



**TO:** The Honorable Lorena Gonzalez  
California State Assembly  
State Capitol, Room 2114  
Sacramento, CA 95814

**CC:** Laurel Brodzinsky, Office of Asm. Gonzalez

**FROM:** Professor Marci A. Hamilton, CEO & Academic Director, CHILD USA;  
Robert A. Fox Professor of Practice, University of Pennsylvania

**RE:** Assembly Bill 218, Damages: Childhood Sexual Assault: statute of limitations

**DATE:** March 4, 2019

I commend you and the Committee for taking up AB 218, which would expand the definition of childhood sexual abuse to include childhood sexual assault, extend the civil statute of limitations to age of majority (18) plus 22 years, add a 5-year delayed discovery rule, and revive expired statutes of limitations for the sexual assault of children for three years. If passed, California will improve drastically in the arena of child protection.

By way of introduction, I am the Founder, CEO, and Academic Director of CHILD USA, an interdisciplinary think tank dedicated to the prevention of child abuse and neglect at the University of Pennsylvania, where I am the Robert A. Fox Professor of Practice. I am the author of *Justice Denied: What America Must Do to Protect Its Children* (Cambridge University Press 2008, 2012), which makes the case for statute of limitations reform in the child sex abuse arena, and the leading expert on the history and constitutionality of SOL reform. CHILD USA is the leading organization to track the SOLs for child sex abuse, and provides an analytical overview of statute of limitations reform for child sex abuse, and other cutting edge issues related to child protection, at [www.childusa.org/law](http://www.childusa.org/law).

There is a vibrant national and global movement for SOL reform. Dozens have states have considered and passed significant SOL reform. The trend is toward elimination of civil and criminal SOLs and the revival of expired civil SOLs.

Historically, a wall of ignorance and secrecy has been constructed around child sex abuse, which has been reinforced by short statutes of limitation that kept victims out of the legal system. Statutes of limitations or SOLs are judicial housekeeping rules: they set the deadline for pressing criminal charges or filing a civil lawsuit. A statute of limitations is an arbitrary and technical legal rule that has prevented

victims from naming their perpetrators publicly for fear of retaliation and from obtaining justice. Perpetrators and the institutions that protect them benefit from short SOLs and most states and countries shut down most cases, and that is a major reason we knew so little about the pandemic of sex abuse.

It is a medical fact that victims of child sex abuse often need decades to come forward. Scientific research establishes that victims often suffer from negative aftereffects into adulthood, including depression, PTSD, alcohol and drug addiction, and an increased risk of suicide. They are traumatized from the abuse, incapable of processing what happened to them, and often dependent on the adults who perpetrated or caused the abuse. Therefore, short SOLs for child sex abuse play into the hands of the perpetrators and the institutions that cover up for them; they also disable victims' voices and empowerment.

Based on the best science, age 52 is the average age of disclosure for victims of child sex abuse. N. Spröber et al., *Child sexual abuse in religiously affiliated and secular institutions*, BMC Public Health, Vol. 14, at p. 282 (March 27, 2014).<sup>1</sup> Yet, until recently, many states blocked criminal charges and civil lawsuits well before age 52. By the time most victims were ready to come forward, the courthouse doors were locked.

As the following graphic demonstrates, the average age for disclosure of child sex abuse is age 52 and the median age is 48. While any extension of the civil SOLs is an improvement, AB 218 proposes a modest extension to age 40 (age of majority, 18, plus 22 years), which is well below the average and median ages of disclosure for victims of child sex abuse. Further, the best way to ensure justice for all victims is to prospectively eliminate the civil statutes of limitation. Nine states have no civil statute of limitations for child sex abuse for at least some claims, having eliminated the civil SOLs prospectively.<sup>2</sup> To learn more about the current landscape of SOL reform, visit, [www.childusa.org/2019sol](http://www.childusa.org/2019sol).

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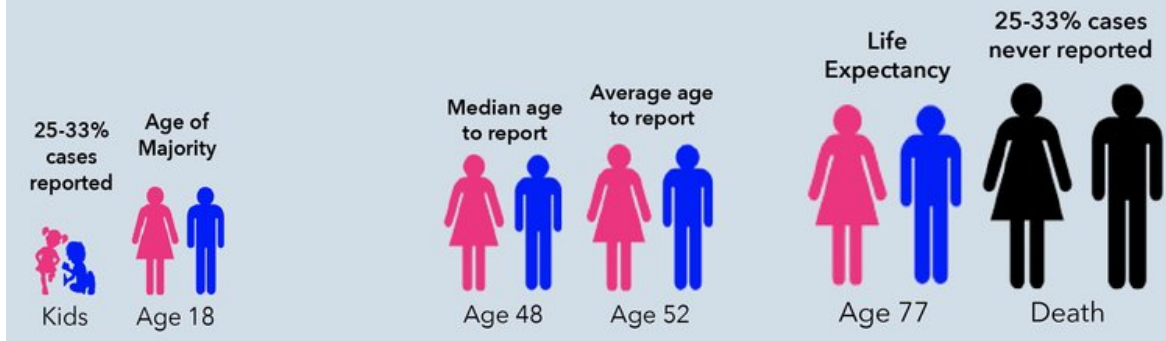
<sup>1</sup> <https://www.clinicalkey.com/#!/content/medline/2-s2.0-24669770>

<sup>2</sup> AK, CT, DC, DE, FL, IL, ME, MN, NE, UT

# DELAYED DISCLOSURE



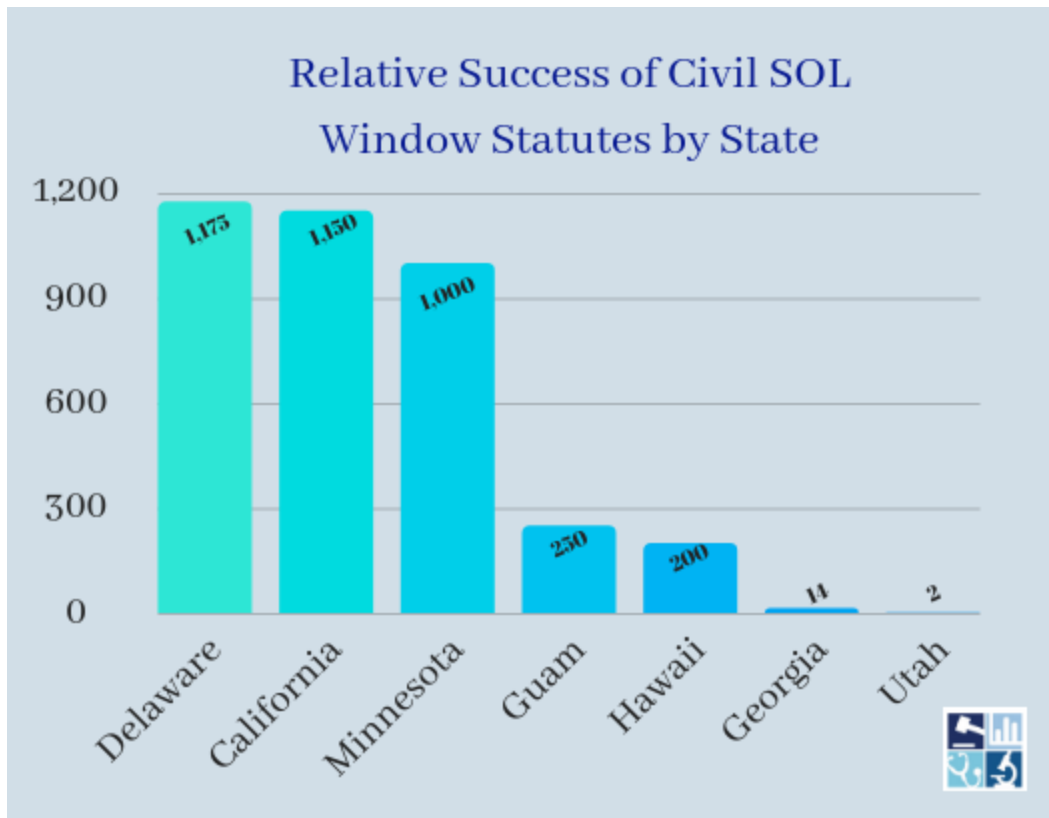
Most child victims of sexual assault disclose, if they disclose at all, during adulthood, with a median age of 48 and an average age of 52.



Ten states have enacted SOL Revival Legislation, which revives the expired SOL, with California leading the way in 2003.<sup>3</sup> The states that have revived expired civil SOLs have learned about hidden child predators while empowering victims. These revival windows help to identify many previously unidentified perpetrators, making the state safer.

As demonstrated by the chart below, the states that have revived expired SOLs have not been burdened by a large number of cases. As compared to the state population, the numbers have been quite small, but the impact on child protection has been large. In California, during 2003 when the civil SOL was revived, 300 predators were identified to the public that had not been identified before. The problem with the 2003 window was that many victims did not understand that it would close and missed the opportunity. AB 218 would create a three-year lookback window, reviving expired SOLs for victims from the past who have been shut out of justice due to a procedural deadline.

<sup>3</sup> California, 1-year window (2003); Connecticut, revival to age 48 (2010); Delaware, 2-year revival window, followed by an additional window for healthcare providers who were not covered by the initial window (2007-09); Georgia, 2-year window against the perpetrator only (2015-17); Hawaii, 2-year window (2018); Massachusetts, revival up to age 53 against perpetrator and revival with 7-year delayed discovery rule against institutions (2014); Michigan, 90-day window for victims of Larry Nassar (2018); Minnesota, 3 year revival window (2013-16); Utah, retroactive revival window against perpetrator to age 53 or 3 years after enactment, whichever is later (2016); New York, one-year revival window against perpetrators and responsible institutions beginning 6 months after enactment (signed on Feb. 14, 2019); *see also* Washington DC, 5-year window to age forty with five-year delayed discovery rule (2019; \*Mayor approved, but must be passed by Congress).



This Bill would also enable claims to proceed against an institution that owed and violated a duty of care to the victim and acted negligently. This institutional liability is essential to the quest for justice for victims, and I commend California for recognizing the central importance of holding institutions accountable for their role in covering up childhood sexual abuse.

**There are three compelling public purposes served by child sex abuse statute of limitations reform that extends civil and/or criminal SOLs and revives expired civil SOLs:**

- (1) **SOL reform *identifies previously unknown child predators to the public to protect children in the future;***
- (2) **It *shifts the cost of abuse from the victim and the state to the ones who caused it;* and**
- (3) **It *educates the public about the prevalence and harm from child sex abuse so that families and the legal system can protect children more effectively.***

For current victims, California law now halts civil lawsuits against the perpetrator at age 26 with a three-year delayed discovery rule, allowing victims up to 3 years to file a claim after discovering an injury caused by the abuse. Assembly Bill 218 would extend the limitations period to age 40 (twenty-two years from the

age of majority, age 18) with a five-year discovery rule. Although prospective elimination is the gold standard, these extensions will go far to protect children in the future.

Every year, SOL reform moves forward. For an analysis from 2002 through 2018, see CHILD USA's 2018 SOL Report at <https://www.childusa.org/sol-report-july-2018>.

There is a worldwide epidemic of child sex abuse, with at least one in four girls and one in six boys sexually assaulted before they turn 18. The vast majority of claims expire before the victims are capable of getting to court. This bill would expand access to justice for the children of California by making it possible for victims to come forward and identify their perpetrators in a court of law. It would also shift the cost of abuse from the victims to the ones who caused it and bring delayed, but still welcome, justice to these victims. SOL reform validates victims and puts perpetrators and institutions on notice that the state stands with the victims.

Once again, I applaud you for introducing legislation that will help child sexual abuse victims. California's children deserve the passage of Assembly Bill 218 to protect them today and in the future, and to achieve justice for the many victims still suffering in silence.

Please do not hesitate to contact me if you have questions regarding SOL reform or if I can be of assistance on other child protection issues.

Sincerely,



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