. As the Larry Nassar scandal illustrates, discerning abuse is especially complicated in the context of physician-patient relationships. See JM DuBois, et al., SEXUAL VIOLATION OF PATIENTS BY PHYSICIANS, SEXUAL ABUSE: A JOURNAL OF RESEARCH AND TREATMENT 2 (2017) (explaining that patients may be “confused as to whether abuse occurred”—like “not realizing that an ungloved vaginal exam was unnecessary”);

Carrie Teegardin, et al., License to Betray, THE ATLANTA JOURNAL-CONSTITUTION (2016), [http://doctors.ajc.com/part\\_1\\_license\\_to\\_betray/](http://doctors.ajc.com/part_1_license_to_betray/) (last accessed Nov. 29, 2023) (analyzing 100,000 disciplinary reports of physicians' sexual misconduct and finding some patients had not recognized that they had been abused because the assaultive behavior occurred under the guise of a legitimate medical exam). Sexual abuse by a physician is particularly sinister because physicians are expected to have physical contact with their patients during medical procedures and examinations. Therefore, it may not be evident to the patient, particularly if that patient is a child, what behavior falls within the scope of a legitimate medical treatment and what behavior violates the standard of care. *Ibid.* This places would-be physician-perpetrators at an advantage where they can blur the lines between medical treatment and sexual abuse. Trusted adults and law enforcement officials may inadvertently legitimize physician abuse by confirming that such behavior is medically appropriate. As a result, victims may overlook their own discomfort and continue to trust that the examinations to which they were subjected were consistent with the standards of medical care and thus never disclose or report their abusive experience.

Additionally, victims may struggle to disclose their abuse because of psychological barriers such as shame and self-blame, as well as social factors like gender-based stereotypes or the stigma of sexual victimization. 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), <https://pubmed.ncbi.nlm.nih.gov/29333973/> (last accessed Nov. 29, 2023). Victims may also develop a variety of coping strategies—such as denial, repression, and dissociation—to avoid recognizing or addressing the harm they suffered. *See* G.S. Goodman et. al., A prospective study of memory for child sexual abuse: New findings relevant to the repressed-memory controversy, 14 PSYCHOL. SCI. 113–8 (2003), <https://pubmed.ncbi.nlm.nih.gov/12661671/> (last accessed Nov. 29, 2023). These mechanisms often persist well into adulthood.

For those who *do* disclose, one study found that 44.9% of male victims and 25.4% of female child sex abuse victims delayed disclosure by *more than twenty years*. *See* Patrick J. O'Leary & James Barber, *Gender Differences in Silencing following Childhood Sexual Abuse*, 17 J. CHILD SEX. ABUSE 133 (2008). This translates to a harsh reality: more victims first disclose their CSA between ages *fifty and seventy* than during any other age. *See* CHILD USA, History of Child Sex Abuse Statutes of Limitation Reform in the United States: 2002 to 2021 3 (June 21, 2022), <https://childusa.org/6-17-2022-2021-sol-report-final/> (last accessed Nov 29, 2023). The decades before disclosure give perpetrators and their enablers the freedom to move about society with unfettered access to children and the latitude to inflict additional harm.

Revival laws like the window passed by Arkansas's Legislature recognize that

for too long, society did not understand the plight of those sexually abused as children and unfairly extinguished their rights long before they had the ability to report or seek justice for their abuse. By instituting the Act, the Legislature is permitting victims to file claims that reveal perpetrators and enabler institutions, empowering victims from the past to protect children in the future.

**2. ARKANSAS’S REVIVAL WINDOW COMPORTS WITH DUE PROCESS BECAUSE IT IS A REASONABLE LEGISLATIVE RESPONSE TO THE INJUSTICE OF SHORT STATUTE OF LIMITATIONS FOR CHILD SEX ABUSE CLAIMS.**

Consistent with the due process analysis established by the United States Supreme Court in *Landgraf v. USI Film Products*, and employed by Arkansas’ courts, statutory revival of civil statutes of limitation (SOLs) is expressly permitted and such laws subject only to rational basis review. 511 U.S. 244, 267 (1994); *Lewis v. State*, 2017 Ark. 211, 521 S.W.3d 466, 474 (construing Arkansas’ due process clause in the same way as the federal constitution has been construed where the language of clauses is virtually identical) (citing *Wilson v. City of Pine Bluff*, 278 Ark. 65, 643 S.W.2d 569 (1982)); *see also JurisDictionUSA, Inc. v. Loislaw.com, Inc.*, 357 Ark. 403, 409, 183 S.W.3d 560, 566 (2004) (holding that “it has become firmly established that there is no vested right in any particular mode of procedure or remedy. Statutes which . . . relate only to remedies or modes of procedure, are not within the general rule against retrospective operation.”); *Middleton v. Lockhart*, 355 Ark. 434, 436, 139 S.W.3d 500, 502 (2003) (citing *Gomez v. ITT Educ. Servs., Inc.*,

348 Ark. 69, 71 S.W.3d 542 (2002) (reiterating that “[s]tatutes of limitation are generally considered to be procedural in nature”). The Act’s revival window provision unquestionably passes rational basis scrutiny. The window is a rational response to the Legislature’s interest in remedying the injustice of Arkansas’ prior, unreasonably short SOL, which obstructed victims’ access to the courts and kept the public in the dark about predators and enabling institutions that continue to put Arkansas’ children in danger.

Even if there was a so-called “vested” or fundamental right to a limitations defense such that the revival provision was subject to strict scrutiny, it would still pass constitutional muster because the revival window rationally serves Arkansas’ compelling interest in child protection. The revival window enables CSA victims to bring their claims that would otherwise have been time-barred which in turn will expose hidden perpetrators to the public, shift the cost of abuse from victims to those responsible, and it will ultimately educate the public and help prevent future abuse.

**3. ARKANSAS’S REVIVAL WINDOW IS CONSISTENT WITH THE GENERAL TREND TO ENACT CHILD SEXUAL ABUSE REVIVAL LAWS ACROSS THE UNITED STATES.**

Protecting children from harm is among the state’s most paramount responsibilities; indeed, Arkansas “has an interest in the general welfare of children, and one of its most obvious duties is to protect children from sexual crimes against which children are virtually defenseless.” *McGuire v. State*, 288 Ark. 388, 389-90,

706 S.W.2d 360, 361–62 (1986). In fact, this Court considers the state’s interest in child protection so compelling so as to *override other heavily guarded fundamental rights*. *See id.* (upholding a statute that allows the videotaped deposition of a child victim of sexual assault to be used in front of a jury in lieu of the child’s in-person testimony because it is the least restrictive means of carrying out the state’s compelling interest in protecting child victims of sexual abuse “from testifying about a personal, traumatic, and often devastating experience”); *Gaines v. State*, 354 Ark. 89, 96, 118 S.W.3d 102, 109 (2003) (upholding as constitutional a statute that denies the right to raise the “mistake-of-age” defense where defendant is accused of raping a child under fourteen years of age, noting that “the legislature has consistently protected children victimized by sexual offenses.”); *J.T. v. Ark. Dep’t of Hum. Servs.*, 329 Ark. 243, 245, 947 S.W.2d 761, 763 (1997) (holding that while the fundamental rights “of natural parents are not to be passed over lightly, these rights must give way to the best interest of the child.”).

Reviving expired claims of CSA, as the Arkansas General Assembly did here, undoubtedly advances the state’s compelling interest in protecting children. Indeed, by enacting the revival window, the Legislature achieves these purposes, taking reasonable steps to revive expired claims of child sex abuse where it recognized an opportunity to right a long-standing injustice that kept the truth hidden and victims out of court.

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Further, when Arkansas opened its revival window, it joined a growing list of at least thirty states and territories that have enacted civil revival laws for CSA claims that were blocked by unreasonably short statutes of limitation. Over the past twenty years, revival legislation has grown in popularity as legislatures have recognized that CSA victims need more time to come forward and that SOLs have historically blocked their claims.<sup>2</sup> Nearly all courts that have considered the constitutionality of these revival windows upheld the laws under the respective states' due process clause, even where they adopted a stricter standard of constitutionality than the federal standard. The following table shows this trend:

Jurisdiction	Revival Law	Statute	Constitutional Challenge
<b>Arizona</b>	1.5-Year Window (2019)	ARIZ. REV. STAT. ANN. § 12-514; H.B. 2466, 54 <sup>th</sup> Leg., 1 <sup>st</sup> Reg. Sess. (Ariz. 2019)	Constitutional <sup>3</sup>
<b>California</b>	1-Year Window (2020)	CAL. CIV. PROC. CODE § 340.16 (2021); 2020 CAL. LEGIS. SERV. CH. 246 (A.B. 3092)	Not challenged
	1-Year Window (2019)	CAL. CIV. PROC. CODE § 340.16 (2020); 2019 CAL. LEGIS. SERV. CH. 462 (A.B. 1510)	Not challenged

<sup>2</sup> CHILD USA, *Revival Laws for Child Sex Abuse Since 2002* (Jan. 1, 2022), available at <https://childusa.org/windowsrevival-laws-for-csa-since-2002/>.

<sup>3</sup> *John C D Doe v. Big Brothers Big Sisters of Am.*, No. CV2020-014920 (Ariz. Super. Ct. Aug. 26, 2021), *rev. denied*, No. CV-22-0003-PR (Ariz. April 8, 2022).

<b>Jurisdiction</b>	<b>Revival Law</b>	<b>Statute</b>	<b>Constitutional Challenge</b>
	3-Year Window (2019)	CAL. CIV. PROC. CODE § 340.1 (2020); 2019 CAL. LEGIS. SERV. CH. 861 (A.B. 218)	Constitutional <sup>4</sup>
	1-Year Window (2003)	CAL. CIV. PROC. CODE § 340.1 (2002); 2002 CAL. LEGIS. SERV. CH. 149 (S.B. 1779)	Constitutional <sup>5</sup>
<b>Colorado*</b>	3-Year Window (2021)	SB21-088, 73 <sup>rd</sup> Gen. Assemb., 1 <sup>st</sup> Reg. Sess. (Colo. 2021) (eff. January 1, 2022) *This is a new cause of action that opens a revival window	Unconstitutional as to the new cause of action only <sup>6</sup>
<b>Connecticut</b>	Age 48 Limit (2002)	CONN. GEN. STAT. § 52-577D; 2002 Conn. Legis. Serv. P.A. 02-138 (S.H.B. 5680).	Constitutional <sup>7</sup>
<b>Delaware</b>	2-Year Window (2010)	DEL. CODE tit. 18, § 6856; 2010 Del. Laws Ch. 384 (H.B. 326)	Not challenged

<sup>4</sup> *Coats v. New Haven Unified Sch. Dist.*, 259 Cal.Rptr.3d 784, 792 (Cal. Ct. App. 2020).

<sup>5</sup> *Roman Cath. Bishop of Oakland v. Superior Court*, 28 Cal.Rptr.3d 355, 359 (Cal. Ct. App. 2005).

<sup>6</sup> *Saupe v. Aurora Pub. Sch. et al.*, No. 2022CV30065 (Colo. Dist. Ct. Aug. 3, 2022).

<sup>7</sup> *Doe v. Hartford Roman Cath. Diocesan Corp.*, 317 Conn. 357 (Conn. 2015).



<b>Jurisdiction</b>	<b>Revival Law</b>	<b>Statute</b>	<b>Constitutional Challenge</b>
	2-Year Window (2007)	DEL. CODE tit. 10, § 8145; 2007 Del. Laws Ch. 102 (S.B. 29)	Constitutional <sup>8</sup>
<b>Georgia</b>	2-Year Window (2015)	GA. CODE § 9-3-33.1; 2015 Ga. Laws Act 97 (H.B. 17)	Constitutional <sup>9</sup>
<b>Guam</b>	Permanent Window (2016)	7 GUAM CODE ANN. §§ 11306 & 11301.1(b); P.L. 33-187:2 (2016)	Constitutional <sup>10</sup>
	2-Year Window (2011)	7 GUAM CODE ANN. § 11306(2) (2011); P.L. 31-06 (2011)	Not challenged
<b>Hawaii</b>	2-Year Window (2018)	HAW. REV. STAT. § 657-1.8; 2018 Haw. Laws Act 98 (S.B. 2719)	Not challenged
	2-Year Window (2014)	HAW. REV. STAT. § 657-1.8; 2014 Haw. Laws Act 112 (S.B. 2687)	Not challenged
	2-Year Window (2012)	HAW. REV. STAT. § 657-1.8; 2012 Haw. Laws Act 68 (S.B. 2588)	Constitutional <sup>11</sup>

<sup>8</sup> *Whitwell v. Archmere Acad., Inc.*, No. CIV.A.07C08006, 2008 WL 1735370, at \*2 (Del. Super. Ct. Apr. 16, 2008).

<sup>9</sup> *Harvey v. Merchan*, 860 S.E.2d 561, 566 (Ga. 2021).

<sup>10</sup> *Rupley v. Balajadia*, No. 20-00030 (D. Guam June 3, 2021).

<sup>11</sup> *Roe v. Ram*, No. CIV. 14-00027, 2014 WL 4276647, at \*9 (D. Haw. Aug. 29, 2014).

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<b>Jurisdiction</b>	<b>Revival Law</b>	<b>Statute</b>	<b>Constitutional Challenge</b>
<b>Kansas</b>	Age 31 Limit (2023)	2023 Kan. Sess. Laws Ch. 28 (H.B. 2127); KAN. STAT. ANN. § 60-523	Not challenged
<b>Kentucky</b>	Limited Window (2021)	2021 Ky. Laws Ch. 89 (HB 472); KY. REV. STAT. ANN. § 413.249	Challenge pending <sup>12</sup>
<b>Louisiana</b>	3-Year Window (2021)	2021 La. Sess. Law Serv. Act 322 (H.B. 492); LA. STAT. ANN. § 9:2800.9	Constitutional <sup>13</sup>
<b>Maine</b>	Permanent Window (2021)	ME. REV. STAT. ANN. Tit. 14, § 752-C; 2021 Me. Legis. Serv. Ch. 301 (H.P. 432) (L.D. 589)	Challenge pending <sup>14</sup>
<b>Maryland</b>	Permanent Window (2023)	2023 Md. Laws Ch. 6 (H.B. 1); 2023 Md. Laws Ch. 5 (S.B. 686).	Not challenged

<sup>12</sup> *Killary v. Thompson*, No. 2020-CA-0194, 2022 WL 2279865 (Ky. Ct. App. June 24, 2022), *rev. granted* (Ky. Dec. 7, 2022).

<sup>13</sup> *Doe v. The Soc’y of Roman Catholic Church of the Diocese of Lafayette*, 347 So. 3d 148 (La. 2002), *aff’d*, No.22-120, 2023 La. App. LEXIS 1365 (3rd Cir. Aug. 17, 2023).

<sup>14</sup> The Business & Consumer Court upheld the constitutionality of the revival window. *Dupuis v. Roman Cath. Bishop of Portland*, No. BCD-CIV-2022-00044, 2023 WL 2117841, at \*1 (Me. Bus. & Consumer Ct. Feb. 13, 2023), *appeal filed*, No. BCD-23-122 (Supreme Judicial Ct. August 2023).

<b>Jurisdiction</b>	<b>Revival Law</b>	<b>Statute</b>	<b>Constitutional Challenge</b>
<b>Massachusetts</b>	Age 53 Limit (2014)	MASS. GEN. LAWS Ch. 260, § 4C; 2014 Mass. Legis. Serv. Ch. 145 (H.B. 4126).	Constitutional <sup>15</sup>
<b>Michigan</b>	90-Day Window (2018)	MICH. COMP. LAWS § 600.5851b; 2018 Mich. Legis. Serv. P.A. 183 (S.B. 872)	Not challenged
<b>Minnesota</b>	3-Year Window (2013)	MINN. STAT. § 541.073, 2013 Minn. Sess. Law Serv. Ch. 89 (H.F. 681)	Not challenged
<b>Montana</b>	1-Year Window & (2019)	MONT. CODE § 27-2-216; 2019 MONT. LAWS CH. 367 (H.B. 640)	Not challenged
<b>Nevada</b>	Permanent Window (2021)	2021 Nev. Laws Ch. 288 (S.B. 203); NEV. REV. STAT. ANN. §§ 11.215 & 41.1396	Not challenged
<b>New Jersey</b>	2-Year Window (2019)	N.J. STAT. ANN. §§ 2A:14-2A, 2A:14-2B; 2019 N.J. Sess. Law Serv. Ch. 120 (S.B. 477)	Constitutional <sup>16</sup>
<b>New York</b>	2-Year Window (2022)	NEW YORK CITY, N.Y., CODE § 10-1105 (2022); L.L. 21/2022 § 2.	Not challenged

<sup>15</sup> *Sliney v. Previte*, 41 N.E.3d 732, 737 (Mass. 2015).

<sup>16</sup> *See B.A. v. Golabek*, No. 18-cv-7523, 2021 WL 5195665 (D.N.J. Nov. 8, 2021).

<b>Jurisdiction</b>	<b>Revival Law</b>	<b>Statute</b>	<b>Constitutional Challenge</b>
	1-Year Window (2020)	N.Y. C.P.L.R. § 214-g; 2019 Sess. Law News of N.Y. Ch. 11 (S. 2440); Executive Order No. 202.29 (2020); S.B. 7082, 2020 Leg., Reg. Sess. (N.Y. 2020)	Constitutional <sup>17</sup>
	1-Year Window (2019)	N.Y. C.P.L.R. 214-g; 2019 Sess. Law News of N.Y. Ch. 11 (S. 2440); Executive Order No. 202.29 (2020); S.B. 7082, 2020 Leg., Reg. Sess. (N.Y. 2020)	Constitutional <sup>18</sup>
<b>North Carolina</b>	2-Year Window (2019)	N.C. GEN. STAT. § 1-17; 2019 N.C. Laws S.L. 2019-245 (S.B. 199)	Challenge pending <sup>19</sup>

<sup>17</sup> *ARK269 v. Archdiocese of New York*, No. 950301/2020, 2022 WL 2954144, at \*1 (N.Y. Sup. Ct. July 19, 2022); *McGourty v. Archdiocese of New York*, No. 950410/2020, 2022 WL 2715904, at \*1 (N.Y. Sup. Ct. July 12, 2022).

<sup>18</sup> *Farrell v. United States Olympic & Paralympic Comm.*, 567 F.Supp.3d 378 (N.D.N.Y. 2021); *Hernandez v. Church of the Most Holy Crucifix*, No. 950671/2021, 2023 WL 3480954, at \*1 (N.Y. Sup. Ct. May 15, 2023).

<sup>19</sup> See *Taylor v. Piney Grove Volunteer Fire & Rescue Dep't*, 20 CVS 13487 (N.C. Wake Cnty. Super. Ct. Dec. 20, 2021); *Mckinney v. Goins*, No. 21 CVS 7438, (N.C. Wake Cnty. Super. Ct. Dec. 20, 2021).

<b>Jurisdiction</b>	<b>Revival Law</b>	<b>Statute</b>	<b>Constitutional Challenge</b>
<b>Northern Mariana Islands</b>	Permanent Window (2021)	2021 N. Mar. I. Pub. L. No. 22-12 (HB 22-2, SDI)	Not challenged
<b>Oregon</b>	Age 40 Limit (2010)	O.R.S. § 12.117; 2009 Oregon Laws Ch. 879 (H.B. 2827).	Not challenged
<b>Rhode Island</b>	Age 53 Limit (2019)	R.I. STAT. § 9-1-51; 2019 R.I. Laws Ch. 19-83 (19-H 5171B).	Challenge pending <sup>20</sup>
<b>Utah</b>	3-Year Window (2016)	UTAH CODE ANN. § 78B-2-308 ; 2016 Utah Laws Ch. 379 (H.B. 279)	Unconstitutional <sup>21</sup>
<b>Vermont</b>	Permanent Window (2019)	VT. STAT. ANN. Tit. 12, § 522; 2019 Vt. Laws No. 37 (H. 330)	Constitutional <sup>22</sup>
<b>West Virginia</b>	Age 36 Limit (2020)	W.V. CODE §55-2-15; 2020 W.V. LAWS CH. 2 (H.B. 4559).	Not challenged

<sup>20</sup> *Edwardo v. Gelineau*, No. PC-2019-10530, 2020 WL 6260865, at \*1 (R.I. Super. Ct. Oct. 16, 2020), *consol. appeal filed*, Nos. 2021-0032-A, 2021-0033-A, & 2021-0041-A (R.I. 2021).

<sup>21</sup> *Mitchell v. Roberts*, 469 P.3d 901, 903 (Utah 2020).

<sup>22</sup> *A.B. v. S.U.*, No. 22-AP-200, 2023 WL 3910756, at \*5 (Vt. June 9, 2023).

Jurisdiction	Revival Law	Statute	Constitutional Challenge
Washington D.C.	2-Year Window (2019)	D.C. CODE § 12-301; 2018 D.C. Laws 22-311 (Act 22-593)	Constitutional <sup>23</sup>

In conclusion, as states face the important public policy issues related to the child sexual abuse epidemic, judicial deference to legislative intent as to civil, procedural retroactivity is now the norm. Arkansas’s JVVSSA is consistent with the general trend to recognize the need for CSA victims to have an avenue of redress in our civil justice system.

**REQUEST FOR RELIEF**

CHILD USA respectfully asks this Court to reverse and allow Appellants-Plaintiffs to pursue their CSA claims against Appellee-Defendant.

Respectfully submitted,

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<sup>23</sup> *Bell-Kerr v. Baltimore-Washington Conf. of the United Methodist Church*, No. 2021 CA 0013531B (D.C. Super. Ct. 2021).

**CERTIFICATE OF SERVICE**

I certify that the foregoing was submitted for filing electronically under the eFlex filing system and served upon the following on this 30<sup>th</sup> day of November 2023, via electronic mail:

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**CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief complies with (1) Administrative Order No. 19’s requirements concerning confidential information; (2) Administrative Order No. 21, Section 9, which states that briefs shall not contain hyperlinks to external papers or websites, and (3) the amicus brief contains 4556 words, which is within the word-count limitations identified in subsection (g) of this Rule.

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