

**ARIZONA SUPREME COURT**

BIG BROTHERS BIG SISTERS OF AMERICA;  
BIG BROTHRES BIG SISTERS OF SOUTHERN  
ARIZONA,

Petitioners/Defendants,

v.

THE HONORABLE RANDALL WARNER,  
Judge of SUPERIOR COURT OF THE STATE  
OF ARIZONA, in and for the County of  
MARICOPA COUNTY,

Respondent Judge,

JOHN IM DOE,

Real Party in Interest/Plaintiff.

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BIG BROTHERS BIG SISTERS OF AMERICA,

Petitioner,

v.

THE HONORABLE BRADLEY ASTROWSKY,  
Judge of SUPERIOR COURT OF THE STATE  
OF ARIZONA, in and for the County of  
MARICOPA COUNTY,

Respondent Judge,

JOHN CD DOE,

Real Party in Interest/Plaintiff.

**Case No. CV-22-0003-PR**

Arizona Court of Appeals  
Case No. 1 CA-SA 21-0221  
(John IM Doe)

Case No. 1 CA-SA 21-0223  
(John CD Doe)  
(Consolidated)

Maricopa County Superior Court

Case No. CV 2020-017354  
(John IM Doe)

Case No. CV 2020-014920  
(John CD Doe)  
(Consolidated)

**BRIEF OF AMICUS CURIAE  
CHILD USA  
IN SUPPORT OF PLAINTIFF**

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## STATEMENT OF INTEREST OF AMICUS CURIAE

*Amicus curiae*, CHILD USA, is a national nonprofit think tank working to end child abuse and neglect in the United States. CHILD USA pairs the best social science research with sophisticated legal analysis to identify and implement effective public policies to end child abuse and neglect. CHILD USA produces evidence-based solutions needed by courts, lawmakers, policymakers, organizations, media, and society to increase child protection and the common good.

CHILD USA is the leading organization to track and study child sex abuse statutes of limitations (“SOLs”) as part of its Sean P. McIlmail SOL Reform Institute. CHILD USA’s Founder, Professor Marci A. Hamilton, is the foremost constitutional law scholar on revival laws, and has advised Congress and state governors, legislatures, and courts on the constitutionality of revival window laws for child sex abuse throughout the United States.

CHILD USA is uniquely positioned to provide this Court with research and analysis on science of delayed disclosure of abuse by victims, compelling public interests in revival of expired civil SOLs, its impact on public safety, and the national landscape of revival windows for sexual abuse. This contribution will aid the Court’s analysis beyond that which the parties’ lawyers provide.

## PRELIMINARY STATEMENT

CHILD USA respectfully submits this brief as *amicus curiae*. Petitioner challenges the constitutionality of A.R.S. § 12-514, which revives expired civil claims for sexual abuse in Arizona. CHILD USA submits that A.R.S. § 12-514 comports with due process under Arizona law.

A.R.S. § 12-514 reflects the Arizona Legislature’s understanding that child sexual abuse inflicts a unique trauma on victims, rendering many of them unable to disclose their abuse until decades later. Most courts, like Arizona, have departed from a rigid, “vested rights” approach in their analysis of the constitutionality of reviving civil SOLs, especially when a Legislature plainly expresses an intent to revive, like in the Arizona Child Protection Act.

A ruling against A.R.S. § 12-514’s revival window would have negative ramifications for all the child sexual abuse survivors throughout Arizona who are embracing the window in pursuit of long overdue justice. Also at stake are important public policies of justice, public safety, and preventing future sexual abuse the Arizona Legislature sought to achieve when it passed A.R.S. § 12-514. Accordingly, CHILD USA respectfully submits that this Court deny the petition for review.

## ARGUMENT

### I. SECTION 12-514'S REVIVAL WINDOW REFLECTS DELAYED DISCLOSURE SCIENCE AND ADDRESSES ARIZONA'S COMPELLING INTEREST IN PROTECTING CHILDREN

Arizona's revival provision, A.R.S. § 12-514, acknowledges that survivors of child sexual abuse often take decades to disclose their abuse. This provision corrects the injustice of Arizona's historically unreasonably short SOLs that blocked child sex abuse survivors' access to courts and kept the public uninformed.

#### A. Child Sexual Abuse Uniquely Prevents Survivors From Bringing Timely Claims Under Unreasonably Short SOLs

Child sexual abuse is a national public health crisis, with 3.7 million children sexually abused every year.<sup>1</sup> It affects one in five girls and one in thirteen boys in the United States.<sup>2</sup>

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<sup>1</sup> See Preventing Child Sexual Abuse, CDC.gov (last visited Feb. 22, 2022), <https://www.cdc.gov/violenceprevention/pdf/can/factsheetCSA508.pdf>; see also D. Finkelhor, et. al., Prevalence of child exposure to violence, crime, and abuse: Results from the Nat'l Survey of Children's Exposure to Violence, 169(8) JAMA PEDIATRICS 746 (2015).

<sup>2</sup> 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); M. Stoltenborgh, et. al., A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence Around the World, 16(2) CHILD MALTREATMENT 79 (2011); 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).

An extensive body of evidence establishes that childhood sexual abuse survivors are traumatized in a way that is distinguishable from victims of other crimes. These survivors may struggle to disclose their experiences due to effects of trauma and psychological barriers such as shame, self-blame, or fear, as well as social factors such as gender-based stereotypes or stigma regarding victimization.<sup>3</sup> One study found 44.9% of male victims and 25.4% of female victims of child sex abuse delayed disclosure by more than 20 years.<sup>4</sup> An estimated 70% of child sexual assault victims never report abuse to the police.<sup>5</sup> Survivors therefore often need decades to process the abuse they suffered, much less to report it.<sup>6</sup>

Moreover, cultures of secrecy paired with unreasonably short SOLs, shielded organizations from public scrutiny and discouraged survivors from disclosing abuse. The Boston Globe's 2002 *Spotlight* investigative report uncovered rampant sexual

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<sup>3</sup> 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).

<sup>4</sup> Patrick J. O'Leary & James Barber, Gender Differences in Silencing following Childhood Sexual Abuse, 17 J. CHILD SEX. ABUSE 133 (2008).

<sup>5</sup> D. Finkelhor et al., Sexually Assaulted Children: National Estimates and Characteristics, US Dept. of Justice, Office of Justice Programs (2008), <https://www.ojp.gov/pdffiles1/ojdp/214383.pdf>.

<sup>6</sup> Rebecca Campbell, Ph.D., "The Neurobiology of Sexual Assault: Explaining Effects on the Brain," NAT'L INST. OF JUSTICE (2012), <https://upc.utah.gov/materials/2014Materials/2014sexualAssault/TonicImmobilityWebinar.pdf>; R.L. v. Voytac, 971 A.2d 1074 (N.J. 2009); Bessel A. van der Kolk M.D., et al., Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body, and Society (2006).

abuse in the Catholic Church, and an alarming number of institutional scandals have since emerged, with more institutions and perpetrators publicly named each year.<sup>7</sup>

Until 2019, child sex abuse survivors in Arizona only had until age 20 to file a civil suit against their abusers and other defendants. See A.R.S. §§ 12-542; 12-502. Unfortunately, nearly all survivors failed to bring their claims within such an unreasonably short timeframe. Then, Arizona ranked as one of the worst jurisdictions nationally for its SOLs for child sex abuse claims.<sup>8</sup> To remedy the problem, the Legislature passed the Arizona Child Protection Act, which opened a window permitting survivors of child sexual abuse in Arizona to assert otherwise time-barred civil claims—from May 27, 2019 through December 30, 2020. *See* “Arizona Child Protection Act”, H.B. 2466, 54th Leg., 1st Reg. Sess. (Ariz. 2019).

Because a law to revive a previously time-barred *criminal* prosecution violates the Ex Post Facto Clause of the United States Constitution, see Stogner v. California, 539 U.S. 607, 610, 632–33 (2003), filing a civil claim using a revival provision is the sole redress for many survivors whose claims unjustly expired. By passing § 12-514, the Legislature recognized this injustice and took a reasonable step

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<sup>7</sup> Hamilton, M., We Failed Our Children for Too Long: The Case for SOL Reform, THE ADVOCATE, J. OF THE OKLA. ASS’N FOR JUST., 23 (Nov. 4, 2016).

<sup>8</sup> CHILD USA, 2019 Annual Report, Child Sex Abuse Statutes of Limitation Reform from 2002–2019 (May 5, 2020), <http://www.childusa.org/sol-report-2019>.

to address it, providing long-denied access to justice to survivors of child sex abuse and greatly reducing the present danger to Arizona's children.

**B. A.R.S. Section 12-514 Addresses Arizona's Compelling Interest in Child Protection**

A.R.S. § 12-514 also serves Arizona's "compelling" interest in child protection. See, e.g., Packingham v. North Carolina, 137 S. Ct. 1730, 1736 (2017); State v. Berger, 134 P.3d 378, 382 (Ariz. 2006). Three important public purposes are served by the Legislature's enactment of A.R.S. § 12-514. It: (1) identifies previously unknown child predators and the institutions that shield them; (2) shifts the cost of abuse from survivors to those who caused the abuse; and (3) educates the public to prevent future abuse.

First, the revival window facilitates the identification of previously unknown child predators<sup>9</sup> and institutions who shield them who would otherwise not be identified. Through A.R.S. § 12-514, the State empowered victims to identify Arizona's hidden child predators and institutions that endanger children to the public

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<sup>9</sup> Michelle Elliott et al., *Child Sexual Abuse Prevention: What Offenders Tell Us*, 19 CHILD ABUSE NEGL. 579 (1995) (7% of offenders sampled committed offenses against 41 to 450 children; the highest time between offense to conviction was 36 years).

so they can be held accountable, so the public can develop policies to prevent further abuse in the long-term.<sup>10</sup>

Second, A.R.S. § 12-514 educates the public about dangers of child sexual abuse and prevention. 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 press publishes pieces that enlighten communities about methods child molesters use to sexually assault children and the institutional failures that enabled their abuse. This connects the public with tools to identify abusers and responsible institutions. SOL reform not only provides access to justice previously withheld from survivors of child sexual abuse; it prevents further abuse by fostering social awareness while encouraging institutions to implement accountability and safe practices.

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<sup>10</sup> See generally, Making the Case: Why Prevention Matters, PREVENTCHILDAUSE.ORG (last visited February 22, 2022), <https://preventchildabuse.org/resource/why-prevention-matters/>; Preventing Adverse Childhood Experiences, CDC.GOV (last visited Feb. 23, 2022), <https://www.cdc.gov/violenceprevention/pdf/preventingACES.pdf>.



Third, the cost of child sexual abuse to survivors is enormous,<sup>11</sup> and they, along with Arizona, unjustly carry the burden of this expense.<sup>12</sup> 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.<sup>13</sup> The negative effects over a survivor's lifetime generate costs that impact the nation's health care, education, criminal justice, and welfare systems.<sup>14</sup> Window cases that result in awards and settlements will not only equitably shift some of the cost of abuse away from survivors; they will also save the state money by reducing expenditures on these public services.

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<sup>11</sup> See M. Merricka., et al., Unpacking the impact of adverse childhood experiences on adult mental health, 69 CHILD ABUSE & NEGLECT 10 (July 2017); Angelakis, I., Gillespie, E.L., Panagioti, M., Childhood maltreatment and adult suicidality: a comprehensive systematic review with meta-analysis, PSYCHOLOGICAL MEDICINE 1-22 (2019); Gail Hornot, Childhood Trauma Exposure & Toxic Stress: What the PNP Needs to Know, J. PEDIATRIC HEALTHCARE (2015); Perryman Group, Suffer the Little Children: An Assessment of the Economic Cost of Child Maltreatment, (2014).

<sup>12</sup> While one in four Arizonans receive Medicaid, sex abuse survivors likely disproportionately receive support due to the crippling effect of trauma. Stephanie Innes, Enrollment in Arizona's Medicaid program hits record 2M adults and children, AZCENTRAL.COM (Jul. 14, 2020 at 1:10 PM), <https://www.azcentral.com/story/news/local/arizona-health/2020/07/14/enrollment-arizonas-medicaid-program-hits-record-2-million/5429518002/>.

<sup>13</sup> Elizabeth J. Letourneau et al., The Economic Burden of Child Sexual Abuse in the United States, 79 CHILD ABUSE NEGL. 413 (2018).

<sup>14</sup> *Id.*

Thus, the Legislature’s enactment of A.R.S. § 12-514 not only remedies the long-standing injustice to child sex abuse survivors barred from bringing their claims under unreasonably short SOLs; it also serves Arizona’s compelling interest in keeping its children safe and preventing future child sex abuse.

## **II. DECISIONS IN STATES REVIVING CHILDHOOD SEXUAL ABUSE CLAIMS SUPPORT THE CONSTITUTIONALITY OF THE REVIVAL WINDOW IN A.R.S. SECTION 12-514**

When Arizona opened its revival window, it joined at least 30 states and territories that enacted civil revival laws for childhood sexual abuse claims that were blocked by unreasonably short SOLs. Since 2002, revival legislation has grown in popularity as legislatures have recognized that child sexual abuse survivors need more time to come forward and SOLs have historically blocked their claims.<sup>15</sup> Nearly every court that considered the constitutionality of these revival windows upheld the laws, including in Arizona. The following table shows this trend:

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<sup>15</sup> CHILD USA, Revival Laws for Child Sex Abuse Since 2002 (Jan. 1, 2022), <https://childusa.org/windowsrevival-laws-for-csa-since-2002/>.

<b>Jurisdiction</b>	<b>Revival Law</b>	<b>Statute</b>	<b>Constitutional Challenge</b>
<b>Arizona</b>	1.5-Year Window & Age 30 Limit (2019)	A.R.S. § 12-514; H.B. 2466, 54th Leg., 1st Reg. Sess. (Ariz. 2019)	Constitutional <sup>16</sup>
<b>Arkansas</b>	2-Year Window (2021)	Arkansas Act 1036; S.B. 676, 93 <sup>rd</sup> General Assembly, Reg. Sess. (Arkansas 2021); ARK. CODE ANN. § 16-118-118	Not challenged
<b>California</b>	1-Year Window (2020)	CAL. CIV. PROC. CODE § 340.16 (2021); 2020 CAL. LEGIS. SERV. CH. 246 (A.B. 3092)	Not challenged
	1-Year Window (2019)	CAL. CIV. PROC. CODE § 340.16 (2020); 2019 CAL. LEGIS. SERV. CH. 462 (A.B. 1510)	Not challenged
	3-Year Window & Age 40 Limit (2019)	CAL. CIV. PROC. CODE § 340.1 (2020); 2019 CAL. LEGIS. SERV. CH. 861 (A.B. 218)	Constitutional <sup>17</sup>
	1-Year Window (2003)	CAL. CIV. PROC. CODE § 340.1 (2002); 2002 CAL. LEGIS. SERV. CH. 149 (S.B. 1779)	Constitutional <sup>18</sup>

<sup>16</sup> John I M Doe v. Big Brothers Big Sisters of America, et al., No. CV2020-017354 (Ariz. Super. Ct. Sept. 28, 2021); John C D Doe v. Big Brothers Big Sisters of America, et al., No. CV2020-014920 (Ariz. Super. Ct. Aug. 26, 2021).

<sup>17</sup> Coats v. New Haven Unified Sch. Dist., 46 Cal. App. 5th 415, 427, 259 Cal. Rptr. 3d 784, 792 (2020).

<sup>18</sup> Roman Catholic Bishop of Oakland v. Superior Court, 128 Cal.App.4th 1155, 1161, 28 Cal.Rptr.3d 355 (2005).

<b>Jurisdiction</b>	<b>Revival Law</b>	<b>Statute</b>	<b>Constitutional Challenge</b>
<b>Colorado*</b>	3-Year Window (2021)	SB21-088, 73 <sup>rd</sup> General Assembly, 1 <sup>st</sup> Reg. Sess. (Colo. 2021) (Effective, January 1, 2022)  *This is not a revival law—it is a new cause of action—but it opens a window to justice for survivors whose claims have expired.	Not challenged
<b>Delaware</b>	2-Year Window (2010)	DEL. CODE tit. 18, § 6856; 2010 Delaware Laws Ch. 384 (H.B. 326)	Not challenged <sup>19</sup>
	2-Year Window (2007)	DEL. CODE tit. 10, § 8145; 2007 Delaware Laws Ch. 102 (S.B. 29)	Constitutional <sup>20</sup>
<b>Florida</b>	4-Year Window (1992)	F.S.A. § 95.11; 1992 Fla. Sess. L. Serv. Ch. 92-102 (CSSB 1018)	Unconstitutional <sup>21</sup>
<b>Georgia</b>	2-Year Window (2015)	GA. CODE § 9-3-33.1; 2015 Georgia Laws Act 97 (H.B. 17)	Constitutional <sup>22</sup>
<b>Guam</b>	Permanent Window (2016)	Tit. 7 G.C.A §§ 11306; 11301.1(b); Added by P.L. 33–187:2 (Sept. 23, 2016)	Not challenged

<sup>19</sup> See generally, Sheehan v. Oblates of St. Francis de Sales, 15 A.3d 1247, 1258-60 (Del. 2011).

<sup>20</sup> Whitwell v. Archmere Acad., Inc., No. CIV.A.07C08006RBY, 2008 WL 1735370, at \*2 (Del. Super. Ct. Apr. 16, 2008).

<sup>21</sup> Wiley v. Roof, 641 So. 2d 66, 69 (Fla. 1994).

<sup>22</sup> Harvey et al. v. Merchan, 860 S.E.2d 561, 566 (Ga. 2021).

<b>Jurisdiction</b>	<b>Revival Law</b>	<b>Statute</b>	<b>Constitutional Challenge</b>
	2-Year Window (2011)	7 G.C.A. § 11306(2) (2011); Public Laws No.31-06 (2011), available at <a href="https://www.guamlegislature.com/Public_Laws_31st/P.L.%2031-07%20Bill%20No.%2034-31.pdf">https://www.guamlegislature.com/Public_Laws_31st/P.L.%2031-07%20Bill%20No.%2034-31.pdf</a>	Not challenged
<b>Hawaii</b>	2-Year Window (2018)	HAW. REV. STAT. § 657-1.8; 2018 Hawaii Laws Act 98 (S.B. 2719)	Not challenged
	2-Year Window (2014)	HAW. REV. STAT. § 657-1.8; 2014 Hawaii Laws Act 112 (S.B. 2687)	Not challenged
	2-Year Window (2012)	HAW. REV. STAT. § 657-1.8; 2012 Hawaii Laws Act 68 (S.B. 2588)	Constitutional <sup>23</sup>
<b>Kentucky</b>	Limited Window (2021)	2021 Kentucky Laws Ch. 89 (HB 472); KRS 413.249	Not challenged
<b>Louisiana</b>	3-Year Window (2021)	2021 La. Sess. Law Serv. Act 322 (H.B. 492); La. Stat. Ann. § 9:2800.9	Challenge pending <sup>24</sup>
<b>Maine</b>	Permanent Window (2021)	ME ST T. 14 § 752-C; 2021 Me. Legis. Serv. Ch. 301 (H.P. 432) (L.D. 589)	Not challenged
<b>Michigan</b>	90-Day Window (2018)	MICH. COMP. LAWS § 600.5851b; 2018 Mich. Legis. Serv. P.A. 183 (S.B. 872)	Not challenged

<sup>23</sup> Roe v. Ram, No. CIV. 14-00027 LEK-RL, 2014 WL 4276647, at \*9 (D. Haw. Aug. 29, 2014).

<sup>24</sup> Doe v. Doe, No. 2020-10745 (La. Civ. Dist. Ct.).

<b>Jurisdiction</b>	<b>Revival Law</b>	<b>Statute</b>	<b>Constitutional Challenge</b>
<b>Minnesota</b>	3-Year Window (2013)	MINN. STAT. § 541.073, 2013 Minn. Sess. Law Serv. Ch. 89 (H.F. 681)	Not challenged
<b>Montana</b>	1-Year Window & Age 27 Limit (2019)	MONT. CODE § 27-2-216; 2019 MONTANA LAWS CH. 367 (H.B. 640)	Not challenged
<b>Nevada</b>	Permanent Window & Age 38 Limit (2021)	2021 Nevada Laws Ch. 288 (S.B. 203); NV ST §§ 11.215, 41.1396	Not challenged
<b>New Jersey</b>	2-Year Window & Age 55 Limit (2019)	N.J. STAT. ANN. §§ 2A:14-2A and 2A:14-2B; 2019 NJ Sess. Law Serv. Ch. 120 (SENATE 477)	Constitutional <sup>25</sup>
<b>New York</b>	2-Year Window (2022)	NEW YORK CITY, N.Y., CODE § 10-1105 (2022); L.L. 21/2022 § 2, EFF. JAN. 9, 2022	Not challenged
	1-Year Window (2020)	N.Y. C.P.L.R. 214-g; 2019 Sess. Law News of N.Y. Ch. 11 (S. 2440); Executive Order No. 202.29 (2020); S.B. 7082, 2020 Leg., Reg. Sess. (N.Y. 2020)	Constitutional <sup>26</sup>

<sup>25</sup> See SY v. Roman Catholic Diocese, 2021 WL 4473153, at \*4 (D.N.J. Sep. 30, 2021); B.A. v. Golabek, 18-cv-7523, 2021 WL 5195665, at \*6 (D.N.J. Nov. 8, 2021); W.F. v. Roman Catholic Diocese of Paterson, 2021 WL 2500616 (D.N.J. June 7, 2021); Coyle v. Salesians of Don Bosco, 2021 WL 3484547 (N.J. Super. L. July 27, 2021); T.M. v. Order of St. Benedict of New Jersey, Inc., MRS-L-399-17 (Law Division, Morris County).

<sup>26</sup> Giuffre v. Prince Andrew, Case No. 1:21-cv-06702-LAK (SDNY).

<b>Jurisdiction</b>	<b>Revival Law</b>	<b>Statute</b>	<b>Constitutional Challenge</b>
	1-Year Window (2019)	N.Y. C.P.L.R. 214-g; 2019 Sess. Law News of N.Y. Ch. 11 (S. 2440); Executive Order No. 202.29 (2020); S.B. 7082, 2020 Leg., Reg. Sess. (N.Y. 2020)	Constitutional <sup>27</sup>
<b>North Carolina</b>	2-Year Window (2019)	NC ST § 1-17; 2019 North Carolina Laws S.L. 2019-245 (S.B. 199)	Challenge pending <sup>28</sup>
<b>Northern Mariana Islands</b>	Permanent Window (2021)	2021 N.M.I. Pub. L. No. 22-12 (HB 22-2, SDI)	Not challenged
<b>Utah</b>	3-Year Window & Age 53 Limit (2016)	UTAH CODE ANN. § 78B-2-308 ; 2016 Utah Laws Ch. 379 (H.B. 279)	Unconstitutional <sup>29</sup>

<sup>27</sup> S.T. v. Diocese of Rockville Centre, Index No. 099997/2019, Supreme Court, Nassau County (May 18, 2020) (Jaeger, J.); PB-65 Doe v. Niagara Falls City School Dist., No. E174572/2021, 2021 WL 5750878, at \*4 (N.Y. Sup. Ct. Oct. 26, 2021); Farrell v. United States Olympic & Paralympic Committee, No. 120CV1178FJSCFH, 2021 WL 4820251 (N.D.N.Y. Oct. 15, 2021); PB-36 Doe v. Niagara Falls City Sch. Dist., 72 Misc. 3d 1052 (N.Y. Sup. Ct. 2021); PC-41 Doe v. Poly Prep Cty. Day Sch., No.20 Civ. 3628, 2021 WL 4310891, at \*3-9 (E.D.N.Y. Sept. 22, 2021), appeal filed, (2d Cir.Oct.22, 2021); Torrey v. Portville Cent. Sch., 66 Misc. 3d 1225(A) (N.Y. Sup. Ct. 2020); Kastner v. Doe, No. 900111 (Sup. Ct. Nassau Cty. Jan. 14, 2022); Giuffre v. Dershowitz, No. 19 CIV. 3377 (LAP), 2020 WL 2123214, at \*2 (S.D.N.Y. Apr. 8, 2020).

<sup>28</sup> Rulings against the constitutionality of NC's window are currently on appeal. See Taylor v. Piney Grove Volunteer Fire & Rescue Department, 20 CVS 13487, North Carolina, Wake County Superior Court (Dec. 20, 2021) and Mckinney v. Goins, 21 CVS 7438, North Carolina, Wake County Superior Court (Dec. 20, 2021).

<sup>29</sup> Mitchell v. Roberts, 469 P.3d 901, 903 (Utah 2020).

<b>Jurisdiction</b>	<b>Revival Law</b>	<b>Statute</b>	<b>Constitutional Challenge</b>
<b>Vermont</b>	Permanent Window (2019)	VT. STAT. ANN TIT. 12, § 522, “Actions based on childhood sexual or physical abuse”; 2019 Vermont Laws No. 37 (H. 330)	Not challenged
<b>Washington D.C.</b>	2-Year Window (2019)	D.C. CODE § 12-301; 2018 District of Columbia Laws 22-311 (Act 22-593)	Constitutional <sup>30</sup>

As Petitioners note, “there is no per se due process bar to retroactive amendment of civil statutes of limitation” in Arizona. Pet’rs’ Pet. for Review of Special Action Decision of the Ct. of Appeals, p. 3. Notably, the revival of an expired civil SOL has consistently been upheld in other contexts in Arizona. Chevron Chemical Co. v. Superior Court, 131 Ariz. 431, 440 (Ariz. 1982) (explaining the right to raise a one-year SOL defense instead of a two-year defense is not a “vested property right” even though it may increase liability for defendant); City of Tucson v. Clear Channel Outdoor, Inc., 105 P.3d 1163, 1167 (Ariz. 2005) (“Arizona courts have traditionally viewed statutes of limitations as procedural [and not vested] for retroactivity purposes”).

Most states to rule on challenges to revival laws for child sexual abuse claims find them constitutional. Generally, courts balance public policy and the

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<sup>30</sup> Bell-Kerr v. Baltimore-Washington Conference of the United Methodist Church, No. 2021 CA 0013531B (D.C. Superior Court).



legislature's intent to allow older claims of abuse to proceed against any Due Process rights a defendant may claim in a statutes of limitations defense. Notably, every appellate court to review the rationality of a claim revival statute for sexual abuse survivors under its state due process clause has upheld the law and determined the remedial statute was reasonable, according to *amicus curiae's* research. Petitioners fail to identify a state that permits revival of time-barred claims, like Arizona, but that has refused to uphold such a law for sexual abuse survivors.<sup>31</sup> Arizona's law is distinguishable from the few states striking down revival laws who were constrained by more restrictive state constitutions which granted defendants an absolute due process right to an SOL defense.

This Court should defer to the Arizona Legislature's rational policy decision to open a window to justice for survivors of sexual abuse to hold perpetrators accountable, and uphold the revival window as constitutional.

### CONCLUSION

For these reasons, *Amicus Curiae* CHILD USA respectfully requests this Court deny the petition for review.

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<sup>31</sup> In Rhode Island, cases predating the 1986 adoption of a civil due process clause have upheld revival, but subsequent to that constitutional amendment the Court did not permit revival in Kelly v. Marcantonio, 678 A.2d 873, 873 (R.I. 1996).

Respectfully submitted,

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