

## **CHILD USA's Evidence-based Rebuttal to a Report that Miscalculates the Likely Impact of an SOL Window on Public Schools and Government Funds**

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**Main takeaway: The Susquehanna Valley Center for Public Policy estimates between 10,000 to 100,000 claims would be filed against public schools under a SOL revival window in PA – in reality, claims would likely total less than 1,000, or one tenth of their lower estimate. An appropriate estimate range would be between 300 to 900 claims.**

### **Background**

Child sexual abuse (CSA) survivors face many challenges in the aftermath of their abuse. They suffer long lasting effects of trauma and struggle to disclose their abuse to others. Taking legal action is even more difficult. When survivors do decide to take legal action, they often run into a wall – many states have short statutes of limitation (SOLs) which put a time limit on their right to seek justice.

Pennsylvania is one of these states. While 24 states and 3 U.S. territories have passed legislation to revive formerly time-barred civil CSA claims,<sup>1</sup> Pennsylvania has repeatedly failed to pass such legislation. Most recently, a constitutional amendment opening a revival window was slated to be added to the ballot in Pennsylvania until the Secretary of State's office mishandled the public information process<sup>2</sup>, leading to delayed justice for survivors. As lawmakers once again consider approving a ballot measure, opposition groups have begun a campaign to mislead the public about the impact of SOL reform on Pennsylvania taxpayers.

The campaign centers on a recent report from the Susquehanna Valley Center for Public Policy, a local conservative think tank. The report, "The Economic Impact of a Constitutional Amendment to Implement Pennsylvania House Bill 14 of the 2021-22 Session,"<sup>3</sup> is full of false information and represents an egregious misuse of social science research. Focusing on inflated estimates of potential lawsuits that would be filed against public schools, the authors, Peter Zaleski and Charles Greenawalt, attempt to scare voters into opposing justice for CSA survivors.

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<sup>1</sup> CHILD USA. (2023). 2023 SOL Tracker. <https://childusa.org/2023sol/>

<sup>2</sup> Budryk, Z. (2021, February 2). Pennsylvania secretary of state resigns over ballot initiative error. *The Hill*. <https://thehill.com/homenews/state-watch/536902-top-election-official-resigning-in-pennsylvania-over-failure-to/>

<sup>3</sup> Zaleski, P. & Greenawalt, C. (2023). The economic impact of a constitutional amendment to implement Pennsylvania House Bill 14 of the 2021-22 session. Susquehanna Valley Center for Public Policy. <https://susvalleypolicy.org/wp-content/uploads/2023/01/January-10-2023-FInal-Report.pdf>



## Impact of PA SOL Reform: A Realistic Estimate

Below, we will provide a more accurate view of the situation using data from previous SOL revival windows for CSA claims.

**We estimate less than 1,000 claims would be filed against public schools in Pennsylvania.**

Zaleski and Greenawalt use faulty logic and poor methodologies to estimate that between 10,000 to 100,000 civil claims would be filed against public schools following the passage of revival window legislation in Pennsylvania. This leads to their conclusion that taxpayers would be on the hook for at least \$5 billion in payouts to CSA survivors. These estimates are wildly inflated. Leaving aside the absurdity of the upper end of their estimate and focusing on the 10,000 figure, we can confidently say that the number of actual claims filed against public schools would total **less than one-tenth** of their estimate.

CHILD USA is the leading think tank for collecting and analyzing data on SOL reform legislation around the country. We can use historical data on the success of revival windows in other states as a basis for estimating claims resulting from a window in Pennsylvania.

State	Year	Population	Number of lawsuits filed	Percent of population that filed lawsuits under revival window
Arizona	2020	7,151,502	358	0.01%
California	2003	35,484,453	1,150	0.003%
Delaware	2011	907,381	1,402	0.15%
Delaware	2008	876,794	175	0.02%
Georgia	2016	10,300,000	20	0.0002%
Hawaii	2018	1,421,000	206	0.01%
Michigan	2018	9,984,000	332	0.003%
Minnesota	2016	5,523,000	1,006	0.02%
New Jersey	2021	9,267,130	1,220	0.01%
New York	2021	19,800,000	10,857	0.05%
N. Carolina	2021	10,550,000	241	0.002%
Utah	2019	3,206,000	4	0.0001%

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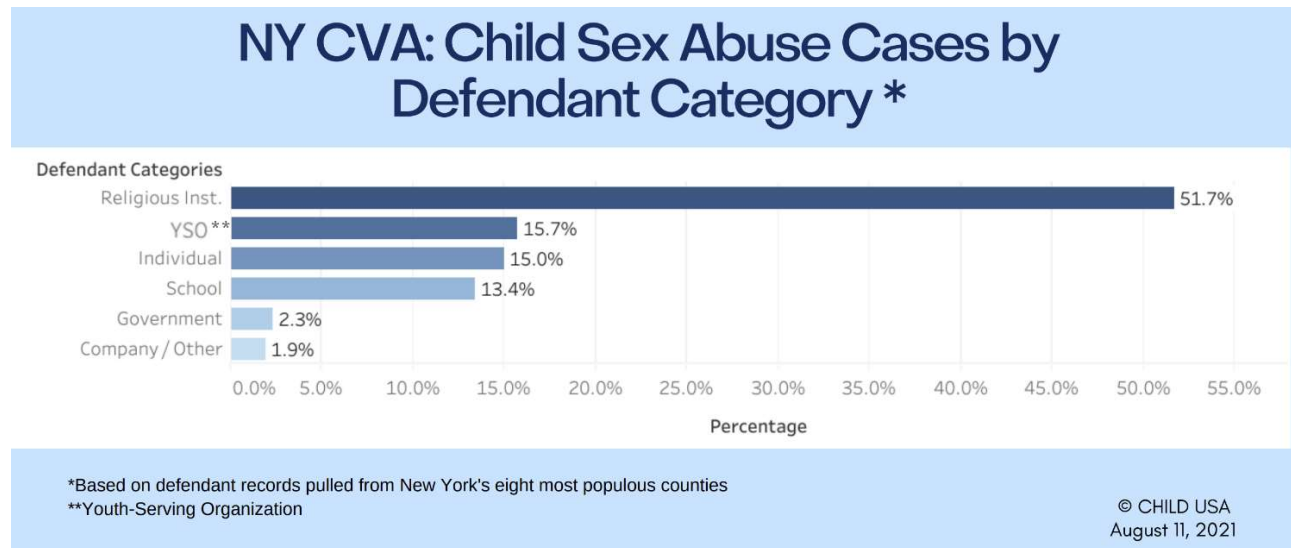
The table above<sup>4</sup> highlights two important state examples: Delaware (2011)<sup>5</sup> and New York.

### Delaware

Delaware represents the state in which the highest proportion of the population (.15%) filed a CSA claim under a revival window. Although clearly an outlier, we can use this proportion to attempt an aggressive estimate of claims against public schools in Pennsylvania. If we applied the same rate of claims to Pennsylvania's population, we would expect a total of less than 20,000 claims.<sup>6</sup> The Zaleski and Greenawalt estimate of 10,000 would mean that **half** of all claims filed under a Pennsylvania revival window would be against public schools. To understand why that is completely unrealistic, we can turn to evidence from New York.

### New York

The New York Child Victims Act (CVA) was the most successful SOL window legislation passed at the state level, resulting in almost 11,000 total claims.<sup>7</sup> CHILD USA collected court records from the state's eight most populous counties and categorized the defendants named in legal complaints.<sup>8</sup>



<sup>4</sup> CHILD USA. (2022). The relative success of state windows for child sexual abuse claims. [https://childusa.org/wp-content/uploads/2022/04/CHILD\\_USA\\_Relative\\_Success\\_Memo\\_Revival\\_Windows-4.12.22.pdf](https://childusa.org/wp-content/uploads/2022/04/CHILD_USA_Relative_Success_Memo_Revival_Windows-4.12.22.pdf)

<sup>5</sup> For the sake of clarity we only focus on the 2011 window in Delaware, as the 2008 window yielded very few claims and is therefore unlikely to strongly influence the subsequent estimates.

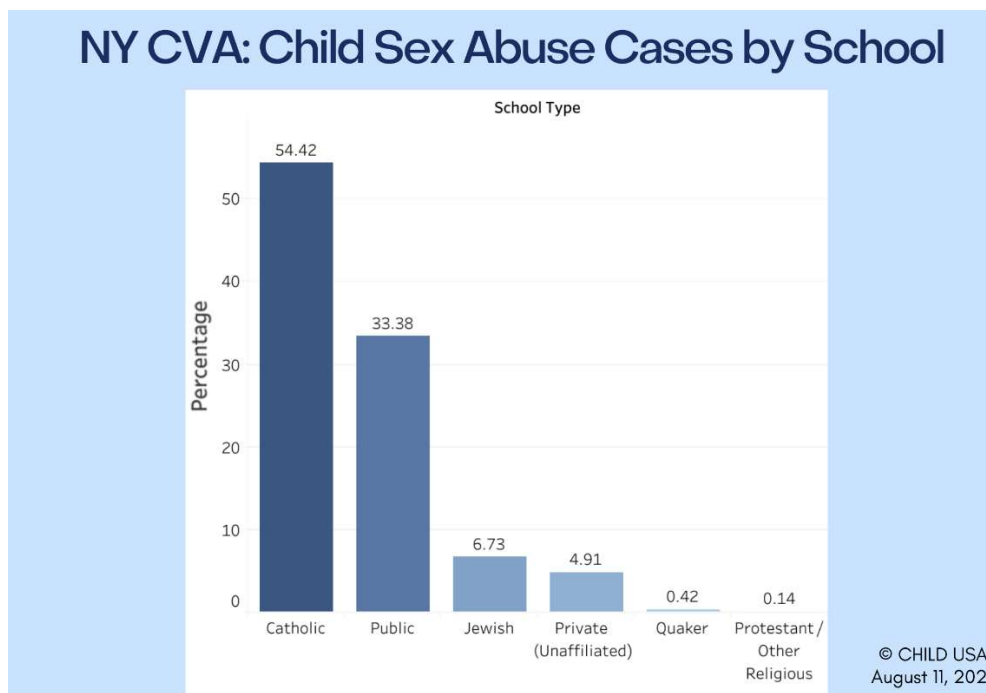
<sup>6</sup> PA population (12,972,008) \* Percent of DE population filing claims (0.0015) = 19,458; Population source: <https://www.census.gov/quickfacts/PA>

<sup>7</sup> CHILD USA. (2022). The relative success of state windows for child sexual abuse claims. [https://childusa.org/wp-content/uploads/2022/04/CHILD\\_USA\\_Relative\\_Success\\_Memo\\_Revival\\_Windows-4.12.22.pdf](https://childusa.org/wp-content/uploads/2022/04/CHILD_USA_Relative_Success_Memo_Revival_Windows-4.12.22.pdf)

<sup>8</sup> CHILD USA. (2021). Statute of limitations reform serves the public interest: A preliminary report on the New York Child Victims Act. <https://childusa.org/wp-content/uploads/2021/08/A-Preliminary-Report-on-the-New-York-Child-Victims-Act.pdf>

Because access to court records is maintained separately by county in New York, we chose to focus on highly populated counties where the highest rate of filings occurred and where records were not paywalled.

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Schools were named as defendants in 13% of the cases we analyzed, one-third of which were public schools. Although data is not available on exactly how many total lawsuits were filed against public schools in New York, we estimate that the number is **under 500** claims.<sup>9</sup> This indicates that **less than 5%**<sup>10</sup> of all claims under a window would be made against public schools.

If we apply this same rate from New York to the projected total claims in Pennsylvania above, we would expect **under 900** claims against public schools.<sup>11</sup> Considering that the proportion of Delaware's population filing under the 2011 window was a considerable outlier, this forms the basis for an upper limit for our estimate range. Using New York's population numbers from CHILD USA's Relative Success Memo to form our lower limit estimate for Pennsylvania<sup>12</sup>, we would expect **under 300 claims**.

Therefore, an accurate estimate range of claims filed against public schools in Pennsylvania would be between **300 to 900**.

<sup>9</sup> Total NY CVA claims (10,857) \* Est. proportion of claims filed against schools (0.134) \* Est. proportion of those claims filed against public schools (0.334) = 485.9 claims against public schools.

<sup>10</sup> 0.134 \* 0.334 = 0.045 or 4.5%

<sup>11</sup> Estimated PA claims using DE filing rate (19,458) \* New York public school claims rate (0.045) = 875.6

<sup>12</sup> This is reasonable given the fact that the average percent of state population filing under a revival window was 0.02%. New York, at 0.05% is above average, and therefore would be unlikely to under inflate our lower range estimate.

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### **The Susquehanna Valley Center for Public Policy report draws many other misleading conclusions.**

Zaleski and Greenawalt dramatically inflate estimates of claims filed against public schools in an attempt to scare taxpayers, and along the way they make several errors in reasoning and methodology which we summarize below:

A key tenet of social science research is using representative samples. The authors selected 20 CSA lawsuits for their sample without explanation for why they were selected. The report also cherry-picks the example of Ken-Ton Schools in New York, which was a fairly extreme case of a serial abuser in a school leading to a high number of lawsuits. Extrapolating out from one outlier is irresponsible data analysis.

Zaleski and Greenawalt cite to an important study of the costs of CSA borne by society,<sup>13</sup> but they misuse the article in several ways. The Letourneau et al. (2018) study has no relation to estimating potential payouts to victims themselves following an abuse lawsuit; rather, the study estimates the costs different public sector entities incur as they interact with survivors suffering in the wake of trauma. SOL reform shifts the costs of abuse from victims and taxpayers to the institutions responsible for their abuse.

The authors consistently use unreliable sources without corroborating evidence to support their calculations used to arrive at their estimates. For example, they make an unsupported assumption that the rate of abuse in public schools matches that of abuse in Catholic institutions to arrive at one estimate. For another estimate, they rely on a quote from a researcher affiliated with the Department of Education claiming that the scale of abuse in public schools is 100 times the abuse occurring in Catholic institutions. Again, this claim is unsupported by any evidence or peer-reviewed research.

Overall, the Susquehanna report conveniently ignores many important variables influencing how many claims are filed and how those claims translate to costs borne by taxpayers. Only a small minority of abuse victims would be willing and able to file a lawsuit. Not all CSA lawsuits are successful. And for those that are successful, liability insurance often covers a significant portion of the dispensation. Zaleski and Greenawalt ignore these variables and do a disservice to all Pennsylvanians, especially those who experienced CSA.

### **Conclusion**

SOL reform benefits society by allowing CSA survivors to be heard, seek restitution, and hold institutions accountable for negligence. Victims need financial compensation to help cover the lifelong costs of therapy and medical services. Victims need financial compensation to help cover the lifelong costs of trauma, including therapy, medical services, and lost opportunities. Creating access to justice for the victims also serves the public interest in learning how abuse takes place and understanding how to protect children from future abuse.

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<sup>13</sup> Letourneau, E. J., Brown, D. S., Fang, X., Hassan, A., & Mercy, J. A. (2018). The economic burden of child sexual abuse in the United States. *Child Abuse & Neglect*, 79, 413-422.

## **Impact of PA SOL Reform: A Realistic Estimate**

Attempts to scare taxpayers into opposing the pursuit of justice are irresponsible, and journalists, academics, and lawmakers have a duty to focus on the facts regarding SOL reform.