

**TO:** Chairman Robert Craven, House Committee on Judiciary  
RI State House, Room 205  
82 Smith St., Providence, RI 02903

**CC:** Vice Chairwoman Carol Hagan McEntee (sponsor)

**FROM:** Marci A. Hamilton

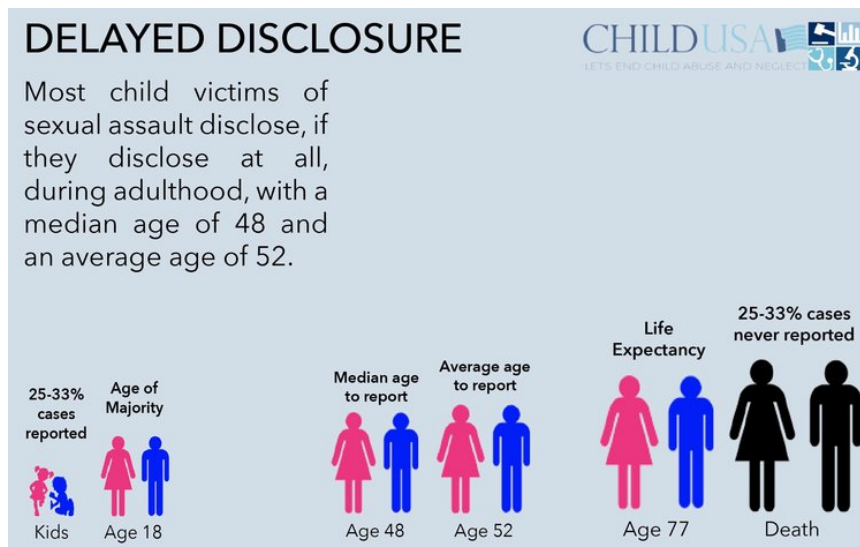
**RE:** Statute of Limitations Reform for Child Sex Abuse Victims

**DATE:** January 28, 2019

I commend you and the Committee for taking up House Bill 5171, which would extend the statute of limitations for victims of childhood sexual abuse for thirty-five years and revive expired statutes of limitations for sexual assault for three years. If passed, it will make Rhode Island a leader in 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 also a Distinguished Scholar in the Program for Research on Religion. 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 retroactive statutes of limitations with respect to child sex abuse and have advised many child sex abuse victims on constitutional issues. CHILD USA is the leading organization to track the SOLs for child sex abuse, providing an overview of statute of limitations reform for child sex abuse.

Historically, a wall of ignorance and secrecy has been constructed around child sex abuse. The twenty-first century is the first century in which we have successfully broken through that wall only to discover a horrifying sight: millions of adults who were sexually abused as children have been living in the darkness of shame, intimidation, and humiliation. We now know that the average age of disclosure for adult victims of child sex abuse is 52.



Studies establish that child sex abuse survivors have an inherently difficult time coming forward. Yet, it is in society's interest to have sex abuse survivors identify hidden child predators to the public—whenever the survivor is ready.

An arbitrary and technical legal rule has kept survivors from naming their perpetrators publicly or obtaining justice-- “statutes of limitation,” or SOLs. SOLs are judicial housekeeping rules: they set the deadline for pressing criminal charges or filing a civil lawsuit. Perpetrators and the institutions that protect them benefit from short SOLs and until recently, most states and countries shut down most cases, and that is a major reason we knew so little about the epidemic of sex abuse.

We had heard of “incest” and “sex abuse” but they were sporadic, individual accounts and the media declined to cover the issue for fear of offending readers. Starting in 2002, the first glimpse of the scope of abuse in the Catholic Church was revealed by the *Boston Globe's* Spotlight investigative reporting team. That investigative report brought to the forefront the paradigm of an institution putting its image and power ahead of children's safety. The findings of that groundbreaking report built the framework for the outline of the child sex abuse problem that has come to light. Exposure of child sex abuse across other institutions and society has begun to emerge, and institutional scandals have piled up, with more institutions and perpetrators revealed to the public each succeeding year. There was the sexual abuse by football coach Jerry Sandusky at the Pennsylvania State University, and then the abuse in numerous private boarding schools. This was followed by the exposure of sexual abuse of hundreds of young female athletes by former USA Gymnastics Olympic Team doctor, Larry Nassar, and the even more recent exposure of abuse of hundreds of young men by Dr. Reginald Archibald at the prominent Rockefeller University Hospital in New York. The St. George School in Rhode Island is yet another example of child victims being disregarded. In every instance, children were endangered by adults who put their interests second and by a justice system that was indifferent to child sex abuse victims.

The only ones who benefit from secrecy are perpetrators and institutions that avoid accountability for the devastation they caused. Society and survivors are the ones who pay for delayed and denied justice. Perpetrators and institutions benefitted from short SOLs and until recently, most states shut down most cases. That is a major reason we knew so little about the epidemic of sex abuse.

There is an ongoing political struggle by victims of child sex abuse to obtain access to justice for victims in three categories: those abused in the past; in the present; and in the future. They are fighting to eliminate and revive expired SOLs to create access to justice and identify hidden child perpetrators.

It is a medical fact that victims of child sex abuse often need decades to come forward. 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, and disable victims' voices and empowerment.

As a result of all of this information coming to light, there is a national and global movement for SOL reform. Dozens have states have considered and passed significant SOL

reform. In 2018 alone, 15 states considered bills. The trend is toward elimination of civil and criminal SOLs and the revival of expired civil SOLs.

At this point, well over half of the states have eliminated the SOLs for at least the most serious child sex abuse crimes. Some states attempted to revive expired criminal SOLs, but the United States Supreme Court, in a very close decision, held that it is unconstitutional to revive an expired criminal SOL. *Stogner v. United States* (1993). Therefore, for the victim whose criminal SOL has expired, the only option is to file a civil suit.

Thirty-nine states, including Rhode Island, have eliminated the criminal statute of limitations for at least some crimes. This is progress—however Rhode Island still has work to do to protect its children. Rhode Island law currently contains a seven-year limitations period for filing a claim of sexual abuse. House Bill 5171 would extend the limitations period to thirty-five years from the act of abuse with an additional generous seven-year discovery period for victims. If passed, Rhode Island will become a leader in protecting children.

Nine states have no civil statute of limitations for child sex abuse for at least some claims, having eliminated the civil SOLs prospectively.<sup>1</sup>

Nine states have enacted SOL Revival Legislation—this legislation revives the expired SOL for a set period of time.<sup>2</sup> The states that have revived expired SOLs have not experienced a large number of cases. These revival windows help to identify many previously unidentified perpetrators, making the state safer. In California, during 2003 when the civil SOL was expired, 300 predators were identified to the public that had not been identified before. This Bill would create a three-year lookback window, reviving expired SOLs for victims who had previously unable to file a claim against a perpetrator due to a procedural deadline. This Bill would also enable claims to proceed against an institution that owed and violated a duty of care to the victim, and there is a finding of negligence. This institutional liability is essential on the quest for justice for victims, and I commend Rhode Island for recognizing the importance of holding institutions accountable for their role in covering up childhood sexual abuse.

The universal experience in states that have introduced revival windows is that window legislation identifies hidden child predators; it provides an outlet for justice for some survivors, but it produces at most a modest number of claims. This is not a law that yields anything close to an avalanche of claims. It is my view, based upon studying all states that have revived expired SOLs against both perpetrators and the institutions that protect them, that this is the clearest path to justice.

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<sup>1</sup> AK, CT, DE, FL, IL, ME, MN, NE, UT

<sup>2</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 to age 53 against perpetrator, civil SOL against institutions revived + 7 years with discovery (2014); Michigan, 90-day window for victims of Larry Nassar (2018); Utah, retroactive revival to age 50, 2 year window against perpetrator only (2016); New York, one-year revival window against perpetrators and responsible institutions beginning 6 months after enactment (2019); Washington DC, 5 year window to age forty with five year delayed discovery rule (2019).

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 protect the children of Rhode Island by making it possible for victims to come forward and identify their perpetrators in a court of law. It would also bring delayed, but still welcome, justice to these victims.

There are three compelling public purposes served by window legislation:

- (1) It identifies previously unknown child predators to the public so children will not be abused in the future;
- (2) It gives child sex abuse survivors a fair chance at justice; and
- (3) It educates the public about the prevalence and harm from child sex abuse so that families and the legal system can protect victims more effectively.

Once again, I applaud you for introducing legislation intended to help child sexual abuse victims. Rhode Island's children deserve the passage of House Bill 5171 to protect children today and in the future, and to achieve justice for the many victims still suffering in silence. This bill creates a path to justice for victims of child sex abuse in the state of Rhode Island.

Please do not hesitate to contact me if you have questions regarding SOL reform or if I can be of assistance in any other way.



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