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Child Sex Abuse Statutes of Limitation Reform from 2002 to 2019

2019 Annual Report: A National Overview of the Movement to Prevent Child Sex Abuse and Empower Victims through Statutes of Limitation Reform Since 2002

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Lead Author: Prof. Marci A. Hamilton, Esq.
Founder, CEO, and Academic Director, CHILD USA
Fox Professor of Practice, University of Pennsylvania
mhamilton@childusa.org
(215) 539-1906

Contributing Authors: Alice Nasar Hanan, Esq., Staff Attorney
Alice Bohn, Esq., CHILD USA Legal Fellow

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Institute at CHILD USA

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I. INTRODUCTION

The United States is in the midst of a civil rights movement for children and especially the victims of child sex abuse. An important first step in the war to empower these victims is to establish effective access to justice. For too long, civil and criminal statutes of limitation (SOLs)—the arbitrary deadlines for filing claims—have been unfairly short. They have silenced victims, endangered children, favored perpetrators, and held reckless institutions unaccountable. That is changing.

2019 is a banner year for child sex abuse SOL reform as we reached a tipping point in 2018 with three historic developments: the media coverage of dozens of brave survivors of Dr. Larry Nassar testifying in open court; the release of Pennsylvania Attorney General Josh Shapiro’s grand jury investigation into six Roman Catholic dioceses showing the pattern of abuse and cover up that continues within the Church; and Julie K. Brown’s reporting for the *Miami Herald* on the lax punishment of Jeffrey Epstein’s far-flung child sex trafficking operation serving some of the most powerful men in the world.

In 2019, more new laws were passed than any year since 2002. Twenty-three states and Washington D.C. have amended their SOLs, and many still have bills pending or plans to revisit the issue in 2020.¹ The movement is occurring on three fronts: (1) elimination of criminal SOLs; (2) extension and elimination of civil SOLs; and (3) revival of expired civil SOLs.

A Banner Year For SOL Reform

2019 SOL REFORM
New SOL Laws Now in Effect for Child Sex Abuse in 23 States & D.C.

- 9** **Extended Criminal SOL**
IA, IN, ME, NY, NC, ND, PA, UT, WA
- 13** **Eliminated Criminal SOL**
CO, CT, IL, MT, NE, NV, NY, PA, TN, UT, VT, WA, DC
- 15** **Extended Civil SOL**
AL, AZ, CA, CT, IL, MT, NJ, NY, NC, PA, RI, TN, TX, UT, DC
- 1** **Eliminated Civil SOL**
VT
- 9** **Window or Other Revival Law**
AZ, CA, MT, NJ, NY, NC, RI, VT, DC

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¹ See Child USA 2019 SOL Summary for full SOL legislative activity in 2019 at CHILDUSA.ORG, <https://www.childusa.org/2019sol> (last visited Dec. 3, 2019) and Child USA 2020 SOL Summary for full SOL legislative activity this year at CHILDUSA.ORG, <https://www.childusa.org/2020sol> (last visited Feb. 24, 2020).

This movement was first spurred by the *Boston Globe*'s groundbreaking Spotlight series on the cover up of clergy sex abuse by Cardinal Bernard Law in the Boston Archdiocese, published in January 2002,² which was honored with prizes from the Pulitzer Awards to an Academy Award for the Best Picture of the Year.³ There is little question that the series was a towering journalistic accomplishment. It was also a turning point in the history of child protection as the public finally saw the outlines of a paradigm of sex abuse in trusted institutions. The Spotlight series brought to the fore the broad themes of institution-based child sex abuse: powerful men motivated by image and self-preservation; calculated ignorance of the clear risks to children; and protection of the abusers within the institution rather than the children. While those in power dithered and/or ignored the horror in plain sight, the perpetrators were permitted latitude to abuse countless children. The story was picked up around the world, and clergy sex abuse became standard content in headlines everywhere.

Cardinal Law's recklessness appeared so brazen that, at first, some people believed the problem had to be limited to the Boston Archdiocese. For example, Sen. Rick Santorum blamed it on liberalism specific to Boston: "While it is no excuse for this scandal, it is no surprise that Boston, a seat of academic, political and cultural liberalism in America, lies at the center of the storm."⁴ Not long thereafter, Philadelphia District Attorney Lynne Abraham initiated the most comprehensive grand jury investigation into Archdiocesan clergy sex abuse at the time. The 2005 Grand Jury Report on Sex Abuse in the Philadelphia Archdiocese established that the cover-up of child sex abuse by dozens of priests in the Philadelphia-area Catholic dioceses was not related to liberalism. Rather, it was a pattern that repeated itself in parish after parish, and eventually diocese after diocese, state after state, and eventually one country after another.⁵

The *Spotlight* paradigm created numerous new ways for the public to comprehend child endangerment embedded in institutions. Patterns that were formerly masked became visible as institutional dominos started to fall. The church reports were followed by disturbing stories about other religious organizations⁶ and the "perversion files" in the Boy Scouts of America.⁷ Then the other secular institutional scandals began to appear, starting with Penn State and Jerry Sandusky. From there, abuse in many other institutions surfaced, like elite boarding schools, sports teams, and other youth-serving organizations. The question must be answered, however, whether the knowledge yielded about the Boston Archdiocese and its progeny resulted in lasting change that would protect children in the future.

² Michael Rezendes, *Church Allowed Abuse by Priest for Years*, THE BOSTON GLOBE: SPOTLIGHT SERIES (Jan. 6, 2002), <https://www.bostonglobe.com/news/special-reports/2002/01/06/church-allowed-abuse-priest-for-years/cSHfGkTIrAT25qKGvBuDNM/story.html>; see also <http://www.bostonglobe.com/arts/movies/spotlight-movie>.

³ SPOTLIGHT (Universal Home Studios 2015).

⁴ Rick Santorum, *Fishers of Men*, CATHOLIC ONLINE (2002), <http://www.catholic.org/featured/headline.php?ID=30>. See also Marci Hamilton, *How Senator Rick Santorum, In Acting for His Church, Persistently Fails to Consider the Larger Public Good*, FINDLAW (Aug. 11, 2005), <http://supreme.findlaw.com/legal-commentary/how-senator-rick-santorum-in-acting-for-his-church-persistently-fails-to-consider-the-larger-public-good.html>.

⁵ COMMONWEALTH OF PENNSYLVANIA: OFFICE OF THE ATTORNEY GENERAL, A REPORT OF THE THIRTY-SEVENTH STATEWIDE INVESTIGATING GRAND JURY (April 2014), <https://www.scribd.com/document/301459233/Grand-jury-report-on-Altoona-Johnstown-Catholic-Diocese>. See also www.bishopaccountability.org (leading archive of sex abuse in the Catholic Church).

⁶ For example, the Jehovah's Witnesses. Hemant Mehta, *Dozens of Alleged Victims Share Stories of Abuse Within the Jehovah's Witnesses*, PATHEOS (Mar. 26, 2018), <http://www.patheos.com/blogs/friendlyatheist/2018/03/26/dozens-of-alleged-victims-share-stories-of-abuse-within-the-jehovahs-witnesses/>.

⁷ Paul Dugan, *Boy Scout 'perversion files' released*, WASH. POST (Oct. 18, 2012), https://www.washingtonpost.com/local/crime/boy-scout-perversion-files-released/2012/10/18/62c7a6ec-1940-11e2-b97b-3ae53cdeaf69_story.html?utm_term=.fb006cc70429.

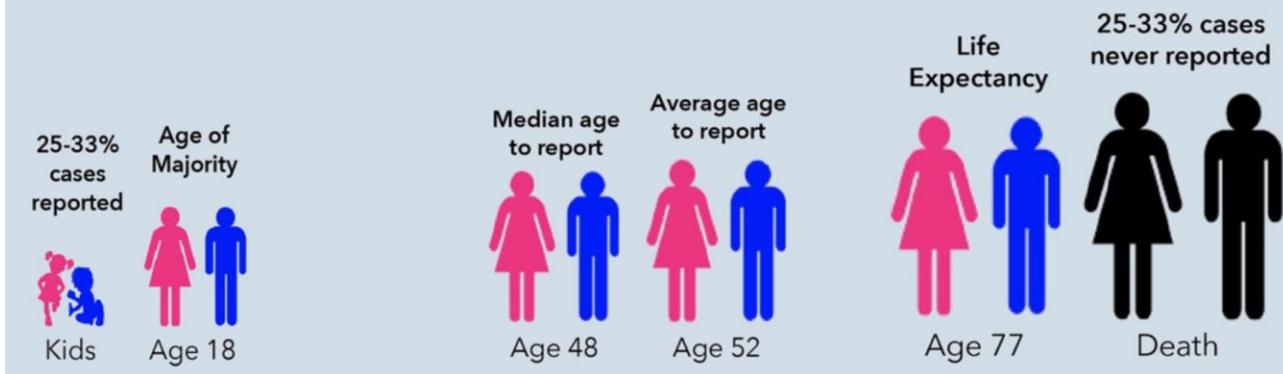
The revelations of institution-based abuse contributed to large numbers of victims coming forward at roughly the same time. Barbara Blaine, President of SNAP, or the Survivors Network of Those Abused by Priests, held vigils of survivors holding pictures of themselves at the age when they were abused in dioceses across the country. The media covered these demonstrations and the public started asking about justice. However, surprisingly for many, the two paths to justice—criminal prosecution and civil lawsuits—were unavailable for the vast majority of the victims. They could not prosecute or file civil lawsuits, because they had missed the arbitrary procedural deadlines, the SOLs, for their claims.

Most of the victims missed the deadlines because of the delayed disclosure that is common among child sex abuse victims. Only 25-33% of victims disclose in childhood, and 33-70% disclose in adulthood, with studies finding age 48 as the median and age 52 as the average age of disclosure.⁸ The reasons for delay are specific to each individual, but often involve mental and/or physical health issues that result from the sex abuse (e.g., depression, PTSD, substance abuse, alcoholism, and physical ailments) and the large power differential between the child victim and the adult perpetrator, as well as the power dynamics of the institution.

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.



⁸ See N. Spröber et al., *Child sexual abuse in religiously affiliated and secular institutions*, BMC PUBLIC HEALTH, Vol.14 (March 27, 2014); G. Priebe & C. Svedin, Child sexual abuse is largely hidden from the adult society, 32 CHILDHOOD ABUSE AND NEGLECT 1095, 1105 (2008) (acknowledging that of adults who disclose childhood abuse, only 6%-15% of disclosures are made to authorities, whereas most individuals disclose to friends); Kamala London, Maggie Bruck and Stephen J. Ceci, *Disclosure of Child Sexual Abuse: What Does the Research Tell Us About the Ways That Children Tell?*, 11 Psychol. Pub. Pol’y and L. 194 (2005). See also www.childusa.org/law (delayed discovery graphic of ages at which victims of child sex abuse come forward).

The institutional disclosures revealed a callous disregard for the welfare of children. When the SOLs blocked justice for the victims and simultaneously protected the perpetrators and institutions, a strong argument was made to do away with the SOLs: this deadline appeared to be patently unfair. I wrote *Justice Denied: What America Must Do to Protect Its Children* (Cambridge University Press), because, at the time, I believed that the law was simply a mistake to be corrected. I learned that there are vested interests in the United States determined to keep victims out of court including the Catholic bishops, insurance industry, teachers' unions, the ACLU, defense attorneys, and the chambers of commerce.⁹ One of the reasons 2019 is a banner year for SOL reform is that their arguments against victims' access to justice have been debunked.

There were two classes of child sex abuse victims to consider: (1) the children currently being abused and (2) the adult victims whose claims had expired.

For the children at risk right now, prospective elimination of the civil and criminal SOLs makes the most sense.

For those whose claims had expired, California attempted to revive expired criminal and civil SOLs. The United States Supreme Court held the criminal revival was unconstitutional in *Stogner v. California*.¹⁰ The California civil revival window, though, was found to be constitutional and, therefore, California led the way with its one-year civil window, which was open during the calendar year 2003. The window concept was not a novel approach crafted solely for child sex abuse victims. It was borrowed from the revival of expired SOLs in other contexts where the harm to the individual was not immediately apparent when injury first occurred. For example, veterans exposed to Agent Orange have been permitted to file claims for injury long after exposure.¹¹

While it is difficult to prove direct cause and effect, it is a fact that the pace of legal reform to extend and eliminate the child sex abuse SOLs has been intense since 2002. There has been increasing innovation as states grapple with the challenge of creating justice for victims of a crime no one wants to discuss. It is also a fact that the predominant example of institution-based child sex abuse from 2002 until the Penn State/Jerry Sandusky scandal broke in 2011 was clergy sex abuse in the Catholic Church. The post-2002 clergy sex abuse scandals reinforced the Spotlight-identified paradigm.

Before 2002, there was a trickle of information mostly focused on individual victims, which led the public to believe child sex abuse was relatively uncommon and a problem related solely to individual perpetrators, as opposed to an institutional or society-wide problem. Moreover, the pervasive understanding was that children needed to be protected from "Stranger Danger," while in fact the primary danger rested with parents, priests, teachers, or coaches.

The pace of disclosure by sex abuse victims and the identification of responsible individuals and institutions increased significantly starting in 2002. There was also a pronounced shift from a focus on individuals to a focus on society as a whole. The following is a timeline of widely publicized child sex abuse scandals:

⁹ MARCI A. HAMILTON, *JUSTICE DENIED: WHAT AMERICA MUST DO TO PROTECT ITS CHILDREN* 51-110 (Cambridge University Press 2012) (hereinafter "Justice Denied").

¹⁰ *Stogner v. California*, 539 U.S. 607 (2003), <https://supreme.justia.com/cases/federal/us/539/607/>.

¹¹ Marci A. Hamilton, *The Time Has Come for a Restatement of Child Sex Abuse*, 79 BROOKLYN L. REV. 397 (2014).

- 1977.** Roman Polanski (CA).
- 1985.** Fr. Gilbert Gauthe, Louisiana dioceses (LA).
- 1987.** Bob Villard (CA).
- 1986.** Thayer Academy (MA).
- 1991.** Washington Times investigative report on pervasive sex abuse in Boy Scouts.
- 1992.** Woody Allen (NY).
- 1993.** Mount Alvernia High School (MA).
- 1995.** Notre Dame Academy (MA); Phillips Academy (MA).
- 1996.** USA Volleyball (IL).
- 1997.** Washington Academy (ME).
- 1998.** Cheverus High School (ME). Solomon Schechter Day School (MA).
- 2000.** Austin Preparatory School (MA); Kent Hills School (ME); St. Paul’s School (NH).
- 2002.** Boston Globe discloses Boston Archdiocese (MA); Boston College High School (MA); Catholic Memorial School (MA); Manchester Diocese (NH); Cincinnati Diocese (OH); Cardinal Spellman High School (MA); Spokane Diocese (WA); Bridgeport Diocese (CT); Tucson Diocese (AZ); Davenport Diocese (IA); Toledo Diocese (OH).
- 2003.** Linden Hill School (MA); Riverview School (MA); Saint Thomas More School (CT); Philadelphia Archdiocese (PA); Los Angeles Diocese (CA); San Diego Diocese (CA); Orange Diocese (CA).
- 2004.** John Dewey Academy (MA); Jason Michael Handy (CA); Portland Archdiocese (OR).
- 2005.** Bill Cosby – first rape allegation made public; The Loomis Chaffee School (CT); Chicago Archdiocese (IL); Burlington Diocese (VT); Hartford Archdiocese (CT).
- 2006.** Berkshire School (MA); Eagle Hill School (CT); Lyndon Institute (VT); Maine Central Institute (ME); Milton Academy (MA); St. Dominic Savio Preparatory High School (MA). Charles Bennison – Episcopal Church (PA); Wilmington Diocese (DE).
- 2007.** Baptist Church (TX); USA Judo (OH); Miami Archdiocese (FL).
- 2008.** Buckingham Browne & Nichols School (MA); Cardigan Mountain School (NH); Tony Alamo Christian Ministries (AR, IN).
- 2009.** Cathedral High School (MA); Yona Weinbeg, ultra-Orthodox Jew (NY); The Cambridge School of Weston (MA); Williston Northampton School (MA).
- 2010.** U.S. Women’s Swimming; Assumption Catholic School (CT); Brewster Academy (NH); Notre Dame Academy (MA); St. Stanislaus School (CT); Vermont Academy (VT); St. John’s School for the Deaf (WI).
- 2011.** Jerry Sandusky – Penn State (PA); Syracuse Basketball (NY); Fundamentalist Church of Jesus Christ of Latter-Day Saints (TX); Fessenden School (MA); LA United School District (CA); Christ the King Regional H.S. (NY); Riverside Church basketball program (NY).
- 2012.** Jehovah’s Witnesses (CA). Horace Mann (NY); James Madison High (NY); Monsignor Lynn (PA); Phillips Andover Academy (MA); Carrabassett Valley Academy (ME). Landmark School (MA); Maimonides School (MA); Westover School (CT); Orthodox Jewish Camp Shalva (NY); Yeshiva University (NY); Santa Fe Archdiocese (NM).
- 2013.** Ariel Castro (OH); USA Speed skating; Father Gerald “Jerry” Funcheon (MN); Nicole Dufault (NJ); Brooks School (MA); Brunswick School (CT); Choate Rosemary Hall (CT); Deerfield Academy (MA); Notre Dame Catholic High School (CT); The Park School (MA); The Pike School (MA); The Taft School (CT).
- 2014.** Patrick Henry College (VA); Paks Karate (FL); Fr. James Thoennes (MN). Fruits of the Minnesota Window (MN). Solebury School (PA); Doctor Franklin Perkins School (MA); Miss Porter’s School (CT); Quincy Catholic Academy (MA). Sacred Heart School (MA); Shaker Road

School (NH); St. Mary of the Hills (MA). The Academy at Mount Saint John (CT). The Glenholme School (CT).

2015. AAU Volleyball; Wrestling program, Yorkville High School (Dennis Hastert) (IL); Glade Run Lutheran Services (PA); James Madison High School (NY); Jared Fogle (Subway); Northeast Portland Boys & Girls Club (OR); Sequoia Charter School (AZ); Sunrise Mountain High School (AZ); U.S. Marines & Afghanistan; Plum School District (PA); Pomfret School (CT); Shaloh House Jewish Day School (MA); St. Joseph School (CT); The Hotchkiss School (CT).

2016. St. George's (RI); Emma Willard School (NY); Berwick Academy (ME); Little League (WV); ABC Kidz Child Care (OH); Phillips Exeter Academy (NH); Michigan State University (MI); USA Gymnastics (IN); U.S. Olympic Committee (CO); Metropolitan Opera (NY); Bethlehem Baptist Church (AL); First Baptist Church (GA); Northeast Georgia Council Boy Scouts of America (GA); Minuteman Border Patrol Group (AZ); Arkansas Department of Human Services (AR); "Mr. Wonder" Show on KNOE-TV (LA); Rawlins Middle School (WY).

2017. Beth Tfiloh Dahan Community School (MD); Camp Shoshon (MD); Pacific Southwest Region of United Synagogue Youth (MN); Louisville Metro Police Department's Youth Explorer Program (KY); Camp Lejeune (NC); Hollywood Film Industry (CA); Orange County High School (VA); Amateur Athletic Union (IL); Sports Performance Volleyball Club (IL); Daphne Elementary School (AL); Apostolic Church of Jesus Christ (AL); University of Alabama in Huntsville (AL); The Darlington School in Rome (GA); Palo Alto Medical Foundation (CA); Dominican Hospital (CA); Roman Catholic Church in Phoenix (AZ); Mesa Police Department (AZ); St. Francis Xavier Church (NY); Stoddert Middle School (MD); Fusion Health Care and Silhouette Medspa (CA); Vungle (CA); Aggressive Christianity Missions Training Corps (NM); Satellite Hotel Churches (CO); Partners Program (CO); Dolores County Sheriff's Office (CO); Kent School (CT); The Brearley School (NY); Kidz Ink 2 Day Care (DE); Kamehameha School (HI); Midwest Academy (IA); Sioux Center Christian School (IA); Parkview Church (IA); The Learning Tree Child Care Center (WI); St. Pius X Catholic School (WI).

2018. Larry Nassar (MI); Pennsylvania Grand Jury Report (PA); (Jehovah's Witnesses Church (NV); U.S. Military (VA); Nichols School (NY); St. Mary's Academy (OR); Randolph Union High School (VT); The Awakening Church (TN); Mount Gilead Baptist Church (AL); City of Highfill Mayor's Office (AR); Highfill United Methodist Church (AR); Palestine-Wheatley High School (AR); The International Water Polo Club (CA); USA Water Polo (CA); Iglesia La Familia De Dios (CA); Fort Carson (CO); New Smyrna Beach Middle School (FL); Roman Catholic Diocese of Boise (ID); Wrestling program, Bergen Catholic H.S. (NJ); Jeffrey Epstein (FL).

2019. Michael Jackson (CA); R. Kelly (IL); Southern Baptist Convention (TX); Roman Catholic Dioceses (NJ, TX, MO, NY); John Coughlin (KS); Theodore McCarrick (DC); James "Doc" Jensen (MT); Roman Catholic Archdiocese of New York (NY); Boy Scouts of America (NY); Dr. Michael Dick (AL); Dr. George M. Tyndall (CA); Dr. Richard Strauss (OH); Dr. Reginald Archibald (NY); Dr. Stanley Weber (MT); Sterling Van Wagenen (UT); George Pell (Australia); Dr. Johnnie Barto (PA); Richard Callaghan (CA).

With so many bad actors and institutions in the headlines and thousands of victims coming forward, the pressure for justice became acute. Most states and the federal government made access to justice, or SOL reform, a priority. Forty-eight states and the District of Columbia, or 96%, have amended their child sex abuse SOLs since January 2002.¹² Many jurisdictions amended their SOLs more than once, e.g., on the civil side, Alaska, California, Connecticut, Delaware, Hawaii, Illinois, Kentucky, Maryland,

¹² The only states to make no improvements to child sex abuse SOLs since 2002 are South Carolina and Wyoming.

Massachusetts, Missouri, Nebraska, New Hampshire, New York, North Dakota, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Virginia and Washington D.C., and on the criminal side, the following states amended the criminal SOL more than once: Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Vermont, Washington, Wisconsin and Washington D.C..

Yet, with all the activity in the states since 2002, only one state, Vermont, and the U.S. territory of Guam have reached the pinnacle of SOL reform, which is to simply eliminate the criminal SOL going forward and the civil SOLs backwards and forwards. Guam was first to do this. First, it enacted a window, but no one took advantage of it. Then, in 2016, Guam became the first jurisdiction to dispense with the child sex abuse SOLs altogether.¹³ The result has been over 270 child sex abuse victims coming forward and the identification of perpetrators like Catholic Archbishop Apuron, who has been accused by at least five victims, and a number of other perpetrators in the church, Boy Scouts, and elsewhere.¹⁴ Vermont followed suit in 2019, eliminating the civil SOL going forward and opening a permanent window reviving all expired claims without any limitation. Vermont is now the SOL reform leader amongst the states.

This study reports on the pace of child sex abuse SOL reform in the federal government, the 50 states, and the District of Columbia. It also ranks the states. Each state was assigned a score for its current civil SOL, current criminal SOL, and an average overall SOL score. The best states for civil SOLs are Delaware, Minnesota New Jersey and Vermont, and the worst are Alabama, Mississippi and South Dakota. Moreover, the worst are in a class by themselves as they have set an age cap on civil claims that is so short as to guarantee that 2/3 of the victims will be denied justice. The rigidity of their formulas combined with the reality of delayed disclosure means that child abusers have the upper hand. Their short deadlines for filing claims incentivize pedophiles to abuse more children.

The best states for criminal SOLs are: Connecticut, Delaware, Illinois, Missouri, Montana, South Carolina and Wyoming.¹⁵ In each of these states, there is simply no criminal SOL for child sex abuse crimes, whether felonies or misdemeanors. The worst are Iowa, Nevada, New Hampshire, North Dakota, Ohio, Oklahoma, and Oregon, each of which forces victims to press charges before age 50 (unless there is DNA evidence).

¹³ Haidee v. Eugenio, *Guam Gov. signs bill ending time limits in child sex cases*, USA Today (Sept. 23, 2016, 5:27 AM), <https://www.usatoday.com/story/news/nation-now/2016/09/23/guam-governor-signs-bill-ending-time-limits-child-sex-cases/90892188/>.

¹⁴ For a summary, see *Bishops Accused of Sexual Abuse and Misconduct: A Global Accounting*, BISHOPACCOUNTABILITY.ORG, http://www.bishop-accountability.org/bishops/accused/global_list_of_accused_bishops.htm#%E2%80%9CApuron%E2%80%9D; <https://www.guampdn.com/story/news/2019/08/15/guam-clergy-sex-abuse-claims-filed-archdiocese-bankruptcy-case/2016819001/> (last visited Sept. 26, 2019); see also James Barron, *Nearly 8,000 Boy Scout Leaders Have Been Accused of Sexual Abuse Since 1944, Researcher Found*, New York Times (Apr. 23, 2019), <https://www.nytimes.com/2019/04/23/nyregion/boy-scouts-sex-abuse.html>.

¹⁵ It is important to understand, however, that for the states that only recently eliminated or extended the criminal SOL, there are still many victims who do not have access to justice. For those victims whose SOLs expired before the recent extension or elimination, there is nothing that can be done for them on the criminal side. It is unconstitutional to revive the expired criminal SOLs. *Stogner v. California*, 539 U.S. 607 (2003). For them, the only hope is to revive expired civil SOLs.

Overall, the best states for child sex abuse SOL reform are Delaware and Vermont. The worst states, Iowa, Mississippi, Ohio and South Dakota, are well behind other states and standing still during this active movement means that they are increasingly out of step with the rest of the country.

II. The State-by-State Developments in Child Sex Abuse Statutes of Limitations After January 2002

A. The States

Alabama

Alabama expanded its criminal SOL and made only one minor improvement to its civil SOL since 2002. Alabama eliminated some of its criminal SOLs in 1985 expanding the list since then, and finally extended its civil SOL in 2019, but it remains one of the four worst states for civil claims. Overall, on a scale of 0-5, where 1 is the worst and 5 is the best, Alabama ranks as a 1.5 (where 1.25 is the lowest average score).

Criminal. In 1985, Alabama eliminated the criminal SOL for rape at any age, any felony involving the use, attempted use, or threat of violence, and, for victims under the age of 16, it eliminated the criminal SOL for all other felony and misdemeanor sexual offenses.¹⁶ This put Alabama at the forefront of child sex abuse criminal SOLs. In successive years, Alabama clarified and expanded the list of sex offenses against victims under age 16 for which there is no SOL: 2011 (rape, sodomy, sexual misconduct, sexual torture, sexual abuse of a child, sexual abuse, indecent exposure enticing, prostitution, incest, pornography, human trafficking); 2016 (foster parent engaging in sex act); 2017 (sexual extortion, directing a child to engage in a sex act); 2018 (foster parent engaging in sex act).¹⁷ The SOL for remaining felonies is five years after the commission of the offense and the SOL for misdemeanors is one year after the commission of the offense.¹⁸

Civil. In 2002 Alabama's civil SOLs were some of the shortest in the country. For personal injury, victims had to file by age 21 (age of majority, 19, plus 2 years), though if the injury involved false imprisonment or assault and battery, they had until age 25 (age of majority, 19, plus 6 years).¹⁹ It wasn't until 2019 that Alabama lengthened its civil SOLs for the first time since 1996. The 2019 law extends the civil SOL for all sex offenses, including sex abuse, prostitution, pornography, and trafficking against a person under 19 years of age to age 25 (age 19 plus 6 years).²⁰ Age 25 is too young to help most victims. Alabama has not passed a window or other SOL revival legislation.

¹⁶ ALA. CODE § 15-3-5. See *Kirby v. State*, 500 So. 2d 79, 80 (Ala. Crim. App. 1986) (no criminal SOL for rape as rape is a capital offense for SOL purposes).

¹⁷ ALA. CODE § 15-20A-5.

¹⁸ ALA. CODE §§ 15-3-1; 15-3-2.

¹⁹ ALA. CODE §§ 6-2-38(1), 6-2-34(1), 6-2-8.

²⁰ *Id.*

Alaska

Alaska has made several changes to its criminal and civil SOLs since 2002. By 2001, it had eliminated SOLs for certain crimes (felony sexual abuse) and civil claims. It expanded the list of eliminated criminal SOLs in 2013, and it eliminated the civil SOL for some other claims in 2003 and more in 2013. On a scale of 0-5, overall, it is a 2.75.

Criminal. By 2001 Alaska had eliminated the criminal SOL for felony sexual abuse of a minor, sex trafficking, and many other crimes involving child sex abuse, including misdemeanor sexual assault in the fourth degree. Other felonies and misdemeanors had an SOL of 5 years from the crime.²¹ In 2013 it removed the SOL for more felonies, including child pornography and sex trafficking of a person under age 20 and added more sexual offenses to the list of crimes that have a 10-year SOL (incest, online enticement of a minor, and unlawful exploitation of a minor).²²

Civil. Since 1990 Alaska's SOL for claims against perpetrators for sexual abuse of a minor under age 16, was age 21 (age of majority, 18, plus 3 years) or 3 years from discovery.²³ In 2001, Alaska eliminated the civil SOL for claims against a perpetrator for felony sexual abuse of a minor and sexual assault. Any remaining claims against perpetrators and other defendants expired at age 20 (age of majority, 18, plus 2 years) or 2 years after discovery, pursuant to a common law discovery rule.²⁴ In 2003, the state started to eliminate the SOL for other categories of crimes. The civil SOL for claims against a perpetrator for unlawful exploitation of a minor was eliminated in 2003, and for felony sex trafficking, in 2013.²⁵ In 2003, the SOL for actions against perpetrators was extended for misdemeanor sex abuse or assault, incest and felony indecent exposure to age 21 or 3 years from discovery.²⁶ Alaska has not passed a window or other SOL revival legislation.

Arizona

Since 2002, Arizona has made some changes to criminal SOLs and it expanded the civil SOLs this year, for the first time. There is no criminal SOL for many felonies, but for the remaining felonies, the SOL expires 7 years after the state discovers the offense. As of 2019, civil claims expire at age 30 and victims can avail themselves of a 19-month revival window for expired claims. On a scale of 0-5, overall, it ranks as a 2.25.

Criminal. As of 2001, Arizona had no SOL for many felony sexual offenses against minors.²⁷ For the remaining felonies it imposes a short criminal SOL for prosecution: 7 years after the state government discovers the offense. The SOL for misdemeanor offenses is one year. The SOL is tolled, which is to say the clock stops running on the 7-year limit, when the perpetrator is out of

²¹ ALASKA STAT. ANN. § 12.10.010(b)(2).

²² ALASKA STAT. ANN. § 12.10.010.

²³ ALASKA STAT. ANN. §§ 09.55.650, 09.10.140.

²⁴ ALASKA STAT. ANN. §§ 09.10.140, 09.10.170, 25.20.010; *See Reasner v. State Dep't of Health & Soc. Servs.*, 394 P.3d 610, 614 (Alaska 2017), *as amended* (May 19, 2017) (discussing common law discovery rule and when claim accrues).

²⁵ ALASKA STAT. ANN. § 09.10.065.

²⁶ ALASKA STAT. ANN. §§ 09.10.065, 09.10.140, 25.20.010.

²⁷ ARIZ. REV. STAT. ANN. §§ 13-107, 13-1423.

state or has no “reasonably ascertainable place of abode within the state.” The criminal SOL is also tolled when the identity of the perpetrator is unknown.²⁸ The criminal SOL was eliminated for additional felony offenses against minors under age 15: aggravated luring for sexual exploitation in 2008, unlawful sexual conduct by probation department or court employee in 2011, unlawful sexual conduct by peace officer in 2015 and sexual extortion in 2018.²⁹

Civil. The civil SOL in 2002 was capped at age 20 (age of majority, 18, plus 2 years).³⁰ There is also a common law discovery rule that tolls the statute of limitations until “the plaintiff retrieves repressed memories of the abuse.”³¹ In 2019, Arizona extended the civil SOL to age 30 and opened a 19-month revival window for expired claims.³²

Arkansas

Arkansas has made multiple changes to its criminal SOLs and no changes to its civil SOLs since 2002. Arkansas extended the criminal SOL in 2011 and then two years later eliminated it for some felony offenses, but it has made no changes to its civil SOL since 1993. On a scale of 0-5, overall, it ranks as a 1.5 (where 1.25 is the lowest average score).

Criminal. As of 2002, Arkansas’s criminal SOL was 15 years from the offense for felony rape and for some child sex abuse felonies it was age 24 (age of majority, 18, plus 6 years) if the crime was not previously reported to police. The remaining felonies had an SOL of 6 years from the offense and 1 year for misdemeanors. In 2003, more sex abuse crimes were added to the list of offenses for which the 6-year SOL could be tolled until age 18. In 2005 Arkansas extended and then in 2009 eliminated the SOL if the perpetrator is identified by DNA evidence. In 2011, Arkansas changed the SOL for many sex abuse felonies and misdemeanors to age 28, and then eliminated the criminal SOL for felony rape, sex assault, incest, pornography and others in 2013.³³

Civil. Those who are sexually abused in Arkansas have until age 21 (age of majority, 18, plus 3 years) or 3 years after the victim discovers she was injured and the injury was caused by the sex abuse.³⁴ This civil SOL has not changed since 1993 and Arkansas has not passed a window or other SOL revival legislation.

California

California has been a leader in child sex abuse criminal and civil SOL innovation since 2002. In 2014, it extended the criminal SOL to age 40 and then eliminated it for felony sex crimes in 2017. In 2003, it enacted a one-year civil window. This year, California enacted another, longer 3-year window and extended the SOL to age 40 or five years after discovery. On a scale of 0-5, overall, it ranks as a 3.75.

²⁸ ARIZ. REV. STAT. ANN. § 13-107.

²⁹ ARIZ. REV. STAT. ANN. §§ 13-3560, 13-1409, 13-1412, and 13-1428.

³⁰ ARIZ. REV. STAT. ANN. §§ 12-542, 12-502.

³¹ *Doe v. Roe*, 955 P.2d 951, 959 (Ariz. 1998).

³² ARIZ. REV. STAT. ANN. § 12-514. The revival window will close on December 31, 2020.

³³ ARK. CODE ANN. § 5-1-109.

³⁴ ARK. CODE ANN. §§16-56-130(a), 16-56-116, 9-25-101.

Criminal. Before 2002, California enacted a law that would revive expired criminal SOLs by allowing prosecution one year after reporting to law enforcement for abuse that happened while a victim was a minor, but it was held unconstitutional in *Stogner v. California*.³⁵ As of 2002, the SOL for felony sex offenses was 3 or 6 years from the offense depending on the crime or age 19, whichever was later.³⁶ Misdemeanor annoying or molesting a child under 18 has an SOL of three years after the date of the offense where the victim is under 14 years of age.³⁷ All other misdemeanors have an SOL of one year after the date of the offense. California also has had a DNA statute that permits prosecution within 1-year of DNA identification for sex crimes if the DNA is analyzed in a timely manner since 2005.³⁸ In 2004, the criminal SOL for felonies was extended to 10 years after the offense and in 2006 pornography was added to this SOL.³⁹ In 2014, California extended the criminal SOL from age 28 to age 40 and expanded the crimes included for this SOL in 2018.⁴⁰ In 2017 California eliminated the SOL for many felony sex offenses, including rape, molestation, and sexual abuse.⁴¹

Civil. In 2002, the SOL was age 26 or discovery plus 3 years, whichever was later. In 2003, in direct response to the revelations about the Boston Archdiocese, California enacted a 1-year window, which revived civil claims during the 2003 calendar year.⁴² In 2019, California successfully passed an SOL amendment that extends the civil SOL to age 40 (age of majority, 18, plus 22 years), extends the discovery rule to 5 years, and opens a 3-year revival window starting January 1, 2020. This new window is an improvement over the 2003 window, because it is longer and, unlike its predecessor, it allows previously expired claims to be brought against the government as well as perpetrators and institutions.⁴³

Colorado

Colorado has made few changes to its SOLs since 2002. By 2006, Colorado had eliminated all criminal SOLs for child sex abuse, which put it in front of most states. But its civil SOL, which is mediocre, has not changed since 1999. On a scale of 0-5, overall, it ranks as a 1.75.

Criminal. In 2002, Colorado set the SOL for sex crimes against children at age 28 (age of majority, 18, plus 10 years). As of 2006, Colorado eliminated the SOLs for all felony sex offenses against children.⁴⁴ In 2019, Colorado added unlawful electronic sexual communication to its list of felony sex offenses against children for which there is no SOL, however misdemeanor crimes still have an SOL of 18 months from the offense.⁴⁵

³⁵ *Stronger v. California*, 539 U.S. 607 (2003) (holding West's Ann. Cal. Penal Code § 803 unconstitutional).

³⁶ CAL. PENAL CODE §§ 799, 800, 801, 801.1, 803.

³⁷ CAL. PENAL CODE § 802.

³⁸ CAL. PENAL CODE § 803.

³⁹ CAL. PENAL CODE §§ 799, 801.1, and 801.2.

⁴⁰ *Id.*; CAL. PENAL CODE § 803.

⁴¹ *Id.*

⁴² CAL. CIV. PROC. CODE § 340.1.

⁴³ A.B. 218, 2019 Gen. Assemb., Reg. Sess. (Cal. 2019).

⁴⁴ COLO. REV. STAT. ANN. §§ 16-5-401(1)(a), 18-3-411.

⁴⁵ *Id.*

Civil. In 1990, Colorado set the SOL for claims against perpetrators of a sexual offense against a child at age 24 (age of majority, 18, plus 6 years) or 6 years from accrual.⁴⁶ Other claims are subject to Colorado's general 2-year SOL for negligence and expire at age 20 (age of majority, 18 plus 2 years) or 2 years from accrual.⁴⁷ Case law recognized a discovery rule in 1999, which pushes accrual of the SOL out to any age at which the victim discovers that an injury was caused by the sex abuse.⁴⁸ Several attempts have been made to enact a window, which would revive expired SOLs, but they have been unsuccessful.⁴⁹

Connecticut

Connecticut has amended its criminal and civil SOLs since 2002 with the most significant changes for criminal in 2019 and for civil in 2002. This year, Connecticut eliminated the criminal SOL for a broad range of sex abuse felonies and misdemeanors; it also extended its civil SOL to age 51. On a scale of 0-5, overall, it ranks as a 3.25.

Criminal. By 2002, Connecticut eliminated the criminal SOL for 1st degree sexual assault and in 2007, for aggravated sexual assault of a minor.⁵⁰ For all other sex abuse crimes, the SOL was age 48 (age of majority, 18, plus 30), or within five years of reporting to police, whichever was earlier.⁵¹ By 2000, there was a DNA statute which extended the SOL for sexual assault to 20 years from the offense and then in 2007 eliminated it completely, if it was reported within 5 years and there was a match.⁵² In 2019, the state significantly broadened the elimination of criminal SOLs by removing the SOL for any felony or misdemeanor offense against a minor involving sexual abuse, sexual exploitation, or sexual assault.⁵³

Civil. Before 2002, Connecticut's civil SOL was age 35.⁵⁴ In 2002, however, the state eliminated the civil SOL for any claim that led to a 1st degree aggravated or sexual assault conviction, and for all other claims, extended the SOL to age 48. The extension was retroactive so that Connecticut victims up to age 48 (age of majority, 18, plus 30 years), whether or not the claim previously expired, could sue for damages.⁵⁵ If a cause of action is fraudulently concealed

⁴⁶ COLO. REV. STAT. ANN. § 13-80-103.7.

⁴⁷ COLO. REV. STAT. ANN. §§ 13-80-101, 13-80-102. In 1986 the SOL for negligence was reduced to 2 years, though in the years prior negligence had a 6-year SOL. *In re ARCHDIOCESE OF DENVER CASES - GROUP I.*, 2008 WL 5082788 (Colo. Dist. Ct.).

⁴⁸ The discovery rule tolls the civil SOL, until the victim has discovered that the injury and its cause are known or should have been known by reasonable diligence. *Sailsbery v. Parks*, 983 P.2d 137, 138 (Colo. App. 1999) (Section "13-80-108, C.R.S.1998, provides that a cause of action accrues on the date 'both the injury and its cause are known or should have been known by the exercise of reasonable diligence.'").

⁴⁹ MARCI A. HAMILTON, *JUSTICE DENIED: WHAT AMERICA MUST DO TO PROTECT ITS CHILDREN* 54-58, 90-109 (Cambridge University Press 2012) (hereinafter "Justice Denied").

⁵⁰ CONN. GEN. STAT. §§ 54-193, 53a-70c. The SOL was eliminated for Class A felonies, which included 1st degree sexual assault, 1st degree aggravated sexual assault and aggravated sexual assault of a minor.

⁵¹ CONN. GEN. STAT. § 54-193; CONN. GEN. STAT. § 54-193a.

⁵² CONN. GEN. STAT. § 54-193b.

⁵³ CONN. GEN. STAT. § 54-193; SB 3, 2019 Gen. Assemb. Reg. Sess. (Conn. 2019).

⁵⁴ CONN. GEN. STAT. § 52-577d. In general, Connecticut has no common law or statutory discovery rule for sex abuse, but for claims of fraudulent concealment of a cause of action pursuant to § 52-595 the SOL does not begin to run until the existence of the cause of action is discovered. CONN. GEN. STAT. § 52-595; *Rosado v. Bridgeport Roman Catholic Diocese Corp.*, CV 94-031 63 94 S, 1997 WL 585779, at *2 (Conn. Super. Ct. Sept. 15, 1997).

⁵⁵ CONN. GEN. STAT. §§ 52-577d, 52-577e.

from a plaintiff, the cause of action does not accrue until the plaintiff discovers it.⁵⁶ In 2019, Connecticut extended the SOL again to age 51 (age of majority, 21, plus 30 years). This extension is prospective, meaning it only applies to actions based on conduct occurring after October 1, 2019, but it applies to non-minors ages 18, 19 and 20 too.⁵⁷ Connecticut stands alongside Massachusetts and Rhode Island in enacting an age-limit for the revival of expired civil SOLs.

Delaware

Since 2002, Delaware has become the most progressive state in the country for criminal and civil child sex abuse SOLs. There is no SOL for criminal prosecution or civil claims, and there was a window in place from 2007-2009 that revived previously expired civil claims. On a scale of 0-5, Delaware ranks as a 4.75, making it the highest-ranking state.

Criminal. In 2002, Delaware's criminal SOL was 2 years following the initial disclosure of the crime to child protection services or law enforcement, or 10 years from the offense if there was a DNA match.⁵⁸ The next year, in 2003, the state eliminated the SOL for all felony and misdemeanor child sex abuse offenses. Delaware added felony sex trafficking to the crimes for which there is no SOL in 2014.⁵⁹

Civil. In 2002, Delaware's civil SOL was age 21 (age of majority, 18, plus 3 years).⁶⁰ In 2006, the judiciary recognized that a victim's repressed memory of child sex abuse could fall within its "time of discovery rule" and the SOL would not begin to run until the victim discovered the abuse.⁶¹ The next year, Delaware enacted the 2007 Child Victim's Act, which eliminated the civil SOL going forward and put in place a 2-year window for expired claims that ran from July 2007 to July 2009.⁶² During that time, nearly 1,000 victims of pediatrician Earl Bradley came forward and 175 from other arenas. In 2010, Delaware removed the SOL for child sex abuse claims by a patient against a health care provider and added a 2-year window for these claims, because the original window did not apply to actions against healthcare providers.⁶³

Florida

Since 2002, Florida has partially eliminated the criminal and civil SOLs. In 2003, it eliminated the criminal SOL for first-degree felonies. It also eliminated the civil SOL for claims based on child sexual battery in 2010. On a scale of 0-5, overall, it ranks as a 2.75.

⁵⁶ CONN. GEN. STAT. § 54-595 (1949).

⁵⁷ *Id.*

⁵⁸ DEL. CODE ANN. tit. 11 § 205(e).

⁵⁹ *Id.*

⁶⁰ DEL. CODE ANN. tit 10 §§ 8107, 8116; *Eden v. Oblates of St. Francis de Sales*, 04C-01-069 CLS, 2006 WL 3512482, at *3 (Del. Super. Ct. Dec. 4, 2006) (For personal injury action for child sex abuse, "the statute of limitations extends to three years after he reaches the age of majority.").

⁶¹ *Keller v. Maccubbin*, CIV.A. K11C-03015RBY, 2012 WL 1980417, at *3 (Del. Super. Ct. May 16, 2012).

⁶² DEL. CODE ANN. tit 10 § 8145(b).

⁶³ DEL. CODE ANN. tit 18 § 6856.

Criminal. As of 2002, there was no criminal SOL for capital or life felonies which included some sexual battery offenses.⁶⁴ The SOL for other 1st degree child sex abuse crimes was age 22 (age of majority, 18, plus 4 years) and age 21 (age of majority, 18, plus 3 years) for the remaining felonies. There was also no SOL for 1st and 2nd degree sexual battery if it was reported to law enforcement within 72 hours of the crime.⁶⁵ Florida eliminated the criminal SOL for first-degree felony sexual battery in 2003 and for any sexual battery of children under 16 in 2010.⁶⁶ It added a 1-year extension to the SOL in 2004 and in 2006 eliminated the SOL if there is a DNA match. Florida extended the SOL for child pornography in 2008 by adding it to the DNA statute and not running the SOL until the victim reaches age 18. In 2014, Florida removed the SOL for lewd and lascivious conduct of children under 16 and for all forms of trafficking. A 2015 amendment extended the SOL for non-first-degree sexual battery of 16 and 17 year-old children to age 26 (age of majority, 18, plus 8 years). The SOL for misdemeanors remains 2 years from the offense.⁶⁷

Civil. As of 1992, Florida's civil SOL for child sex abuse was age 25 (age of majority, 18, plus 7 years) or date of discovery plus 4 years, whichever is later.⁶⁸ In 2010, the state eliminated the civil SOL for sexual battery offenses only against victims under age 16.⁶⁹ Florida has not passed a window or other SOL revival legislation since 2002.

Georgia

Georgia has made some changes to its criminal and civil child sex abuse SOLs since 2002. It eliminated the criminal SOL for some felonies in 2012. Then, in 2015, it added a 2-year discovery rule to the civil SOL and enacted a narrow window that revived expired civil claims against a perpetrator, but not institutions. On a scale of 0-5, overall, it ranks as a 2.25.

Criminal. As of 2002, the criminal SOL for some felony and misdemeanor sex abuse crimes of children under age 16 was age 23 (age 16, plus 7 years) or when reported to law enforcement, whichever was earlier. The SOL for forcible rape was the earlier of 31 years old (age 16, plus 15) or when reported to law enforcement for victims under age 16, or 32 years old (age 17, plus 15) for victims age 17. Also, there was no SOL for certain sex offenses when DNA evidence was used to establish the perpetrator's identity.⁷⁰ The SOL for other felonies was 7 years from the offense and 2 years for misdemeanors.⁷¹ In 2012, the state eliminated the SOL for some felony offenses against children under 16 years old, including rape, trafficking, molestation and incest and extended the SOL for forcible rape to 15 years after the offense when there is no DNA evidence.⁷²

⁶⁴ FLA. STAT. § 775.15.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ FLA. STAT. § 775.15(2)(c).

⁶⁸ FLA. STAT. § 95.11(7).

⁶⁹ FLA. STAT. § 95.11(9).

⁷⁰ GA. CODE ANN. §§ 17-3-1, 17-3-2.1.

⁷¹ GA. CODE ANN. § 17-3-1.

⁷² GA. CODE ANN. § 17-3-2.1.

Civil. In 2002, the Georgia civil SOL was age 23 for claims against perpetrators and age 20 against other defendants, which made it one of the worst in the United States.⁷³ In 2015, Georgia passed the Hidden Predator Act, which opened a window for victims to bring civil claims against perpetrators from 2015-17. The state also extended the SOL to age 23 for non-perpetrators and added a discovery rule for claims against all defendants, which gives a victim up to 2 years after they discover that the abuse caused a current injury.⁷⁴ Georgia's was the first window that was limited to claims against perpetrators and did not include institutions. Very few cases were brought, and, therefore, it is not looked upon as a model. In 2018, Georgia considered a window that would encompass institutions, but the measure failed.⁷⁵

Hawaii

Hawaii has enacted progressive SOL changes in both criminal and civil realms since 2002. In 2014, it eliminated the criminal SOL for some felonies, and in 2012 it extended the civil SOL by 6 years and enacted a 3-year discovery rule. Hawaii also has the longest civil window, which revived expired civil SOLs for a total of 6 years. On a scale of 0-5, overall, it ranks as a 3.

Criminal. In 2002, the Hawaii criminal SOL was age 24 (age of majority, 18, plus 6 years) for Class A felony sex offenses, and age 21 (age of majority, 18, plus 3 years) for all other felony sex offenses. In 2005 it added a provision that, if DNA evidence was collected, the SOL for felonies was extended to 10 years after the applicable SOL would have expired. In 2014, the state eliminated the criminal SOL for felony 1st and 2nd degree sexual assault and continuous sexual assault of a minor under age 14.⁷⁶ Misdemeanors have an SOL of two years from the offense.⁷⁷

Civil. In 2002, the Hawaii civil SOL was age 20 (age of majority, 18, plus 2 years) with a 2-year discovery rule.⁷⁸ In 2012, for claims against perpetrators, Hawaii increased the civil SOL to age 26 (age of majority, 18, plus 8 years) and added a 3-year discovery rule, which is triggered by the victim discovering that psychological illness or injury after age 18 was caused by the sex abuse,⁷⁹ whichever comes later. Hawaii has enacted the longest civil window, during which the civil SOLs were lifted for all civil claims, regardless of whether the SOL previously expired. In 2012, the state enacted a 2-year window allowing victims whose claims had been previously time barred to bring civil actions against a perpetrator or entity that employed the person accused

⁷³ GA. CODE ANN. § 9-3-33.1(a)(2), § 9-3-33. § 9-3-90.

⁷⁴ GA. CODE ANN. § 9-3-33.1(a)(2), (b)(2).

⁷⁵ Letter from Prof. Marci Hamilton to Rep. Spencer, analyzing 2018 window bill (Feb. 26, 2018) at https://static1.squarespace.com/static/5a120b962aeba581dd692cd4/t/5a97527a419202f909ef78cf/1519866492894/Georgia_HPA2018_Letter_sent.pdf; see Kate Brumback, *Georgia Bill Aiming to Help Child Sex Abuse Victims Fails*, ASSOCIATED PRESS (Mar. 30, 2018, 3:41 PM), <https://www.usnews.com/news/best-states/georgia/articles/2018-03-30/georgia-bill-aiming-to-help-child-sex-abuse-victims-fails>. For more information on SOL Reform in Georgia, see EMMA HETHERINGTON, ET. AL., STATUTE OF LIMITATIONS FOR CHILD SEXUAL ABUSE CIVIL LAWSUITS IN GEORGIA (Wilbanks Child Endangerment and Sexual Exploitation Clinic 2019), <http://cease.law.uga.edu/sites/default/files/u61/2018-2019%20CEASE%20White%20Paper%20April%202019.pdf>.

⁷⁶ HAW. REV. STAT. § 701-108.

⁷⁷ *Id.*

⁷⁸ HAW. REV. STAT. §§ 657-7, 657-13; *Dunlea v. Dappen*, 924 P.2d 196, 204 (Haw. 1996), *abrogated by Hac v. Univ. of Hawaii*, 73 P.3d 46 (Haw. 2003) (recognizing a discovery rule for child sex abuse claims).

⁷⁹ HAW. REV. STAT. § 657-1.8.

and had a duty of care to the child.⁸⁰ Two years later, the state added another 2 years to the window and broadened it to include claims against the government.⁸¹ In 2018, Hawaii added another 2-year extension, which leaves the window open until April 24, 2020. This means that Hawaii has had 6 years during which civil claims have been revived. This would be far longer than the closest other window, which was its own 4-year window and the 3-year windows in Minnesota and California.⁸² In 2019 Hawaii came very close to completely eliminating its civil SOL, but, after being approved by the House and Senate, it died in committee.⁸³

Idaho

Idaho has only minimally improved criminal and civil SOLs since 2002. It eliminated the criminal SOL for additional felonies in 2006 and extended the age 23 civil SOL to include a 5-year discovery rule in 2007. On a scale of 0-5, overall, it ranks as a 2.

Criminal. As of 2002, Idaho had no SOL for rape and an SOL of age 23 (age of majority, 18, plus 5 years) for felony sex abuse or lewd conduct with a child.⁸⁴ In 2006, the state eliminated the criminal SOL for felony sex abuse or lewd conduct with a child.⁸⁵ For other crimes against children, Iowa hearkens back to a bygone era when SOLs were measured from the date of the abuse and not from the age of majority. The SOL for the remaining felonies is 5 years from commission of the crime and for misdemeanors 1 year.⁸⁶

Civil. In 2002, the civil SOL in Idaho was age 23 (age of majority, 18, plus 5 years). In 2007, it added a 5-year discovery rule, which gives the victim up to age 23 or 5 years after they discover that the abuse caused current injuries or conditions, whichever is later.⁸⁷ Idaho has not passed a window or other SOL revival legislation.

Illinois

Illinois has made significant changes to its criminal and civil SOLs since 2002. In 2017, it eliminated the criminal SOLs for numerous sex abuse felonies and has increased the SOLs for other crimes as well. In 2014, SOLs for civil claims were eliminated. On a scale of 0-5, overall, it ranks as a 3.75.

Criminal. Illinois currently has no criminal SOL for felony and misdemeanor sex offenses committed against children. By 2002, the criminal SOL was age 28 with an exception that felony and misdemeanor sexual offenses can be prosecuted at any time if there is DNA evidence and it was reported to law enforcement within 2 years. In 2003, the state increased the SOL to age 38 for child sex abuse felonies. In 2008 it extended the time for reporting to 3 years for the

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Relating to Limitation of Actions For Sexual Assault: Hearing on H.B. 415 Before the H. Comm. On Jud. and Lab.*, 29th Cong. (2017) (statement of Prof. Marci Hamilton regarding Hawaii proposed 2018 amendments to child sex abuse SOLs). https://www.capitol.hawaii.gov/session2018/testimony/HB415_TESTIMONY_JUD_02-07-17_.PDF.

⁸³ HB 18, 2019 Leg., Gen. Assemb., Reg. Sess. (Haw. 2019); SB 1035, 2019 Leg. Gen. Assemb., Reg. Sess. (Haw. 2019).

⁸⁴ IDAHO CODE §§ 19-401, 402.

⁸⁵ IDAHO CODE § 19-401.

⁸⁶ *Id.* and IDAHO CODE §§ 19-402, 403.

⁸⁷ IDAHO CODE § 6-1704.

DNA statute. In 2009, it eliminated the SOL for child pornography and added an SOL of age 28 for child sex abuse misdemeanor crimes. In 2014, it eliminated the criminal SOL for felony sex offenses against children, but only if there was corroborating evidence or an individual with responsibility to report the abuse failed to do so.⁸⁸ In 2017, following the Dennis Hastert sex abuse scandal, Illinois eliminated the evidentiary limitations.⁸⁹ It also increased the SOL for sex trafficking to age 43, but the prostitution SOL remains at age 19 or 3 years from the offense, whichever is later. In 2019 the SOL was eliminated for many sex abuse crimes that involve sexual conduct or sexual penetration, including misdemeanor criminal sexual abuse.⁹⁰

Civil. In 2002, the civil SOL was age 20 or discovery plus 2 years with an upper limit of age 30. In 2003, the state changed it by adding 8 years so that the SOL was age 28, and adding a 5-year discovery rule. In 2010, it added another ten years, bringing the civil SOL to age 38 (age of majority, 18, plus 20 years) and extending the discovery rule to 20 years. Finally, in 2014, it eliminated the civil SOL completely.⁹¹ Illinois has not passed a window or other SOL revival legislation.

Indiana

In 2002, Indiana had some of the more restrictive criminal and civil SOLs in the country. Since then it has made modest progress by extending the criminal SOL for most felonies to age 31, eliminating the criminal SOL for felony child sex trafficking, and expanding the civil SOL modestly, to age 25, or 7 years after discovery. On a scale of 0-5, overall, it ranks as a 2.

Criminal. In 2002, there was no SOL for Class A felony (L1 and L2) rape and the SOL was age 31 for certain sex offenses against children, including molesting, solicitation and incest. There was also a DNA statute which extended the SOL for Class B and C felonies (L3, L4, L5) to 1 year after a DNA match. For the remaining crimes, the SOL was 5 years for felonies and 2 years for misdemeanors, running from the date of the crime. By 2013, Indiana extended its SOL for all other sex offenses against children, including trafficking, prostitution and pornography to either 10 years after the crime or 4 years after the victim ceased to be a dependent of the perpetrator, whichever is later.⁹² In 2018 the criminal SOL was eliminated for felony child sex trafficking.⁹³ In 2019, Indiana extended its SOL for sexual misconduct with a minor and any level child molesting to age 31.⁹⁴

Civil. In 2002, the civil SOL was age 20 (age of majority, 18, plus 2 years) with a narrow 2-year discovery rule.⁹⁵ In 2013, Indiana extended the civil SOL to age 25 (age of majority, 18, plus 7

⁸⁸ 720 ILL. COMP. STAT. 5/3-5 and 5/3-6(j) and (l). In 2014 a 1-year discovery rule was added for offenses involving unauthorized video recordings and live video transmissions in violation of 5/26-4.

⁸⁹ 720 ILL. COMP. STAT. 5/3-5 and 5/3-6(j).

⁹⁰ 720 ILL. COMP. STAT. 5/3-5.

⁹¹ 735 ILL. COMP. STAT. 5/13-202.2.

⁹² IND. CODE ANN. § 35-41-4-2(c), (e), (m).

⁹³ IND. CODE ANN. § 35-42-3.5-1.3.

⁹⁴ IND. CODE ANN. § 35-41-4-2(e).

⁹⁵ IND. CODE ANN. §§ 34-11-2-4, 1-1-4-5(24) , 34-11-5-1; *LaCava v. LaCava*, 907 N.E.2d 154, 162 (Ind. Ct. App. 2009) (discussing common law discovery rule) ; *Doe v. United Methodist Church*, 673 N.E.2d 839 (Ind. Ct. App. 1996).

years), 7 years from discovery or 4 years after the elimination of dependency on the abuser, whichever is later.⁹⁶ Indiana has not passed a window or other SOL revival legislation.

Iowa

Since 2002, Iowa has only made minor changes to its criminal and civil SOLs. Iowa has modestly improved its criminal SOL 4 times but remains one of the most restrictive states for child sex abuse victims. Iowa's one change to civil SOLs since 1990 related only to abuse by school employees in 2003. On a scale of 0-5, it ranks as a 1.25 (where 1.25 is the lowest average score).

Criminal. In 2002 the criminal SOL in Iowa was age 28 (age of majority, 18, plus 10 years) for 1st, 2nd, and 3rd degree sexual abuse, incest and sexual exploitation. Iowa also has a DNA discovery rule, enacted in 2005, which extends the SOL to three years after the date the alleged perpetrator is identified via DNA.⁹⁷ It extended the SOL for other sexual offenses to age 28 in 2014 and again in 2016 to include trafficking.⁹⁸ In 2019 Iowa extended its criminal SOL to age 33 (age of majority, 18, plus 15 years) for felony sexual abuse of a minor, incest and felony and misdemeanor sexual exploitation. Iowa is still one of only 7 states not to eliminate at least felony crimes from the SOL.⁹⁹

Civil. In Iowa, the civil SOL for child sex abuse claims has been capped at age 19 (age of majority, 18, plus 1 year) since 1990. Iowa also has a discovery rule that gives a victim that had not discovered the injury and the causal relationship between the injury and the abuse until after they reached age 18, an additional 4 years from the date of discovery.¹⁰⁰ In the case of sexual abuse by a counselor or therapist, the SOL was 5 years from the last treatment. In 2003, Iowa changed the SOL for sexual abuse by a school employee to 5 years from the last date victim attended the school.¹⁰¹ Other than this minor change for school employee abuse, Iowa has not updated its civil SOLs since 1990. Iowa has not passed a window or other SOL revival legislation.

Kansas

Kansas has made few changes to either criminal or civil SOLs since 2002. It eliminated the criminal SOL for rape in 2013 and extended the SOL for other crimes, but has made no changes to its civil SOL. On a scale of 0-5, overall, it ranks as a 1.75 (where 1.25 is the lowest average score).

Criminal. The criminal SOL in Kansas in 2002 varied depending on the crime or was 1 year after the date the perpetrator was identified via DNA testing.¹⁰² In 2012, it added a majority tolling provision, so the SOL would not begin to run until the victim turned 18, with an age cap

⁹⁶ IND. CODE ANN. § 34-11-2-4.

⁹⁷ IOWA CODE §§ 802.2, 802.2A.

⁹⁸ IOWA CODE §§ 802.2B, 802.2D.

⁹⁹ States that have not eliminated any criminal SOL for child sex abuse: IA, NH, ND, OH, OK, and PA.

¹⁰⁰ IOWA CODE § 614.8A.

¹⁰¹ IOWA CODE §§ 614.1, 614.8, 614.8A.

¹⁰² KAN. STAT. ANN. § 21-5107(c).

of 28 for prosecution. In 2013, Kansas eliminated the SOL for felony rape and aggravated sodomy and extended the SOL for other crimes to age 28 (age of majority, 18, plus 10 years) or 1 year after the perpetrator is identified via DNA testing, whichever is later.¹⁰³ The SOL for misdemeanors is five years after the crime occurs.¹⁰⁴

Civil. Kansas has not changed its civil SOL since 1992. It provides for age 21 (age of majority, 18, plus 3 years) or 3 years after discovery, whichever is later.¹⁰⁵ Despite a seemingly generous discovery rule, any child sex abuse claims that were barred before 1992 do not get the benefit of the discovery rule because of a statute of repose that was previously in effect.¹⁰⁶ Kansas has not passed a window or other SOL revival legislation.

Kentucky

Kentucky has made minimal changes to criminal and civil SOLs since 2002. Kentucky amended its criminal SOL for child sex abuse by eliminating the SOL for felonies early in 1974. In 2017, it extended its civil SOL to age 28 with a discovery rule, which is still a very short SOL. On a scale of 0-5, overall, it ranks as a 1.5 (where 1.25 is the lowest average score).

Criminal. In Kentucky there has not been a criminal SOL for any child sex abuse felonies since at least 1974.¹⁰⁷ In 2008, Kentucky added the SOL of age 23 (age of majority, 18, plus 5 years) for misdemeanor sexual offenses.¹⁰⁸

Civil. In 2002, Kentucky's civil SOL for claims against individuals and entities was age 19,¹⁰⁹ and for claims against perpetrators it was the later of age 23 (age of majority, 18, plus 5 years) or 5 years from discovery.¹¹⁰ In 2007, child trafficking claims involving commercial sexual exploitation joined the list of offenses with a 5-year SOL against perpetrators.¹¹¹ In 2017, it extended the civil SOL against perpetrators to the later of age 28 (age of majority, 18, plus 10 years), 10 years from discovery, or 10 years after conviction of the defendant for child sex abuse or assault.¹¹² The SOL is tolled, which is to say the clock stops running, when the perpetrator is out of state, conceals himself or obstructs the case.¹¹³ Kentucky has not passed a window or other SOL revival legislation since 2002.

Louisiana

Louisiana has only altered criminal, and not civil, SOLs since 2002. Its criminal SOL is average amongst the states, despite 3 updates since 2002. Louisiana has some of the shortest civil SOLs

¹⁰³ KAN. STAT. ANN. § 21-5107(a), (c), and (e).

¹⁰⁴ KAN. STAT. ANN. § 21-5107(d).

¹⁰⁵ KAN. STAT. ANN. § 60-523(a).

¹⁰⁶ KAN. STAT. ANN. § 60-515(a); *see also, Doe v. Popravak*, 421 P.3d 760, 762 (Kan. 2017).

¹⁰⁷ KY. REV. STAT. ANN. § 500.050.

¹⁰⁸ *Id.*

¹⁰⁹ KY. REV. STAT. ANN. §§ 413.140 & 413.170.

¹¹⁰ KY. REV. STAT. ANN. § 413.249.

¹¹¹ *Id.*

¹¹² *Id. See also, Doe v. Logan*, 2020 WL 398796, at *9 (Ky. Ct. App. Jan. 24, 2020) (citing *B.L. v. Schuhmann*, 380 F.Supp.3d 614 (W.D. Ky. 2019)).

¹¹³ KY. REV. STAT. ANN. §§ 413.190.

in the United States, capping civil claims at age 28. On a scale of 0-5, overall it ranks as a 1.5 (where 1.25 is the lowest average score).

Criminal. In 2002, Louisiana had no SOL for crimes punishable by death or life imprisonment, which included aggravated rape (1st degree rape), and forcible rape (2nd degree rape). For most felony sex offenses against minors under age 17, though, the SOL was age 28 (age of majority, 18, plus 10 years).¹¹⁴ For any remaining felonies, including sex offenses committed against 17 year-olds, the SOL was either 4 years from the offense or 6 years from the offense if the crime was punishable by hard labor.¹¹⁵ Misdemeanors have an SOL of 2 years from the offense where the crime is punishable by imprisonment and six months if punishable by only a fine.¹¹⁶ In 2003, Louisiana added a DNA evidence rule, allowing felony and misdemeanor sex offenses to be prosecuted 3 years after the offender is identified by DNA.¹¹⁷ In 2005, it expanded the SOL for most felony sex offenses against minors under age 17 from age 28 to age 48 (age of majority, 18, plus 30 years). It added felony trafficking, prostitution and pornography of minors under age 17 to its age 48 SOL in 2012.¹¹⁸

Civil. Louisiana has not revisited its civil SOL since 1995. The civil SOL expires at age 28 (age of majority, 18, plus 10 years), except that the 10-year SOL does not begin to run until “the affected individual knows or should have known of the injury”.¹¹⁹ Louisiana has not passed a window or other SOL revival legislation since 2002.

Maine

Since 2002, Maine only extended its criminal SOL for sex abuse crimes against 16 and 17 year-olds and has not changed its civil SOL. By 1999, Maine eliminated its criminal SOL for sex abuse of victims under age 16 and its civil SOL for sexual abuse of minors by 2000. On a scale of 0-5, overall, it ranks as a 3.5.

Criminal. In 2002, Maine had no criminal SOL for felonies and misdemeanors for victims under age 16 for: incest, unlawful sexual contact, sexual abuse of a minor, rape and gross sexual assault. For victims age 16 and older the SOL for felonies was 6 years and misdemeanors was 3 years from the offense. In 2013, Maine extended the SOL for victims ages 16 and older for felony unlawful sexual contact or gross sexual assault to 8 years, and, in 2019, extended it further to 20 years from the offense.¹²⁰

Civil. In 2000, Maine eliminated the civil SOL for child sex abuse.¹²¹ Maine has not passed a window or other SOL revival legislation since 2002.

¹¹⁴ LA. CODE CRIM. PROC. ANN. 571 and 571.1.

¹¹⁵ LA. CODE CRIM. PROC. ANN. 572.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ LA. CODE CRIM. PROC. ANN. 571 and 571.1.

¹¹⁹ LA. STAT. ANN. § 9:2800.9, LA. CIV. CODE ANN. art. 29; *Doe v. Roman Catholic Church*, 656 So.2d 5, 7 (La. Ct. App. 1995). See also *Chenevert v. Redemptorists/Denver Province*, CIV.A. 09-473-JJB, 2010 WL 1609971, at *4 (M.D. La. Apr. 20, 2010).

¹²⁰ ME. REV. STAT. ANN. tit. 17-A § 8.

¹²¹ ME. REV. STAT. ANN. tit. 14§ 752-C.

Maryland

Maryland has not changed its criminal SOL, but it did make two changes to its short civil SOLs since 2002. Maryland has never had any criminal SOLs. It extended its civil SOL in 2003 and 2017, and it currently caps actions at age 38. On a scale of 0-5, overall, it ranks as a 2.25.

Criminal. Maryland has no criminal SOLs for any felonies or misdemeanors under common law.¹²²

Civil. The civil SOL was extended in 2003 to age 25 (age of majority, 18, plus 7 years). In 2017, Maryland extended the civil SOL further to age 38 (age of majority, 18, plus 20 years) or 3 years after the defendant is convicted of a crime related to the victim's abuse under the law of the federal government or any state. For an action brought after a victim is age 25 against a person or governmental entity, duty of care, control and gross negligence must be proven, and actions are capped at age 38.¹²³ Despite strong efforts this year, Maryland has not passed a window or other SOL revival legislation since 2002.

Massachusetts

Massachusetts has been an innovative state for both criminal and civil SOL reform since 2002. It eliminated the criminal SOL for felonies in 2006. In 2014, Massachusetts retroactively extended the civil SOL to age 53 with a discovery rule of 7 years. On a scale of 0-5, overall, it ranks as a 3.5.

Criminal. In 2002, the criminal SOL for felonies related to sex abuse was 15 years from the offense. All remaining felony and misdemeanor crimes have an SOL of 6 years after the crime was committed. Massachusetts eliminated the criminal SOL for sex abuse felonies in 2006 with a limitation that, if prosecuting an offense more than 27 years after the crime, corroborating or DNA evidence is required.¹²⁴ In 2011, sex trafficking was added to the list of no SOL crimes.

Civil. In 2002, the civil SOL for sexual abuse of minors in Massachusetts was age 21 (age of majority, 18, plus 3 years) or 3 years from discovery of the abuse, whichever is later.¹²⁵ In 2010 and 2011 the list of sex abuse crimes this SOL applied to was expanded to apply to more crimes, including sex trafficking.¹²⁶ By 2014, Massachusetts retroactively extended the civil SOL to age 53 (age of majority, 18, plus 35 years) and its discovery rule to 7 years.¹²⁷ This age 53 SOL applied to claims against perpetrators even if they had previously expired, but it did not revive claims against institutions. The discovery rule, however, was completely retroactive, reviving claims and giving a victim 7 years after discovering an injury was caused by the sex abuse to file

¹²² *Massey v. State*, 579 A.2d 265, 267 (1990) (“there was no general period of limitations applicable to criminal proceedings.”).

¹²³ MD. CODE ANN., CTS. & JUD. PROC. § 5-117(b).

¹²⁴ MASS. GEN. LAWS ANN. ch. 277 § 63.

¹²⁵ MASS. GEN. LAWS ANN. ch. 260 §§ 4C, 4C 1/2.

¹²⁶ MASS. GEN. LAWS ANN. ch. 260 § 4D.

¹²⁷ MASS. GEN. LAWS ANN. ch. 260 §§ 4C, 4C 1/2.

suit.¹²⁸ Massachusetts joined Connecticut in enacting a civil SOL that is both retroactive and has an age cap, but, unlike its neighbor, the revival up to age 53 in Massachusetts only applied to actions against perpetrators. This is a different model from the revival windows in other states where there is a closed time period during which claims can be retroactively revived.

Michigan

Michigan has made improvements in the criminal and civil arenas in the recent past. Michigan does not have a criminal SOL for felony sex abuse. Its civil SOL was extended to age 28 in 2018 and now includes a 3-year discovery rule. Michigan was the first state to enact a window tailored to one group of victims. On a scale of 0-5, overall, it ranks as a 2.25.

Criminal. In 2001, Michigan eliminated the criminal SOL for first-degree criminal sexual conduct. All other felonies and misdemeanors had an SOL of 10 years from the offense or from DNA identification, or age 21, whichever is later. In 2014 the SOL was removed for trafficking offenses punishable by life imprisonment and extended to 25 years from the offense for the remaining trafficking crimes. In 2018, Michigan extended the criminal SOL for 2nd and 3rd degree criminal sexual conduct to 15 years from the offense or from DNA identification, or age 28, whichever is later.¹²⁹

Civil. Since at least 1986 up until 2018, Michigan had the shortest civil SOL in the United States, with civil claims expiring at the age of 19. In 2018, the law was amended to allow civil claims to be brought until age 28 with a 3-year discovery rule. Michigan also opened a 90-day revival window for post-1996 offenses that would only apply to cases where the perpetrator was a physician who had been convicted of sexual misconduct under the guise of a medical procedure, essentially limiting the retroactivity to victims of Larry Nassar.¹³⁰

Minnesota

Minnesota has made minor changes to its criminal SOLs and major improvements to its civil SOLs since 2002. The only change to its criminal SOLs, which had been eliminated for some crimes where DNA was gathered, relates to sex trafficking. In 2013 it eliminated the civil SOL going forward and created a 3-year window during which victims could bring civil claims that were previously time barred by the old SOL. On a scale of 0-5, it ranks as a 4 (where 4.75 is the highest average score).

Criminal. As of 2000, the criminal SOL in Minnesota for criminal sexual conduct was 9 years after the offense or 3 years after it is reported to the authorities, and the SOL was 3 years from the crime for all other felonies and misdemeanors. The state eliminated the SOL for criminal sexual conduct if DNA evidence is collected. In 2005, the SOL for trafficking was eliminated. In 2009, Minnesota clarified that its SOL for criminal sexual conduct was 9 years from the offense or 3 years after it was reported, whichever is later. The 9-year SOL with a DNA statute

¹²⁸ *Id.*; *Lee v. Boston Pub. Sch.*, 15-CV-10811-LTS, 2016 WL 11372334, at *4 (D. Mass. Feb. 1, 2016), report and recommendation adopted, 15-10811-LTS, 2016 WL 632198 (D. Mass. Feb. 17, 2016).

¹²⁹ MICH. COMP. LAWS ANN. § 767.24.

¹³⁰ MICH. COMP. LAWS ANN. §§ 600.5805, 600.5851, 600.5851b.

was amended to include solicitation, inducement, and promotion of prostitution and sex trafficking in 2015.¹³¹

Civil. In 2002, the civil SOL was age 24 (age of majority, 18, plus 6 years) or 6 years from discovery, whichever is later.¹³² In 2013, the child sex abuse civil SOL was eliminated.¹³³ In addition, a window was added, which was open for three years, 2013-16.¹³⁴ This was the second-longest window enacted to date and approximately 1,000 victims benefited from it.

Mississippi

Mississippi has made modest changes to criminal and civil SOLs since 2002. In 2003, Mississippi eliminated its criminal SOL for most child sex abuse felonies. However, it has made no changes to its civil SOL since the 1990's and it remains one of the shortest in the country, expiring at age 24. On a scale of 0-5, overall, it ranks as a 1.25 (where 1.25 is the lowest average score).

Criminal. By 2002, Mississippi eliminated the criminal SOL for rape. Most other child sex abuse felonies had an SOL of age 21.¹³⁵ The remaining felonies and misdemeanors were subject to an SOL of 2 years from the offense. In 2003, it removed the SOL for most child sex abuse felonies. In 2004 the state removed the SOL for sexual battery of 16 and 17 year-olds by a person in a position of trust and again in 2013 for promoting prostitution and trafficking.¹³⁶

Civil. Mississippi has made no changes to its civil SOL since 1990, when it set the age at 24 (age of majority, 21, plus 3 years).¹³⁷ This makes it one of the most restrictive civil SOLs in the country. Mississippi has not passed a window or other SOL revival legislation since 2002.

Missouri

Missouri has made a few criminal and civil changes to its SOLs since 2002. It eliminated felony and misdemeanor criminal SOLs in 2004 and even further in 2018. It extended its civil SOL to age 31 and added a 3-year discovery rule in 2004. On a scale of 0-5, overall, it ranks as a 2.25.

Criminal. The criminal SOL in Missouri for unlawful sexual offenses against a person 18 or younger in 2002 was age 28. In 2004, the criminal SOL was eliminated for forcible rape and sodomy and attempts and extended to age 38 (age of majority, 18, plus 20 years) for all other unlawful sexual offenses. In 2011, the SOL for the remaining unlawful sexual offenses was extended by another 10 years so that the age cap was 48 (age of majority, 18, plus 30 years).¹³⁸

¹³¹ MINN. STAT. ANN. § 628.26(e), (f).

¹³² MINN. STAT. ANN. § 541.073; § 541.15; *D.M.S. v. Barber*, 645 N.W.2d 383, 390 (Minn. 2002) ("[T]he six-year period of limitation under the delayed discovery statute begins to run when the victim reaches the age of majority.").

¹³³ MINN. STAT. ANN. § 541.073.

¹³⁴ *Id.* HF 681, 88th Leg., Reg. Sess. (Minn. 2013).

¹³⁵ MISS. CODE ANN. § 99-1-5.

¹³⁶ *Id.*

¹³⁷ MISS. CODE ANN. §§ 15-1-49(1), 15-1-59

¹³⁸ MO. REV. STAT. § 556.037.

In 2018, Missouri eliminated the SOL for all unlawful felony and misdemeanor sex offenses against those who are 18 years old and younger.¹³⁹

Civil. Since 1990, Missouri had a general personal injury SOL of age 26 (age of majority, 21, plus 5 years)¹⁴⁰ and a specific child sex abuse statute for claims against perpetrators with an SOL of age 23 (age 18, plus 5 years) or 3 years from discovery, whichever was later.¹⁴¹ In 2004, Missouri extended the civil SOL against perpetrators to age 31 (age of majority, 21, plus 10 years) and kept the 3-year discovery rule intact.¹⁴² In 2007, Missouri added a statute for victims of child pornography and set the SOL also at age 31 with a 3-year discovery rule.¹⁴³ Missouri has not passed a window or other SOL revival legislation since 2002.

Montana

Montana made monumental improvements to its criminal and civil SOLs in 2019 after 30 years of no activity. It completely eliminated the criminal SOL for felonies and misdemeanors. It also modestly extended its civil SOL, but more significantly, it opened a limited revival window against perpetrators and institutions. On a scale of 0-5, overall, it ranks as a 3.75.

Criminal. In 2002, the criminal SOL for felony sexual assault, intercourse without consent and incest was age 28 (age of majority, 18, plus 10 years) and for other sexual abuse felonies and misdemeanors it was age 23 (age of majority, 18, plus 5 years).¹⁴⁴ A one-year SOL was added in 2007 if DNA established the identity of the perpetrator at any time. That same year the SOL was also broadened to include more incest related offenses. In 2017 the age 28 SOL for felonies was raised to age 38 (age of majority, 18, plus 20 years) and broadened to include sexual abuse of children. Montana eliminated its criminal SOL for felony and misdemeanor sexual abuse of children, including prostitution and trafficking in 2019.¹⁴⁵

Civil. The civil SOL was amended in 1989 and capped claims at age 24 (age of majority, 21, plus 3 years) or discovery plus 3 years. In addition, the SOL was retroactive so that it applied even to claims that had expired if, as of 1989, a victim was under age 21.¹⁴⁶ Also, the 3-year discovery rule permitted some breathing room as it also applied retroactively.¹⁴⁷ In 2019 Montana extended its civil SOL and opened a revival window, significantly improving access to justice for victims. It modestly extended its civil SOL to the earlier of age 27 or 3 years from discovery. Its 1-year revival window opened on May 7, 2019 against institutions and

¹³⁹ *Id.* While the legislature sought to apply the new SOL even to claims that would have been expired already, the Missouri Supreme Court held that the revival provisions "contravene the [Missouri] constitutional prohibition against retrospective laws." *Doe v. Roman Catholic Diocese of Jefferson City*, 862 S.W.2d 338, 339 (Mo. 1993).

¹⁴⁰ MO. REV. STAT. §§ 516.120(4), 516.170.

¹⁴¹ MO. REV. STAT. § 537.046.

¹⁴² *Id.* See also, *State ex rel. Heart of Am. Council v. McKenzie*, 484 S.W.3d 320, 325 (Mo. 2016) (finding childhood sexual abuse statute does not apply to claims against non-perpetrators).

¹⁴³ MO. REV. STAT. § 537.047.

¹⁴⁴ MONT CODE ANN. § 45-1-205.

¹⁴⁵ *Id.*

¹⁴⁶ *Cosgriffe v. Cosgriffe*, 864 P.2d 776 (Mont. 1993)).

¹⁴⁷ *Id.*

perpetrators yet contains a highly unusual limitation that actions can only be brought against perpetrators who are alive and have been convicted of or admitted to the abuse.¹⁴⁸

Nebraska

Nebraska has been making steady progress on criminal and civil child sex abuse SOLs since 2002. It amended the criminal SOLs in 2004, 2005, 2006, 2009, and 2019, and it broadened its list of offenses with no SOL. It also eliminated the civil SOL in 2017. On a scale of 0-5, overall, it ranks as a 3.5.

Criminal. As of 2002 in Nebraska, the criminal SOL for many child sex abuse felonies and misdemeanors was age 23 (age 16, plus 7 years) or 7 years after the offense, whichever is later. Any remaining felonies had an SOL of 3 years from the crime and misdemeanors had an SOL of 1 year and six months from the crime, or only 1 year if the punishment was restricted to a \$100 fine or a three-month prison sentence.¹⁴⁹ In 2004 Nebraska eliminated the criminal SOL for felony 1st degree sexual assault of a child and felony 1st, 2nd and misdemeanor 3rd degree sexual assault if the victim is under age 16.¹⁵⁰ It was amended in 2005 to eliminate the SOL for felony 1st and 2nd degree sexual assault without a limitation on the victim's age. It was amended again in 2006 to add felony sexual assault of a child in the 2nd and 3rd degrees and in 2009 felony incest to the list of eliminated offenses.¹⁵¹ A 2019 amendment eliminated the SOL for felony sex trafficking of minors and felony child pornography and extended the SOL to 7 years after the victim reaches age 18 for lower levels of these offenses.¹⁵²

Civil. Nebraska has amended its civil SOL twice since 2002, when it was age 25 (age of majority, 21, plus 4 years) for child sex abuse claims.¹⁵³ In 2012, it added an SOL of age 33 (age of majority, 21, plus 12 years) for claims by victims of the crime of sexual assault of a child. Then in 2017, Nebraska eliminated the civil SOL for claims against individuals directly causing an injury suffered from the crime of sexual assault of a child.¹⁵⁴ Nebraska has not passed a window or other SOL revival legislation since 2002.

Nevada

Nevada has made several changes to criminal and civil child sex abuse SOLs since 2002. In 2013, it extended its criminal SOL to age 36 (unless the abuse was not reasonably discoverable, which would extend the SOL to age 43). The civil SOL was extended in 2017 to age 38. Nevada also established the longest discovery period in the country, permitting victims to bring claims 20 years past the date of discovery of injury and its cause. On a scale of 0-5, overall, it ranks as a 2.25.

¹⁴⁸ MONT CODE ANN. § 27-2-216; *see also Cosgriffe*, 864 P.2d 776.

¹⁴⁹ NEB. REV. STAT. § 29-110.

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ NEB. REV. STAT. §§ 25-207, 25-213.

¹⁵⁴ NEB. REV. STAT. § 25-228.

Criminal. In 2002, the criminal SOL in Nevada was age 21, or 28 years old if the victim did not and could not have reasonably discovered that they were a victim of sexual abuse by age 21. It also has a provision which removes the SOL for sexual assault and trafficking if a written report is filed with law enforcement before the SOL expires.¹⁵⁵ In 2013, the criminal SOL for sexual abuse and sex trafficking was extended to age 36, or age 43 if the abuse was not reasonably discoverable by age 36 for felonies and misdemeanors.¹⁵⁶ In 2019, Nevada added a DNA discovery rule, eliminating the criminal SOL for felony sexual assault where the identity of an accused perpetrator is established by DNA evidence.¹⁵⁷ It also added a very narrow criminal elimination statute for a sexual assault arising out of the same facts as murder.¹⁵⁸

Civil. In 2002, the civil SOL was age 28 (age of majority, 18, plus 10 years) or 10 years from discovery. In 2017, it was extended to age 38 (age of majority, 18, plus 20 years) and a generous discovery rule was added that gives the victim 20 years following discovery that injury was caused by the sex abuse to file claims.¹⁵⁹ Nevada has not passed a window or other SOL revival legislation since 2002.

New Hampshire

New Hampshire has not changed its criminal SOL since 2002, but it has made modest changes to the civil SOL. It is one of the few states that has not yet eliminated at least some felony SOLs. The civil SOL was amended in 2005 and 2008 and is now age 30 with a 3-year discovery rule. On a scale of 0-5, overall, it ranks as a 1.75 (where 1.25 is the lowest average score).

Criminal. In 1990, New Hampshire set the SOL for felony sex abuse at age 40 (age of majority, 18, plus 22 years).¹⁶⁰ In 2000, incest was added to the list of felonies with an SOL of age 40. In 2014, the SOL for trafficking in persons was extended to age 38 (age of majority, 18, plus 20 years). The SOL for all other felony crimes is age 24 and age 19 for all misdemeanors. New Hampshire is still one of only 7 states not to eliminate at least felony crimes from the SOL.

Civil. The civil SOL in New Hampshire in 2002 was age 21 (age of majority, 18, plus 3 years) with a 3-year discovery rule. In 2005, it was extended to age 25 (age of majority, 18, plus 7 years). In 2008, the age again was extended, this time to age 30 (age of majority, 18, plus 12 years). The 3-year discovery rule also remains.¹⁶¹ New Hampshire has not passed a window or other SOL revival legislation since 2002.

New Jersey

Before this year, New Jersey had not made any changes to its criminal or civil child sex abuse SOLs since 2002. It eliminated the criminal SOL for some felonies in 2001 and subjects all other crimes to an age limit of 23. In 2019, civil claims were extended to age 55 or 7 years from

¹⁵⁵ NEV. REV. STAT. ANN. § 171.083.

¹⁵⁶ NEV. REV. STAT. ANN. §§ 171.095, 171.083.

¹⁵⁷ NEV. REV. STAT. ANN. § 171.082; AB 142, 80th Leg. (Nev. 2019).

¹⁵⁸ SB 9, 80th Leg. (Nev. 2019); NEV. REV. STAT. ANN. § 171.080.

¹⁵⁹ NEV. REV. STAT. ANN. § 11.215.

¹⁶⁰ N.H. REV. STAT. ANN. § 625:8.

¹⁶¹ N.H. REV. STAT. ANN. § 508:4-g.

discovery, and a 2-year revival window opened in December of this year. On a scale of 0-5, overall, it ranks as a 4 (where 4.75 is the highest average score).

Criminal. Since 2001, New Jersey’s criminal SOL has been eliminated for felonious sexual assault. Felony criminal sexual contact and endangering the welfare of a child are subject to an SOL of age 23 (age of majority, 18, plus 5 years) or 2 years following discovery of the abuse.¹⁶² Remaining felonies have an SOL of 5 years and misdemeanors 1 year, and run from when the offense is committed.¹⁶³ However, if the identity of the perpetrator is supported by DNA or fingerprint testing, the SOL for prosecution of any crimes does not begin to run until the State is in possession of both the physical evidence and the DNA or fingerprint evidence that identifies the perpetrator.¹⁶⁴

Civil. New Jersey’s prior civil SOL dated back to 1992, and provided for age 20 (age of majority, 18, plus 2 years) and a 2-year discovery rule.¹⁶⁵ The discovery rule ran from discovery of the causal connection between the abuse and the injury and was not determined from the perspective of a child sex abuse victim.¹⁶⁶ In 2019, 25 years later, New Jersey amended its extremely short SOL. It extended the civil SOL to age 55 or 7 years from discovery, whichever is later. On December 1, 2019 a 2-year window opened and revived all expired claims in New Jersey for child sex abuse victims and those sexually abused as adults.¹⁶⁷

New Mexico

New Mexico has made only minor changes to its civil and criminal SOLs since 2002. It has no criminal SOL for some felonies and in 2003 added a DNA provision for remaining crimes. The civil SOL was broadened in 2017 but is still short at age 24 or 3 years after disclosure. On a scale of 0-5, overall, it ranks as a 1.75 (where 1.25 is the lowest average score).

Criminal. Since 1997, there has been no criminal SOL for first-degree felonies in New Mexico.¹⁶⁸ The SOL for other felonies is between 5 and 6 years from when the crime is committed, and the SOL for misdemeanors is 2 years from when the crime is committed.¹⁶⁹ The SOL for felony and misdemeanor abandonment or abuse of a child, criminal sexual penetration, and criminal sexual contact with a minor does not run until either a victim reaches the age of 18 or until the violation is reported to a law enforcement agency, whichever comes first.¹⁷⁰ A DNA statute was added for the crime of sexual penetration in 2003 which provides that if DNA is collected the SOL only starts running after a match is found.¹⁷¹ In 2019, the state was poised to pass a bill that would have extended the criminal SOL for additional felonies, but the Governor

¹⁶² N.J. STAT. ANN. § 2C:1-6.

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ N.J. STAT. ANN. § 2A:14-2; 2A:61B-1(b) (discovery rule).

¹⁶⁶ *R.L. v. Kenneth Voytac*, 199 N.J. 285 (2009).

¹⁶⁷ A.B. 3648, 218th Leg., Reg. Sess., (N.J. 2018); *see* N.J. STAT. ANN. §2A:14-2a (effective Dec. 1, 2019).

¹⁶⁸ N.M. STAT. ANN. 1978, § 30-1-8.

¹⁶⁹ *Id.*

¹⁷⁰ N.M. STAT. ANN. 1978, § 30-1-9.1.

¹⁷¹ N.M. STAT. ANN. 1978, § 30-1-9.2.

vetoed that bill because of a drafting error that would have shortened the SOL for some felonies.¹⁷²

Civil. In 2002, the civil SOL was age 24 or 3 years from discovery.¹⁷³ In 2017 the SOL discovery provision was revised to allow a case to be brought within 3 years from the date a person first disclosed the abuse to a licensed medical or mental health care provider when seeking or receiving health care from that provider.¹⁷⁴ New Mexico has not passed a window or other SOL revival legislation since 2002.

New York

As of 2002, New York was one of the worst states for access to justice for child sex abuse victims in the country, with poor criminal and civil SOLs. In 2006, New York eliminated the criminal SOL for some felonies. The Child Victims Act in 2019 modestly extended its criminal SOL. But more significantly, it extended the civil SOL to age 55 and created a 1-year revival window for victims to file claims that opened on August 14, 2019. On a scale of 0-5, overall, it ranks as a 3.5.

Criminal. In 2002, New York had an SOL of the earlier of age 18 or the time of reporting to law enforcement for sexual offenses committed against children.¹⁷⁵ In 2006, New York eliminated the criminal SOL for the felonies of 1st degree rape, 1st degree aggravated sexual abuse, and 1st degree course of sexual conduct against a child.¹⁷⁶ The SOL for all other felonies was age 23 (age of majority, 18, plus 5 years) and age 20 for misdemeanors (age of majority, 18, plus 2 years).¹⁷⁷ Case law interpreted the statute to toll the statute of limitations for felonies and misdemeanors until the DNA identification of a perpetrator.¹⁷⁸ In 2019, New York made several improvements to its criminal SOLs. Now there is no SOL for 1st degree incest. For rape and criminal sexual act in the 2nd degree the SOL is age 43 and in the 3rd degree, it is age 33. The SOL for all other felonies is age 28 and for misdemeanors age 25.¹⁷⁹

Civil. In 2002, the civil SOL was up to 10 years from the date of conviction of any first-degree felony.¹⁸⁰ In 2006, it was extended to age 23.¹⁸¹ In 2019, the Child Victim's Act extended the civil SOL to age 55 for civil suits against any party, including perpetrators and public and private institutions. There is still no discovery rule. It removed the unreasonably short 90-day notice of claim requirement for claims against public institutions that protected them from civil liability for so long. The Act also included a 1-year revival window for previously time barred claims

¹⁷² Colleen Heild, *Fatal flaw: Drafting error sinks child sex crime bill*, ALBUQUERQUE JOURNAL (May 5, 2019, 12:05 AM), <https://www.abqjournal.com/1311227/fatal-flaw-drafting-error-sinks-child-sex-crime-bill.html>.

¹⁷³ N.M. STAT. ANN. 1978, § 37-1-30. Pursuant to the discovery rule, the SOL ran from when a victim knew or had reason to know of the abuse and that it resulted in an injury, "as established by competent medical or psychological testimony".

¹⁷⁴ N.M. STAT. ANN. 1978, § 37-1-30.

¹⁷⁵ N.Y. CRIM. PROC. LAW § 30.10 (McKinney)(1996).

¹⁷⁶ N.Y. CRIM. PROC. LAW § 30.10 (McKinney).

¹⁷⁷ *Id.*

¹⁷⁸ N.Y. CRIM. PROC. LAW § 30.10 (McKinney)(4)(a)(ii); *People v. Ramos*, 921 N.E.2d 598, 599 (N.Y. 2009).

¹⁷⁹ *Id.*

¹⁸⁰ N.Y. C.P.L.R. § 213-b (McKinney).

¹⁸¹ N.Y. C.P.L.R. § 213-c (McKinney).

that opened on August 14, 2019.¹⁸² Over 1,700 civil suits have already been filed pursuant to New York's revival window.

North Carolina

North Carolina enacted sweeping SOL reform in 2019, after not changing its criminal and civil SOLs in decades. There is no criminal SOL for felonies, and, for misdemeanors it was extended to 10 years from the crime this year. The civil SOL was extended to age 28 and a 2-year revival window opened on January 1, 2020 for civil claims that were previously expired. On a scale of 0-5, overall, it ranks as a 2.25.

Criminal. North Carolina has no criminal SOL for felonies.¹⁸³ Its criminal SOL for misdemeanors was 2 years from the offense, and in 2019, it was extended to 10 years from the commission of the crime.¹⁸⁴

Civil. In 2002, the civil SOL in North Carolina was age 21 (age of majority, 18, plus 3 years) or 3 years from discovery with limitations.¹⁸⁵ The judicial interpretation of the discovery rule permits the victim to have 3 years after the victim discovers he was injured by the perpetrator's actions. North Carolina, however, has a statute of repose, which places an upper limit on the discovery rule of 10 years after the last act by the defendant.¹⁸⁶ In 2019 the North Carolina legislature unanimously passed sweeping SOL reform that was signed into law by Governor Roy Cooper. The new law extends the civil SOL to age 28, adds a 2-year extension from criminal conviction of a perpetrator for a related felony sexual offense, and opens a 2-year revival window for expired claims. Claims of child sex abuse stemming from criminal convictions has been excluded from the 10-year statute of repose but it is unclear whether the 3-year discovery rule was left intact.¹⁸⁷ North Carolina also extended the civil SOL this year for human trafficking, which includes sexual servitude of a minor, to age 28 (age of majority, 18, plus 10 years).¹⁸⁸

North Dakota

North Dakota had some of the shortest criminal and civil SOLs until 2019. It has made amendments, finally extending the criminal SOL to age 39. The civil SOL is now a narrow discovery rule of 10 years, and 10 years for trafficking. On a scale of 0-5, overall, it ranks as a 1.75 (where 1.25 is the lowest average score).

Criminal. The criminal SOL in 2002 for felony and misdemeanor sexual abuse of minors was 7 years from the offense or 3 years after reporting to law enforcement, whichever was more recent. A tolling rule for victims under age 15 stopped the 7-year SOL from running until they were 15

¹⁸² S. 2440, 242nd Leg., Reg. Sess. (N.Y. 2019).

¹⁸³ See *State v. Johnson*, 275 N.C. 264, 279 (1969).

¹⁸⁴ N.C. GEN. STAT. ANN. § 15-1; S 199, 2019 Leg., Reg. Sess. (N.C. 2019).

¹⁸⁵ N.C. GEN. STAT. ANN. § 1-52(16).

¹⁸⁶ *Id*; *Doe v. Doe*, 973 F.2d 237 (4th Cir. N.C. 1992).

¹⁸⁷ S 199, 2019 Leg., Reg. Sess. (N.C. 2019).

¹⁸⁸ S 200, 2019 Leg., Reg. Sess. (N.C. 2019).

years old, effectively extending the SOL to age 22.¹⁸⁹ Other sex offense felonies had an SOL of 3 years and misdemeanors 2 years from the offense, but for victims under age 15 the SOL didn't start running until they reached age 15.¹⁹⁰ In 2015, North Dakota extended the criminal SOL for sexual abuse of minors to 10 years from the offense or 3-year after reporting. It also added a 3-year discovery rule, which extended the SOL for sexual abuse of minors to 3 years after the offense is reported or DNA identifies the perpetrator, and in 2017 added fingerprinting identification too. Like the previous SOL, the 10-year SOL was tolled for victims under age 15 so that prosecution was permitted until victim reaches age 25 (age of tolling, 15, plus 10 years).¹⁹¹ In 2015 North Dakota extended the SOL for prosecution of felony human trafficking to 7 years from the offense if victim is age 15, 16 or 17 and age 22 (age of tolling, 15, plus 7 years) if victim is under age 15.¹⁹² In 2019, North Dakota extended the criminal SOL again. Now, the SOL for sexual abuse of minors under age 15 is 21 years from the offense or 3 years after it is reported to law enforcement or DNA or fingerprint evidence establishes the identity of the perpetrator, even if the prior SOLs expired. The tolling rule for sexual abuse of minors under age 15 is intact and prosecution is permitted until victim reaches age 36 (age of tolling, 15, plus 21 years).¹⁹³ North Dakota is still one of only 7 states not to eliminate at least felony crimes from the SOL.

Civil. In 2002, North Dakota's civil SOL was age 20 (age of majority, 18, plus 2 years).¹⁹⁴ It has been amended twice since then. In 2011, the age limit was replaced with a 7-year discovery rule. In 2015, the discovery rule was extended to 10 years from the date the victim "knew or reasonably should have known that a *potential* claim exists resulting from childhood sexual abuse."¹⁹⁵ While this is a "discovery rule," it is a very narrow one that makes it difficult for the victim to bring a claim years after the abuse occurred. In 2015, it added an SOL for trafficking of age 28 (age of majority, 18, plus 10 years) or 10 years from when trafficking ended, whichever is later.¹⁹⁶ North Dakota has not passed a window or other SOL revival legislation since 2002.

Ohio

While Ohio has made changes to its criminal and civil SOLs since 2002, it still lags behind most of the country. Ohio has not yet eliminated any criminal SOL, placing it alongside only 7 other states. It amended the criminal SOL in 2015 by extending the age for some felonies to age 43. The civil SOL is also relatively short as it is capped at age 30. On a scale of 0-5, it is the only state that ranks as a 1.25 (where 1.25 is the lowest average score).

Criminal. Ohio is one of the states that has not eliminated any criminal SOLs for child sex abuse. In 2002, the criminal SOL was age 24 for felony offenses and age 20 for misdemeanor

¹⁸⁹ N.D. CENT. CODE ANN. §§ 29-04-03.1, 29-04-03.2. *See also State v. Goebel*, 725 N.W.2d 578, 585 (N.D. 2007).

¹⁹⁰ N.D. CENT. CODE ANN. §§ 29-04-02, 29-04-03 and 29-04-03.2.

¹⁹¹ N.D. CENT. CODE ANN. § 29-04-03.1.

¹⁹² N.D. CENT. CODE ANN. §§ 29-04-02.1 and 29-04-03.2.

¹⁹³ N.D. CENT. CODE ANN. § 29-04-03.1.

¹⁹⁴ N.D. CENT. CODE ANN. § 28-01-18.

¹⁹⁵ N.D. CENT. CODE ANN. § 28-01-25.1 (emphasis added).

¹⁹⁶ N.D. CENT. CODE ANN. § 12.1-41-15.

crimes.¹⁹⁷ In 2015, the criminal SOL was extended to age 43 for rape and sexual battery, 38 for other felonies, and age 20 for misdemeanors. That same year it also added a DNA provision for rape and sexual battery which eliminated the SOL if there was a DNA match within 25 years of the offense or if after 25 years, it extended the SOL by 5 years.¹⁹⁸ Ohio is still one of the few states not to eliminate at least felony crimes from the SOL.

Civil. The Ohio civil SOL was age 19 (age of majority, 18, plus 1 year) in 2002.¹⁹⁹ In 2006, though, the civil SOL was extended to age 30 (age of majority, 18, plus 12 years). It also added a special provision for claims of fraudulent concealment that the SOL doesn't begin to run until a victim discovers the facts that form the basis of its fraud claim.²⁰⁰ Ohio came very close to enacting a window that would have permitted revival of expired civil SOL claims, but the measure was defeated by the Catholic bishops.²⁰¹ Ohio has not passed a window or other SOL revival legislation since 2002.

Oklahoma

Oklahoma amended its short criminal and civil SOLs a few times since 2002, with the most improvements in 2017. Oklahoma extended the criminal SOL for felonies to age 45 in 2017 but it has yet to join the mainstream in eliminating the criminal SOL for at least some felonies. The civil SOL was also extended to age 45 in 2017. On a scale of 0-5, overall, it ranks as a 2 (where 1.25 is the lowest average score).

Criminal. The criminal SOL in 2002 was 7 years after the crime was reported to law enforcement with a requirement that the crime must be reported before age 20, so the latest crimes could be prosecuted was age 26. It also had a DNA statute that extended the SOL to 3-years after a DNA match if it was reported before age 20.²⁰² In 2005, it was amended to up to 12 years after being reported to the authorities before age 20, with an upper limit for the SOL of age 32.²⁰³ In 2015, it was extended to include aggravated possession of child pornography. Then, in 2017, the SOL was extended to age 45 for child sex abuse crimes and the DNA statute no longer required that the crime be reported.²⁰⁴ Prosecution for any remaining felonies and misdemeanors must commence within 3 years after the crime is committed.²⁰⁵ Oklahoma is still one of only 7 states not to eliminate at least felony crimes from the SOL.

Civil. In 2002, the civil SOL was age 20 with a 2-year discovery rule for victims up until age 38.²⁰⁶ Oklahoma added a provision in 2004 extending the SOL against an imprisoned perpetrator to 5 years after the perpetrator's release. It was further extended in 2017 to age 45 for

¹⁹⁷ OHIO REV. CODE ANN. § 2901.13.

¹⁹⁸ *Id.*

¹⁹⁹ OHIO REV. CODE ANN. § 2305.111(C).

²⁰⁰ *Id.*

²⁰¹ See Justice Denied, *supra* note 41, at 56-59, 80-85.

²⁰² OKLA. STAT. ANN. tit. 22, § 152.

²⁰³ OKLA. STAT. ANN. tit. 22, § 152 (L) (“As used in paragraph 1 of subsection C of this section, “discovery” means the date that a physical or sexually related crime involving a victim under the age of eighteen (18) years of age is reported to a law enforcement agency, up to and including one (1) year from the eighteenth birthday of the child.”).

²⁰⁴ OKLA. STAT. ANN. tit. 22, § 152.

²⁰⁵ OKLA. STAT. ANN. tit. 22, § 152 (H).

²⁰⁶ OKLA. STAT. ANN. § 95.

actions against perpetrators and remains age 20, with no discovery rule, for claims against other defendants.²⁰⁷ Oklahoma has not passed a window or other SOL revival legislation since 2002.

Oregon

Oregon has made changes to both criminal and civil SOLs since 2002. In 2005, it extended the criminal SOL to age 30 and added a provision eliminating the SOL for 1st degree crimes if there is a DNA match in 2009. The civil SOL at age 40 with a 5-year discovery rule, which is applied liberally, makes it one of the most progressive civil SOLs in the country short of a window. On a scale of 0-5, overall, it ranks as a 3.

Criminal. In 2002, the criminal SOL for felonies was the earlier of age 24 or 6 years after reporting and for misdemeanors age 22 or 4 years after reporting.²⁰⁸ In 2005, it moved the SOL for felonies to age 30 or 12 years after reporting to law enforcement, whichever occurs first. But then it set the SOL at age 30 for several 1st degree crimes regardless of when it was reported in 2015.²⁰⁹ In 2007, the SOL for 1st degree crimes where DNA identifies a perpetrator was extended from 12 to 25 years from the crime and then in 2009 it was eliminated completely.²¹⁰

Civil. In 2002, the civil SOL was age 24 (age of majority, 18, plus 6 years) with a 3-year discovery rule that had an upper limit of age 40.²¹¹ In 2010, this was extended to age 40 and a 5-year discovery rule with no age cap.²¹² The expanded SOL applies retroactively to revive time-barred actions with the 5-year discovery rule or until a victim reaches age 40, unless judgment had already been entered.²¹³ The discovery rule is very liberal in application.

Pennsylvania

Pennsylvania has improved both its criminal and civil SOLs since 2002. It extended, and then in 2019 eliminated, the criminal SOL for many felonies. The civil SOL was extended to age 55, which is average amongst the states. On a scale of 0-5, overall, it ranks as a 2.75.

Criminal. The criminal SOL was extended in 2002 from age 23 to 30 (age of majority, 18, plus 12 years).²¹⁴ Five years later, following the 2005 Philadelphia District Attorneys Grand Jury Report on sex abuse in the Philadelphia Archdiocese, it was extended to age 50.²¹⁵ A 1-year SOL extension was added in 2004 if DNA identified the perpetrator. In 2014, trafficking and sexual servitude were added to the list of offenses for which the SOL is age 50. In 2019, Pennsylvania eliminated the criminal SOLs for certain felonies (trafficking, sexual servitude, rape, statutory sexual assault, involuntary deviate sexual intercourse, sexual assault, institutional

²⁰⁷ *Id.*

²⁰⁸ OR. REV. STAT. ANN. § 131.125.

²⁰⁹ OR. REV. STAT. ANN. § 131.125.

²¹⁰ *Id.*

²¹¹ OR. REV. STAT. ANN. § 12.117.

²¹² *Id.*

²¹³ *Doe v. Silverman*, 401 P.3d 793, 796 (Or. 2017).

²¹⁴ tit. 42 PA. STAT. AND CONS. STAT. ANN. § 5552.

²¹⁵ tit. 42 PA. STAT. AND CONS. STAT. ANN. § 5552.

sexual assault, aggravated indecent assault, and incest), and it extended the criminal SOL for other felony and misdemeanor sexual offenses to age 55.

Civil. Before 2002, the civil SOL in Pennsylvania was age 20.²¹⁶ In 2002, Pennsylvania's civil SOL was extended to age 30.²¹⁷ Pennsylvania has generated the most grand jury reports on child sex abuse in the country, and despite many efforts at SOL reform they were not successful until this year.²¹⁸ In 2019, Pennsylvania extended the civil SOL to age 55 for victims sexually abused as minors and expanded liability for government institutions by providing exceptions to the laws of government immunity and limitations on damages.²¹⁹ Pennsylvania also passed a resolution proposing an amendment to the Pennsylvania Constitution to open a 2-year revival window for victims of child sex abuse. The resolution must be passed again by the legislature and then voters must approve it by referendum for the window to become law.²²⁰

Rhode Island

Rhode Island made no changes to criminal SOLs since 2002 and made some progress on civil SOL reform in 2019. It is in the mainstream of states, with no criminal SOLs for felonies. In 2019, it somewhat caught up with neighboring Massachusetts and Connecticut, extending its civil SOL to age 55 and reviving claims against perpetrators only. On a scale of 0-5, overall, it ranks as a 3.25.

Criminal. Rhode Island eliminated the criminal SOLs for some felonies in 1985.²²¹ The SOL for all other child sex abuse crimes is 3 years from the offense.²²²

Civil. Since 1993, the Rhode Island civil SOL for child sex abuse was age 25 (age of majority, 18, plus 7) or discovery plus 7 years against the perpetrator and age 21 (age of majority, 18, plus 3 years) against other defendants.²²³ The discovery rule is applied liberally in favor of the victim. In 2019, Rhode Island extended its civil SOL to age 53 (age of majority, 18, plus 35 years) with an expanded 7-year delayed discovery rule against perpetrators, private organizations

²¹⁶ tit. 42 PA. STAT. AND CONS. STAT. ANN. § 5533.

²¹⁷ *Id.*

²¹⁸ In addition to the first diocesan grand jury reports, *see, Reports of Attorneys General, Grand Juries, Individuals, Commissions, and Organizations*, BISHOPACCOUNTABILITY.ORG, <http://www.bishop-accountability.org/AtAGlance/reports.htm> (last visited Sept. 26, 2019), *see also, Sandusky Presentment*, NPR, https://www.npr.org/assets/news/2011/11/sandusky_presentment.pdf; *see also*, Commonwealth of Pennsylvania Office of the Bucks County District Attorney, *Grand Jury Report on Solebury School Sexual Abuse Released*, BUCKSCOUNTY.ORG (Feb. 1, 2017) <http://www.buckscounty.org/about/trail-study-lower-bucks-news/2017/02/01/grand-jury-report-on-solebury-school-sexual-abuse-released>; *see*, Ed Mahon, *Six dioceses now under investigation in Pa.*, YORK DAILY RECORD (Sept. 16, 2016, 9:16 P.M.), <https://www.ydr.com/story/news/2016/09/16/some-hope-harrisburg-diocese-investigation-gives-answers/90510824/>.

²¹⁹ This year, the Superior Court of Pennsylvania found that whether a victim exercised reasonable diligence in discovering her injury and whether she had a confidential relationship with a diocese is a question of fact for a jury. Some argue that this case may create an opportunity for some victims to bring claims and civil conspiracy in court, despite their expired statute of limitation. *See Rice v. Diocese of Altoona-Johnstown*, 212 A.3d 1055 (Pa. Super Ct. 2019).

²²⁰ HB 963, 2019 Leg., Gen. Assemb. (Pa. 2019); HB 962, 2019 Leg., Gen. Assemb. (Pa. 2019).

²²¹ tit. 12 R.I. GEN. LAWS ANN. § 12-12-17.

²²² *Id.*

²²³ tit. 9 R.I. GEN. LAWS ANN. § 9-1-51 and § 9-1-14(b).

and the government. The new SOL has a retroactive element and revives expired claims up to age 53 against perpetrators only.²²⁴

South Carolina

South Carolina has made no changes to its criminal or civil SOLs since 2002. It is among the leaders in the country for child sex abuse criminal SOLs, because it has eliminated all of them. However, the civil SOL is short at age 27 with a 3-year discovery rule. On a scale of 0-5, overall, it ranks as a 2.5.

Criminal. South Carolina has no SOL for felonies or misdemeanors for child sex abuse.²²⁵

Civil. The South Carolina civil SOL is age 27 or a 3-year discovery rule, which has been in place since 2001.²²⁶ South Carolina has not changed its civil SOL or passed a window or other SOL revival legislation since 2002.

South Dakota

South Dakota is the only state to further restrict SOLs since 2002. It has no criminal SOL for felonies. The civil SOL runs to age 21 with a 3-year discovery rule. Since 2010, the discovery rule has been capped at age 40, blocking all claims against anyone other than the perpetrator at age 40. On a scale of 0-5, overall, it ranks as a 1.25 (where 1.25 is the lowest average score).

Criminal. South Dakota eliminated the criminal SOL for Class A, B, and C felonies in 1978, over 40 years ago.²²⁷ All other crimes and misdemeanors are subject to an SOL of age 25 (age of majority, 18, plus 7 years).²²⁸

Civil. South Dakota is the only state to backtrack on child sex abuse SOLs since 2002. In 1991, the civil SOL was age 21 or 3 years from discovery, whichever was later.²²⁹ In 2010, the state limited the discovery rule, however, by adding an upper limit of age 40 for claims against all but the perpetrator, which immunized institutions.²³⁰ The targets that were intentionally kept out of court were Native American victims who had attended boarding schools on Native American Reservations where Catholic priests taught.²³¹ The 40-year-old limit for institutions meant the church would not be held liable for the abuse that occurred. South Dakota has not passed a window or other SOL revival legislation since 2002.

²²⁴ tit. 9 R.I. GEN. LAWS ANN. § 9-1-51.

²²⁵ S.C. CODE ANN. § 16-3-655. Unlike many states, South Carolina has no statute of limitations on criminal cases.

²²⁶ S.C. CODE ANN. § 15-3-555.

²²⁷ S.D. CODIFIED LAWS § 23A-42-1.

²²⁸ S.D. CODIFIED LAWS § 23A-42-2.

²²⁹ S.D. CODIFIED LAWS § 26-10-25.

²³⁰ *Id.*

²³¹ Patrick Anderson, Native American Victims of Sex Abuse at Catholic Boarding Schools Fight for Justice, Argus Leader, (March 12, 2020), <https://www.argusleader.com/story/news/2019/05/16/native-american-sex-abuse-victims-catholic-boarding-schools-south-dakota/1158590001/>.

Tennessee

Since 2000, Tennessee has made some of the most changes to criminal SOLs compared to every other state, while making two changes to civil SOLs. Before finally eliminating its criminal SOL, it had amended it eight different times, in 2006, 2007, 2012, 2013, 2014, 2015, 2016, and 2019. Tennessee has expanded the civil SOL twice, to age 33 with a liberal 3-year discovery rule. On a scale of 0-5, overall, it ranks as a 2.25.

Criminal. Tennessee has expanded its criminal SOL eight times since 2002. In 2002, Tennessee had no SOL for offenses punishable by death or life imprisonment, and for other felonies it was age 21 or 4 years from the offense, whichever is later. In 2006, it extended the SOL for rape, sexual battery and incest to age 43.²³² It broadened its SOL of age 43 to include more crimes of child sex abuse in 2007, child pornography and sexual exploitation in 2012, and promoting prostitution in 2015.²³³ In 2013, the state extended the criminal SOL for crimes of child sex trafficking and sexual exploitation to age 33, and patronizing and promoting prostitution to age 28. Tennessee eliminated the SOL for rape in 2014 if it was reported within 3 years of the crime. In 2016, it extended the criminal SOL for aggravated statutory rape to age 33. Most recently, in 2019, it eliminated the criminal SOL for all child sex abuse felonies and many misdemeanors, including trafficking, pornography and prostitution. It does have a limitation though: if prosecuting after the victim is age 43, and victim was at or between ages 13 and 17 at the time of the offense, and victim never reported the offense to another person before reaching age 23, admissible and credible evidence corroborating the charge or similar acts by defendant is required.²³⁴

Civil. The civil SOL in 2002 was age 19.²³⁵ In 2016, Tennessee added to the civil SOL by including a 3-year discovery rule that is triggered by the victim's awareness that his or her current injury or illness was caused by the sex abuse. The civil SOL was extended in 2019 to age 33 (age of majority, 18 plus 15 years) with a 3-year discovery rule.²³⁶ Tennessee has not passed a window or other SOL revival legislation since 2002.

Texas

Since 2002, Texas has amended its criminal SOL three times and its civil SOLs four times. Texas's current criminal SOL is in the mainstream with its elimination of the SOL for most crimes. The civil SOL was extended in 2019 to age 48. On a scale of 0-5, overall, it ranks as a 2.25.

Criminal. In 2002, the criminal SOL for felonies was age 28 except if there was DNA evidence then there was no SOL.²³⁷ In 2007, Texas eliminated the criminal SOLs for felony sexual assault and continuous sexual abuse of a child and extended the SOL to age 38 for sexual performance. It eliminated the SOL for sex trafficking in 2011 and added the crime of compelling prostitution

²³² TENN. CODE ANN. § 40-2-101.

²³³ *Id.*

²³⁴ *Id.*

²³⁵ TENN. CODE ANN. § 28-3-104.

²³⁶ TENN. CODE ANN. § 28-3-116.

²³⁷ TEX. CRIM. PROC. CODE ANN. § 12.01.

to its age 38 SOL. Four years later, it removed the SOL for compelling prostitution too.²³⁸ The SOL for misdemeanors remains 2 years from the offense and is not subject to the DNA evidence rule.²³⁹

Civil. In 2002, the Texas civil SOL was date of accrual plus 5 years.²⁴⁰ In Texas, the date of accrual may be the age of majority, 18, but it also may be extended somewhat by a narrow discovery rule requiring that a victim file a petition to toll the statute of limitations where the perpetrator's identity is unknown. For most cases, the civil SOL would have expired by age 23 (age of majority, 18, plus 5 years). It added to its 5-year SOL the offense of continuous sexual abuse of a child in 2007 and trafficking and prostitution in 2011. In 2015, Texas added 10 years to its civil SOL to make it the date of accrual plus 15 years, which in most cases amounted to age 33 (age of majority, 18, plus 15 years). In 2019, it extended the civil SOL again by another 15 years to age 48 (age of majority, 18, plus 30 years).²⁴¹ Although there is a common law discovery rule in Texas, it has not yet successfully tolled the SOL for sexual abuse claims.²⁴² Texas has not passed a window or other SOL revival legislation since 2002.

Utah

Utah has made a number of changes to its criminal and civil SOLs since 2002. Its 2008 elimination of the criminal SOL for felonies places it in the mainstream compared to other states. Its civil SOL is better than many states as of its 2015 and 2016 changes. It enacted a narrow window and revival up to age 53 that only applies to the perpetrator, which is likely why it generated only four cases. On a scale of 0-5, overall, it ranks as a 3.25.

Criminal. In 2002, the Utah criminal SOL was 4 years after the crime,²⁴³ with a provision that rape, sodomy and sexual abuse of a child can be prosecuted within 4 years after reporting to law enforcement.²⁴⁴ In 2003, it enacted a DNA statute, which extended the SOL if DNA evidence was collected, and if the perpetrator is identified by DNA there was an additional 1 year for prosecution. Then, in 2005, it increased the SOL for many felony sex offenses to 8 years after the offense if it is reported within 4 years. The DNA statute was also broadened to apply to more sex abuse crimes.²⁴⁵ In 2008, Utah eliminated the criminal SOL for most sex offense felonies. The SOL for incest was extended to 8 years after the offense if it is reported within 4 years in 2009. In 2013 it added trafficking and prostitution to its list of crimes that can be prosecuted at any time.²⁴⁶ Utah expanded its DNA statute again in 2019 to allow prosecution 4 years after a

²³⁸ *Id.*

²³⁹ TEX. CRIM. PROC. CODE ANN. § 12.02.

²⁴⁰ TEX. CIV. PRAC. & REM. CODE ANN. § 16.0045.

²⁴¹ *Id.*

²⁴² *S.V. v. R.V.*, 933 S.W.2d 1 (Tex. 1996).

²⁴³ UTAH CODE ANN. § 76-1-302.

²⁴⁴ UTAH CODE ANN. § 76-1-303 (Repealed) (If the SOL "has expired, a prosecution may nevertheless be commenced for . . . rape of a child, object rape of a child, sodomy upon a child, or sexual abuse of a child within four years after the report of the offense to a law enforcement agency."); *State v. Toombs*, 380 P.3d 390, 394 (Utah Ct. App. 2016).

²⁴⁵ UTAH CODE ANN. § 76-1-302.

²⁴⁶ UTAH CODE ANN. § 76-1-301.

perpetrator is identified by DNA and broadened elimination for trafficking offenses.²⁴⁷ Misdemeanors have an SOL of 2 years after the offense is committed.²⁴⁸

Civil. In 2002, the civil SOL in Utah was age 22 (age of majority, 18, plus 4 years) with a 4-year discovery rule.²⁴⁹ In 2015, Utah eliminated its civil SOL for actions against the perpetrator. In 2016, it enacted a revival law, which opened a 3-year window for victims of any age and revived claims up to age 53 (age of majority, 18, plus 35) for previously expired claims against a perpetrator or a living individual who would be criminally liable.²⁵⁰ The constitutionality of the window is being challenged in the Utah Supreme Court.²⁵¹ This year Utah removed governmental immunity for claims of abuse and implemented an SOL for claims against government entities or employees of 2 years from the abuse or discovery of the claim.²⁵²

Vermont

Since 2002, Vermont has made significant changes to both criminal and civil SOLs. Vermont eliminated the criminal SOLs for most felonies in 2009. In 2019, it eliminated the civil SOL entirely and went beyond a temporary revival window, permanently reviving all expired claims without any time limitation. Vermont leads the way in 2019 with the most victim-centered SOL reform. On a scale of 0-5, overall, it ranks as a 4.5 (where 4.75 is the highest average score).

Criminal. The Vermont criminal SOL in 2002 for felony sex offenses was age 24 or 6 years after reporting, whichever is earlier.²⁵³ In 2009, Vermont eliminated the criminal SOL for felony aggravated sexual assault of a child. It also extended its age 24 SOL to apply also to 17 year-olds and changed the reporting time for the SOL to 10 years. In 2011, Vermont removed the SOL for trafficking. In 2013, Vermont extended the SOL for other felonies to 40 years from the offense, and, in 2017, it added more felony offenses to its SOL. In 2019, Vermont added felony sexual exploitation of a minor to its criminal elimination statute. The SOL for the remaining felonies and misdemeanors is 3 years from an offense. Criminal actions in Vermont are not tolled until a victim reaches age 18.²⁵⁴

Civil. The civil SOL in place since 1989 was age 24 (age of majority, 18, plus 6 years) or discovery plus 6 years, whichever was later. The discovery rule was liberal in that the victim did not make the discovery unless he discovered that the injury was caused by the sex abuse. In 2019, Vermont completely eliminated its civil SOL and permanently revived all claims from the past that were expired without limitation.²⁵⁵

²⁴⁷ UTAH CODE ANN. § 76-1-302.

²⁴⁸ UTAH CODE ANN. § 76-1-302 (1)(b).

²⁴⁹ UTAH CODE ANN. § 78B-2-308.

²⁵⁰ *Id.*

²⁵¹ *Mitchell v. Roberts*, No. 20170447-SC (2019), at <https://www.courtlistener.com/docket/4402436/mitchell-v-roberts/>.

²⁵² UTAH CODE ANN. §§ 63G-7-201 and 63G-7-403.

²⁵³ VT. STAT. ANN. tit. 13, § 4501.

²⁵⁴ *Id.*

²⁵⁵ VT. STAT. ANN. tit. 12, § 522.

Virginia

Virginia has only made minor improvements to its criminal and civil SOLs since 2002. Virginia eliminated the criminal SOL for felonies, placing it firmly in the mainstream of other states. Its civil SOL was relatively short at age 20 until 2011 when it extended it to age 38. On a scale of 0-5, overall, it ranks as a 1.75 (where 1.25 is the lowest average score).

Criminal. In 2002, Virginia had no criminal SOL for felonies and for misdemeanors related to child sex abuse the SOL was 1-year from the offense.²⁵⁶ In 2016, the SOL for misdemeanors was extended to age 19 (age of majority, 18, plus 1 year).²⁵⁷

Civil. In 2002, Virginia's general civil SOL was age 20 (age of majority, 18, plus 2 years) with a 2-year discovery rule that only applied to claims against individual persons, but not against institutions.²⁵⁸ In 2011, the state extended its civil SOL for claims against individuals to age 38 (age of majority, 18, plus 20) or 20 years from discovery.²⁵⁹ In 2013 it clarified its discovery rule, making clear that a cause of action accrues the later of age 18 or when the fact of the injury and its causal connection to the abuse is first communicated to the victim by a physician or psychologist.²⁶⁰ Virginia has not passed a window or other SOL revival legislation since 2002.

Washington

Washington has made many changes to its criminal SOLs and no changes to its civil SOLs since 2002. It previously had an age 30 criminal SOL for most felonies and in 2019 it eliminated it for multiple sex abuse crimes. The civil SOL, which has been in place since 1991, at age 21 with a liberal 3-year discovery rule, is also short compared to most states. On a scale of 0-5, overall, it ranks as a 1.75 (where 1.25 is the lowest average score).

Criminal. In 2002, the criminal SOL in Washington state for 1st and 2nd degree rape was the later of age 21 (age of majority, 18, plus 3 years) or, if reported within a year, 10 years after the crime. For other felony sex offenses the SOL was age 21 or 7 years after the crime, whichever is later, and for misdemeanors it was age 19 or 20.²⁶¹ In 2006, it added a DNA statute which extended the SOL to 1-year after a perpetrator is identified by DNA. In 2009, Washington extended the SOLs for all sex offenses to age 28 and then again in 2013 to age 30.²⁶² In 2017, the state expanded its age 30 SOL to include commercial sex abuse and extended the SOL for trafficking to 10 years from the crime.²⁶³ Then, in 2019, Washington extended the SOL for

²⁵⁶ *Anderson v. Commonwealth*, 634 S.E.2d 372, 375 (Va. Ct. App. 2006) (“Consistent with the common law, Virginia has no general statute of limitation on felonies.”).

²⁵⁷ VA. CODE ANN. § 19.2-8.

²⁵⁸ VA. CODE ANN. §§ 8.01-243, 8.01-229, 1-204, 8.01-249. In 2007, the Virginia Supreme Court explained that the discovery rule in § 8.01-249 only applies to actions against individual persons and not institutions. *Kopalchick v. Catholic Diocese of Richmond*, 645 S.E.2d 439, 442-43 (Va. 2007). The current civil SOL for claims against institutional defendants is age 20 (age of majority, 18, plus 2 years) with no discovery rule. *See id.*

²⁵⁹ *Id.*

²⁶⁰ VA. CODE ANN. § 8.01-249(6); *see also Kopalchick*, 645 S.E.2d at 442 (“finding that the discovery rule applies only to natural persons, and not to an institution.”)

²⁶¹ WASH. REV. CODE ANN. § 9A.04.080.

²⁶² *Id.*

²⁶³ WASH. REV. CODE ANN. § 9A.04.080.

incest to age 30 and eliminated the SOL for rape, sexual misconduct, child molestation, and sexual exploitation. It also extended its DNA statute to 2 years.²⁶⁴

Civil. As of 1991, Washington’s civil SOL was age 21 (age of majority, 18, plus 3 years) or 3 years from discovery.²⁶⁵ No changes have been made in the interim. Washington has not passed a window or other SOL revival legislation since 2002.

West Virginia

West Virginia has not changed its criminal SOLs but amended its civil SOL once since 2002. West Virginia is in the mainstream with no criminal SOL for felonies. The current civil SOL of age 22 with a 2-year discovery rule is among the shortest compared to the other states. On a scale of 0-5, overall, it ranks as a 1.75 (where 1.25 is the lowest average score).

Criminal. There is no criminal SOL for felonies related to child sex abuse.²⁶⁶ The SOL for misdemeanors is 1 year after the commission of the crime.²⁶⁷

Civil. Since 2002, the civil SOL in West Virginia was age 20 (age of majority, 18, plus 2 years)²⁶⁸ and it has a judicially crafted 2-year discovery rule and equitable tolling at the court’s discretion.²⁶⁹ There is an additional requirement that cases be brought within 20 years of the injury, which limits the discovery rule.²⁷⁰ In 2016, West Virginia extended its SOL to age 22 (age of majority, 18, plus 4) with a 4-year discovery rule that has no upper age limit only for actions against a perpetrator of the abuse.²⁷¹ West Virginia has not passed a window or other SOL revival legislation since 2002.

Wisconsin

Wisconsin has made modest improvements to its criminal and civil SOLs since 2002. After amendments in 2003, 2005, 2007, 2011, and 2017, Wisconsin now has no SOL for the most serious felonies and for others it is age 45. The civil SOL was extended up to age 35 in 2004 and is in the middle of the rest of the states. On a scale of 0-5, overall, it ranks as a 2.25.

²⁶⁴ *Id.*

²⁶⁵ WASH. REV. CODE ANN. § 4.16.340.

²⁶⁶ *State v. King*, 140 W. Va. 362, 367 (W. Va. 1954) (Noting “the felony charged in the indictment is subject to no limitation.”).

²⁶⁷ W. VA. CODE ANN. §§ 61-11-9; 61-8D-3(d).

²⁶⁸ W. VA. CODE ANN. §§ 55-2-12, 2-3-1, and 55-2-15.

²⁶⁹ W. VA. CODE ANN. § 55-2-21(d); *see also Merrill v. W. Va. Dep’t of Health & Human Res.*, 219 W. Va. 151, 156, (W. Va. 2006) (“this Court held that [i]n tort actions, unless there is a clear statutory prohibition to its application, under the discovery rule the statute of limitations begins to run when the plaintiff knows, or by the exercise of reasonable diligence, should know (1) that the plaintiff has been injured, (2) the identity of the entity who owed the plaintiff a duty to act with due care, and who may have engaged in conduct that breached that duty, and (3) that the conduct of that entity has a causal relation to the injury.” (quoting *Gaither v. City Hosp., Inc.*, 487 S.E.2d 901, 903 (W. Va. 1997))).

²⁷⁰ W. VA. CODE ANN. § 55-2-15. Some West Virginia courts have applied this 20-year from injury cap to limit the discovery rule, while others have not. *See Merrill v. W. Virginia Dep’t of Health & Human Res.*, 632 S.E.2d 307 (W. Va. 2006) and *Miller v. Monongalia County Bd. of Educ.*, 219 W.Va. 151 (W. Va. 2009).

²⁷¹ W. VA. CODE ANN. § 55-2-15.

Criminal. Since 2002, Wisconsin has amended its criminal SOLs several times. As of 2002, the criminal SOL for child sex abuse felonies was age 31 with a DNA statute that extends the SOL for 1-year if there is a match.²⁷² In 2003, the state extended the criminal SOL to age 45.²⁷³ Finally, in 2005, it eliminated the criminal SOL for 1st degree sexual assault of a child and repeated sexual assault of the same child, and it broadened the classes of felonies included within those crimes in 2007.²⁷⁴ Wisconsin added an age 24 SOL for sex trafficking in 2007 and extended it to age 45 in 2011.²⁷⁵ In 2017, it added soliciting a child for prostitution to the crimes for which the SOL is age 45.²⁷⁶ The SOL for misdemeanors is 3 years from the crime with no tolling until age of majority for the victim.²⁷⁷

Civil. In 2002 the general civil SOL in Wisconsin was age 20 (age of majority, 18, plus 2 years),²⁷⁸ with a 5-year discovery rule for claims against perpetrators of certain child sex abuse crimes.²⁷⁹ In 2004, the SOL against perpetrators was extended to age 35 and the discovery rule was removed.²⁸⁰ Despite many efforts, Wisconsin has not yet passed a window or other SOL revival legislation since 2002.

Wyoming

Wyoming has made no changes to its civil or criminal SOLs since 2002. Wyoming has no criminal SOL for either felonies or misdemeanors, making it a leader among the states. For civil claims, its SOL of age 26 with a 3-year discovery rule puts it in the middle of the other states. On a scale of 0-5, overall, it ranks as a 2.5.

Criminal. Wyoming has no criminal SOL for felonies or misdemeanors related to child sex abuse.²⁸¹

Civil. The civil SOL in Wyoming has been the same since at least 1993: age 26 (age of majority, 18, plus 8 years) or 3 years from discovery, whichever is later.²⁸² Wyoming has not passed a window or other SOL revival legislation since 2002.

Washington D.C.

Washington D.C. has made progress on criminal and civil SOLs since 2002, but it wasn't until 2019 that the jurisdiction made monumental improvements. It had a short criminal SOL, which had been in place since 1981, and it finally eliminated the criminal SOL for felonies in 2019. It

²⁷² WIS. STAT. ANN. § 939.74; *State v. MacArthur*, 750 N.W.2d 910, 915 (Wis. 2008) (1997 amendment increased statute of limitation for prosecution to time that “victim reaches the age of 31”).

²⁷³ WIS. STAT. ANN. § 939.74; SB 207, 2003 Leg., Reg. Sess. (Wis. 2003).

²⁷⁴ WIS. STAT. ANN. § 939.74; AB 47, 2005 Leg., Gen. Assemb. (Wis. 2006); SB 103, 2007 Leg., Reg. Sess. (Wis. 2007).

²⁷⁵ WIS. STAT. ANN. § 939.74; 2007 Leg., Reg. Sess. (Wis. 2007); SB 536, 2011 Leg., Reg. Sess. (Wis. 2011).

²⁷⁶ WIS. STAT. ANN. § 939.74; SB 396, 2017 Leg., Reg. Sess. (Wis. 2017).

²⁷⁷ WIS. STAT. ANN. § 939.74.

²⁷⁸ WIS. STAT. ANN. §§ 893.54, 893.57, 893.93, 893.16.

²⁷⁹ WIS. STAT. ANN. § 893.587.

²⁸⁰ *Id.*; SB 207, 2003 Leg., Reg. Sess. (Wis. 2003).

²⁸¹ *Story v. State*, 721 P.2d 1020, 1026 (Wyo. 1986) (“At common law there is no limitation period for the prosecution of any criminal offense.”).

²⁸² WYO. STAT. ANN. § 1-3-105.

also significantly improved its civil SOL in 2019 by extending it to age 40 and opening a 2-year revival window for expired claims. On a scale of 0-5, overall, it ranks as a 3.25.

Criminal. In 2002, D.C. had a criminal SOL of 6 years from an offense for felonies and 3 years for other offenses.²⁸³ In 2004, D.C. pushed the SOL to age 36 (age of majority, 21, plus 15 years) for child sex abuse felonies in the first and second degree, and age 31 (age of majority, 21, plus 10 years) for third and fourth degree sexual abuse, incest and pornography. In 2010, D.C. added an SOL of age 31 (age of majority, 21, plus 10 years) for sex trafficking of children. In 2019, D.C. eliminated the criminal SOL for most sex abuse felonies. Though, it left trafficking, pornography and prostitution at the age 31 SOL.²⁸⁴ The SOL for misdemeanor sexual abuse is 3 years from the date it is committed.²⁸⁵

Civil. The civil SOL in 2002 was age 24 (age of majority, 21, plus 3 years).²⁸⁶ The SOL was extended in 2009 to age 25 (age of majority, 18, plus 7 years) or discovery plus 3 years, whichever is later.²⁸⁷ In 2019, D.C. extended the civil SOL to age 40 with a 5-year discovery rule. It also opened a 2-year revival window for child sex abuse victims currently under age 40, older victims who discovered their abuse within the last 5 years, and, in some circumstances, those sexually assaulted as adults.²⁸⁸

B. The Federal Government

The federal government has made some changes to both criminal and civil SOLs since 2002. In 2003, the federal government removed the criminal SOLs for crimes related to child sex abuse. After several amendments, the civil SOL for federal child sex abuse crimes is age 28 or 10 years from discovery.

Criminal. As of January 2002, the federal criminal SOL for child sex abuse crimes was age 25.²⁸⁹ In 2003, the SOL was eliminated during the life of a child for all sex crimes against children.²⁹⁰ In 2006 the SOL was eliminated for most felony child sex abuse crimes²⁹¹ and for

²⁸³ D.C. CODE § 23-113, available at <https://code.dccouncil.us/dc/council/laws/docs/4-104.pdf>.

²⁸⁴ D.C. CODE § 23-113.

²⁸⁵ D.C. CODE § 23-113(5).

²⁸⁶ D.C. CODE §§ 12-301, 12-302. Available at <https://www.govinfo.gov/content/pkg/STATUTE-77/pdf/STATUTE-77-Pg478.pdf>.

²⁸⁷ *Id.*

²⁸⁸ *Id.*

²⁸⁹ 18 U.S.C. § 3283.

²⁹⁰ *Id.*

²⁹¹ 18 U.S.C. § 3299. The list of felonies that SOL was eliminated for includes violations of: 18 U.S.C. 2241 (aggravated sexual abuse), 2242 (sexual abuse), 2243 (sexual abuse of a ward or child), 2244 (abusive sexual contact), 2245 (sexual abuse resulting in death), 2250 (failure to register as a sex offender), 2251 (sexual exploitation of children), 2251A (selling or buying children), 2252 (transporting, distributing or selling child sexually exploitive material), 2252A (transporting or distributing child pornography), 2252B (misleading names on the Internet), 2260 (making child sexually exploitive material overseas for export to the U.S.), 2421 (transportation for illicit sexual purposes), 2422 (coercing or enticing travel for illicit sexual purposes), 2423 (travel involving illicit sexual activity with a child), 2424 (filing false immigration statement), 2425 (interstate transmission of information about a child relating to illicit sexual activity), and § 1591 (sex trafficking by force, fraud or of a child).

the remaining crimes prosecution was permitted anytime while the child victim was alive or 10 years after the offense, whichever is later.²⁹²

Civil. In 2002, the statute of limitations for child sex abuse crimes was 6 years from the date the cause of action accrued or age 21 (age of majority, 18, plus 3 years). In 2005, statutory damages of \$150,000.00 were added for each violation as an alternative to actual damages.²⁹³ Masha's Law is the federal statute creating civil liability to compensate child pornography victims, a subset of the child sex abuse universe. It was originally passed in 2006 with an SOL of age 21.²⁹⁴ In 2013, the SOL was further amended to allow for 10 years from the date the cause of action accrued, in addition to the age 21 limit. Then, in 2018 as part of the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act, trafficking was added to the list of child sex abuse crimes and the SOL was further extended. The SOL was changed to age 28 (age of majority, 18, plus 10 years) with the addition of a 10-year discovery rule wherein a victim has 10 years from the date on which the victim understands that her injuries were caused by the abuse to bring a claim.²⁹⁵ The Federal Government has not passed a window or other SOL revival legislation since 2002.

Other federal laws that can create civil liability for child sex abuse include the civil rights statutes as applied to public schools, wherein the SOL is typically borrowed from the state SOL where the abuse occurred.²⁹⁶

III. The Pace of SOL Reform Since January 2002

A. The Pace of Child Sex Abuse SOL Change Since 2002

Child sex abuse SOL reform has been a very active area of the law, with 2019 ushering in an unprecedented volume of new laws as shown by the following graphs. Overall, there were more amendments to criminal SOLs than civil SOLs since 2002, though both saw a great deal of activity. This study also underemphasizes the actual legislative activity in that it only tracks the bills that became law; there were many more bills introduced.²⁹⁷ Moreover, for some states, bills were introduced repeatedly, e.g., New York Assembly members repeatedly introduced the Child Victims Act for over a decade until it finally became law in 2019. The pace of change has increased dramatically in 2019 with 41 jurisdictions introducing legislation to reform SOLs and 22 states and D.C. passing new laws.

²⁹² 18 U.S.C. § 3283.

²⁹³ 18 U.S.C. § 2255 (1986). *See also* James Marsh, *Masha's Law: A Federal Civil Remedy for Child Pornography Victims*, 61 SYRACUSE L. REV. 459 (2011).

²⁹⁴ 18 U.S.C. § 2255 (2006).

²⁹⁵ 18 U.S.C. § 2255 (2018).

²⁹⁶ 20 U.S.C § 1681; *Bougher v. Univ. of Pittsburgh*, 882 F.2d 74, 77 (3d Cir. 1989).

²⁹⁷ *See* Child USA 2019 SOL Summary for full SOL legislative activity this year at CHILDUSA.ORG, <https://www.childusa.org/2019sol> (last visited Nov. 1, 2019).

1. For Criminal SOLs: The Move of Choice was to Eliminate the SOLs

30 states and D.C. eliminated SOLs for at least some child sex abuse crimes, felonies and/or misdemeanors.²⁹⁸

32 states extended at least some SOLs for child sex abuse crimes.²⁹⁹

21 states both extended and eliminated criminal SOLs.³⁰⁰

The federal government effectively eliminated criminal SOLs.

The current net result (including states that previously eliminated the criminal SOL) is that 43 states, the federal government and D.C. now have *eliminated* at least some criminal SOLs.

2. For Civil SOLs: Three Paths were Taken: Extension, Elimination, and/or Revival

17 states and D.C. passed laws that revived expired SOLs.³⁰¹

10 states eliminated some civil SOLs.³⁰²

37 states the federal government and D.C. extended the civil SOLs.³⁰³

6 states extended and eliminated at least some civil SOLs.³⁰⁴

Only 1 state, South Dakota, backtracked on an earlier extension.

3. Some States Took No Action after January 2002

Most states instituted amendments to the child sex abuse criminal or civil SOLs following January 2002.

42, or 84%, of states made changes to the criminal SOLs following 2002; 8, or 16% of states, did not.³⁰⁵

40, or 80%, of states amended the civil SOLs; 10, or 20% of states, made no changes to the civil SOLs following 2002.³⁰⁶

Only 2 states took no action since January 2002, South Carolina and Wyoming. However, SOL reform was introduced in these states even if not enacted.

²⁹⁸ States that eliminated at least some criminal SOLs for felonies, and/or misdemeanors since 2002:

AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, KS, MA, MI, MN, MO, MS, MT, NE, NY, OR, TN, TX, UT, VT, WA, WI.

²⁹⁹ States that have extended at least some criminal SOLs:

AK, AR, CA, FL, HI, IL, IA, IN, KS, KY, LA, ME, MN, MO, MT, NC, NE, NV, NH, NY, ND, OH, OK, OR, PA, TN, TX, UT, VT, VA, WA, WI.

³⁰⁰ 21 states that both extended and eliminated criminal SOLs:

AK, AR, CA, FL, HI, IL, IN, KS, MN, MO, MT, NE, NY, OR, PA, TN, TX, UT, VT, WA, WI.

³⁰¹ States that revived civil SOLs: AZ, CA, CT, DE, GA, HI, MA, MI, MN, MT, NJ, NY, NC, OR, RI, UT, VT.

³⁰² States that eliminated at least some civil SOLs: AK, CT, DE, FL, IL, ME, MN, NE, UT, VT.

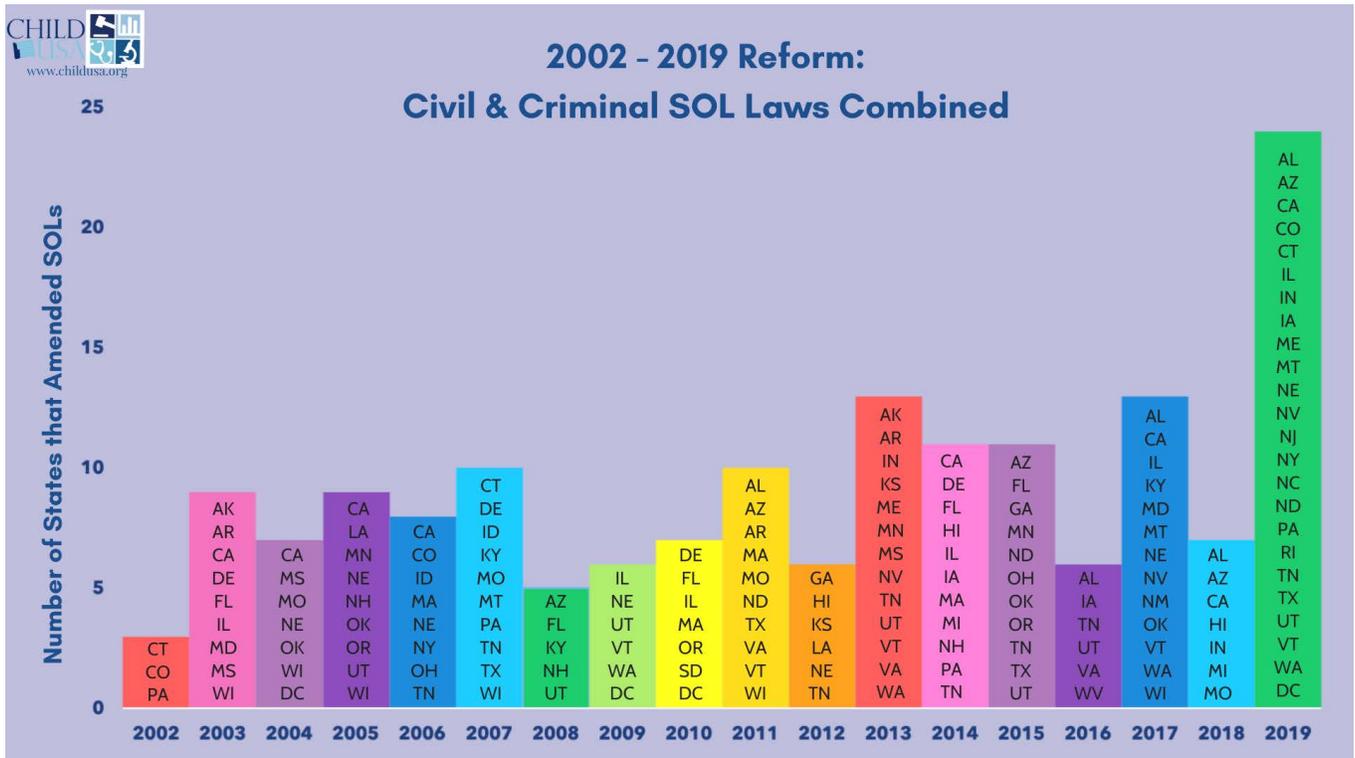
³⁰³ States that extended civil SOLs: AL, AK, AZ, CA, CT, FL, GA, HI, IA, ID, IL, IN, KY, MD, MA, MI, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, TN, TX, UT, VA, WV, WI.

³⁰⁴ States that extended and eliminated some civil SOLs: AK, CT, FL, IL, NE, UT.

³⁰⁵ The 8 states that did not make changes to their **criminal** SOLs after 2002: MD, NJ, NM, RI, SC, SD, WV, WY.

³⁰⁶ The 10 states that did not make changes to their **civil** SOLs after 2002: AR, CO, IA, KS, LA, ME, MS, SC, WA, WY. Though Maine had already eliminated civil SOLs by 2002.

The following graphs illustrate the pace of SOL change since 2002 and the number of states to engage in such change each year.³⁰⁷



³⁰⁷ State SOL amendments for each year included in these pace of change graphs are limited to the following types of SOL reform: criminal elimination, criminal age extension, civil elimination, civil age extension, civil discovery rule extension and civil revival law/window. DNA/evidence provisions and very minor changes have been excluded.

2002 - 2019 Reform: Criminal SOL Laws

Number of States that Amended Criminal SOLs



2002 - 2019 Reform: Civil SOL Laws

Number of States that Amended Civil SOLs



B. Changes to the Civil and Criminal SOLs State-by-State

The following chart summarizes the changes made to the civil and criminal statutes of limitation for child sex abuse in each state since 2002.

State	Change to Criminal SOL	Change to Civil SOL
Alabama	Eliminated for more felonies and misdemeanors	Extended to age 25
Alaska	Eliminated for more felonies	Eliminated for more felonies
Arizona	Eliminated for more felonies	Extended to age 30 19-month revival window (2019)
Arkansas	Eliminated for some felonies	None
California	Eliminated for some felonies (Attempted revival of criminal SOL ruled unconstitutional)	Extended to age 40 or discovery + 5 yrs 1-yr revival window (2003) 3-yr revival window (2019)
Colorado	Eliminated for felonies	None
Connecticut	Eliminated for felonies and misdemeanors	Eliminated if perpetrator convicted Revival up to age 48 and extension to age 51
Delaware	Eliminated for felonies and misdemeanors	Eliminated 2-yr + 2-yr revival window (2007 and 2010)
Florida	Eliminated for some felonies	Eliminated for some felonies
Georgia	Eliminated for some felonies	Extended to age 23 or discovery + 2 yrs 2-yr revival window against perpetrator (2015)
Hawaii	Eliminated for some felonies	Extended to age 26 or discovery + 3 2-yr + 2-yr + 2-yr revival window (2012, 2014 and 2018)
Idaho	Eliminated for some felonies	Extended to age 23 or discovery + 5 yrs
Illinois	Eliminated for felonies and misdemeanors	Extended to age 38 or discovery + 20 yrs and then Eliminated
Indiana	Extended for more felonies	Extended to age 25, discovery + 7 yrs, or 4 yrs after not dependent on perpetrator
Iowa	Extended for felonies and misdemeanors to age 33	None
Kansas	Eliminated for some felonies	None
Kentucky	Extended for misdemeanors to age 23	Extended to age 28, discovery + 10 yrs or conviction + 10 yrs
Louisiana	Extended for non-capital felonies and misdemeanors to age 48	None
Maine	Extended to age 38 for some felonies against victims age 16 and older	None (already eliminated)

Maryland	None (already eliminated for felonies and misdemeanors)	Extended to age 38 or conviction + 3 yrs
Massachusetts	Eliminated for some felonies	Revival and extension up to age 53 or discovery +7 yrs against perpetrator Extension to age 53 or discovery +7 yrs against entities
Michigan	Eliminated for more felonies	Extended to age 28 or discovery + 3 yrs 90-day revival window (2018)
Minnesota	Eliminated for trafficking	Eliminated 3-yr revival window (2013)
Mississippi	Eliminated for most felonies	None
Missouri	Eliminated for felonies and misdemeanors	Extended to age 31 or discovery + 3 yrs
Montana	Eliminated for felonies and misdemeanors	Extended to age 27 or discovery + 3 yrs 1-yr revival window (2019)
Nebraska	Eliminated for most felonies and misdemeanors	Eliminated
Nevada	Extended to age 36 or 43, if not discoverable, for felonies and misdemeanors	Extended to age 38 or discovery + 20 yrs
New Hampshire	Extended for trafficking to age 38	Extended to age 30 or discovery + 3 yrs
New Jersey	None (already eliminated for some felonies)	Extended to age 55 or discovery + 7 yrs 2-yr revival window (2019)
New Mexico	None (already eliminated for some felonies)	Revised discovery rule to run from disclosure to healthcare professional
New York	Eliminated for some felonies	Extended to age 55 1-yr revival window (2019)
North Carolina	Extended for misdemeanors to 10 yrs from crime	Extended to age 28 or conviction + 2 yrs 2-yr revival window (2019)
North Dakota	Extended to age 36 or 3 yrs after reporting/ DNA identification	Extended to discovery + 10 yrs
Ohio	Extended to age 43 for rape and sexual battery, 38 for felonies and 20 for misdemeanors	Extended to age 30 yrs
Oklahoma	Extended to age 45	Extended to age 45 against perpetrators
Oregon	Extended for some felonies to age 30; eliminated if DNA identification	Extended to age 40 or discovery + 5 yrs

Pennsylvania	Eliminated for some felonies and extended to age 55 for other felonies and misdemeanors	Extended to age 55
Rhode Island	None (already eliminated for some felonies)	Revival and extension up to age 53 against perpetrator Extended to age 53 or discovery + 7 yrs against entities
South Carolina	None (already eliminated for felonies and misdemeanors)	None
South Dakota	None (already eliminated for most felonies)	Only state to backtrack: Restricted age 21 or discovery + 3 yrs, by adding upper limit of age 40 for discovery rule
Tennessee	Eliminated for felonies and some misdemeanors	Extended to age 33 or discovery + 3 yrs
Texas	Eliminated for most felonies	Extended to age 48
Utah	Eliminated for most felonies	Eliminated against perpetrator Added 4-yr discovery rule against non-perpetrator Revival up to age 53 and 3-yr window against perpetrator or someone criminally responsible
Vermont	Eliminated for most felonies	Eliminated Revival of all expired claims (2019)
Virginia	Extended for misdemeanors to age 19	Extended to age 38 or discovery + 20 yrs
Washington	Eliminated for most felonies and extended to age 30 for others	None
West Virginia	None (already eliminated for felonies)	Extended to age 22 or discovery + 4 yrs
Wisconsin	Elimination for most felonies	Extended to age 35
Wyoming	None (already eliminated for felonies and misdemeanors)	None
Washington D.C.	Eliminated for most felonies	Extended to age 40 or discovery +5 yrs 2-yr window up to age 40 (2019)
Federal Government	Effective elimination	Extended to age 28 or discovery +10 yrs

IV. A Focus on SOL Revival Laws, Including Windows, Since January 2002

There is literally only one way to restore justice to adult victims of child sex abuse and that is to revive their expired civil claims for abuse that were barred by short SOLs. In other words, to fix the wrongs done to them, they deserve the opportunity to file civil lawsuits if they so choose. Though 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 and it learns how to prevent child sex abuse.

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. Based on the best science, age 52 is the average age of disclosure for victims of child sex abuse.³⁰⁸ By the time most victims are ready to come forward, the courthouse doors are locked. Revival laws honor and empower the victims of child sex abuse who had faced locked courthouse doors due to unfairly short SOLs.

There are three compelling public purposes served by revival laws: (1) they help identify previously unknown predators to the public so they can be prevented from abusing children in the future, (2) they shift the cost of the abuse from the victims back to the predators and those that hid the abuse, and (3) they educate the public about the prevalence and harm from child sex abuse so that families and the legal system can protect victims more effectively, with the goal of prevention.

HOW REVIVAL WINDOW/LAWS HELP EVERYONE

-  **Identifies previously unknown predators**
to the public, shielding other children from future abuse.
-  **Shifts the cost of abuse**
from the victims to the perpetrators and the institutions that enabled them.
-  **Educates the public**
about the prevalence and harm from child sex abuse so that families and the legal system can prevent abuse.

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³⁰⁸ N. Spröber et al., *Child sexual abuse in religiously affiliated and secular institutions*, BMC PUBLIC HEALTH, Vol.14, at p.282 (March 27, 2014).

A. Analysis of SOL Revival Laws

This study will analyze the 18 jurisdictions that, since 2002, have enacted laws that revive civil suits for victims of child sex abuse whose SOL has already expired. There are two types of revival laws: (1) revival windows, open permanently or temporary, and (2) revival up until victims reach a certain age. The most popular means of reviving for states has been with a revival "window." A window is a law that eliminates the civil SOL for a set period of time after the law takes effect for victims whose claims have already expired. Similarly, a revival age limit law removes the civil SOL up until the victim reaches a certain age that is set by the state. Many state revival laws include both windows and age limits, while some states have chosen to revive via one or the other. Both types of laws enable adult victims of child sex abuse to sue their abusers and/or the institutions responsible years after they were abused. These revival laws have been instrumental in giving thousands of victims across America a long overdue opportunity for justice and educating the public about hidden predators in their communities and the child sex abuse epidemic that still plagues society.

1. Explanation of Revival Window Laws

California became the first state to enact revival legislation to help past victims of abuse with its 1-year revival window in 2003. Since then, 12 more states - Delaware, Hawaii, Minnesota, Georgia, Utah, Michigan, New York, Montana, New Jersey, Arizona, Vermont, North Carolina - and Washington D.C. have opened revival windows. These windows have varied in length and by the types of defendants that are permitted to be sued.

The absolute best way to remedy the wrong of having unreasonably short SOLs for so long is to completely revive all expired claims with a permanently open revival "window." This is exactly what Guam did in 2016 and Vermont did the same in 2019. Now any person that was sexually abused as a child in Vermont and Guam may sue their abuser or any responsible person or institution whenever they are ready.

The next best windows are in California, Delaware, Hawaii, and New Jersey because the windows are open for 2 or more years and apply to claims against any type of defendant - perpetrators, individuals, institutions and the government. The less effective windows are Georgia and Utah's, which only revived claims against perpetrators and not against the institutions that were negligent or actually aware of abuse and failed to stop it. The worst window is Michigan's, which only helped victims of Dr. Larry Nassar and left a gaping hole of injustice for all other Michigan victims of child sex abuse.

2. Explanation of Revival Age Limit Laws

The revival age limit laws have opened the courthouse doors to adult victims by allowing them to bring suits for previously expired claims up until they reach a certain age. The cutoff age varies from Oregon's age 40 to Connecticut's age 48 and age 53 in Massachusetts and Rhode Island. The upside of these laws is that victims younger than the age limit are less pressured to bring claims within a few years or lose them, which is the case with temporary windows. The downside is that older victims that are above the cutoff age are still shut out of court. These laws also vary by which defendants are open to suit, with Connecticut as the best one, reviving suits against any type of defendant, and Massachusetts and Rhode Island with worse versions that only revive claims against the perpetrator.

3. Explanation of Laws with Both Revival Windows & Age Limits

There is a growing trend to revive expired claims of abuse via laws that both open temporary windows for victims of all ages and allow victims to file claims up until they reach a certain age, even after the window closes. The benefit of this hybrid approach is that it gives victims of all ages an opportunity to file claims and allows more victims to sue on a schedule that works for them. This approach is particularly helpful for younger victims who are not fully aware of the abuse or its effects and have not disclosed it yet. It also benefits all victims younger than the age limit who, for whatever reason, are not yet ready to file a lawsuit against their abuser or those responsible for their abuse before the window closes. Revival via both a window and an age limit is a great approach to justice for child sex abuse victims of all ages.

Utah was the first state to pass this type of revival law in 2016 when it opened a 3-year window and revived up until victims reached age 53. However, Utah's law was not effective because it only revived against perpetrators or those criminally liable for the abuse. In 2019 Arizona, California, Montana and New Jersey improved on Utah's approach and all passed revival laws that included a window and an age limit for claims against perpetrators and entities. New Jersey's law is the strongest and empowers the most victims with its 2-year window and revival up until age 55. Second best is California's which has a 3-year window and revival up until a victim reaches age 40. Arizona and Montana's windows are less effective with shorter windows and younger revival age limits, age 30 and 27, respectively.

4. State-by-State Overview of All Revivals Laws Since 2002

A full list of the 17 states and Washington D.C. along with a description of their revival laws is provided in the following chart.³⁰⁹

State	Date	Revival Law Type	Revival Law Description
Arizona	May 27, 2019	19-Month Window & Age 30 Limit	Permanently revived SOL up to age 30 and 19-month window opened on May 27, 2019 for expired claims against perpetrators, private organizations and government. (2019-20 open). ³¹⁰
California	2003 2019	1-Year Window, 3-Year Window & Age 40 Limit	1-year window revived SOL against private organizations only. (2003-04 closed). In 2019 revived SOL up to age 40 and 3-year window opened on January 1, 2020 for expired claims against perpetrators, other individuals, private organizations and government (2020-22 open). ³¹¹
Connecticut	2002	Age 48 Limit	Permanently revived SOL up to age 48 against

³⁰⁹ Description only indicates that a law revives against the government if the statute explicitly mentions public entities or case law clearly supports that conclusion. This list also does not include revival via delayed discovery rule.

³¹⁰ H.B. 2466, 54th Leg., 1st Reg. Sess. (Ariz. 2019).

³¹¹ CAL. CIV. PROC. CODE § 340.1.

			perpetrators, other individuals, private organizations and government. ³¹²
Delaware	2007 2010	2-Year Window 2-Year Window	2-year window revived SOL against perpetrators, other individuals, private organizations and government. (2007-09 closed). In 2010 added 2-year window for claims against healthcare providers because original window did not apply to them. (2010-12 closed). ³¹³
Georgia	2015	2-Year Window	2-year window revived SOL against perpetrators only. (2015-17 closed). ³¹⁴
Hawaii	2012 2014 2018	2-Year Window 2-Year Window 2-Year Window	In 2012, 2-year window revived SOL against perpetrators, other individuals and private organizations. In 2014 extended original window for another 2 years and expanded to include claims against the government and in 2018 extended window again for 2 years to be open until April 24, 2020. (2012-2020 open). ³¹⁵
Massachusetts	2014	Age 53 Limit	Permanently revived SOL up to age 53 against perpetrators only. ³¹⁶
Michigan	2018	90-Day Window	90-day window revived SOL for victims of Larry Nassar only. (2018 closed). ³¹⁷
Minnesota	2013	3-Year Window	3-year window revived SOL against perpetrators, other individuals and private organizations. (2013-16 closed). ³¹⁸
Montana	May 7, 2019	1-Year Window & Age 27 Limit	Permanently revived SOL up to age 27 and 1-year window opened on May 7, 2019 for expired claims against perpetrators and entities. (2019-20 open). ³¹⁹
New Jersey	May 13, 2019	2-Year Window & Age 55 Limit	Permanently revived SOL up to age 55 and 2-year window opened on December 1, 2019 for expired claims against perpetrators, other individuals, private organizations and government. Window applies to child sex abuse victims and those sexually assaulted as adults. (2019-21 open). ³²⁰
New York	Feb. 14, 2019	1-Year Window	1-year window opened on August 14, 2019 for expired claims against perpetrators, other individuals, private organizations and government. (2019-20 open). ³²¹

³¹² CONN. GEN. STAT. § 52-577d.

³¹³ DEL. CODE tit. 10, § 8145 and tit. 18, § 6856.

³¹⁴ GA. CODE § 9-3-33.1.

³¹⁵ HAW. REV. STAT. § 657-1.8.

³¹⁶ MASS. GEN. LAWS ch. 260, § 4C.

³¹⁷ MICH. COMP. LAWS § 600.5851b.

³¹⁸ MINN. STAT. § 541.073, 2013 Minn. Sess. Law Serv. Ch. 89 (H.F. 681).

³¹⁹ MONT. CODE § 27-2-216.

³²⁰ S. 477 2019 Gen. Assemb., Reg. Sess. (N.J. 2019).

³²¹ N.Y. C.P.L.R. 214-g.

North Carolina	Nov. 7, 2019	2-Year Window	2-year window opened on January 1, 2020 for expired civil claims. <i>(2020-21 open)</i> . ³²²
Oregon	2010	Age 40 Limit	Permanently revived SOL up to age 40 against perpetrators, other individuals and private organizations. ³²³
Rhode Island	July 1, 2019	Age 53 Limit	Permanently revived SOL up to age 53 against perpetrators only. ³²⁴
Utah	2016	3-Year Window & Age 53 Limit	Revived SOL up to age 53 against perpetrators or persons criminally liable and 3-year window revived SOL against perpetrators or persons criminally liable only. <i>(2016-19 closed)</i> . ³²⁵
Vermont	May 28, 2019	Permanent Window	Revived SOL with permanently open revival window on May 28, 2019 for all expired claims against perpetrators, other individuals, private organizations and government. <i>(open)</i> . ³²⁶
Washington D.C.	May 3, 2019	2-Year Window	2-year window opened on May 3, 2019 for expired claims against perpetrators, other individuals and entities. Window applies to all child sex abuse victims up to age 40 and, in some circumstances, older victims and those sexually assaulted as adults. <i>(2019-21 open)</i> . ³²⁷

B. New SOL Revival Laws Passed in 2019

This year an unprecedented number of revival laws are going into effect in jurisdictions across the United States. Of the 18 total revival laws passed since 2002, 9 of them were passed in 2019. Victims whose claims had previously expired will have an opportunity to file civil claims and hold their abusers and responsible institutions accountable in Arizona, California, Montana, New Jersey, New York, North Carolina, Rhode Island, Vermont and the District of Columbia. 2019 also saw the best revival law yet, with Vermont's permanently open revival window for all expired claims of child sex abuse. The table below provides the dates the 9 new revival laws are effective, including when windows open and close, along with descriptions of who may sue and be sued under each new law.

³²² S 199, 2019 Leg., Reg. Sess. (N.C. 2019).

³²³ O.R.S. § 12.117.

³²⁴ tit. 9 R.I. GEN. LAWS § 9-1-51.

³²⁵ UTAH CODE § 78B-2-308.

³²⁶ B. 330, 2019 Leg., Reg. Sess. (Vt. 2019).

³²⁷ D.C. CODE § 23-113.

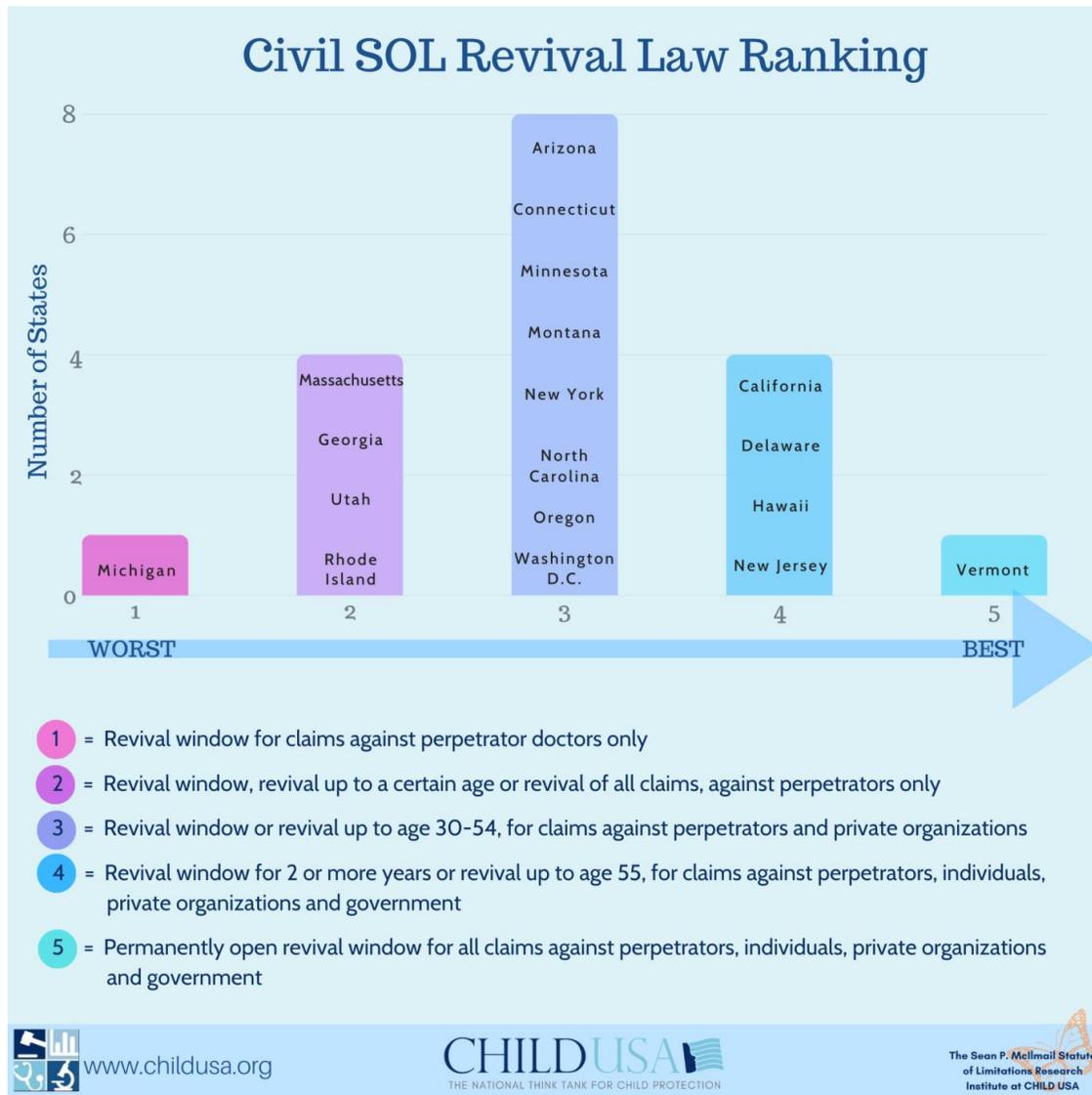
Nine New SOL Windows or Revival Laws in 2019

Adult survivors of child sex abuse now have access to justice via civil lawsuits in the following jurisdictions. Even if the SOL was already expired, claims of abuse are revived and survivors can file civil lawsuits for a set period of time pursuant to: (1) a permanently or temporarily open revival window, or (2) a new revival age limit for survivors.

Jurisdiction	Date Opens First day can file	Date Closes Last day can file	Revival Law Description
Washington D.C.	May 3, 2019	May 2, 2021	2-year window: 2-year window opened on May 3, 2019 for expired claims against perpetrators, other individuals and entities. Window applies to all child sex abuse survivors up to age 40 and, in some circumstances, older victims and those sexually assaulted as adults.
Montana	May 7, 2019	May 6, 2020	1-year window and revival up to age 27: 1-year window opened on May 7, 2019 for expired claims against perpetrators and entities. Claims are revived for survivors until age 27, even after window closes.
Arizona	May 27, 2019	Dec. 30, 2020	19-month window and revival up to age 30: 19-month revival window opened on May 27, 2019 for expired claims against perpetrators, other individuals, private organizations and government. Claims are revived for survivors until age 30, even after window closes.
Vermont	May 28, 2019	n/a	Permanent window: Window that is permanently open revived all expired claims against perpetrators, other individuals, private organizations and government.
Rhode Island	July 1, 2019	n/a	Revival up to age 53: Revived SOL up to age 53 against perpetrators only.
New York	Aug. 14, 2019	Aug. 13, 2020	1-year window: 1-year window opened on August 14, 2019 for expired claims against perpetrators, other individuals, private organizations and government.
New Jersey	Dec. 1, 2019	Nov. 30, 2021	2-year window and revival up to age 55: 2-year window opened on December 1, 2019 for expired claims against perpetrators, other individuals, private organizations and government. Window applies to child sex abuse victims and those sexually assaulted as adults. Child sex abuse claims are revived until age 55, even after window closes.
California	Jan. 1, 2020	Dec. 31, 2022	3-year window and revival up to age 40: 3-year window opened on January 1, 2020 for expired claims against perpetrators, other individuals, private organizations and government. Claims are revived for survivors until age 40, even after window closes.
North Carolina	Jan. 1, 2020	Dec. 31, 2021	2-year window: 2-year window opened on January 1, 2020 for expired claims against perpetrators, other individuals and entities.

C. SOL Revival Law Rankings by State³²⁸

This study takes a snapshot of all the jurisdictions that have revived claims for victims whose SOL had already expired. It analyzes all three types of revival laws with a focus on who they help and for how long. The states are ranked in the chart below based on what age or type of victims the revival law applies to, the new length of time a victim has to sue, and which individuals and entities can be sued. Vermont has the "best" revival law and Michigan has the "worst."



³²⁸ Revival Law Ranking Guide:

- 1 = revival window for claims against perpetrator doctors only
- 2 = revival window, revival up to a certain age or revival of all claims, against perpetrators only or private organizations only
- 3 = revival window or revival up to age 30-54, for claims against perpetrators and private organizations
- 4 = revival window for 2 or more years or revival up to age 55, for claims against perpetrators, private organizations and government
- 5 = permanently open revival window for all claims against perpetrators, private organizations and government

V. Grading the States on Their Child Sex Abuse SOLs

Since 2002, the pace of change had been consistent and persistent until 2019 when it rapidly accelerated. This was a banner year for SOL reform with 23 states and Washington D.C. improving their SOLs. Therefore, one can expect the landscape to continue to change. No two states are identical, which means that child sex abuse SOL reform is a prime example of Justice Louis Brandeis' concept of the states as "laboratories".³²⁹ This is truly a 50-state experiment.

In this section, this study will take a snapshot of the states in 2019 and grade them according to how far they have advanced toward elimination of the criminal and civil SOLs for present and future victims and revival of expired SOLs for victims from the past. On these metrics, Delaware and Vermont are the "best" states and Iowa, Mississippi, Ohio and South Dakota are the "worst." It is important, though, to separate out the criminal SOLs from the civil SOLs as they serve different ends.

The criminal SOLs make it possible for prosecutors to prosecute child sex crimes for the purpose of putting the perpetrator behind bars and/or on a state sex offender registry. The downside of the criminal prosecution of child sex abuse is that it is relatively rare because prosecutors tend not to prosecute those cases where the child is very young. The child may be deemed a potentially "unreliable" witness, or the evidence may not be strong enough to withstand the "beyond a reasonable doubt" burden of proof. When DNA is collected and tested, this calculus changes, as it is a very strong identifier of the perpetrator. Without physical evidence, however, the cases rest on corroborating evidence like witnesses and other victims of the same perpetrator.

Civil claims serve a distinct purpose as they shift the costs of the abuse from the victim to the person and/or institution that caused the abuse. Thus, while the criminal justice system protects future victims through incarceration and sex offender registration of the perpetrator, the civil system redresses the impact of abuse on the victim, past or present. The civil system also creates a deterrent for future bad behavior by institutions by imposing damages for endangering children through negligent oversight of employees and volunteers. It also spurs the insurance industry to require organizations to prevent abuse. The worst civil SOL states—Alabama, Mississippi and South Dakota—provide the least deterrence for organizations by cutting off claims when the victim is in his early twenties.

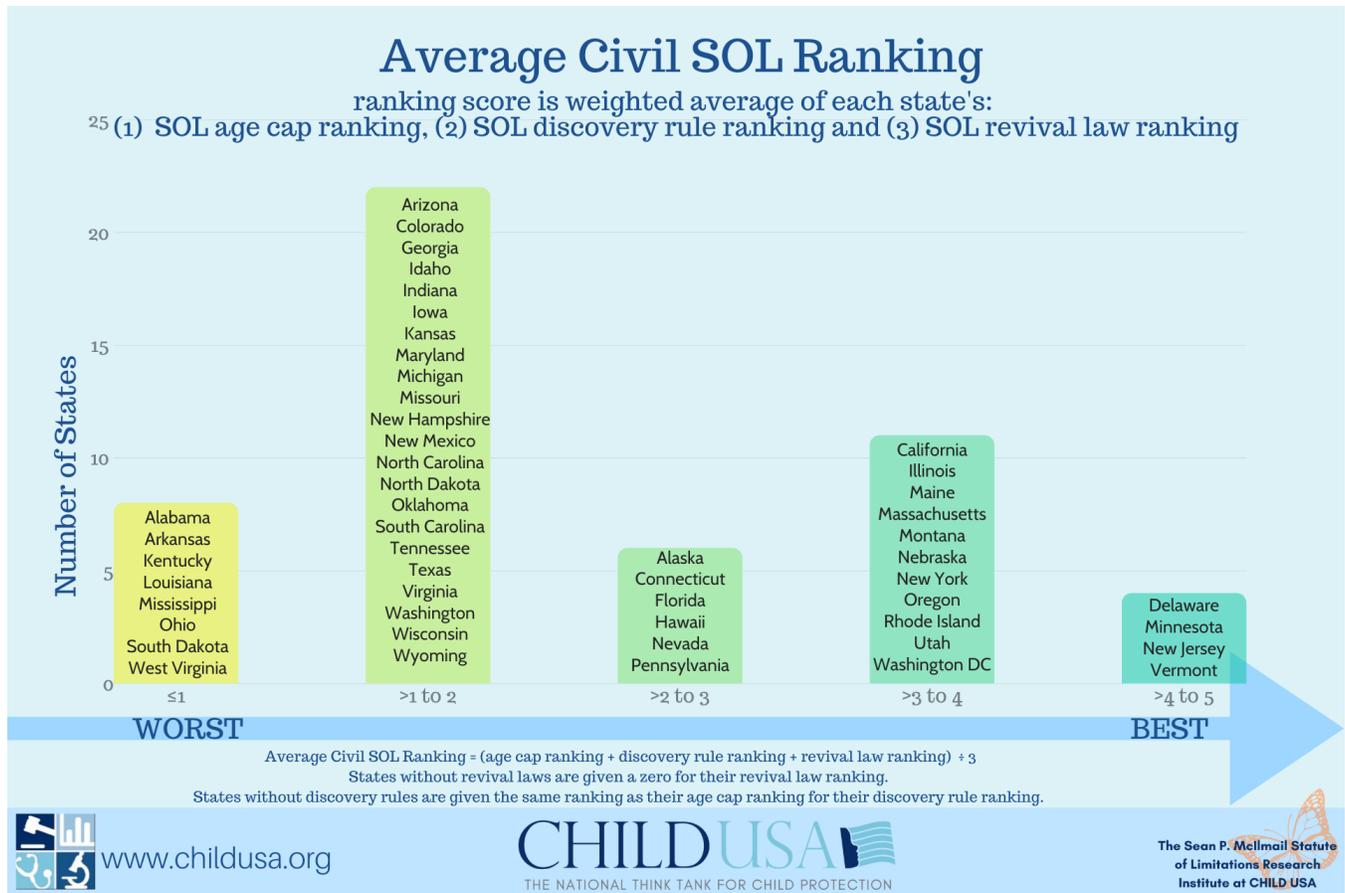
For civil claims, there are two categories of victims: those from the past and those being abused now and into the future. Those from the past have been excluded through expired SOLs in many states. In an effort to give these victims access to justice, 17 states and D.C. have revived expired SOLs. Those jurisdictions that only extend or eliminate the civil SOLs going forward often leave earlier victims without recourse, which in turn means that there is a strong risk that their perpetrators may never be named publicly.

The states to revive expired SOLs and to eliminate the SOLs going forward—Delaware, Minnesota and Vermont—have done the most for all categories of victims, past, present, and future. The civil SOL rankings take into account whether a state has helped both past and future victims (with revival

³²⁹ *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting) (stating that a "state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.").

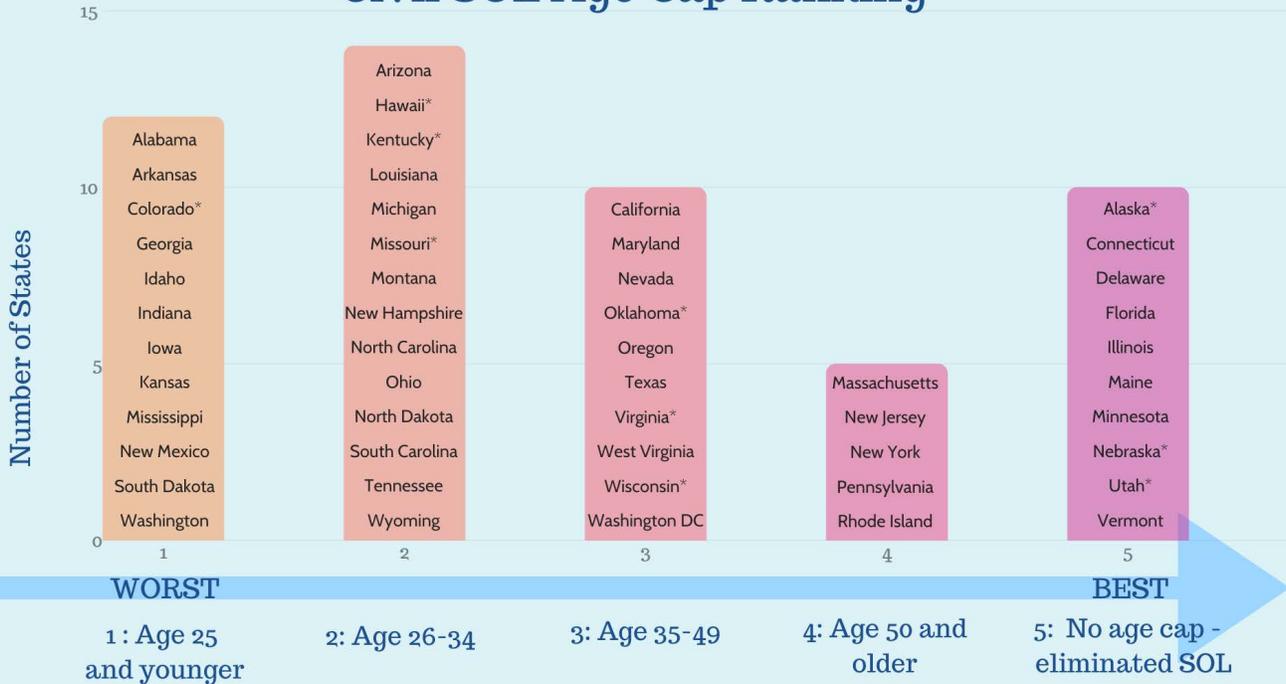
legislation and forward elimination or extension, respectively) or only those going forward (through forward elimination or extension).

A. Civil SOL Ranking by State³³⁰



³³⁰ The average civil ranking is a weighted average of each state's (1) SOL age cap ranking, (2) SOL discovery rule ranking and (3) SOL revival law ranking. It is calculated by adding the ranking scores for each of these three categories together and dividing by 3. For this calculation, states without revival laws are given a zero for their revival law ranking and states without discovery rules are given the same ranking as their age cap ranking for their discovery rule ranking. For example, Alabama has a civil age cap ranking of a 1, no discovery rule (use age cap ranking of 1) and no revival law (0). Its average ranking is calculated by adding (1 + 1 + 0) and dividing by 3, which equals .66, placing it in the worst average civil SOL bar.

Civil SOL Age Cap Ranking



* State has younger SOL age cap for suits against non-perpetrators



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Civil SOL Discovery Rule Ranking

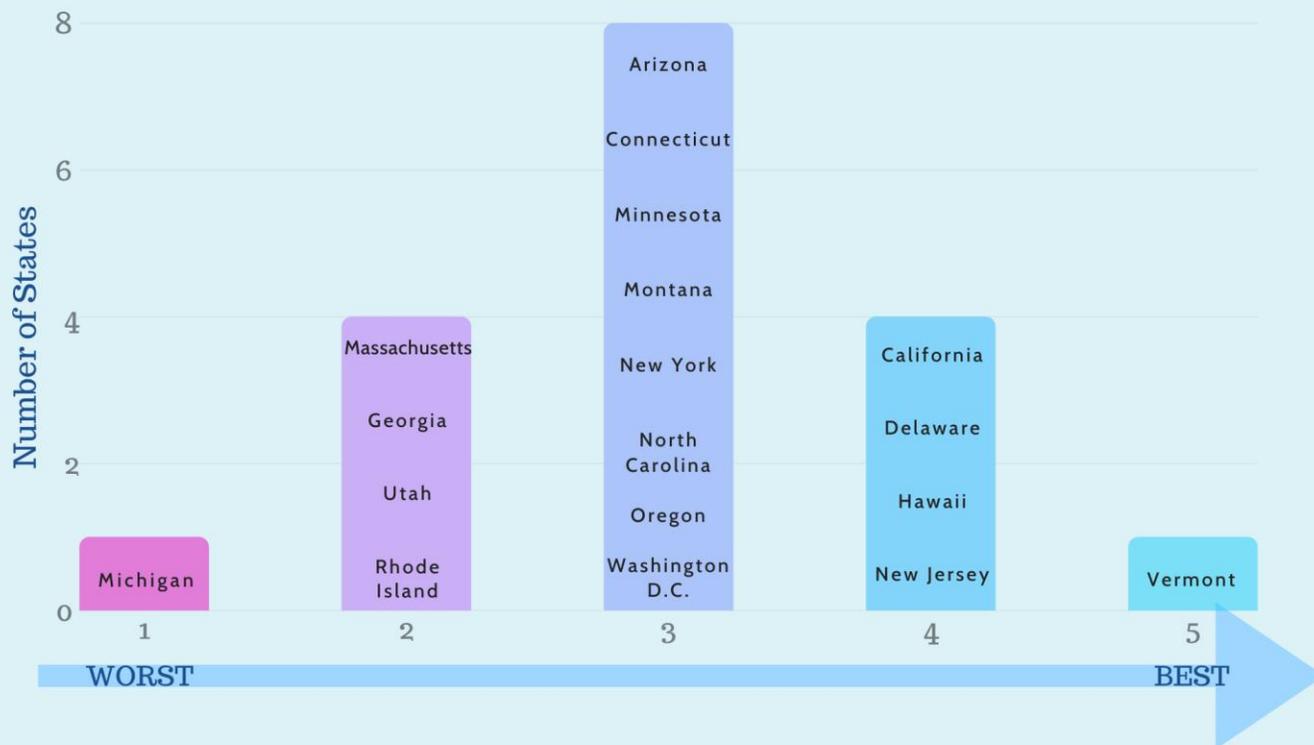


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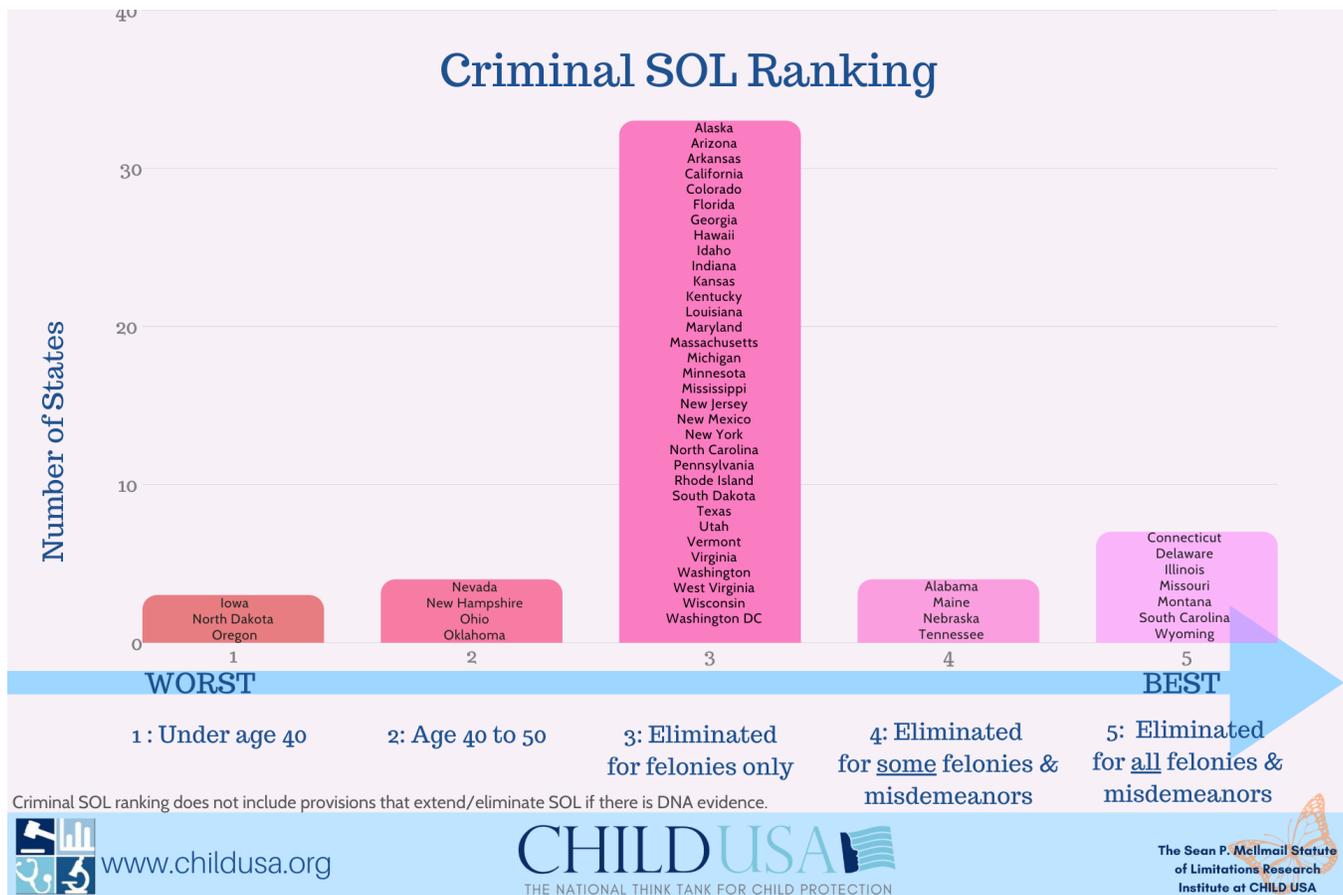
The Sean P. McIlmail Statute of Limitations Research Institute at CHILD USA

Civil SOL Revival Law Ranking



- 1 = Revival window for claims against perpetrator doctors only
- 2 = Revival window, revival up to a certain age or revival of all claims, against perpetrators only
- 3 = Revival window or revival up to age 30-54, for claims against perpetrators and private organizations
- 4 = Revival window for 2 or more years or revival up to age 55, for claims against perpetrators, individuals, private organizations and government
- 5 = Permanently open revival window for all claims against perpetrators, individuals, private organizations and government

B. Criminal SOL Ranking by State³³¹

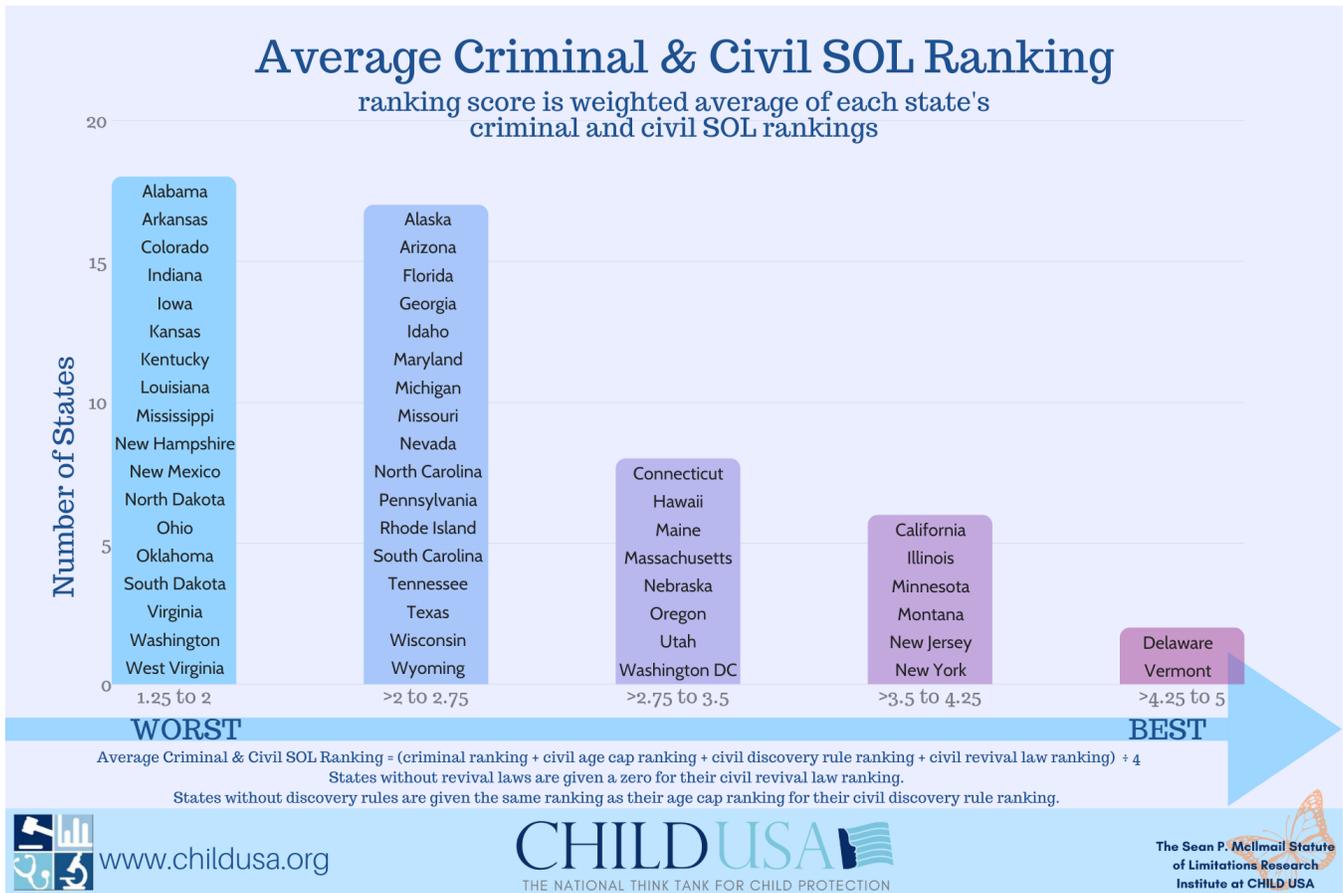


³³¹ **Criminal Ranking Guide:**

- 1 = Under age 40;
- 2 = Age 40 to 50;
- 3 = Eliminated for felonies only;
- 4 = Eliminated for some felonies and misdemeanors;
- 5 = Eliminated for all felonies and misdemeanors.

The criminal SOL rankings do not include provisions that extend or eliminate the SOL if there is DNA evidence.

C. Average SOL Ranking by State³³²



³³² The average SOL ranking is a weighted average of each state's (1) criminal SOL ranking from 0-5, (2) civil SOL age cap ranking from 0-5, (3) civil SOL discovery rule ranking from 0-5 and (4) civil SOL revival law ranking from 0-5. It is calculated by adding the ranking scores for each of these four categories together and dividing by 4. For this calculation, states without revival laws are given a zero for their revival law ranking and states without discovery rules are given the same ranking as their age cap ranking for their discovery rule ranking. While the ranking system is from 0 to 5 from worst to best, the lowest average SOL was a 1.25 (Iowa, Mississippi, Ohio and South Dakota) and the highest was a 4.75 (Delaware).

VI. CONCLUSION

Child sex abuse SOL reform has been very active across the United States since January 2002 when the *Boston Globe*'s Spotlight team first disclosed institution-based sex abuse in a trusted institution, the Boston Archdiocese. The movement has been mobilized by the appearance in the public square of victims of child sex abuse who were previously invisible to the public. With 1 in 4 girls and 1 in 6 boys sexually abused, there are millions of victims in the United States and most that even today have not disclosed their abuse to the public. While the opposition to victims' greater access to justice remains strong from certain corners, it is apparent that with the #MeToo movement and a new wave of child sex abuse victims coming forward, lawmakers are likely to continue to focus on SOL reform. The rapid pace of change is unlikely to slow down anytime soon.

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