

TO: Honorable Members of the Joint Judiciary Committee

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

RE: S.1038 & S.1614, to eliminate the statute of limitations in civil child sex abuse cases

DATE: September 8, 2023

Dear Honorable Members of the Joint Judiciary Committee,

Thank you for allowing us to submit testimony in support of S.1038 and S.1614, 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 Massachusetts 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 18.¹ 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.²

The trauma stemming from CSA is complex and individualized, and it impacts victims throughout their lifetimes:³

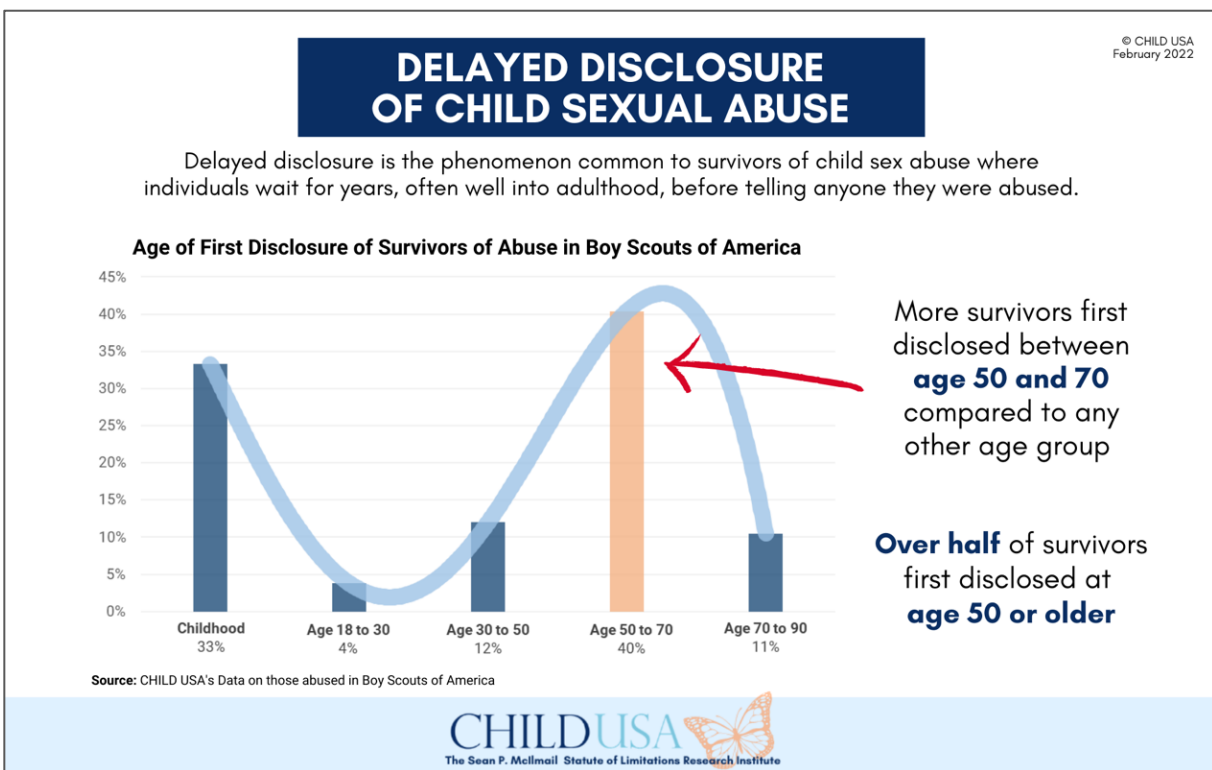
- Childhood trauma, including CSA, can have **devastating impacts on a child’s brain**,⁴ including disrupted neurodevelopment; impaired social, emotional, and cognitive development; psychiatric and physical disease, such as post-traumatic stress disorder (PTSD)⁵; and disability.⁶



- 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.⁷
- 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.⁸

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.⁹ 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.¹⁰ 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**.

- An estimated **70%** of child sexual assault victims **never contact police** to report abuse.
- **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.¹¹ 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.¹² **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.



The Sean P. McIlmail Statute of Limitations Research Institute

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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.¹³ SOL reform helps protect Massachusetts' children by identifying sexual predators in our midst. By 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 Massachusetts.

B. SOL Reform Punishes Bad Actors and 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.¹⁴

It is unfair for the victims, their families, and Massachusetts 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, Massachusetts could gain millions of dollars in revenue from Medicaid reimbursements as a result of the settlement funds and damages awards that survivors recover.

B. 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.¹⁵ 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. Massachusetts 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 civil SOLs and revive expired civil claims—like Maryland, Vermont, Maine, Guam, and NMI have already done.

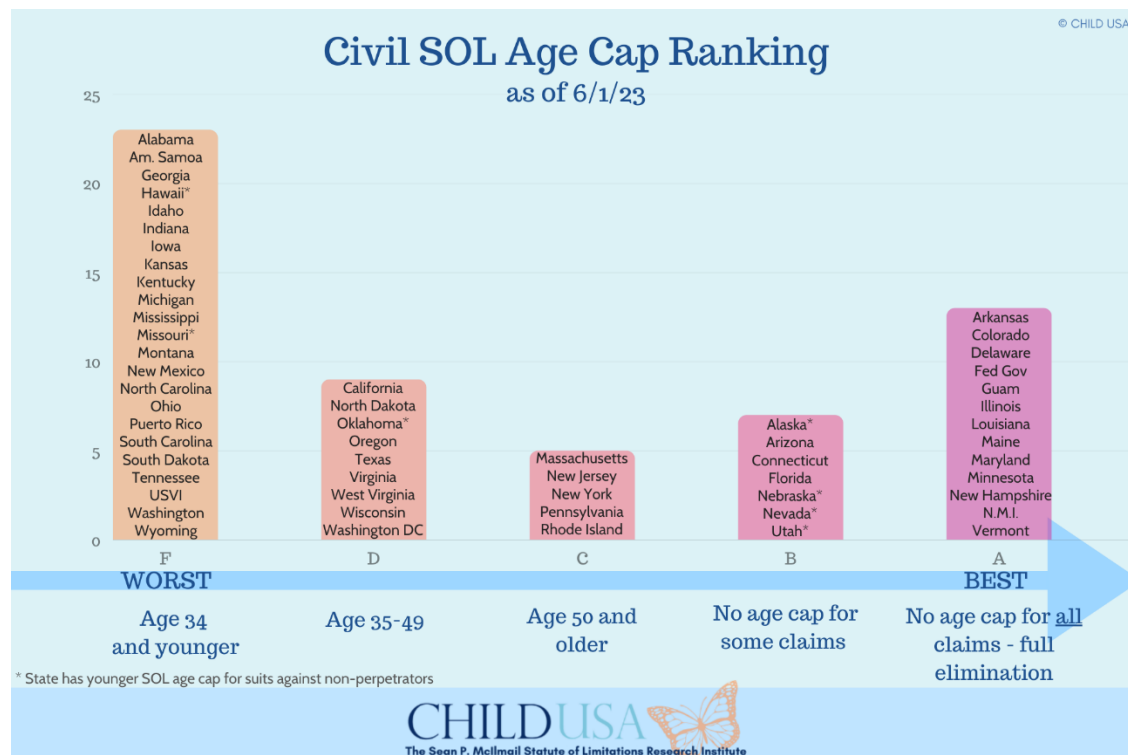
Massachusetts has made some progress but must do more to protect its children from dangerous hidden predators and give survivors an opportunity seek justice. In 2014, Massachusetts extended the SOL for sexual abuse giving survivors until age 53 to bring claims, and reviving claims against perpetrators only. However, Massachusetts lags behind many other states, including neighboring Vermont, New Hampshire, and Connecticut, which all provide survivors of child sex abuse a larger window of opportunity to bring dangerous perpetrators - and the institutions that enable them – to light.

CHILD USA and CHILD USA Advocacy are proud to have played a major role working with bipartisan leaders on a 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. “The science of trauma is clear: it often takes years for victims to come forward,” stated Senator Richard Durbin (D-Ill.), the sponsor of the bill. Co-sponsor Senator Marsha Blackburn (R-Tenn.) correctly pointed out that “[t]he statute of limitations for sexual abuse offenses should never prohibit young survivors from getting the justice they deserve.”

A. Massachusetts Should Eliminate Civil SOLs

Currently, Massachusetts’ civil SOL for claims against perpetrators expires when victims reach age 53 or 3 years after discovering their injuries. As shown in the graphic below, **Massachusetts’ civil SOL lags behind that of many other states.**

In contrast, as you can see below, **nineteen U.S. states and territories, along with the federal government, have already abolished their age cap for many CSA claims.**



This bill's civil elimination would improve Massachusetts' SOL significantly. 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. Massachusetts Should Revive All Expired Claims/Open a Window for Expired Claims

There is only one way to restore justice to Massachusetts' CSA survivors blocked from pursuing their claims by unfairly short SOLs—to revive their expired civil claims. Revival laws are not solely about justice for victims; there are also important public safety reasons for allowing older claims of abuse to proceed. When victims are empowered to disclose their abuse and sue for their injuries, the public benefits from finding out who the perpetrators are, the cost of abuse is shifted to those who created it, and it learns how to prevent CSA.

Massachusetts currently has a confusing patchwork of civil SOLs for CSA that has helped few survivors and left most without meaningful recourse for their injuries. Up until 2014, CSA survivors were blocked from filing suit after their 21st birthday. In 2014, the legislature acknowledged this was not nearly enough time, amending the SOL to give survivors until age 53 or 3 years from discovery of their injuries to sue all those responsible for their abuse. While Massachusetts has made some progress, many adult survivors are still shut out of the courts and institutions that enabled rampant CSA have yet to be held accountable.

As you can see in the graphic below, **Massachusetts' age 53 revival law is among the worst in the country because it does not help older survivors and only revives claims against perpetrators.**



The jurisdictions that have revived expired civil SOLs more broadly 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. They also address 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. This bill will incentivize youth serving organizations to implement prevention policies and take action to immediately report abuse and safeguard victims and other children. A revival window 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.

With S.1038 & S.1614, Massachusetts can remove all barriers to civil justice for survivors and reach the gold standard for SOL reform. If passed, Massachusetts will stand alongside neighboring leader Vermont, as well as Maryland, Maine, and the U.S. territories of Guam and the Northern Mariana Islands, who also revived all expired claims—allowing all CSA survivors to file claims for abuse whenever they are ready and no matter how long ago they were abused. S.1038 & S.1614 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 Massachusetts children from preventable sexual abuse. Eliminating the civil SOL and reviving expired claims is a positive step for Massachusetts’ children and families. For more information about SOL 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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¹ 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).

² 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.

³ 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.

⁴ 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).

⁵ Josie Spataro et al., *Impact of Child Sexual Abuse on Mental Health: Prospective Study in Males and Females*, 184 Br. J. Psychiatry 416 (2004).

⁶ 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).

⁷ 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).

⁸ Shanta R. Dube et al., *Long-Term Consequences of Childhood Sexual Abuse by Gender of Victim*, 28 AM. J. PREV. MED. 430, 434 (2005).

⁹ 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).

¹⁰ 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).

¹¹ 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.

¹² 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.

¹³ Michelle Elliott et al., *Child Sexual Abuse Prevention: What Offenders Tell Us*, 19 CHILD ABUSE NEGL. 579 (1995).

¹⁴ Elizabeth J. Letourneau et al., *The Economic Burden of Child Sexual Abuse in the United States*, 79 CHILD ABUSE NEGL. 413 (2018).

¹⁵ E.g., Netflix’s *Jeffrey Epstein: Filthy Rich*; HBO’s *At the Heart of Gold: Inside the USA Gymnastics Scandal*.