



TO: Chairmen John Connor, Vice Chairman Elgie R. Sims, Jr., and Distinguished Members of the Senate Criminal Law Committee

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

RE: HB1975, regarding the prevention of child sexual abuse

DATE: October 19, 2021

Dear Chairman Connor, Vice Chairman Sims, and Distinguished Members of the Senate Criminal Law Committee,

Thank you for allowing us, Professor Marci Hamilton of CHILD USA and Kathryn Robb of CHILD USAAdvocacy, to submit testimony in support of HB1975, which requires the State Board of Education to develop and maintain a sexual abuse response and prevention resource guide, enhances professional training on critical child protection issues, requires all schools to develop an employee code of professional conduct policy, expands the definition an “abused child,” and amends the Criminal Code of 2012 to include sexual penetration where the accused holds a position of trust, authority or supervision in relation to the victim to the definitions of criminal sexual assault and aggravated criminal sexual abuse. If passed, this legislation will help ensure that all schools in Illinois provide students with a safe learning environment, conducive to healthy development.

By way of introduction, Marci Hamilton is the Founder and CEO of CHILD USA, the leading nonprofit, 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 the leading expert on the history and constitutionality of SOL reform.

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 sexual abuse.

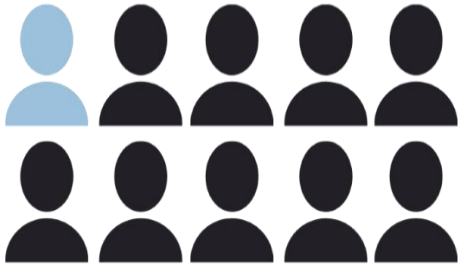
The requirements set forth in HB1975 are critical to ensuring that the children of Illinois will be cared for in a learning environment that is safe from sexual assault, as is their right under Title IX of the Education Amendments of 1972. If passed, this legislation would strengthen



existing Illinois laws aimed at combatting child sexual abuse, establishing the state as an emerging leader in child sexual abuse prevention policy.

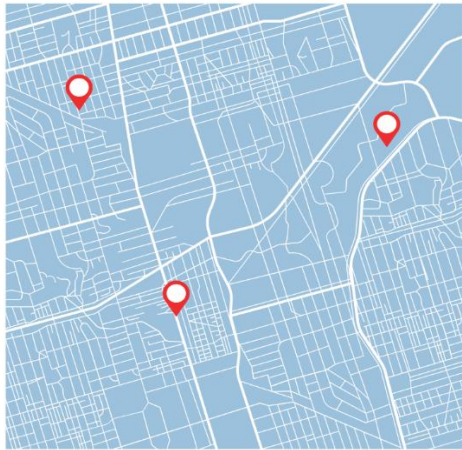
I. Child Sexual Abuse in Schools is Prevalent and Costly

There is a worldwide epidemic of child sex abuse that has spilled over into our nation's schools. According to the U.S. Department of Education, **more than 4.5 million students, or 10% of school-aged children, are subject to sexual misconduct by a school employee sometime between kindergarten and 12th grade.**ⁱ



1 in 10 school-aged children, or more than 4.5 million students, is the target of sexual misconduct by a school employee sometime between kindergarten and 12th grade

This alarming number tracks a history of school officials sweeping educator sexual misconduct under the rug by permitting predatory teachers to quietly resign and find employment in other districts—a practice known as “passing the trash” —without ever having to admit wrongdoing or revealing any misconduct to the public.ⁱⁱ On average, an educator that has been alleged to have engaged in sexual abuse or misconduct will be transferred to three different schools before they are reported to the police.ⁱⁱⁱ



On average, a teacher-offender will be passed to three different districts before being stopped.¹

Source: GAO-11-200, 2010

Educator sexual misconduct harms children in many ways. Sexual abuse can disrupt students' social, emotional, and cognitive development and place them at a significantly higher risk for psychological problems including, but not limited to, substance abuse, suicidality, and post-traumatic stress disorder.^{iv} The trauma attendant to educator sexual misconduct may also impact students' ability to participate and succeed in school. For example, approximately 40% of students who report sexual violence to their schools experience a substantial disruption in their

educations.^v When educational institutions fail to prevent sexual misconduct or refuse to support students who report the same, students are effectively denied a safe learning environment and cannot fully access the educational opportunities afforded to their non-survivor peers.

Also, the costs of sex abuse are staggering. Child sex abuse generates many costs that impact the nation's health care, education, criminal justice, and welfare systems, costing nearly \$2 trillion annually.^{vi} Numerous, scholarly studies have concluded that the average cost of child maltreatment is approximately \$830,928 per victim.^{vii} Child sexual abuse is a serious and costly public health problem across our country and we must work together as a community to create laws and policies that keep children safe.

II. HB1975, As Amended, Is in Line with National Trends on Child Sexual Abuse Prevention Policy

State legislative efforts aimed at increasing awareness and prevention of child sexual abuse in schools have increased significantly over the past decade. For example, since 2014, the number of states requiring child sexual abuse prevention education in schools has increased from five to 33 as of 2019.^{viii} The same is true of laws aimed at the screening of applicants and the dismissal of employees engaged in sexual misconduct or abuse. Since 2014, 11 states have passed such laws as a way to prevent child sexual abuse in their schools.^{ix}

Many state legislatures across the country have also passed educator-specific sexual misconduct statutes or amended criminal provisions to address the same, as the Illinois legislature seeks to do under HB1975. These laws increase such offenses from misdemeanors to felonies and impose harsher penalties on perpetrators of abuse. Currently, 39 states and the District of Columbia, or 75% of states, have adopted statutes that expressly prohibit the sexual abuse of children by persons working in or associated with schools and by those in positions of authority that include school personnel.^x HB 1975, enhances existing law by expanding the definition of criminal sexual assault and aggravated criminal sexual abuse to include penetration where the accused holds a position of trust, authority, or supervision in relation to the victim and by expanding the definition of grooming to include in-person grooming, not just by electronic means as the provision currently reads.

Further, HB1975 builds on the nationwide momentum by pressing school boards and administrations to lead the way with board policies and procedures, training, and enforcement. Specifically, the legislation would require all schools to adopt a code of professional conduct inclusive of evidence-based professional boundaries policies and procedures. The policy would require training regarding appropriate educator-student boundaries and would establish a mechanism for individuals to report professional boundary violations by other employees. Importantly, it would also permit school administrators to discipline personnel for violations of the same.

III. The Legislature Can Maximize HB1975's Impact by Adopting Several Key Recommendations

The best research indicates that the following factors have significantly contributed to the growing problem of sexual abuse in our nation's schools:

- 1) School employees failing to report suspected abuse and misconduct;
- 2) School officials permitting predatory teachers to quietly resign and find employment in other districts—a practice known as “passing the trash”; and
- 3) School officials failing to properly screen employee applicants.^{xi}

While states, including Illinois, have largely addressed reporting concerns through provisions aimed at increased mandated reporter training, and the implementation of harsher penalties for failure to report, fewer states have implemented laws prohibiting schools from moving employees who have committed acts of sexual misconduct to other schools. In response, Congress passed Every Student Succeeds Act (ESSA) in 2017, which requires states and school districts that receive federal funding to implement language and laws that prohibit school officials from assisting employees in obtaining new employment if they know, or have reason to believe, that such an employee has engaged in sexual misconduct against a minor student.^{xii} Yet only 4 states—Connecticut, Oregon, Pennsylvania, and Texas—have complied with the law to date.^{xiii}

Illinois' legislative movement on prevention policy has been encouraging and we applaud the legislature's consideration of HB1975; however, we offer the following suggestions on provisions that the Illinois General Assembly can include to further its intended goal of combatting sexual assault in schools and fulfill the mandate set forth in ESSA:

- Expand current criminal law provisions to include *all* sexual conduct with students without age limitations
- Increase penalties for failure to make a mandated report and sanctions against credentials of those who aid and abet predatory employees
- Strengthen school hiring policies and adopt a standardized screening tool that requires an applicant to indicate any past, substantiated history of sexual misconduct, whether they were disciplined or terminated because of such misconduct, and whether their professional license was surrendered or revoked as a result.
- Prohibit contracts and non-disclosure agreements that are meant to conceal abuse
- Define grooming behaviors as a reportable disciplinary offense at the local and state level
- Establish a mechanism for on-going oversight to ensure compliance with and the proper implementation of Title IX

IV. Conclusion

The prevalence of sexual abuse in educational institutions and the impact of trauma on learning, development, and academic achievement, underscores the imperative of legislation that ensures schools effectively address sexual misconduct and establish safe learning environments

conducive to healthy development. HB1975 will help ensure that the children of Illinois will be safe from sexual assault in their schools, as is their right under Title IX, of the Education Amendments of 1972. The General Assembly has the opportunity in HB1975 to be a leader in child protection by being among the first among the states to comply with ESSA in what is sure to quickly become the trend across the nation.

We look forward to any opportunity to work with legislatures to further strengthen the protective efforts initiated by HB1975. Please do not hesitate to contact us if you have questions regarding the recommendations above or if we can be of assistance in any way on other child protection issues.

Sincerely,



Marci A. Hamilton, Esq.
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

ⁱ U.S. DEP'T OF ED., Office of the Under Secretary, *Educator Sexual Misconduct: A Synthesis of Existing Literature*, Washington, D.C., (2004), available at <https://www2.ed.gov/rschstat/research/pubs/misconductreview/report.pdf>.

ⁱⁱ Grant BJ, Wilkerson S, & Henschel M., *Passing the Trash: Absence of State Laws Allows for Continued Sexual Abuse of K-12 Students by School Employees*, 28(1) J. CHILD SEX ABUSE 84 (2019).

ⁱⁱⁱ U.S. GOVERNMENT ACCOUNTABILITY OFFICE, GAO-11-200, SELECTED CASES OF PUBLIC AND PRIVATE SCHOOLS THAT HIRED OR RETAINED INDIVIDUALS WITH HISTORIES OF SEXUAL MISCONDUCT 17, 26 (2010)

^{iv} See, e.g., U.S. DEP'T HEALTH & HUMAN SERVICES, The Adverse Childhood Experiences (ACEs) Study, Centers for Disease Control & Prevention, available at <https://www.cdc.gov/violenceprevention/childabuseandneglect/acestudy/>; see also, Felitti, et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 14(4) AM. J. PREV. MED. 245-58 (1998); S.R. Dube et al., *Childhood Abuse, Household Dysfunction, and the Risk of Attempted Suicide Throughout the Life Span: Findings from the Adverse Childhood Experiences Study*, 286 JAMA 24, 3089-96 (Dec. 2001) (explaining that childhood trauma can lead to negative health outcomes).

^v See generally, Know Your IX, *The Cost of Reporting: Perpetrator Retaliation, Institutional Betrayal, and Student Survivor Pushout* 17-22 (Mar. 2021), available at <https://www.knowyourix.org/wp-content/uploads/2021/03/KnowYour-IX-2021-Report-Final-Copy.pdf>

^{vi} Fang, et. al., *The Economic Burden of Child Maltreatment in the United States & Implications for Prevention*, 36 CHILD ABUSE & NEGLECT 156-165 (2012)

^{vii} See generally, CHILD USA, *Fiscal Impact of SOL Reform*, (2018) available at <https://www.childusa.org/fiscalimpact>

^{viii} Abboud, M.J., et. al., *Educator sexual misconduct: a statutory analysis*, 31 CRIM. JUSTICE POLICY REV. 133 (2020)

^{ix} *Id.*

^x *A Call to Action for Policymakers and Advocates: Child Sexual Abuse Prevention Legislation in the States*, p.61-62 (June 2021), available at https://preventchildabuse.org/wp-content/uploads/2021/06/A_Call_to_Action-June2021.pdf (States with either an “educator sexual misconduct” statute or position of authority statute, or both include: AL, AK, AR, AZ, CA, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, ME, MD, MI, MN, MS, MT, MO, NE, NJ, NV, NH, NM, NC, OH, OK, SC, TN, TX, UT, VT, WA, WI, WY); see also, Abboud, M.J., et. al., *Educator sexual misconduct: a statutory analysis*, 31 CRIM. JUSTICE POLICY REV. 133 (2020) (hereinafter “Abboud”).

^{xi} Grant BJ, Wilkerson S, & Henschel M., *Passing the Trash: Absence of State Laws Allows for Continued Sexual Abuse of K-12 Students by School Employees*, 28(1) J. CHILD SEX ABUSE 84 (2019).

^{xii} Pub. L. No. 92-318, tit. IX, 86 Stat. 235, 373-75 (codified as amended at 20 U.S.C. §§ 1681-88); Pub. L. No. 114-95 § 114 Stat. 1177 (2015–2016).

^{xiii} Pub. L. No. 92-318, tit. IX, 86 Stat. 235, 373-75 (codified as amended at 20 U.S.C. §§ 1681-88); Pub. L. No. 114-95 § 114 Stat. 1177 (2015–2016).