

TO: Honorable Members of the Joint Committee on the Judiciary

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

RE: S.1091, an Act relative to enhancing hiring practices to prevent sexual abuse; and S.1092, an Act relative to sexual assaults by adults in positions of authority or trust

DATE: December 6, 2021

Dear Honorable Members of the Joint Committee on the Judiciary,

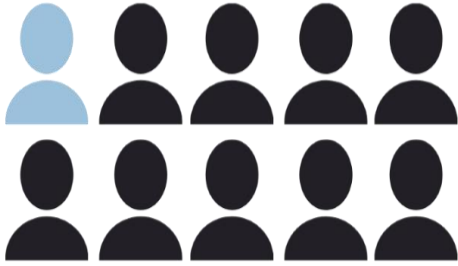
Thank you for allowing us, Professor Marci Hamilton of CHILD USA and Kathryn Robb of CHILD USAdvocacy, to submit testimony regarding S.1091, which will enhance the hiring practices and screening procedures for employees in schools, and S.1092, which will implement harsher criminal penalties for any individual in a position of authority or trust over a child who commits child sexual abuse.

By way of introduction, Professor Marci Hamilton is a First Amendment constitutional scholar at the University of Pennsylvania who has led the national movement to reform statutes of limitations to reflect the science of delayed disclosure of childhood sexual abuse and who founded CHILD USA, a national nonprofit think tank devoted to ending child abuse and neglect. Kathryn Robb is the Executive Director of CHILD USAdvocacy, an advocacy organization dedicated to protecting children's civil liberties and keeping children safe from abuse and neglect. Kathryn is also a survivor of child sex abuse.

The provisions set forth in S.1091 and S.1092 are critical to ensuring that the children of Massachusetts will be cared for in environments that are so often trusted by parents and guardians to be safe from sexual assault. If passed, this legislation would strengthen existing Massachusetts laws aimed at combatting child sexual abuse, establishing the state as an emerging leader in child sexual abuse prevention policy.

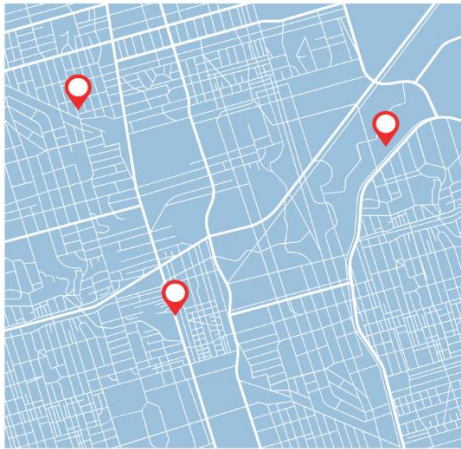
I. Child Sexual Abuse in Schools is Prevalent with a Critical Need for Enhanced Employee Screening Procedures

There is a worldwide epidemic of child sexual 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.

Source: GAO-11-200, 2010

When educational institutions fail to prevent sexual misconduct, students are effectively denied a safe learning environment and cannot fully access the educational opportunities afforded to their peers. The best research indicates that multiple factors have significantly contributed to the growing problem of sexual abuse in our nation’s schools, including school officials failing to properly screen employee applicants.^{iv} Schools need enhanced hiring practices to ensure all employees’ backgrounds are thoroughly screened for past misconduct before they are permitted access to students, as outlined in S.1091.

II. The Vast Majority of Child Sexual Abuse Victims Know and Trust Their Abusers

In the United States, approximately 1 in 5 girls and 1 in 13 boys are sexually abused before the age of 18.^v Child sexual abuse is a social issue that occurs in all social groups and institutions—including families, religious groups, youth-serving organizations, medical establishments, and athletic institutions—and it affects everyone involved in these groups. Importantly, these groups

are not mutually exclusive, and perpetrators inhabit multiple roles within these various social groups. **Most instances of adult-perpetuated child sexual abuse are committed by someone the child knows and trusts.**

Credible research on the topic provides estimates that **nearly 75% of adult perpetrators with male victims and nearly 84% of adult perpetrators with female victims are identified as family members or acquaintances.**^{vi} Abusers employ certain tactics to take advantage of potential victims, including preferential treatment, gifts, or attention to establish a special relationship and build trust and rapport.^{vii} Almost all offenders adopt strategies consisting of giving love and attention to gain the trust of their victim.^{viii}

Most offenders also exploit or create a set of circumstances in order to be alone with their victims. Overall, research has shown that the most common locations of sexual assault are “at a friend’s home, in a neighborhood close to where the offender lived, while babysitting, and through an organized activity, such as scouts and sporting clubs.”^{ix} Harsher criminal penalties for perpetrators in positions of trust and authority is another step in the fight to protect children and prevent sexual abuse in settings that are commonly exploited by offenders and least expected by victims and their families to be a threat.

III. The Trauma of Child Sexual Abuse Has Devastating and Costly Consequences on the Victims, Families, and Society as a Whole

The trauma stemming from child sexual 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.^x Posttraumatic stress disorder (PTSD), memory deficits, and complete disassociation are common mental health and psychological consequences for child victims.^{xi}

Educator sexual misconduct in schools specifically harms children in numerous 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 PTSD.^{xii} 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.**^{xiii} Nearly 10% drop out of school entirely.^{xiv} For those survivors who remain enrolled, the vast majority experience adverse academic effects which, in turn, negatively impact their financial wellbeing.^{xv}

Child sexual abuse also generates staggering costs that impact the nation’s health care, education, criminal justice, and welfare systems.^{xvi} **The estimated lifetime cost to society of child sexual abuse cases occurring in the U.S. in 2015 is \$9.3 billion, and the average cost of non-fatal per female victim was estimated at \$282,734.**^{xvii} 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.

IV. Conclusion

Once again, we commend you for considering this legislation. The prevalence of sexual abuse in educational and other youth-serving settings and the impact of trauma on a child's life underscores the necessity for legislation like S.1091 and S.1092 that helps to ensure a safe environment, from schools and youth groups to scout troops and sports teams, for all children.

Please do not hesitate to contact us if you have questions or if we can be of assistance in any way on other child protection issues.

Sincerely,



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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} 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).

^v G. Moody, et. al., *Establishing the international prevalence of self-reported child maltreatment: a systematic review by maltreatment type and gender*, 18 BMC PUBLIC HEALTH (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6180456/> (finding a 20.4% prevalence rate of child sexual abuse among North American girls); M. Stoltenborgh, et. al., *A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence Around the World*, 16 CHILD MALTREATMENT 79 (2011) (finding a 20.1% prevalence rate of child sexual abuse among North American girls); N. Pereda, et. al., *The prevalence of child sexual abuse in community and student samples: A meta-analysis*, 29 CLINICAL PSYCH. REV. 328, 334 (2009) (finding a 7.5% and 25.3% prevalence rate of child sexual abuse among North American boys and girls respectively).

^{vi} Ateret Gewirtz-Meydan & David Finkelhor, *Sexual Abuse and Assault in a Large National Sample of Children and Adolescents*, 25 CHILD MALTREAT. 203, 210 (2020).

^{vii} Benoit Leclerc et al., *Getting into the Script of Adult Child Sex Offenders and Mapping out Situational Prevention Measures*, 48 J. RES. CRIME. DELINQ. 209, 216 (2011).

^{viii} *Id.*

^{ix} Stephen Smallbone & Richard Wortley, *Child Sexual Abuse: Offender Characteristics and Modus Operandi*, 193 TRENDS ISSUES CRIME CRIM. JUSTICE 1 (2000).

^x 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").

^{xi} 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>.

^{xii} 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).

^{xiii} 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>

^{xiv} *Id.*

^{xv} *Id.*

^{xvi} Elizabeth J. Letourneau et al., *The Economic Burden of Child Sexual Abuse in the United States*, 79 *Child Abuse Negl.* 413 (2018) (Average cost estimates per victim include, in part, \$14,357 in child medical costs, \$9,882 in adult medical costs, \$223,581 in lost productivity, \$8,333 in child welfare costs, \$2,434 in costs associated with crime, and \$3,760 in special education costs. Costs associated with suicide deaths are estimated at \$20,387 for female victims.).

^{xvii} *Id.*