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CORINNE PANDELO,

Plaintiff-Respondent,

v.

**THE GOVERNING BODY OF
JEHOVAH'S WITNESSES; FAIRLAWN
CONGREGATION OF JEHOVAH'S
WITNESSES; WATCHTOWER BIBLE
AND TRACT SOCIETY OF NEW YORK;
HACKENSACK CONGREGATION OF
JEHOVAH'S WITNESSES; and JOHN
AND JANE DOES 1-100,** whose
identities are presently
unknown to Plaintiff, in their
official and individual
capacities,

Defendants-Appellants.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. AM-000264-22

On Appeal From:
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - BERGEN COUNTY
DOCKET NO. BER-L-5508-21

Sat Below:
HON. GREGG A. PADOVANO,
J.S.C.

Appellate Div. AM-000264-22

CIVIL ACTION

**BRIEF OF AMICUS CURIAE CHILD USA AND THE NATIONAL CENTER FOR
VICTIMS OF CRIME IN SUPPORT OF PLAINTIFF-RESPONDENT, OPPOSING
DEFENDANTS-APPELLANTS' MOTION FOR LEAVE
TO FILE AN INTERLOCUTORY APPEAL**

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TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

STATEMENT OF INTEREST OF AMICUS CURIAE vii

PRELIMINARY STATEMENT viii

PROCEDURAL HISTORY AND STATEMENT OF FACTS x

ARGUMENT 1

 I. THE LEGISLATIVE HISTORY OF THE CSAA AND CIA AMENDMENTS AND
 SOUND PUBLIC POLICY CONFIRM THAT CSAA REVIVED CLAIMS AGAINST
 CHARITABLE INSTITUTIONS SHOULD NOT BE JUDICALLY ESTOPPED..... 1

 A. The Legislative History of the Amendments Evidences
 Intent to Retroactively Create New Negligence Causes of
 Action Against Charitable Institutions for Pre-2006 Child
 Sexual Abuse 3

 B. Applying the Extraordinary Remedy of Judicial Estoppel
 in Cases like Plaintiff’s Would Place More Children at Risk
 of Sexual Abuse 7

 II. THE AMENDMENTS REFLECT DELAYED DISCLOSURE SCIENCE AND
 ADDRESS NEW JERSEY’S COMPELLING INTEREST IN PROTECTING
 CHILDREN..... 9

 A. Child Sex Abuse Uniquely Prevents Victims from Bringing
 Timely Claims 9

 B. The Amendments Address New Jersey’s Compelling Interest
 in Child Protection 14

 III. REVIVAL LAWS FOR CHILD SEX ABUSE CLAIMS ACROSS THE UNITED
 STATES SUPPORT ALLOWING RETROACTIVE CLAIMS AGAINST CHARITABLE
 INSTITUTIONS 18

CONCLUSION 25

TABLE OF AUTHORITIES

Cases

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MINN. STAT. § 541.073	21
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New Jersey Public Law 2019, Chapter 120.....	<i>passim</i>
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N.J.S.A. § 2A:14-2c.....	viii, 1
N.J.S.A. § 2A:30B-6.....	viii, 1
N.J.S.A. § 2A:53A-7.....	viii, 1
N.J.S.A. § 2A:53A-7.4.....	<i>passim</i>
N.J.S.A. § 2A:53A-7.5.....	viii, 1, 2
N.J.S.A. § 2A:61B-1.....	viii, 1, 12
N.Y. C.P.L.R. § 214-g.....	22
N.C. GEN. STAT. § 1-17	22
NEV. REV. STAT. §§ 11.215	21
OR. REV. STAT. § 12.117.....	22
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Tit. 7 G.C.A § 11306.....	20
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Senate Bill No. 477..... *passim*

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STATEMENT OF INTEREST OF AMICUS CURIAE

Amicus curiae, CHILD USA, is a global nonprofit think tank fighting for the civil rights of children. Our 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.

CHILD USA is the leading organization in the United States 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 the constitutionality of revival laws for child sex abuse throughout the United States.

CHILD USA is uniquely positioned to provide this Court with current research and analysis regarding New Jersey's revival law for sexual abuse claims, the compelling public interest in revival of expired civil SOLs, impacts of the revival laws on public safety, the science of delayed disclosure by victims of their abuse, and the national landscape on revival laws for sexual abuse.

Amicus curiae, The National Center for Victims of Crime ("NCVC"), a nonprofit organization based in Washington, DC, is the nation's leading resource and advocacy organization for all victims of crime. The mission of NCVC is to forge a national

commitment to help victims of crime rebuild their lives. Dedicated to serving individuals, families, and communities harmed by crime, NCVC advocates in support of laws and public policies that create resources and secure rights and protections for crime victims. After more than 35 years, NCVC remains the most comprehensive national resource committed to advancing victims' rights and helping victims of crime rebuild their lives.

PRELIMINARY STATEMENT

CHILD USA and NCVC (collectively, "Movants") respectfully submit this brief as *amicus curiae*. Plaintiff-Respondent supports the Law Division's ruling that Plaintiff's claims pursuant to New Jersey's recently amended Charitable Immunities Act ("CIA") and Child Sexual Abuse Act ("CSAA") are not subject to summary judgment due to judicial estoppel, and that this ruling does not warrant an interlocutory appeal.

Movants submit that the New Jersey Legislature's December 1, 2019, amendments to the CIA and CSAA allowed Plaintiff to bring certain negligence claims against charitable institutions for the first time. During Plaintiff's first suit in 1994, such claims were barred by the CIA, and were not made available until the 2006 amendments to the CIA. The 2019 amendments then applied the 2006 provisions retroactively, permitting certain negligence claims against charitable institutions that accrued prior to 2006—such as

Plaintiff's—to be litigated in court. See N.J.S.A. §§ 2A:14-2a, 2A:14-2b, 2A:14-2c, 2A:30B-6, 2A:53A-7, 2A:53A-7.4, 2A:53A-7.5, 2A:61B-1; P. L. 2019, c. 120, §§ 5-6. This interpretation of the statutory amendments is directly supported by the clear legislative intent and significant public interest in remedying the injustice of New Jersey's prior unreasonably short SOLs and absurd shields for charitable institutions, which obstruct child sex abuse victims' access to the courts and has kept the public in the dark about child predators.

A ruling that denies survivors the opportunity to bring lawsuits against charitable institutions pursuant to the CSAA's and CIA's extended SOL and claim revival provisions could have negative ramifications for the hundreds of child sex abuse victims throughout New Jersey who are now embracing the extended time limits in pursuit of long overdue justice. Also at stake are the important public policies of justice, public safety, and preventing future sex abuse, which the New Jersey Legislature sought to achieve for the public when it passed these amendments.

Accordingly, Movants respectfully submit that this Court should reject Defendant-Appellant's motion for leave to file an interlocutory appeal and affirm the Law Division's finding that cases like Plaintiff-Respondent's, which timely filed new negligence causes of action against charitable institutions in

accordance with the CSAA's and CIA claim revival provisions, should not be subject to judicial estoppel.

PROCEDURAL HISTORY AND STATEMENT OF FACTS

Movants rely on the procedural history and counterstatement of facts as presented by Plaintiffs-Respondents as well as by the Law Division in its underlying January 3, 2023, order.

ARGUMENT

Pursuant to Rule 1:13-9, Movants respectfully submit this amicus brief. As a global think tank dedicated to furthering the civil rights of children, CHILD USA has gathered and produced cutting-edge legal and social science research related to the need for statute of limitations reform. In this brief, CHILD USA will address the following issue: whether Plaintiff's previously time-barred child sex abuse claim, timely filed in accordance with the New Jersey Legislature's recent amendments to the Child Sexual Abuse Act and Charitable Immunities Act reviving certain negligence claims against charitable institutions, should nevertheless be subject to an interlocutory appeal on the issue of judicial estoppel. NCVC joins in CHILD USA's argument in its mission to advocate on behalf of all crime victims and to work towards the deterrence of future crime.

I. THE LEGISLATIVE HISTORY OF THE CSAA AND CIA AMENDMENTS AND SOUND PUBLIC POLICY CONFIRM THAT CSAA REVIVED CLAIMS AGAINST CHARITABLE INSTITUTIONS SHOULD NOT BE JUDICALLY ESTOPPED

In May 2019, the New Jersey Legislature passed Chapter 120, which became effective December 1, 2019. P.L. 2019, c. 120. By passing Chapter 120, the Legislature amended several pieces of legislation, including New Jersey's Charitable Immunities Act ("CIA") and Child Sexual Abuse Act ("CSAA"). N.J.S.A. §§ 2A:14-

2a, 2A:14-2b, 2A:14-2c, 2A:30B-6, 2A:53A-7, 2A:53A-7.4, 2A:53A-7.5, 2A:61B-1; Pub. Law 2019, c. 120, §§ 5-6.

Notably, Chapter 120 enacted a new statute of limitations ("SOL") for sex abuse and exploitation tort claims. N.J.S.A. § 2A:14-2a. Relevant here is the new SOL for child sex abuse claims, which was extended to "thirty-seven years after the minor reaches the age of majority, or within seven years from the date of reasonable discovery of the injury and its causal relationship to the act, whichever is later." Id. Importantly, Chapter 120 also revived expired child sex abuse claims until the victim reaches age fifty-five, as well as opened a two-year revival window for expired child sex abuse claims from December 1, 2019 until November 30, 2021. Id.; N.J.S.A. § 2A:14-2b.

As to the CIA, Chapter 120 retroactively eliminated charitable immunity for certain claims of negligence in sex abuse causes of action by adding a newly created subsection. N.J.S.A. § 2A:53A-7.5(b) (stating,

"[n]otwithstanding the provisions of subsection a. of this section, the provisions of P.L. 2005, c. 264 (C.2A:53A-7.4 et seq.) shall apply to all civil actions for an injury resulting from an act that occurred prior to the effective date of P.L. 2019, c. 120 (C. 2A:14-2a et al.), and these actions shall be subject to the statute of limitations set forth in section 2 of P.L.2019, c. 120 (C.2A:14-2a)."

Accordingly, Chapter 120 clarified that the liability standards for sexual abuse claims against charitable entities enacted in

2006 now also apply retroactively to acts that occurred prior to 2006 in all lawsuits filed on or after December 1, 2019.

Thus, when read as a whole, the Chapter 120 amendments to the CSAA and CIA ("the Amendments") created new negligence causes of action that child sex abuse victims can bring against charitable institutions until they reach age fifty-five or during the two-year revival window, including for negligence in hiring, supervision, or retention of an employee resulting in child sexual abuse. As discussed below, this conclusion is supported by the Legislature's intent in passing the Amendments. This express intent and sound public policy dictate that survivors like Plaintiff should not be judicially estopped from bringing these claims.

A. The Legislative History of the Amendments Evidences Intent to Retroactively Create New Negligence Causes of Action Against Charitable Institutions for Pre-2006 Child Sexual Abuse

When interpreting statutes, it is well established that the court's role is to "discern and effectuate" the Legislature's intent. Murray v. Plainfield Rescue Squad, 46 A.3d 1262 (N.J. 2012). In doing so, the court is required to consider the statute's plain language, giving the words used "their ordinary meaning and significance." DiProspero v. Penn, 874 A.2d 1039 (N.J. 2005). In instances where the Legislature passes a bill that amends several statutes, courts "must attempt to harmonize the

provisions of all statutes that the Legislature has enacted affecting the subjects involved.” Nw. Bergen Cnty. Utils. Auth. v. Donovan, 143 A.3d 290 (N.J. 2016). Simply put, to properly ascertain the Legislature’s purpose in passing one statutory amendment, the court should look to the Legislature’s purpose in passing the legislation in its entirety. Accordingly, an analysis of the Legislature’s intent in passing Senate Bill No. 477 (“S. 477”)—which became Chapter 120—is necessary to determine the Legislature’s intent in amending the CIA.

First and foremost, the Legislature expressly stated that S. 477 was meant to “extend the statute of limitations in civil actions for sex abuse claims, as well as create a two-year window for parties to bring previously time-barred actions based on sex abuse. **The bill would also expand the categories of potential defendants in civil actions.**” Senate Judiciary Committee Statement to Committee Substitute for S. 477 (Mar. 7, 2019) (“Senate Judiciary Committee Statement”) (emphasis added). As to applicability, **S. 477’s provisions would apply “to lawsuits which could be filed beginning on December 1, 2019, the bill’s effective date.”** Id. (emphasis added). These lawsuits were specifically intended to include “any child victim of past abuse who is under the age of 55 years when the bill takes effect, or who will reach 55 years of age sometime after the bill takes effect, and who is aware of the injury and its cause,” or who filed during the two-

year revival window. Id. at §§ 2, 9. Thus, the Legislature clearly communicated its intent that S. 477's provisions apply to *all* lawsuits filed on or after December 1, 2019, including actions against new defendants that were previously unavailable.

To clarify S. 477's effect on the CIA, the New Jersey Senate wrote Section 2 of the Senate Judiciary Committee Statement, which explains that the bill,

"establishes retroactive application of an exception to the Charitable Immunity Act set forth in P.L. 2005, c.26 (C.2A:53A-7.4, et seq.), making non-profit organizations liable for acts of mere negligence in the hiring, supervision, or retention of an employee, agent, or servant resulting in sexual abuse committed against a minor under the age of 18 years. This liability for simple negligence, when first enacted by P.L. 2005, c.264, took effect on January 5, 2006, and applied prospectively only . . . as amended by this bill in section 6, organization liability for an act of negligently hiring, supervising, or retaining a person resulting in abuse against a child could be applied retroactively in lawsuits for abuse occurring prior to the bills effective date, which means it could also be applied retroactively to acts of abuse occurring prior to the effective date of P.L. 2005, c. 264."

Id. (emphasis added). It is an inescapable conclusion that the Legislature intended to retroactively open a new negligence cause of action for those victims who were sexually assaulted as children prior to January 5, 2006. Specifically, a negligence cause of action against charitable organizations responsible for hiring, supervising, or retaining an agent who committed the sexual abuse. Moreover, as a provision of S. 477, the Legislature expressly created this new cause of action to be available for *all* lawsuits

timely filed after December 1, 2019, pursuant to the CSAA's extended statute of limitations and claim revival provisions. Thus, it is inconsistent with the Legislature's intent, and its own estimation of S. 477's effect in reaching previously unavailable defendants, to conclude that plaintiffs with claims dating back to before the enactment of P.L. 2005, c. 264 on January 5, 2006, should be barred from bringing claims against a charitable institution for negligent hiring, supervision, or retention.

In enacting the Amendments, the Legislature exerted concerted effort into restoring justice to survivors of pre-2006 abuse within charitable institutions by (1) reviving decades-old child sexual abuse claims against charitable institutions, and (2) specifically indicating—*for the first time*—the retroactive application of the P.L. 2005 amendments to older claims. As evidenced by the legislative documents referenced above, as well as by the Amendments themselves, the Legislature did not intend to open a window to justice for child sex abuse victims with claims against charitable institutions that simultaneously curtailed that justice by continuing to bar certain negligence claims for survivors abused before January 5, 2006. Instead, the Legislature made abundantly clear its desire to *revive* and *expand* the number of child sex abuse negligence claims that can be brought against charitable institutions pursuant to the extended SOL and claim revival provisions.

B. Applying the Extraordinary Remedy of Judicial Estoppel in Cases like Plaintiff's Would Place More Children at Risk of Sexual Abuse

Judicial estoppel is a doctrine created to "protect 'the integrity of the judicial process.'" Kimball Intern., Inc. v. Northfield Metal Products, 760 A.2d 794, 799 (N.J. Super. Ct. App. Div. 2000) (citing Cummings v. Bahr, 685 A.2d 60 (N.J. Super. Ct. App. Div. 1996)). In Kimball, the court pointed out that "[i]t is also generally recognized that judicial estoppel is an 'extraordinary remedy,' which should be invoked only 'when a party's inconsistent behavior will otherwise result in a miscarriage of justice.'" 760 A.2d at 800 (citing Ryan Operations G.P. v. Santiam-Midwest Lumber Co., 81 F.3d 355, 365 (3d. Cir. 1996)). The court concluded that, "as with other claim and issue preclusion doctrines, judicial estoppel should be invoked only in those circumstances required to serve its stated purpose, which is to protect the integrity of the judicial process." Kimball, 760 A.2d at 800.

As discussed above, the New Jersey Legislature expressly intended for its amendments to the CSAA and CIA to retroactively create—for survivors with child sex abuse claims dating back to 2005 or earlier—a negligence cause of action against charitable organizations responsible for hiring, supervising, or retaining an agent or employee who committed the sexual abuse. Because the CIA prevented survivors like plaintiff from bringing this negligence

cause of action at the time of their initial lawsuits, barring them *again* with the doctrine of judicial estoppel would not only negate the Legislature's purpose in passing the Amendments, but it would "imping[e] on the truth-seeking function of the court" by continuing to shield responsible institutions from the scrutiny of litigation. In doing so, survivors like plaintiff would be deprived of long-awaited justice, and the charitable institutions that harbored child predators prior to 2006—and which may still be *employing child abusers*—would not be held accountable. Such a result poses a serious danger to vulnerable children presently in the care of charitable institutions, as discussed in more detail in the sections below.

Preventing future abuse begins with identifying *past* abusers; inhibiting survivors from bringing claims in open court places today's and tomorrow's children at risk of suffering the same heinous abuse at the hands of the same predators. Thus, applying judicial estoppel in cases like plaintiff's would not prevent a miscarriage of justice; it would *result* in a miscarriage of justice for survivors and for children currently at risk of sexual abuse at the hands of charitable institutions.

Taking the above legislative history and public policy reasons into account, as well as the additional public policy analysis below, this Court should affirm the Law Division's holding

by denying Defendants' motion for leave to file an interlocutory appeal and allow Plaintiff's case to proceed.

II. THE AMENDMENTS REFLECT DELAYED DISCLOSURE SCIENCE AND ADDRESS NEW JERSEY'S COMPELLING INTEREST IN PROTECTING CHILDREN

New Jersey's Amendments acknowledge that victims of child sex abuse often take decades to disclose their abuse. The claim revival provisions in the CSAA and CIA correct the injustice of New Jersey's historically unreasonably short SOLs that blocked child sex abuse victims' access to courts and kept the public uninformed.

A. Child Sex Abuse Uniquely Prevents Victims from Bringing Timely Claims

Child sex abuse is a national public health crisis, with 3.7 million children sexually abused every year.¹ In the United States, at least one in five girls and one in thirteen boys is sexually abused before they turn eighteen.² An extensive body of evidence establishes that childhood sex abuse victims are

¹ See Preventing Child Sexual Abuse, CDC.gov, <https://www.cdc.gov/violenceprevention/pdf/can/factsheetCSA508.pdf>; see also 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).

² 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).

traumatized in a way that is distinguishable from victims of other crimes. Many victims of child sex abuse suffer in silence for decades before they talk to anyone about their traumatic experiences. As children, child sex abuse victims often fear the negative repercussions of disclosure, such as disruptions in family stability, loss of relationships, or involvement with the authorities.³ These victims may also struggle to disclose their experiences due to effects of trauma and psychological barriers such as shame, self-blame, or fear, as well as social factors such as gender-based stereotypes or stigma regarding victimization.⁴

Additionally, disclosing sexual abuse to the authorities for criminal prosecution or an attorney in pursuit of civil justice is a difficult and emotionally complex process which involves the victim knowing that they were abused, being willing to identify publicly as a sexual abuse victim, and deciding to act against their abuser. This last variable may be particularly difficult for victims, as nearly 90% of perpetrators are someone the child knows; in fact, roughly one-third of child sex abuse offenses are

³ 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).

⁴ 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).

committed by family members.⁵ It is hardly surprising, then, that one study found 44.9% of male victims and 25.4% of female victims of child sex abuse delayed disclosure by more than twenty years.⁶ In another study of victims of abuse in Boy Scouts of America, 51% of victims disclosed their abuse for the first time at age fifty or older.⁷ An estimated 70% of child sexual assault victims never report abuse to the police.⁸ Victims, therefore, often need decades to process the abuse they suffered, much less to report it.⁹

⁵ 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.

⁶ Patrick J. O'Leary & James Barber, Gender Differences in Silencing following Childhood Sexual Abuse, 17 J. CHILD SEX. ABUSE 133 (2008).

⁷ Delayed Disclosure of Child Sexual Abuse, CHILD USA, <https://childusa.org/wp-content/uploads/2020/03/delayed-disclosure-childUSA-1.jpg> (last visited Mar. 8, 2022).

⁸ D. Finkelhor et al., Sexually Assaulted Children: National Estimates and Characteristics, US Dept. of Justice, Office of Justice Programs (2008), <https://www.ojp.gov/pdffiles1/ojddp/214383.pdf>.

⁹ R.L. v. Voytac, 971 A.2d 1074 (N.J. 2009); Rebecca Campbell, Ph.D., The Neurobiology of Sexual Assault: Explaining Effects on the Brain, NAT'L INST. OF JUSTICE (2012), <https://upc.utah.gov/materials/2014Materials/2014sexualAssault/TonicImmobilityWebinar.pdf>; Bessel A. van der Kolk M.D., et al., Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body, and Society (2006).

Moreover, cultures of secrecy paired with unreasonably short SOLs and other time restraints shield organizations from public scrutiny and discourage victims from disclosing abuse. The Boston Globe's 2002 Spotlight investigative report uncovered rampant sexual abuse in the Catholic Church, and an alarming number of institutional scandals have since emerged, with more institutions and perpetrators publicly named each year.¹⁰

Until 2019, child sex abuse victims in New Jersey only had until age twenty or two years from discovering their claim to file a civil suit against their abusers and other defendants. N.J.S.A. §§ 2A:14-2; 2A:61B-1(b) (West 1992). As detailed above, nearly all victims fail to bring claims within such an unreasonably short timeframe. To remedy the problem, the Legislature passed the Amendments, which retroactively and prospectively extended the civil SOL to age fifty-five or seven years from discovery, whichever is later. N.J.S.A. § 2A:14-2a (2019). It additionally opened a two-year window permitting victims of child sex abuse in New Jersey to assert otherwise time-barred civil claims—from December 1, 2019 through November 30, 2021. N.J.S.A. § 2A:14-2b (2019). Importantly, pre-2006 claims for negligence in hiring, supervising, or retaining employees and agents under the CIA were

¹⁰ Hamilton, M., We Failed Our Children for Too Long: The Case for SOL Reform, THE ADVOCATE, J. OF THE OKLA. ASS'N FOR JUST., 23 (Nov. 4, 2016).

also retroactively revived for lawsuits filed during this window or pursuant to the extended statute of limitations.

Because a law to revive a previously time-barred *criminal* prosecution violates the Ex Post Facto Clause of the United States Constitution, filing a civil claim using a revival provision is the sole redress for many child sex abuse victims whose claims unjustly expired. See Stogner v. California, 539 U.S. 607, 610, 632-33 (2003). By passing the Amendments, the New Jersey Legislature recognized the injustice of short time restraints and took a reasonable step to address this issue, providing long-denied access to justice to victims of child sex abuse and greatly reducing the present danger to New Jersey's children.

The Legislature regularly exercises its police power to enact laws that "promote the public health, safety, morals or general welfare." Rothman v. Rothman, 320 A.2d 496, 500-01 (N.J. 1974). It is clear the Legislature intended the Amendments to benefit the broader public and provide relief to sexual abuse victims with claims that would otherwise be barred. As such, public policy weighs heavily in favor of compensating survivors for the life-long losses suffered because of the negligent conduct of others.

B. The Amendments Address New Jersey's Compelling Interest in Child Protection

The Amendments to the CSAA and CIA also serve New Jersey's "compelling" interest in child protection. E.g., Packingham v. North Carolina, 137 S. Ct. 1730, 1736 (2017); Hoefers v. Jones, 672 A.2d 1299, 1308 (N.J. Super. Ct. Ch. Div. 1994) (noting the "duty to protect infants and those of legal disability unable to protect themselves" is "the fundamental principle guiding our courts in promoting a child's welfare and best interests It is the state's quintessential compact with its citizens, an organic precept of decency of inherent constitutional dimension," and "is a preeminent promise of human kind, binding one generation to another that those who cannot protect themselves will be protected; that those who need care will receive it; and that the powers of the state, administratively, legislatively, and through its courts, will be utilized to oversee that promise."), aff'd, 672 A.2d 1177 (N.J. Super. Ct. App. Div. 1996). Three important public purposes are served by the Legislature's enactment of the Amendments. They: (1) identify previously unknown child predators and the institutions that shield them; (2) shift the cost of abuse from victims to those who caused the abuse; and (3) educate the public to prevent future abuse.

First, the CSAA and CIA claim revival provisions facilitate the identification of previously unknown child predators¹¹ and the institutions that shield them, who would otherwise remain hidden. The decades before a victim is ready to disclose give perpetrators and institutions wide latitude to suppress the truth to the detriment of children, parents, and the public. Unfortunately, unidentified predators continue abusing children; for example, one study found that 7% of offenders sampled committed offenses against forty-one to 450 children, and the longest time between offense and conviction was thirty-six years.¹² Through the Amendments, the Legislature empowered victims to identify New Jersey's hidden child predators and the institutions that endanger children, which helps prevent those predators from further abusing children and allows the public to develop policies to inhibit new abuse from occurring in the long-term.¹³

Second, the CSAA and CIA claim revival provisions help to educate the public about the dangers of child sexual abuse and how to prevent such abuse. When predators and institutions are

¹¹ Michelle Elliott et al., Child Sexual Abuse Prevention: What Offenders Tell Us, 19 CHILD ABUSE NEGL. 579 (1995).

¹² Id.

¹³ See generally, Making the Case: Why Prevention Matters, PREVENTCHILDAUSE.ORG (last 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>.

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 communities about the insidious ways child molesters operate to sexually assault children, as well as the institutional failures that enabled their abuse.¹⁴ Because the Amendments permit an increased number of child victims to come forward, they shed light on the prevalence of child sex abuse, which allows parents and other guardians to become better equipped with the tools necessary to identify abusers and responsible institutions, while empowering the public to recognize grooming and abusive behavior. Indeed, SOL reform not only provides access to justice previously withheld from victims of child sexual abuse; it prevents further abuse by fostering social awareness while encouraging institutions to implement accountability and safe practices.

Third, the cost of child sexual abuse to victims is enormous,¹⁵ and they, along with the State of New Jersey, unjustly carry the

¹⁴ E.g., Jeffrey Epstein: Filthy Rich (Netflix 2020); At the Heart of Gold: Inside the USA Gymnastics Scandal (HBO 2019).

¹⁵ See M. Merricka., et al., Unpacking the impact of adverse childhood experiences on adult mental health, 69 CHILD ABUSE & NEGLECT 10 (July 2017); Angelakis, I., Gillespie, E.L., Panagioti, M., Childhood maltreatment and adult suicidality: a comprehensive systematic review with meta-analysis, PSYCHOLOGICAL MEDICINE 1-22 (2019); Gail Hornot, Childhood Trauma Exposure & Toxic Stress: What the PNP Needs to Know, J. PEDIATRIC HEALTHCARE (2015); Perryman Group, Suffer the Little Children: An Assessment of the Economic Cost of Child Maltreatment (2014).

burden of this expense.¹⁶ The estimated lifetime cost to society from child sexual abuse cases that occurred in the U.S. in 2015 is \$9.3 billion, while the average cost per non-fatal female victim was estimated at \$282,734.¹⁷ Average costs per victim include but are not limited to \$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.¹⁸ Costs associated with suicide deaths are estimated at \$20,387 for female victims.¹⁹ These staggering costs gravely affect victims and also impact the nation's health care, education, criminal justice, and welfare systems.²⁰ Revived child sexual abuse cases that result in awards and settlements not only equitably shift some of the costs away from victims and onto the abusers, but they also save the State money by reducing expenditures on public services.

¹⁶ While one in four Arizonans receive Medicaid, sex abuse victims likely disproportionately receive support due to the crippling effect of trauma. Stephanie Innes, 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/>.

¹⁷ Elizabeth J. Letourneau et al., The Economic Burden of Child Sexual Abuse in the United States, 79 CHILD ABUSE NEGL. 413 (2018).

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

As a result, the Legislature's enactment of the CSAA and CIA claim revival provisions not only remedy the long-standing injustice to child sexual abuse victims barred from bringing their claims under unreasonably short time restraints, but also serve New Jersey's compelling interest in keeping its children safe and preventing future child sexual abuse.

III. REVIVAL LAWS FOR CHILD SEX ABUSE CLAIMS ACROSS THE UNITED STATES SUPPORT ALLOWING RETROACTIVE CLAIMS AGAINST CHARITABLE INSTITUTIONS

In 2019, New Jersey joined the growing national movement to protect children from sexual predators and honor justice for victims of child sexual abuse. Since 2002, revival legislation has grown in popularity, and even more rapidly with the #metoo movement, as legislatures recognize that child sexual abuse victims need more time to come forward and that SOLs and charitable immunity statutes have historically blocked their claims.²¹ New Jersey stands alongside at least **thirty states and territories** that have enacted civil revival laws for childhood sex abuse claims that were blocked by unreasonable SOLs. The following table shows this prevailing trend:

²¹ CHILD USA, Revival Laws for Child Sex Abuse Since 2002 (Jan. 1, 2022), <https://childusa.org/windowsrevival-laws-for-csa-since-2002/>.

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)	Arkansas Act 1036; S.B. 676, 93 rd General Assembly, Reg. Sess. (Arkansas 2021); ARK. CODE ANN. § 16-118-118
California	3-Year Window & Age 40 Limit (2019)	CAL. CIV. PROC. CODE § 340.1 (2020); 2019 CAL. LEGIS. SERV. CH. 861 (A.B. 218)
	1-Year Window (2003)	CAL. CIV. PROC. CODE § 340.1 (2002); 2002 CAL. LEGIS. SERV. CH. 149 (S.B. 1779)
Colorado*	3-Year Window (2021)	SB21-088, 73 rd General Assembly, 1 st Reg. Sess. (Colo. 2021) (Effective, January 1, 2022) *This is not a revival law—it is a new cause of action—but it opens a window to justice for victims whose claims have expired.
Connecticut	Age 48 Limit (2002)	CONN. GEN. STAT. § 52-577d (2002); 2002 Conn. Legis. Serv. P.A. 02-138 (S.H.B. 5680).
Delaware	2-Year Window (2010)	DEL. CODE tit. 18, § 6856; 2010 Delaware Laws Ch. 384 (H.B. 326)
	2-Year Window (2007)	DEL. CODE tit. 10, § 8145; 2007 Delaware Laws Ch. 102 (S.B. 29)
Florida	4-Year Window (1992)	FLA. STAT. ANN. § 95.11; 1992 Fla. Sess. L. Serv. Ch. 92-102 (CSSB 1018)

Jurisdiction	Revival Law	Statute
Georgia	2-Year Window (2015)	GA. CODE § 9-3-33.1; 2015 Georgia Laws Act 97 (H.B. 17)
Guam	Permanent Window (2016)	Tit. 7 G.C.A §§ 11306; 11301.1(b); Added by P.L. 33-187:2 (Sept. 23, 2016)
	2-Year Window (2011)	7 G.C.A. § 11306(2) (2011); Public Laws No.31-06 (2011), available at https://www.guamlegislature.com/Public_Laws_31st/P.L.%2031-07%20Bill%20No.%2034-31.pdf
Hawaii	2-Year Window (2018)	HAW. REV. STAT. § 657-1.8; 2018 Hawaii Laws Act 98 (S.B. 2719)
	2-Year Window (2014)	HAW. REV. STAT. § 657-1.8; 2014 Hawaii Laws Act 112 (S.B. 2687)
	2-Year Window (2012)	HAW. REV. STAT. § 657-1.8; 2012 Hawaii Laws Act 68 (S.B. 2588)
Kentucky	Limited Window (2021)	2021 Kentucky Laws Ch. 89 (HB 472); KY. REV. STAT. ANN. § 413.249
Louisiana	3-Year Window (2021)	2021 La. Sess. Law Serv. Act 322 (H.B. 492); LA. STAT. ANN. § 9:2800.9
Maine	Permanent Window (2021)	ME. REV. STAT. ANN. tit. 14 § 752-C; 2021 Me. Legis. Serv. Ch. 301 (H.P. 432) (L.D. 589)
Maryland	Permanent Window (2023)	S.B. 686, 2023 Gen. Assemb., Reg. Sess. (Md. 2023); H.B. 1, 2023 Gen. Assemb., Reg. Sess. (Md. 2023).
Massachusetts	Age 53 Limit (2014)	MASS. GEN. LAWS ch. 260, § 4C (2014); 2014 Mass. Legis. Serv. Ch. 145 (H.B. 4126).
Michigan	90-Day Window (2018)	MICH. COMP. LAWS § 600.5851b; 2018 Mich. Legis. Serv. P.A. 183 (S.B. 872)

Jurisdiction	Revival Law	Statute
Minnesota	3-Year Window (2013)	MINN. STAT. § 541.073, 2013 Minn. Sess. Law Serv. Ch. 89 (H.F. 681)
	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; 2019 MONTANA LAWS CH. 367 (H.B. 640)
Nevada	Permanent Window & Age 38 Limit (2021)	2021 Nevada Laws Ch. 288 (S.B. 203); 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; 2019 NJ Sess. Law Serv. Ch. 120 (S.B. 477)
New York	2-Year Window (2022)	NEW YORK CITY, N.Y., CODE § 10-1105 (2022); L.L. 21/2022 § 2, EFF. JAN. 9, 2022
	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)
	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)
North Carolina	2-Year Window (2019)	N.C. GEN. STAT. § 1-17; 2019 North Carolina Laws S.L. 2019-245 (S.B. 199)

Jurisdiction	Revival Law	Statute
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; 2009 OREGON LAWS CH. 879 (H.B. 2827).
Rhode Island	Age 53 Limit (2019)	R.I. GEN LAWS § 9-1-51; 2019 RHODE ISLAND LAWS CH. 19-83 (19-H 5171B).
Utah	3-Year Window & Age 53 Limit (2016)	UTAH CODE ANN. § 78B-2-308 ; 2016 Utah Laws Ch. 379 (H.B. 279)
Vermont	Permanent Window (2019)	VT. STAT. ANN. tit. 12, § 522, "Actions based on childhood sexual or physical abuse"; 2019 Vermont Laws No. 37 (H. 330)
Virginia	1-Year Window (1991)	VA. CODE ANN. § 8.01-249.
Washington D.C.	2-Year Window (2019)	D.C. CODE § 12-301; 2018 District of Columbia Laws 22-311 (Act 22-593)
West Virginia	Age 36 Limit (2020)	W. VA. CODE § 55-2-15; 2020 WEST VIRGINIA LAWS CH. 2 (H.B. 4559).

The majority of states also abolished charitable immunity decades ago.²² Amongst the remaining states, New Jersey is joining an emerging trend to include claims against charitable

²² At least thirty-three states and Washington, D.C. have abolished charitable immunity outright.

institutions in revival provisions for child sexual abuse claims. See Ark. Code Ann. § 16-118-118; Colo. Rev. Stat. Ann. §§ 13-20-1202-03; Me. Rev. Stat. Ann. tit. 14 § 752-C.

Modern revival laws do not distinguish between charitable, private, and public defendants when reviving claims against institutions involved in child sexual abuse. This is because legislatures recognize the public interest in stopping predators from sexually abusing children is equally as compelling within charitable institutions as it is in the public and private spheres. Indeed, other states have permitted the revival of child sex abuse causes of action against charitable institutions based on statutes with far less exacting language than that used by the New Jersey Legislature. See Ark. Code Ann. § 16-118-118 (“Notwithstanding any other law . . . a vulnerable victim may bring a civil action against any party who committed sexual abuse against the vulnerable victim or whose tortious conduct caused the vulnerable victim to be a victim of sexual abuse”); Me. Rev. Stat. Ann. tit. 14 § 752-C (“This section applies to all actions based upon sexual acts towards minors”).

Here, the New Jersey Legislature was careful to include explicit language reviving claims against charitable institutions that were blocked not only by statutes of limitations but also by prior versions of the CIA. New Jersey’s statutory language is unique, as it is one of the only window statutes with explicit

language retroactively removing charitable immunity. See also Colo. Rev. Stat. Ann. §§ 13-20-1202-03 (“A [minor] victim of sexual misconduct . . . may bring a civil action for damages against . . . (b) A managing organization that knew or should have known that an actor or youth-related activity or program posed a risk of sexual misconduct against a minor”). The Legislature’s deliberate use of language including survivors of abuse within charitable institutions in its revival provision sets it apart from other states and should be recognized by this Court.

An interpretation of the Amendments that prohibits survivors like plaintiff from bringing claims against charitable institutions would violate the explicit language of the revival amendments to the CIA and CSAA, as well as the clear directive of the New Jersey Legislature. The Legislature’s purposeful judgment to enact broad revival provisions that gave victims with pre-2006 claims against charitable institutions two years or until age fifty-five to bring their abuser’s enablers to justice and help eradicate child sex abuse in New Jersey should be given deference and interpreted as such by this Court.

CONCLUSION

For these reasons, *Amicus Curiae* CHILD USA and NCVC respectfully requests this Court deny Defendants' Motion for Leave to File an Appeal.

Respectfully submitted,

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