



TO: The Honorable Michael G. Curcio, Chair, Honorable Jerry Sexton, Vice-Chair, and Honorable Members of the House Committee on Criminal Justice

FROM: Marci Hamilton, Founder & CEO, CHILD USA; Professor, University of Pennsylvania and Kathryn Robb, Executive Director, CHILD USAAdvocacy

RE: Tennessee HB 1302, elimination of criminal SOL for child sex trafficking

DATE: April 14, 2021

Dear Chair Curcio, Vice-Chair Sexton, and Members of the House Committee on Criminal Justice,

Thank you for allowing us, Professor Marci Hamilton of CHILD USA and Kathryn Robb of CHILD USAAdvocacy, to submit testimony regarding HB 1302, which will increase access to justice for victims of childhood sex trafficking and enhance protection for children in Tennessee.

By way of introduction, Marci Hamilton is the Founder & CEO of CHILD USA, an interdisciplinary think tank dedicated to the prevention of child abuse and neglect at the University of Pennsylvania, where she is a Professor in the Fels Institute of Government. She authored *Justice Denied: What America Must Do to Protect Its Children* (Cambridge University Press 2008, 2012), which makes the case for statute of limitations (SOL) reform in the child sex abuse arena, and is the leading expert on the history and constitutionality of SOL reform.

CHILD USA is the leading nonprofit think tank dedicated to the prevention of child abuse and neglect. It is also the leader in the field of statute of limitations, or “SOL” reform, and the only organization to track child sex abuse SOLs in every state, D.C., and the federal government.

Kathryn Robb is the Executive Director of CHILD USAAdvocacy, a 501(c)(4) advocacy organization dedicated to protecting children’s civil liberties and keeping children safe from abuse and neglect. CHILD USAAdvocacy draws on the combined expertise of the nation’s leading experts and child advocates, specifically its sister organization, CHILD USA. Kathryn is also a survivor of child sex abuse. We commend you and the Committee for taking up HB 1302.

HB 1302 would eliminate varying evidentiary reporting requirements for the criminal SOL for child sex trafficking crimes. If passed, this legislation will bring Tennessee closer to being a leader in the fight to protect children’s rights.



I. The Science of Delayed Disclosure Supports SOL Reform for Child Sex Trafficking

There is a worldwide epidemic of child sex trafficking, with millions of people being trafficked for sex, 94% of which are women and girls.¹ In 2019, Polaris Project worked on various types of trafficking situations involving 22,326 individual survivors in the United States through the National Trafficking Hotline; at least 131 of those cases involved Tennessee victims of sex trafficking.² According to the National Center for Missing and Exploited Children, **1 out of 6 children reported missing is “likely [a victim] of child sex trafficking”** based on case information.³

The trauma stemming from child sex abuse is complex and individualized, and it impacts victims throughout their lifetimes. There is an overwhelming body of science exposing the ways in which the trauma of sexual abuse during childhood impacts memory formation and the repression of memories.⁴ It is now settled that PTSD, memory deficits, and complete disassociation are common coping mechanisms for child victims.⁵ As a result, it can take years for a victim to acknowledge their abuse.

Trauma is only one of the barriers preventing children from disclosing abuse. “Among other barriers, children often lack the knowledge needed to recognize sexual abuse, lack the ability to articulate that they have been abused, don’t have an adult they can disclose their abuse to, don’t have opportunities to disclose abuse, and aren’t believed when they try to disclose.”⁶ Studies suggest that many victims, as much as 33%, never disclose their abuse.⁷ The disclosure of child sex abuse is a process and not a discrete event in which a victim comes to terms with their abuse. Often this happens in the context of therapy; sometimes it is triggered many years after the abuse by an event the victim associates with the abuse; other times it happens gradually and over time as a victim recovers their memory.⁸

¹ *Global Report on Trafficking in Persons*, UNODC, 33 (2018), available at https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP_2018_BOOK_web_small.pdf.

² *Myths, Facts, and Statistics*, POLARIS PROJECT (last visited February 11, 2021), available at <https://polarisproject.org/myths-facts-and-statistics/>; *Tennessee*, NAT’L HUMAN TRAFFICKING HOTLINE (last visited April 5, 2021), available at <https://humantraffickinghotline.org/state/tennessee>.

³ K. Tate Chambers, Ed., *Human Trafficking*, 65 U.S. ATTORNEY’S BULLETIN, 33 (Nov. 2017), available at <https://www.justice.gov/usao/page/file/1008856/download>.

⁴ VAN DER KOLK, B. THE BODY KEEPS THE SCORE: MEMORY & THE EVOLVING PSYCHOBIOLOGY OF POSTTRAUMATIC STRESS, *HARVARD REV. OF PSYCHIATRY* (1994) 1(5), 253-65; Jim Hopper, *Why Can’t Christine Blasey Ford Remember How She Got Home?*, *SCIENTIFIC AMER.* (Oct. 5, 2018), available at <https://blogs.scientificamerican.com/observations/why-cant-christine-blasey-ford-remember-how-she-got-home/>; see also Hoskell, L. & Randall, M., *The Impact of Trauma on Adult Sexual Assault Victims*, *JUSTICE CANADA* 30 (2019), available at https://www.justice.gc.ca/eng/rp-pr/jr/trauma/trauma_eng.pdf (hereinafter “Hoskell”).

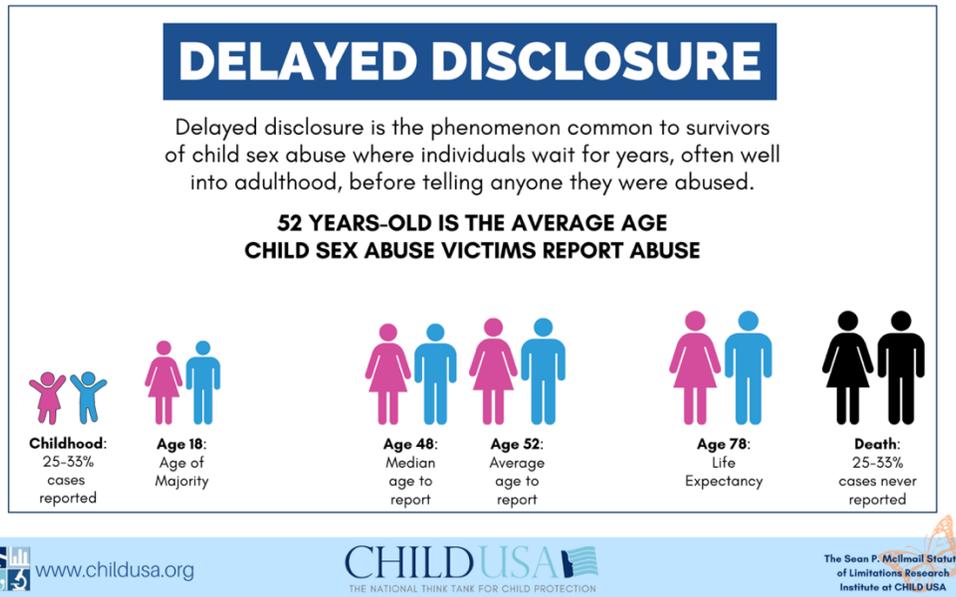
⁵ Jacobs-Kayam, A. and Lev-Weisel, R., *In Limbo: Time Perspective and Memory Deficit Among Female Survivors of Sexual Abuse*, *FRONTIERS IN PSYCHOL.* (April 24, 2019) available at <https://www.frontiersin.org/articles/10.3389/fpsyg.2019.00912/full>.

⁶ CHILD USA, *Delayed Disclosure: A Factsheet Based on Cutting-Edge Research on Child Sex Abuse*, *CHILDUSA.ORG*, 3 (Mar. 2020) available at <https://childusa.org/wpcontent/uploads/2020/04/Delayed-Disclosure-Factsheet-2020.pdf> (citing N. Spröber et. al., *Child sexual abuse in religiously affiliated and secular institutions*, 14 *BMC PUB. HEALTH* 282, 282 (2014)).

⁷ *Id.*

⁸ Hoskell, at 24.

In fact, the **average age of disclosure of child sex abuse in a study of 1,000 victims was 52 years-old.**⁹ For victims of child sex trafficking, the trauma is even more complex and severe and significantly hinders disclosure. Yet, until recently, many states blocked criminal charges and civil lawsuits well before age 52. By the time most victims were ready to come forward, the courthouse doors were locked, shutting victims out of justice.



It is a medical fact that victims of child sex trafficking 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. Short SOLs for child sex trafficking play into the hands of the perpetrators and the institutions enable them; they disable victims' voices and empowerment. Because of its lifelong effect on health and well-being that can erect high barriers to disclosure and the fact that many perpetrators pursue and assault children even in their elder years, childhood sex trafficking needs to be added to the list of laws that should not be subject to an SOL or have barriers to prosecution, like kidnapping, fraud and embezzlement, war crimes, treason, and murder in the United States. HB 1302 seeks to do just that.

II. HB 1302 Will Serve the Public Good by Increasing Victims' Access to Justice and Preventing Future Abuse

Statutes of limitations or SOLs are judicial housekeeping rules: they set the deadline for pressing criminal charges or filing a civil lawsuit. An SOL is an arbitrary and technical legal rule that has prevented victims from naming their perpetrators publicly for fear of retaliation and from obtaining justice. Current Tennessee law provides that a prosecution for child sex trafficking may be commenced at any time for victims under age 12, but that the prosecution for other child sex trafficking cases must offer "admissible and credible evidence" of the abuse if the victim is now age 43 and they did not report their abuse by age 23.¹⁰ HB 1302 would eliminate the heightened

⁹ Supra n.6.

¹⁰ TENN. CODE ANN. § 40-2-101(q).

barriers to prosecution for many victims, allowing more victims to come forward when they are ready.

HOW STATUTE OF LIMITATIONS REFORM HELPS EVERYONE



Identifies previously unknown predators and institutions responsible

to the public, shielding other children from future abuse.



Shifts the cost of abuse

from the victims and society 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.



www.childusa.org

CHILD USA

THE NATIONAL THINK TANK FOR CHILD PROTECTION

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

Historically, a wall of ignorance and secrecy has been constructed around child sex abuse, which has been reinforced by short SOLs that kept victims out of the legal system. Perpetrators and institutions have benefitted from short SOLs and until recently, most states have shut down most cases. That is a major reason we knew so little about the epidemic of child sex abuse and child sex trafficking. Yet, it is in society's interest to have sex abuse survivors identify hidden child predators to the public—whenever the survivor is ready.

As well as providing already-existing victims of abuse a path to justice, SOL reform protects society at large. By allowing prosecutors and victims all the time they need to prosecute a child sex trafficking case, hidden predators are brought into the light and are prevented from further abusing more children. Preventing further abuse only serves to help—society—by reducing the costs of healthcare for victims, allowing more healthy people into the workforce, and increasing the ability of children to grow into healthy adults. SOL reform also educates the public about the danger of child sexual abuse.

III. Tennessee Should Join the National Trend Toward Meaningful SOL Reform for Child Sex Abuse by Removing Barriers to Criminal Prosecution for Child Sex Trafficking

There is a national and global movement for SOL reform. The trend is toward elimination of civil and criminal SOLs and the revival of expired civil claims. For an analysis of the SOL reform movement from 2002 through 2020, see CHILD USA's 2020 SOL Report.¹¹ 2019 was a banner

¹¹ CHILD USA, *History of US SOL Reform: 2002-2020*, childusa.org (last visited Feb. 10, 2021), available at www.childusa.org/sol-report-2020.

year for helping child sex abuse survivors access justice by changing the statutes of limitations. With the public more awake than they've ever been to the injustice survivors faced by being shut out of courts, there was a surge of SOL reform, with 23 states and Washington D.C changing their SOLs for the better in 2019.¹² The powerful SOL reform wave rode its way into 2020, with 30 states introducing legislation, but the outbreak of Covid-19 slowed its momentum. Despite significant disruptions by Covid-19 in 2020, 8 states passed new and improved SOL laws for child sex abuse.¹³ By March of 2021, 31 states have already introduced SOL reform bills.¹⁴

This proposed elimination of the criminal SOL in HB 1302 is in line with the recent trend to eliminate the criminal SOL and to give victims more time to come forward in accordance with the delayed disclosure of abuse science. Tennessee stands alongside 15 other states seeking to eliminate criminal SOLs for child sex abuse in 2021.¹⁵ Tennessee has already eliminated the criminal SOL for victims age 12 and under, so HB 1302 rightly expands that list to include all child victims.

Once again, we commend you for taking up the cause of child sex trafficking victims and for supporting this legislation, which is desperately needed to help prevent sex trafficking in Tennessee. Tennessee's children deserve criminal SOL reform to protect them today and into the future. Eliminating barriers to prosecuting child sex traffickers is a positive step for Tennessee's children and families. Please do not hesitate to contact us if you have questions regarding SOL reform or if we can be of assistance in any way on other child protection issues.

Sincerely,



Marci A. Hamilton, Esq.
Professor, Fels Institute of Government
University of Pennsylvania

Founder & CEO
CHILD USA
3508 Market Street, Suite 202
Philadelphia, PA 19104
(215) 539-1906



Kathryn Robb, Esq.
Executive Director
CHILD USA advocacy
3508 Market St., Suite 201
Philadelphia, PA 19104

¹² For more information on SOL reform in 2019, visit *2019 SOL Tracker*, childusa.org (last visited Jan. 22, 2021), available at www.childusa.org/2019sol.

¹³ See *2020 SOL Tracker*, CHILDUSA.ORG (last visited Mar. 29, 2021), available at www.childusa.org/2020sol.

¹⁴ See *id.*

¹⁵ See *2021 SOL Tracker*, CHILDUSA.ORG (last visited April 5, 2021), available at www.childusa.org/2021sol.