

TO: Honorable Members of the Judiciary Committee of the Nebraska Legislature

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

RE: LB833 - Change the statute of limitations on certain civil actions for sexual assault of a child

DATE: January 19, 2022

Dear Honorable Members of the Judiciary Committee,

Thank you for allowing us¹ to submit comments in support of LB833, which will amend the statutes of limitation (“SOLs”) for child sexual abuse (“CSA”). This legislation will not only bring justice to survivors, but it will also greatly reduce the present danger to children in Nebraska by exposing hidden predators who are still abusing children today.

I. Research on Trauma and Delayed Disclosure Supports SOL Reform for Child Sexual Abuse

A. There is a Nationwide Epidemic of CSA Causing Lifelong Damage to Victims

Currently, more than 10% of children are sexually abused, with at least one in five girls and one in thirteen boys sexually abused before they turn 18.² CSA is a social problem that occurs in all social groups and institutions, including familial, religious, educational, medical, and athletic. Nearly 90% of CSA perpetrators are someone the child knows; in fact, roughly one third of CSA offenses are committed by family members.³

The trauma stemming from CSA is complex and individualized, and it impacts victims throughout their lifetimes:⁴

- Childhood trauma, including CSA, can have **devastating impacts on a child’s brain**,⁵ including disrupted neurodevelopment; impaired social, emotional, and cognitive development; psychiatric and physical disease, such as post-traumatic stress disorder (PTSD)⁶; and disability.⁷
- CSA victims suffer an **increased risk of suicide**—in one study, female CSA survivors were two to four times more likely to attempt suicide, and male CSA survivors were four to 11 times more likely to attempt suicide.⁸
- CSA leads to an increased risk of **negative outcomes across the lifespan**, such as alcohol problems, illicit drug use, depression, marriage issues, and family problems.⁹

B. CSA Victims Commonly Delay Disclosure of Their Abuse for Decades



Many victims of CSA suffer in silence for decades before they talk to anyone about their traumatic experiences. As children, CSA victims often fear the negative repercussions of disclosure, such as disruptions in family stability, loss of relationships, or involvement with the authorities.¹⁰ Additionally, CSA survivors may struggle to disclose because of trauma and psychological barriers such as shame and self-blame, as well as social factors like gender-based stereotypes or the stigma surrounding victimization.¹¹ Further, many injuries resulting from CSA do not manifest until survivors are well into adulthood. These manifestations may coincide with difficulties in functioning and a further delay in disclosure of abuse.

Moreover, disclosure of CSA to the authorities for criminal prosecution or an attorney in pursuit of civil justice is a difficult and emotionally complex process, which involves the survivor knowing that he or she was abused, being willing to identify publicly as an abuse survivor, and deciding to act against their abuser. In light of these barriers to disclosure, it is not surprising that:

- In one study, 44.9% of male victims and 25.4% of female victims of CSA delayed discussing their abuse with anyone **by more than 20 years**.¹²
- Between **70% and 95%** of child sexual assault victims **never report** the abuse to authorities.¹³
- Research has found a **higher rate of PTSD** symptoms in CSA victims delaying disclosure compared to those who did not delay disclosure.¹⁴

For both children and adults, disclosure of CSA trauma is a process and not a discrete event in which a victim comes to terms with their abuse.¹⁵ To effectively protect children from abuse, CSA SOLs must reflect this reality.

II. SOL Reform Serves the Public Good by Giving Survivors Access to Justice and Preventing Future Abuse

Historically, a wall of ignorance and secrecy has been constructed around CSA, which has been reinforced by short SOLs that kept victims out of the legal system. Short SOLs for CSA play into the hands of the perpetrators and the institutions that cover up for them; they disable victims' voices and empowerment and leave future children vulnerable to preventable sexual abuse.

There is a vibrant national and global movement to reform SOLs for child sexual abuse as a systemic solution to the CSA epidemic.¹⁶ **There are three compelling public purposes served by the child sexual abuse SOL reform movement**, which are explained in the graphic below:

HOW STATUTE OF LIMITATIONS REFORM HELPS EVERYONE



Identifies hidden child predators and the institutions that endanger children
to the public, shielding other children from future abuse.



Shifts the cost of abuse
from the victims and taxpayers to those who caused it.



Educates the public
about the prevalence, signs, and impact of child sex abuse so that it can be prevented in the future.


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CHILDUSA
THE NATIONAL THINK TANK FOR CHILD PROTECTION

The Sean P. McMillan Statute
of Limitations Research
Institute of CHILD USA

A. SOL Reform Identifies Hidden Child Predators and Institutions that Endanger Children

It is in society's best interest to have CSA survivors identify hidden child predators to the public—whenever the survivor is ready. The decades before public disclosure give perpetrators and institutions wide latitude to suppress the truth to the detriment of children, guardians, and the public. Some predators abuse a high number of victims and continue abusing children well into their elderly years. For example, one study found that 7% of offenders sampled committed offenses against 41 to 450 children, and the highest time between offense to conviction was 36 years.¹⁷ By allowing claims for past abuse to be brought to court, hidden predators are brought into the light and are prevented from further abusing more children.

B. SOL Reform Shifts the Cost of Abuse

CSA generates staggering costs that impact the nation's health care, education, criminal justice, and welfare systems. The estimated lifetime cost to society of child sexual abuse cases occurring in the US in 2015 is \$9.3 billion, and the average cost of non-fatal per female victim was estimated at \$282,734. 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.¹⁸

It is unfair for the victims, their families, and Nebraska taxpayers to be the only ones who bear this burden; this bill levels the playing field by imposing liability on the ones who caused the abuse and alleviating the burdens on the victims and taxpayers. Further, Nebraska could gain revenue from Medicaid reimbursements as a result of the settlement funds and damages awards that survivors recover.

C. SOL Reform Educates the Public to Prevent CSA

SOL reform also educates the public about the dangers of CSA and how to prevent it. When predators and institutions are exposed, particularly high-profile ones like Larry Nassar, Jeffrey Epstein, the Boy Scouts of America, and the Catholic Church, the media publish investigations and documentaries that enlighten the public about the insidious ways child molesters operate to sexually assault children and the institutional failures that enabled their abuse.¹⁹ By shedding light on the problem, parents, children, and the public are empowered to recognize grooming and abusive behavior and identify abusers and problematic institutions. The public awareness of the risks encourages youth serving organizations to implement abuse prevention policies and safe practices. Indeed, CSA publicity creates more social consciousness to help keep kids safe.

III. Nebraska Should Join the National Trend and Eliminate Civil SOLs

The SOL reform trend for states is to eliminate civil and criminal SOLs and revive expired civil claims—like Vermont, Maine, Guam and NMI have already done.²⁰ In fact, half of states across the U.S. and two territories have revival laws giving survivors an opportunity to file claims for decades old abuse that were blocked by short SOLs.²¹ This civil SOL elimination bill is in line with the trend to give older victims more time to come forward in accordance with the delayed disclosure of abuse science.


In Nebraska, CSA survivors were blocked from filing suit after their twenty-fifth birthday until 2012, when the legislature acknowledged this was not nearly enough time and extended the SOL to age 33. In 2017, the Legislature sought to give victims an opportunity for closure and justice by eliminating the civil SOL—but only for claims against perpetrators of the abuse. We commend Nebraska for standing alongside the growing list of 15 states and 2 U.S. territories that have eliminated civil SOLs for CSA. LB833 would build on Nebraska’s progress and eliminate the SOL for claims against non-perpetrators too—recognizing that individuals and institutions that shelter abusers and cover up the abuse should also be held accountable.

CSA has plagued our youth-serving institutions for too long and without accountability survivors cannot access justice, communities will remain in the dark about predators lurking within institutions, and institutions will not be motivated to change their ways to protect children. This bill will incentivize youth serving organizations to implement prevention policies and take action to immediately report abuse. LB833 rightly recognizes the importance of holding institutions accountable and sends a strong message that the State will not tolerate “passing the trash” or looking the other way when a person is raping or molesting a child in their midst. Without accountability, the children these institutions serve remain at risk.

IV. Conclusion

Once again, we commend you for supporting this legislation, which is desperately needed to validate survivors of CSA and protect Nebraska’s children from preventable sexual abuse. Eliminating the civil SOL is a positive step for Nebraska 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,



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¹ 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 USA Advocacy, an advocacy organization dedicated to protecting children's civil liberties and keeping children safe from abuse and neglect. Kathryn is also an outspoken survivor of child sex abuse.

² G. Moody, et. al., *Establishing the international prevalence of self-reported child maltreatment: a systematic review by maltreatment type and gender*, 18(1164) BMC PUBLIC HEALTH (2018) (finding a 20.4% prevalence rate of CSA among North American girls); M. Stoltenborgh, et. al., *A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence Around the World*, 16(2) CHILD MALTREATMENT 79 (2011) (finding a 20.1% prevalence rate of CSA 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 CSA among North American boys and girls respectively).

³ Perpetrators often being parents, stepparents, siblings, and grandparents. Sarah E. Ullman, *Relationship to Perpetrator, Disclosure, Social Reactions, and PTSD Symptoms in Child Sexual Abuse Survivors*, 16 J. CHILD SEX. ABUSE 19 (2007); David Finkelhor & Anne Shattuck, *Characteristics of Crimes Against Juveniles*, University of New Hampshire, Crimes Against Children Research Center (2012), available at http://www.unh.edu/ccrc/pdf/CV26_Revised%20Characteristics%20of%20Crimes%20against%20Juveniles_5-2-12.pdf.

⁴ B. A. van der Kolk, *The Body Keeps the Score: Memory & the Evolving Psychobiology of Posttraumatic Stress*, 1(5) HARVARD REV. OF PSYCHIATRY 253-65 (1994); see also Hoskell, L. & Randall, M., *The Impact of Trauma on Adult Sexual Assault Victims*, JUSTICE CANADA (2019), https://www.justice.gc.ca/eng/rp-pr/jr/trauma/trauma_eng.pdf.

⁵As explained by the Center for Disease Control, “Adverse Childhood Experiences” (“ACEs”), like CSA, “have a tremendous impact on future violence victimization and perpetration, and lifelong health and opportunity.” Vincent J. 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 (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 (Dec. 2001).

⁶ Josie Spataro et al., *Impact of Child Sexual Abuse on Mental Health: Prospective Study in Males and Females*, 184 Br. J. Psychiatry 416 (2004).

⁷ See Felitti, at 245–58; see also R. Anda, et al., *The Enduring Effects of Abuse and Related Adverse Experiences in Childhood*, 256 EUR. ARCH. PSYCHIATRY CLIN. NEUROSCIENCE 174, 175 (Nov. 2005) (“Numerous studies have established that childhood stressors such as abuse or witnessing domestic violence can lead to a variety of negative health outcomes and behaviors, such as substance abuse, suicide attempts, and depressive disorders”); M. Merricka., et al., *Unpacking the impact of adverse childhood experiences on adult mental health*, 69 CHILD ABUSE & NEGLECT 10 (July 2017); see also Sachs-Ericsson, et al., *A Review of Childhood Abuse, Health, and Pain-Related Problems: The Role of Psychiatric Disorders and Current Life Stress*, 10(2) J. TRAUMA & DISSOCIATION 170, 171 (2009) (adult survivors are thirty percent more likely to develop serious medical conditions such as cancer, diabetes, high blood pressure, stroke, and heart disease); T.L. Simpson, et al., *Concomitance between childhood sexual and physical abuse and substance use problems: A review*, 22 CLINICAL PSYCHOL. REV. 27 (2002) (adult survivors of CSA are nearly three times as likely to report substance abuse problems than their non-survivor peers).

⁸ Beth E. Molnar et al., *Psychopathology, Childhood Sexual Abuse and other Childhood Adversities: Relative Links to Subsequent Suicidal Behaviour in the US*, 31 PSYCHOL. MED. 965 (2001).

⁹ Shanta R. Dube et al., *Long-Term Consequences of Childhood Sexual Abuse by Gender of Victim*, 28 AM. J. PREV. MED. 430, 434 (2005).

¹⁰ Delphine Collin-Vézina et al., *A Preliminary Mapping of Individual, Relational, and Social Factors that Impede Disclosure of Childhood Sexual Abuse*, 43 CHILD ABUSE NEGL. 123 (2015).

¹¹ Ramona Alaggia et al., *Facilitators and Barriers to Child Sexual Abuse (CSA) Disclosures: A Research Update (2000-2016)*, 20 TRAUMA VIOLENCE ABUSE 260, 279 (2019).

¹² Patrick J. O’Leary & James Barber, *Gender Differences in Silencing following Childhood Sexual Abuse*, 17 J. CHILD SEX. ABUSE 133 (2008).

¹³ See David Finkelhor et al., *Sexually Assaulted Children: National Estimates and Characteristics*, US Dept. of Justice, Office of Justice Programs (2008), available at <https://www.ojp.gov/pdffiles1/ojdp/214383.pdf> (Based on an analysis of an estimated 285,400 child sexual assault victims, researchers found that only 30% of cases involved police contact.); Kamala London et al., *Review of the Contemporary Literature on How Children Report Sexual Abuse to Others: Findings, Methodological Issues, and Implications for Forensic Interviewers*, 16 MEMORY 29, 31 (2008) (“Researchers have found a range of 5% to 13% of child sexual abuse victims reporting abuse to authorities across different studies.”).

¹⁴ Sarah E. Ullman, *Relationship to Perpetrator, Disclosure, Social Reactions, and PTSD Symptoms in Child Sexual Abuse Survivors*, 16 J. CHILD SEX. ABUSE 19, 30 (2007).

¹⁵ 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 or over time as a victim recovers their memory. Hoskell, at 24.

¹⁶ For an analysis of the SOL reform movement since 2002, see CHILD USA, *History of US SOL Reform: 2002-2020*, CHILDUSA.ORG (last visited Dec. 30, 2021), available at www.childusa.org/sol-report-2020.

¹⁷ Michelle Elliott et al., *Child Sexual Abuse Prevention: What Offenders Tell Us*, 19 CHILD ABUSE NEGL. 579 (1995).

¹⁸ Elizabeth J. Letourneau et al., *The Economic Burden of Child Sexual Abuse in the United States*, 79 CHILD ABUSE NEGL. 413 (2018).

¹⁹ E.g., Netflix’s *Jeffrey Epstein: Filthy Rich*; HBO’s *At the Heart of Gold: Inside the USA Gymnastics Scandal*.

²⁰ See *2022 SOL Tracker*, CHILDUSA.ORG (last visited Dec. 1, 2021), available at www.childusa.org/2022sol.

²¹ See *Revival and Window Laws Since 2002*, CHILDUSA.ORG (last visited Dec. 1, 2021), available at <https://childusa.org/windowsrevival-laws-for-csa-since-2002/>.