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**IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE**

JOHN DOE, an adult individual,
Plaintiff/Appellant,

v.

ARIZONA BOARD OF REGENTS, *et al.*,
Defendant/Appellee,

Arizona Court of Appeals
Division One
No. 1 CA-CV 21-0509

Maricopa County Superior Court
No. CV2020-017426

BRIEF OF AMICUS CURIAE CHILD USA

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STATEMENT OF INTEREST AND DISCLOSURE OF AMICUS CURIAE

Amicus curiae, CHILD USA, is the leading national nonprofit think tank fighting for the civil rights of children. 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 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.

As a nonprofit, CHILD USA receives general contributions from interested members of the public. However, no party or party’s counsel contributed money intended to fund the preparation of, or submission of, this brief. Further, no person, entity party, or party’s counsel other than CHILD USA’s legal department contributed content to this amicus brief or participated in the preparation of this brief in any other manner.

PRELIMINARY STATEMENT

CHILD USA respectfully submits this brief as *amicus curiae*. Plaintiff appeals the trial court's interpretation of A.R.S. § 12-514 ("Child Protection Act") as requiring child sexual abuse victims with revived claims against public entities to comply with a renewed Notice of Claim requirement pursuant to A.R.S. § 12-821.01 ("Notice of Claim Statute"). CHILD USA submits that neither the Child Protection Act nor the Notice of Claim Statute require such victims to file notices of claim.

Arizona's Child Protection Act 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. A ruling that adds a notice of claim requirement to claims brought during the Child Protection Act's revival window would have negative ramifications for the child sexual abuse victims 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 which the Arizona Legislature sought to achieve when it passed the Child Protection Act. Accordingly, CHILD USA respectfully submits that this Court reverse the lower court's granting of the Defendant/Appellee's *Motion to Dismiss*.

LEGAL ARGUMENT

I. The plain language and legislative history of the Child Protection Act confirm revival window claims are not subject to a claim presentation deadline.

When construing a statute, a court's "primary goal" is "to fulfill the intent of the legislature that wrote it." *Zamora v. Reinstein*, 185 Ariz. 272, 275 (Ariz. 1996). For statutes

1 in which the “language is plain and unambiguous,” the court “must follow the text as
2 written.” *Id.* However, “[w]hen a statute’s language is not clear,” the court determines
3 “legislative intent by reading the statute as a whole, giving meaningful operation to all of
4 its provisions, and by considering factors such as the statute’s context, subject matter,
5 historical background, effects and consequences, and spirit and purpose.” *Id.*

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8 When considering both the (1) plain language of the Child Protection Act and the
9 Notice of Claim Statute, and (2) the legislative history and context for the Child
10 Protection Act, there is no doubt that previously time-barred claims filed during the
11 revival window period are not subject to a renewed claim presentation deadline. *See*
12 *Arizona Child Protection Act, H.B. 2466, 54th Leg., 1st Reg. Sess. (Ariz. 2019); A.R.S. §*
13 *12-514; A.R.S. § 12-821.01.*

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16 **A. The plain language of the Child Protection Act and Notice of Claim Statute
does not require notice for revived claims.**

17 In cases involving statutory construction, the court must “first consider the
18 statute’s language ‘because we expect it to be the best and most reliable index of a
19 statute’s meaning.’” *Zamora*, 185 Ariz. at 275 (quoting *State v. Williams*, 175 Ariz. 98, 100
20 (Ariz. 1993)). Importantly, courts must also abide by “the cardinal rule of statutory
21 construction that statutes should be interpreted so that no clause, sentence, or word is
22 rendered superfluous or void.” *State v. Gamez*, 228 Ariz. 445, 451 (Ariz.App. Div. 1 2011).
23 Here, the plain language of the Child Protection Act and the Notice of Claim Statute
24 demonstrates that a notice of claim is not required for revived child sexual abuse claims
25 against the state.
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1 The revival window provision of the Child Protection Act states:

2 *Notwithstanding any other law, a cause of action for damages described*
3 *in subsection A, paragraph 1 of this section that involves sexual*
4 *conduct or sexual contact and that would be time barred under*
5 *section 12–514, Arizona Revised Statutes, as added by this act, or that*
6 *would otherwise be time barred because of an applicable statute of*
7 *limitations, a claim presentation deadline or the expiration of any other*
8 *time limit is revived and may be commenced before December 31, 2020.*

9 2019 Ariz. Legis. Serv. Ch. 259 (emphasis added). This provision explicitly opened a
10 window during which causes of action for child sexual abuse that were blocked by a claim
11 presentation deadline or a statute of limitation were revived, and it did not amend the
12 Notice of Claim Statute. Accordingly, it temporarily removed all time limitation barriers
13 that prevented victims from maintaining their causes of action for child sexual abuse.

14 The Notice of Claim Statute provides any claim “against a public entity, public
15 school, or public employee . . . that is not filed within one hundred eighty days after the
16 cause of action *accrues* is barred and no action may be maintained thereon.” A.R.S. § 12-
17 821.01(A) (emphasis added). The statute goes on to explain that “a cause of action *accrues*
18 when the damaged party realizes he or she has been damaged and knows or reasonably
19 should know the cause, source, act, event, instrumentality or condition that caused or
20 contributed to the damage” but in the case of “a minor or an insane or incompetent
21 person” a claim can be filed “within one hundred eighty days after the disability ceases.”
22 A.R.S. § 12-821.01(B) & (D) (emphasis added).
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26 Clearly, Plaintiff’s failure to file a timely notice of claim when the cause of action
27 for abuse first “accrue[d],” as defined in the Notice of Claim Statute, is explicitly excused
28

1 by the plain text of the Child Protection Act, as it opened a window that revived all
2 previously accrued and time-barred child sexual abuse claims. This plain reading of the
3 statute is supported by the superior court’s holding that the Child Protection Act “applies
4 to claims against a public entity” and that Plaintiff’s cause of action against Defendant
5 “Board was revived by the statute and the House Bill.” *Doe v. Arizona Bd. of Regents*, No.
6 CV2020-017426, 2021 WL 2561534, at *4 (Ariz. Super. Ct. June 09, 2021). Thus, the
7 pertinent question in this appeal is whether a cause of action revived by the Child
8 Protection Act is subject to any *new* notice requirements under the Notice of Claim
9 Statute.
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13 A review of the plain language of the Notice of Claim Statute does not support any
14 additional notice of claim requirement for a revived cause of action beyond the notice that
15 was originally required when the claim first accrued. The Notice of Claim Statute clearly
16 defines the singular moment when “accru[al]” occurs as when a person realizes or should
17 have known of their injury and its cause, with an exception for minors who may file the
18 notice within 180 days of their eighteenth birthday. The time of accrual of a cause of
19 action as defined explicitly in the Notice of Claim Statute is what sets the claim
20 presentation deadline. As such, Plaintiff’s cause of action for abuse, regardless of when it
21 was instituted, can have only *one* accrual date pursuant to the Notice of Claim Statute.
22 Accordingly, revival of Plaintiff’s cause of action for abuse has no impact on the accrual
23 date set in the Notice of Claim Statute; the notice requirement was triggered only once
24 when the cause of action first accrued, and *Plaintiff’s revived cause of action did not accrue again.*
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1 As the Superior Court explained, “[t]he claim here clearly accrued well before the
2 statute was passed in 2019.” *Doe v. Arizona Bd. of Regents*, No. CV 2020-017426, 2021 WL
3 2561534, at *4. The Court, however, made the unsupported finding that the cause of
4 action at issue accrued a *second time* on the day it was revived, which it said triggered a new
5 notice of claim requirement running from the second accrual date. *Amicus* respectfully
6 submits this finding was in error and is unsupported by the statutes at issue. There is
7 simply no plain reading of the Notice of Claim Statute that can support “accru[al]”—
8 which the statute clearly defined—as occurring a second time when a cause of action is
9 revived, as the superior court held. Further, the Child Protection Act does not by its
10 terms amend the accrual date in any way; it simply permits a plaintiff to maintain a cause
11 of action against a public entity for abuse after the claim presentation deadline has passed.
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15 Even if this Court finds the Notice of Claim Statute to permit a second accrual date
16 for revived causes of action, the plain language of the Arizona Child Protection Act
17 supports the elimination of all notice of claim time restraints for revived causes of action
18 against a public entity. Importantly, the first words of the revival window provision are
19 “Notwithstanding any other law.” The word “notwithstanding” is commonly defined as
20 “despite.”¹ In the legal realm, it is defined as “[l]iterally meaning irrespective of.”²
21 Accordingly, the plain reading of “notwithstanding any other law” is “despite any other
22 law” or “irrespective of any other law.” Thus, the Legislature clearly wrote the window
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26 1. *Notwithstanding*, *Merriam-Webster.com Dictionary*, Merriam-Webster,
27 <https://www.merriamwebster.com/dictionary/notwithstanding>.

28 2. *Notwithstanding*, *Black’s Law Dictionary Free*, The Law Dictionary,
<https://thelawdictionary.org/?s=Notwithstanding>.

1 provision to operate without interference from or application with any other statute. This
2 necessarily means that the window completely circumvents any notice of claim
3 requirements in the Notice of Claim Statute.
4

5 Had the Legislature desired to uphold notice of claim requirements in the Child
6 Protection Act, it would have explicitly done so. The absence of a carve-out for
7 government entities should not be ignored; indeed, “a court will not inflate, expand,
8 stretch, or extend a statute to matters not falling within its expressed provisions.” *City of*
9 *Phoenix v. Donofrio*, 99 Ariz. 130, 133 (Ariz. 1965). The Legislature did not include an
10 exception for claims against the government in the window, nor did it create a caveat that
11 causes of action against the government or public entities are in effect only revived for
12 180 days pursuant to the Notice of Claim Statute.
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15 Therefore, this Court should not read such exceptions into the statute and should
16 instead abide by the revival window’s plain meaning: irrespective of any other law, revived
17 causes of action—even those previously subject to notice of claim requirements—were
18 afforded one full year and seven months in which to bring suit unencumbered by a
19 renewed notice of claim deadline.
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22 **B. Even if the Child Protection Act language is ambiguous, the legislative**
23 **history evidences intent to revive all claims unencumbered by a new notice**
24 **of claim requirement.**

25 As mentioned above, when construing a statute, this Court’s “primary goal” is “to
26 fulfill the intent of the legislature that wrote it.” *Zamora*, 185 Ariz. at 275. Moreover, the
27 court interprets statutes to “achieve the general legislative goals that can be adduced from
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1 the body of legislation in question.” *Id.* (quoting *Dietz v. General Electric Co.*, 169 Ariz. 505,
2 510 (Ariz. 1991)). Should this Court find the statutory language “not so plain that it
3 admits of no other interpretation,” it turns to legislative intent and considers “the statute’s
4 context, subject matter, historical background, effects and consequences, and spirit and
5 purpose.” *Zamora*, 185 Ariz. at 275; *Williams*, 175 Ariz. at 102.

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8 Particularly relevant here is that remedial statutes—such as the Child Protection
9 Act—are construed “broadly to effectuate the legislature’s purpose in enacting them.” *In*
10 *re Estate of Winn*, 214 Ariz. 149, 150 (Ariz. 2007). Further, the court should not render a
11 statute “a ‘nullity’ by interpretation.” *Romo v. Barr*, 933 F.3d 1191, 1998 (9th Cir. 2019)
12 (quoting *United States v. Atl. Research Corp.*, 551 U.S. 128, 137 (2007)). The legislative
13 history of the Child Protection Act clearly demonstrates that the Legislature intended the
14 window to revive previously time-barred claims of child sexual abuse for one year and
15 seven months, without imposing any new notice requirement.

16
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18 1. *The legislature intended to provide child sexual abuse victims with remedial and*
19 *unencumbered access to the courts to expose hidden child predators.*

20 From the Child Protection Act’s inception, it was calculated to provide past and
21 present victims of child sexual abuse remedial and increased access to the courts in order
22 to better protect Arizona’s children from predators. Indeed, the Arizona House of
23 Representatives originally summarized the revival window provision as: “Permit[ing] *every*
24 *other victim to file an action* for up to one year from the effective date.” Ariz. State H.R.,
25 Summary of the Strike-Everything Amendment to SB 1101, 54th Leg., 1st Sess. (April 2,
26 2019) (emphasis added). In a passionate discussion before the House Committee on
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1 Appropriations, Senator Paul Boyer, the sponsor of the bill that eventually became the
2 Child Protection Act, articulated the Legislature’s purpose in drafting the statute’s revival
3 window:
4

5 “The one thing we know about perpetrators is they don’t stop until
6 they’re caught or they no longer have access to children . . . The
7 reason why the window is so critical . . . it’s the only way to stop
8 current perpetrators from harming children today and also to prevent
9 future harm . . . because . . . of the trauma . . . psychological,
10 emotional, physical trauma, it takes [victims] sometimes decades to
11 come forward. I have multiple studies [that have] looked at hundreds
12 of victims, and the reasons why they’ve delayed coming forward and
13 how many years it took them to come forward. And most victims
14 don’t come forward until they’re in their forties because that’s the
15 time where they’ve been able to process and when they’ve been able
16 to come to grips with what has happened to them.”

17 S.B. 1101, Statute of Limitations; Sexual Assault: Video of Special Meeting before the
18 Arizona House Committee on Appropriations, 54th Leg., 1st Sess. (April 4, 2019).

19 Senator Boyer’s justification for the window was supplemented by the testimony of
20 Jeff Dion, who was at that time the Executive Director of the Victim Policy Institute. Mr.
21 Dion expounded that,

22 “The most important part of this bill is the civil window because we
23 know that, even when it takes someone thirty years to disclose the
24 abuse, when their perpetrator is still alive they’re often still molesting
25 kids Nine other states have passed civil windows, and for that
26 limited period of time, you [can] bring a case without regard to the
27 statute of limitation, no matter how long ago it was.”

28 *Id.* These explanations for the window’s necessity leave no doubt that the Legislature
understood and intended that the statute provide all otherwise time-barred claims of child

1 sexual abuse an *unencumbered* period of time in which to bring lawsuits so that Arizona
2 could expose as many hidden child predators as possible.

3
4 Further evidence of this is found in the Committee’s discussion of how the statute
5 operates to eliminate previously valid time constraints on victims’ claims, such as a notice
6 of claim requirement. In that discussion, Representative Randall Friese asserted that,
7 “there are always exceptions to every rule and . . . this would be an exception.” *Id.*
8 Clearly, legislators intended to afford victims of child sexual abuse an *exception to any*
9 *applicable time-bar* so that they had an unimpeded opportunity to bring claims against their
10 abusers. This comports with the long-standing conclusion that “[t]he notice of claim
11 statute is ‘subject to waiver, estoppel and equitable tolling.’” *Pritchard v. State*, 163 Ariz.
12 427, 432 (Ariz. 1990); *Jones v. Cochise County*, 218 Ariz. 372, 379 (Ariz.App. Div. 2 2008).

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15 Notably, the Child Protection Act was not the product of a cursory review or a
16 hasty passing in the Arizona State Legislature. In fact, it was the source of great debate,
17 politicking, and publicity, all of which centered on giving victims more time to bring their
18 abusers to justice.³ Accordingly, there can be no doubt that the Legislature fully
19 understood that the statute would operate to circumvent the notice of claim requirement
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23 3. See Jerod MacDonald-Evoy, *Deal to expand rights of sexual abuse survivors in the works*, AZ
24 Mirror (May 22, 2019), available at <https://www.azmirror.com/2019/05/22/deal-to-expand-rights-of-sexual-abuse-survivors-in-the-works/> (last visited Mar. 21, 2022); Laurie
25 Roberts, *Arizona senator holds out on the budget to force vote on child rape claims. Good for him*, AZ
26 Central (May 13, 2019), available at <https://www.azcentral.com/story/opinion/op-ed/laurieroberts/2019/05/13/arizona-senator-paul-boyer-budget-force-vote-sexual-assault/1170363001/> (last visited Mar. 21, 2022); Ben Giles & Julia Shumway, *Sen. Boyer gives Senate ultimatum on sex abuse bill*, Arizona Capitol Times (May 1, 2019), available at <https://azcapitoltimes.com/news/2019/05/01/sen-boyer-gives-senate-ultimatum-on-sex-abuse-bill/> (last visited Mar. 21, 2022).

1 for revived claims against the state; finding otherwise would be an affront to the
2 Legislature’s tireless efforts to negotiate and pass this revival window for Arizona’s child
3 victims of sexual abuse.

4
5 2. *The legislature did not intend to give victims with claims against the State a shortened revival*
6 *window.*

7 Importantly, the court must “read the statute . . . to give it a fair and sensible
8 meaning.” *In re Commitment of Taylor*, 206 Ariz. 355, 357 (Ariz.App. Div. 2 2003) (quoting
9 *Jansen v. Christensen*, 167 Ariz. 470, 472 (Ariz. 1991)). Given the Legislature’s clear intent
10 for this statute, it would simply not be fair or sensible to read the language as requiring a
11 victim of child sexual abuse bringing their claim pursuant to the revival window to adhere
12 to a notice of claim deadline. *This would effectively restrict the revival window for these victims to a*
13 *mere 180 days*, undermining the Legislature’s intent that *all* child victims have a full one
14 year and seven months in which to bring claims against their abusers. *See* A.R.S. § 12-
15 821.01.

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18 Such an interpretation would necessarily impute on the Legislature an intent to
19 distinguish claims brought against state defendants from claims brought against any other
20 type of defendant. In fact, the Legislature took pains to expressly place state claims on
21 equal footing as all other claims—in applying the statute to all injuries as a result of a
22 “person’s negligent or intentional act,” the Legislature explicitly defined “person” as “an
23 individual, *the United States, this state or a public or private corporation, local government unit, public*
24 *agency*, partnership, association, firm, trust or estate or any other legal entity.” A.R.S. § 12-
25 514(B)(1) (emphasis added). Because the Legislature did not differentiate state claims
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1 from any other claims, it would be unreasonable to determine that the Legislature would
2 provide state claims a different revival period—a mere 180 days—than that of all other
3 claims brought under the Child Protection Act. The Legislature’s purposeful judgment to
4 give Arizona child sexual abuse victims the opportunity to hold those responsible
5 accountable for their abuse—even public entities—should be given deference and upheld
6 by this Court.
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9 *3. Imposing a 180-day notice requirement would nullify the legislature’s intent to provide justice*
10 *to all child sexual abuse victims.*

11 Interpreting the revival window as imposing notice of claim requirements for
12 victims with revived claims against the state would cut off justice for these victims *thirteen*
13 *months* before the window closed on December 30, 2020. It is patently unfair to the
14 Arizona victims of child sexual abuse with claims against public entities—who have
15 fought for well over a decade to obtain justice and to better protect the public—to
16 foreshorten their legislatively established opportunity for justice by roughly two-thirds.
17 Such an interpretation not only directly opposes the Legislature’s intent to afford all
18 victims a wide-open window to bring their claims, but it is also an oppressive
19 interpretation of a remedial statute enacted to rectify long-standing injustices and prevent
20 future harm to children.
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24 It is additionally unreasonable to enforce notice of claim requirements on revived
25 claims against the state because 180 days is inadequate time to file claims against a public
26 entity that played a role in the victim’s abuse. This time period, which amounts to *less than*
27 *six months*, grants victims far too little time to find out about the new window, come to
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1 terms with their abuse, weigh the enormous personal consequences of identifying
2 themselves as a victim, name the people who sexually abused them and the entities that
3 permitted the abuse, and ultimately, find a lawyer to file their claims in court.⁴ As
4 mentioned above, the revival window was a hard-won right for victims of child sexual
5 abuse; it is thus unfair to these victims to diminish that right by thirteen months simply
6 because they have claims against the state instead of an individual or private entity.
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8
9 Therefore, it is evident that the Arizona State Legislature understood and intended
10 to enact a one-year and seven-month window that provided child victims of sexual abuse
11 *unfettered access to the courts*—even those with claims against the state. Any other reading
12 would render the window superfluous and a nullity for claims against public entities,
13 undermining the Legislature’s clear intent.
14

15 **II. The Child Protection Act’s revival window reflects delayed disclosure science**
16 **and addresses Arizona’s compelling interest in protecting children.**

17 Arizona’s Child Protection Act acknowledges that victims of child sexual abuse
18 often take decades to disclose their abuse. The revival window in the Child Protection
19 Act corrects the injustice of Arizona’s historically unreasonably short SOLs that blocked
20 child sex abuse victims’ access to courts and kept the public uninformed.
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28 4. A detailed explanation of why victims need far longer than six months to disclose their abuse is included in Section III.

1 **A. Child sexual abuse uniquely prevents victims from bringing timely claims**
2 **under unreasonably short SOLs.**

3 Child sexual abuse is a national public health crisis, with 3.7 million children
4 sexually abused every year.⁵ In the United States, at least one in five girls and one in
5 thirteen boys is sexually abused before they turn eighteen.⁶

7 An extensive body of evidence establishes that childhood sexual abuse victims are
8 traumatized in a way that is distinguishable from victims of other crimes. Many victims of
9 child sexual abuse suffer in silence for decades before they talk to anyone about their
10 traumatic experiences. As children, child sexual abuse victims often fear the negative
11 repercussions of disclosure, such as disruptions in family stability, loss of relationships, or
12 involvement with the authorities.⁷ These victims may also struggle to disclose their
13 experiences due to effects of trauma and psychological barriers such as shame, self-blame,
14 or fear, as well as social factors such as gender-based stereotypes or stigma regarding
15 victimization.⁸

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

23 6. G. Moody, et al., *Establishing the international prevalence of self-reported child maltreatment: a*
24 *systematic review by maltreatment type and gender*, 18(1164) BMC PUBLIC HEALTH (2018); M.
25 Stoltenborgh, et al., *A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence*
26 *Around the World*, 16(2) CHILD MALTREATMENT 79 (2011); N. Pereda, et al., *The prevalence*
27 *of child sexual abuse in community and student samples: A meta-analysis*, 29 CLINICAL PSYCH. REV.
328, 334 (2009).

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

28 8. 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).

1 Additionally, disclosing sexual abuse to the authorities for criminal prosecution or
2 an attorney in pursuit of civil justice is a difficult and emotionally complex process, which
3 involves the victim knowing that he or she was abused; being willing to identify publicly
4 as a sexual abuse victim; and deciding to act against their abuser. This last variable may be
5 particularly difficult for victims as nearly 90% of perpetrators are someone the child
6 knows; in fact, roughly one-third of child sexual abuse offenses are committed by family
7 members.⁹ It is hardly surprising then that one study found 44.9% of male victims and
8 25.4% of female victims of child sex abuse delayed disclosure by more than twenty
9 years.¹⁰ In another study of victims of abuse in Boy Scouts of America, 51% of victims
10 disclosed their abuse for the first time at age fifty or older.¹¹ An estimated 70% of child
11 sexual assault victims never report abuse to the police.¹² Victims therefore often need
12 decades to process the abuse they suffered, much less to report it.¹³

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

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

23 11. *Delayed Disclosure of Child Sexual Abuse*, CHILD USA, available
24 at [https://childusa.org/wp-content/uploads/2020/03/delayed-disclosure-childUSA-](https://childusa.org/wp-content/uploads/2020/03/delayed-disclosure-childUSA-1.jpg)
1.jpg (last visited Mar. 8, 2022).

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

27 13. *R.L. v. Voytac*, 971 A.2d 1074 (N.J. 2009); Rebecca Campbell, Ph.D., *The Neurobiology*
28 *of Sexual Assault: Explaining Effects on the Brain*, NAT'L INST. OF JUSTICE (2012), available at
<https://upc.utah.gov/materials/2014Materials/2014sexualAssault/TonicImmobility>

1 Moreover, cultures of secrecy paired with unreasonably short SOLs and other time
2 restraints shielded organizations from public scrutiny and discouraged victims from
3 disclosing abuse. The Boston Globe’s 2002 *Spotlight* investigative report uncovered
4 rampant sexual abuse in the Catholic Church, and an alarming number of institutional
5 scandals have since emerged, with more institutions and perpetrators publicly named each
6 year.¹⁴

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9 Until 2019, child sexual abuse victims in Arizona only had until age twenty to file a
10 civil suit against their abusers and other defendants. See A.R.S. §§ 12-542; 12-502. As
11 detailed above, nearly all victims fail to bring claims within such an unreasonably short
12 timeframe. At that time, Arizona ranked as one of the worst jurisdictions in the nation
13 for its SOLs for child sex abuse claims.¹⁵ To remedy the problem, the Legislature passed
14 the Arizona Child Protection Act, which opened a window permitting victims of child
15 sexual abuse in Arizona to assert otherwise time-barred civil claims—from May 27, 2019
16 through December 30, 2020. See Arizona Child Protection Act, H.B. 2466, 54th Leg., 1st
17 Reg. Sess. (Ariz. 2019). Importantly, the Act was designated as an “emergency measure
18 that is necessary to preserve the public peace, health or safety.” *Id.*

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21 Because a law to revive a previously time-barred *criminal* prosecution violates the
22 Ex Post Facto Clause of the United States Constitution, filing a civil claim using a revival
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25 [Webinar.pdf](#); Bessel A. van der Kolk M.D., *et al.*, *Traumatic Stress: The Effects of Overwhelming*
26 *Experience on Mind, Body, and Society* (2006).

27 14. Hamilton, M., *We Failed Our Children for Too Long: The Case for SOL Reform*, THE
28 ADVOCATE, J. OF THE OKLA. ASS’N FOR JUST., 23 (NOV. 4, 2016).

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

1 provision is the sole redress for many victims whose claims unjustly expired. *See Stogner v.*
2 *California*, 539 U.S. 607, 610, 632–33 (2003). By passing the Child Protection Act, the
3 Legislature recognized the injustice of short time restraints and took a reasonable step to
4 address this issue, providing long-denied access to justice to victims of child sex abuse and
5 greatly reducing the present danger to Arizona’s children.
6

7
8 **B. The Child Protection Act addresses Arizona’s compelling interest in child
9 protection.**

10 The Child Protection Act also serves Arizona’s “compelling” interest in child
11 protection. *See, e.g., Packingham v. North Carolina*, 137 S. Ct. 1730, 1736 (2017); *State v.*
12 *Berger*, 212 Ariz. 473, 477 (Ariz. 2006). Three important public purposes are served by the
13 Legislature’s enactment of the Child Protection Act. It: (1) identifies previously unknown
14 child predators and the institutions that shield them; (2) shifts the cost of abuse from
15 victims to those who caused the abuse; and (3) educates the public to prevent future
16 abuse.
17

18 First, the revival window facilitates the identification of previously unknown child
19 predators¹⁶ and institutions that shield them who would otherwise not be identified. The
20 decades before a victim is ready to disclose give perpetrators and institutions wide latitude
21 to suppress the truth to the detriment of children, parents, and the public. Unfortunately,
22 unidentified predators continue abusing children; for example, one study found that 7%
23 of offenders sampled committed offenses against forty-one to 450 children, and the
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28 16. Michelle Elliott, *et al.*, *Child Sexual Abuse Prevention: What Offenders Tell Us*, 19 CHILD ABUSE NEGL. 579 (1995).

1 longest time between offense and conviction was thirty-six years.¹⁷ Through the Child
2 Protection Act, the Legislature empowered victims to identify Arizona's hidden child
3 predators and the institutions that endanger children, which helps prevent those predators
4 from further abusing children and allows the public to develop policies to inhibit new
5 abuse from occurring in the long-term.¹⁸

6
7
8 Second, the Child Protection Act educates the public about the dangers of child
9 sexual abuse and how to prevent such abuse. When predators and institutions are
10 exposed, particularly high-profile ones like Larry Nassar, Jeffrey Epstein, the Boy Scouts
11 of America, and the Catholic Church, the media publish investigations and documentaries
12 that enlighten communities about the insidious ways child molesters operate to sexually
13 assault children, as well as the institutional failures that enabled their abuse.¹⁹ By shedding
14 light on the problem, parents and other guardians are better equipped with the tools
15 necessary to identify abusers and responsible institutions, while the public is empowered
16 to recognize grooming and abusive behavior. Indeed, SOL reform not only provides
17 access to justice previously withheld from victims of child sexual abuse; it prevents further
18 abuse by fostering social awareness while encouraging institutions to implement
19 accountability and safe practices.
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24 17. *Id.*

25 18. *See generally, Making the Case: Why Prevention Matters*, PREVENTCHILDBUSE.ORG,
26 available at <https://preventchildabuse.org/resource/why-prevention-matters/> (last visited
27 Feb. 22, 2022); *Preventing Adverse Childhood Experiences*, CDC.GOV, available at
28 <https://www.cdc.gov/violenceprevention/pdf/preventingACES.pdf> (last visited Feb. 23,
2022).

19 *See, e.g., Jeffrey Epstein: Filthy Rich* (Netflix 2020); *At the Heart of Gold: Inside the USA
Gymnastics Scandal* (HBO 2019).

1 Third, the cost of child sexual abuse to victims is enormous,²⁰ and they, along with
2 Arizona, unjustly carry the burden of this expense.²¹ The estimated lifetime cost to
3 society from child sexual abuse cases that occurred in the U.S. in 2015 is \$9.3 billion,
4 while the average cost per non-fatal female victim was estimated at \$282,734.²² Average
5 costs per victim include but are not limited to \$14,357 in child medical costs, \$9,882 in
6 adult medical costs, \$223,581 in lost productivity, \$8,333 in child welfare costs, \$2,434 in
7 costs associated with crime, and \$3,760 in special education costs.²³ Costs associated with
8 suicide deaths are estimated at \$20,387 for female victims.²⁴ These staggering costs
9 gravely affect victims and also impact the nation's health care, education, criminal justice,
10 and welfare systems.²⁵ Revived child sexual abuse cases that result in awards and
11 settlements will not only equitably shift some of the costs away from victims and onto the
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17 20. See M. Merricka., *et al.*, *Unpacking the impact of adverse childhood experiences on adult mental*
18 *health*, 69 CHILD ABUSE & NEGLECT 10 (July 2017); Angelakis, I., Gillespie, E.L.,
19 Panagioti, M., *Childhood maltreatment and adult suicidality: a comprehensive systematic review with*
20 *meta-analysis*, PSYCHOLOGICAL MEDICINE 1-22 (2019); Gail Hornot, *Childhood Trauma*
21 *Exposure & Toxic Stress: What the PNP Needs to Know*, J. PEDIATRIC HEALTHCARE (2015);
22 Perryman Group, *Suffer the Little Children: An Assessment of the Economic Cost of Child*
23 *Maltreatment* (2014).

24 21. While one in four Arizonans receive Medicaid, sex abuse victims likely
25 disproportionately receive support due to the crippling effect of trauma. Stephanie Innes,
26 *Enrollment in Arizona's Medicaid program hits record 2M adults and children*, AZCENTRAL.COM,
27 *available at* [https://www.azcentral.com/story/news/local/arizona-health/2020/07/14/enrollment-arizonas-medicaid-program-hits-record-2-](https://www.azcentral.com/story/news/local/arizona-health/2020/07/14/enrollment-arizonas-medicaid-program-hits-record-2-million/5429518002/)
28 [million/5429518002/](https://www.azcentral.com/story/news/local/arizona-health/2020/07/14/enrollment-arizonas-medicaid-program-hits-record-2-million/5429518002/) (Jul. 14, 2020).

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

31 23. *Id.*

32 24. *Id.*

33 25. *Id.*

1 abusers, but they will also save the state money by reducing expenditures on public
2 services.

3
4 As a result, the Legislature’s enactment of the Child Protection Act not only
5 remedies the long-standing injustice to child sexual abuse victims barred from bringing
6 their claims under unreasonably short time restraints, but also serves Arizona’s compelling
7 interest in keeping its children safe and preventing future child sexual abuse.
8

9 **III. Revival laws for child sexual abuse claims across the states support that a
10 notice of claim is not required for Arizona window claims.**

11 In 2019, Arizona joined the growing national movement to protect children from
12 sexual predators and honor justice for victims of child sexual abuse. Since 2002, revival
13 legislation has grown in popularity, and even more rapidly with the #metoo movement, as
14 legislatures recognized that child sexual abuse victims need more time to come forward
15 and SOLs and claim presentation deadlines have historically blocked their claims.²⁶ With
16 Arizona’s exemplary revival window, it stands alongside at least thirty states and territories
17 that enacted civil revival laws for childhood sexual abuse claims that were blocked by
18 unreasonably short SOLs and claim presentation deadlines. The following table shows
19 this prevailing trend:
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22

Jurisdiction	Revival Law	Statute
Arizona	1.5-Year Window & Age 30 Limit (2019)	A.R.S. § 12-514; H.B. 2466, 54th Leg., 1st Reg. Sess. (Ariz. 2019)

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

Arkansas	2-Year Window (2021)	Arkansas Act 1036; S.B. 676, 93 rd General Assembly, Reg. Sess. (Arkansas 2021); ARK. CODE ANN. § 16-118-118
California	3-Year Window & Age 40 Limit (2019)	CAL. CIV. PROC. CODE § 340.1 (2020); 2019 CAL. LEGIS. SERV. CH. 861 (A.B. 218)
	1-Year Window (2003)	CAL. CIV. PROC. CODE § 340.1 (2002); 2002 CAL. LEGIS. SERV. CH. 149 (S.B. 1779)
Colorado ²⁷	3-Year Window (2021)	SB21-088, 73 rd General Assembly, 1 st Reg. Sess. (Colo. 2021) (Effective, January 1, 2022)
Connecticut	Age 48 Limit (2002)	CONN. GEN. STAT. § 52-577d (2002); 2002 Conn. Legis. Serv. P.A. 02-138 (S.H.B. 5680).
Delaware	2-Year Window (2010)	DEL. CODE tit. 18, § 6856; 2010 Delaware Laws Ch. 384 (H.B. 326)
	2-Year Window (2007)	DEL. CODE tit. 10, § 8145; 2007 Delaware Laws Ch. 102 (S.B. 29)
Florida	4-Year Window (1992)	FLA. STAT. ANN. § 95.11; 1992 Fla. Sess. L. Serv. Ch. 92-102 (CSSB 1018)
Georgia	2-Year Window (2015)	GA. CODE § 9-3-33.1; 2015 Georgia Laws Act 97 (H.B. 17)
Guam	Permanent Window (2016)	Tit. 7 G.C.A §§ 11306; 11301.1(b); Added by P.L. 33–187:2 (Sept. 23, 2016)
	2-Year Window (2011)	7 G.C.A. § 11306(2) (2011); Public Laws No.31-06 (2011) ²⁸
Hawaii	2-Year Window (2018)	HAW. REV. STAT. § 657-1.8; 2018 Hawaii Laws Act 98 (S.B. 2719)

27. This is not a revival law—it is a new cause of action—but it opens a window to justice for victims whose claims have expired.

28. Public Laws No. 31-06 (2011), available at https://www.guamlegislature.com/Public_Laws_31st/P.L.%2031-07%20Bill%20No.%2034-31.pdf.

	2-Year Window (2014)	HAW. REV. STAT. § 657-1.8; 2014 Hawaii Laws Act 112 (S.B. 2687)
	2-Year Window (2012)	HAW. REV. STAT. § 657-1.8; 2012 Hawaii Laws Act 68 (S.B. 2588)
Kentucky	Limited Window (2021)	2021 Kentucky Laws Ch. 89 (HB 472); KY. REV. STAT. ANN. § 413.249
Louisiana	3-Year Window (2021)	2021 La. Sess. Law Serv. Act 322 (H.B. 492); LA. STAT. ANN. § 9:2800.9
Maine	Permanent Window (2021)	ME. REV. STAT. ANN. tit. 14 § 752-C; 2021 Me. Legis. Serv. Ch. 301 (H.P. 432) (L.D. 589)
Massachusetts	Age 53 Limit (2014)	MASS. GEN. LAWS ch. 260, § 4C (2014); 2014 Mass. Legis. Serv. Ch. 145 (H.B. 4126).
Michigan	90-Day Window (2018)	MICH. COMP. LAWS § 600.5851b; 2018 Mich. Legis. Serv. P.A. 183 (S.B. 872)
Minnesota	3-Year Window (2013)	MINN. STAT. § 541.073, 2013 Minn. Sess. Law Serv. Ch. 89 (H.F. 681)
	1-Year Window (1989)	MINN. STAT. § 541.073
Missouri	Age 23 Limit (1990)	MO. REV. STAT. § 537.046
Montana	1-Year Window & Age 27 Limit (2019)	MONT. CODE § 27-2-216; 2019 MONTANA LAWS CH. 367 (H.B. 640)
Nevada	Permanent Window & Age 38 Limit (2021)	2021 Nevada Laws Ch. 288 (S.B. 203); NEV. REV. STAT. ANN. § 11.215, 41.1396
New Jersey	2-Year Window & Age 55 Limit (2019)	N.J. STAT. ANN. §§ 2A:14-2A & 2A:14-2B; 2019 NJ Sess. Law Serv. Ch. 120 (SENATE 477)
New York	2-Year Window (2022)	NEW YORK CITY, N.Y., CODE § 10-1105 (2022); L.L. 21/2022 § 2, EFF. JAN. 9, 2022

	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)
	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)
North Carolina	2-Year Window (2019)	N.C. GEN. STAT. § 1-17; 2019 North Carolina Laws S.L. 2019-245 (S.B. 199)
Northern Mariana Islands	Permanent Window (2021)	2021 N.M.I. Pub. L. No. 22-12 (HB 22-2, SDI)
Oregon	Age 40 Limit (2010)	OR. REV. STAT. § 12.117; 2009 OREGON LAWS CH. 879 (H.B. 2827).
Rhode Island	Age 53 Limit (2019)	R.I. GEN LAWS § 9-1-51; 2019 RHODE ISLAND LAWS CH. 19-83 (19-H 5171B).
Utah	3-Year Window & Age 53 Limit (2016)	UTAH CODE ANN. § 78B-2-308; 2016 Utah Laws Ch. 379 (H.B. 279)
Vermont	Permanent Window (2019)	VT. STAT. ANN. tit. 12, § 522, “Actions based on childhood sexual or physical abuse”; 2019 Vermont Laws No. 37 (H. 330)
Virginia	1-Year Window (1991)	VA. CODE ANN. § 8.01-249.
Washington, D.C.	2-Year Window (2019)	D.C. CODE § 12-301; 2018 District of Columbia Laws 22-311 (Act 22-593)
West Virginia	Age 36 Limit (2020)	W. VA. CODE § 55-2-15; 2020 WEST VIRGINIA LAWS CH. 2 (H.B. 4559).

Modern revival laws do not distinguish between private and public defendants when reviving claims against institutions involved in child sexual abuse. This is because

1 legislatures recognize the public interest in stopping predators from sexually abusing
2 children is equally as compelling within public institutions as it is in the private sphere.
3 Notably, in California and Hawaii, after judicial determinations that the revival language
4 was not explicit enough to overcome sovereign immunity, their legislatures reconvened
5 and passed subsequent legislation explicitly reviving claims against state entities. *See Coats*
6 *v. New Haven Unified Sch. Dist.*, 259 Cal.Rptr.3d 784, 749 (Cal. Ct. App. 2020); *Roe v. Ram*,
7 No. 14-00027, 2014 WL 4276647, at *3 (D. Haw. Aug. 29, 2014).
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10 Here, the Arizona legislature was careful to include explicit language reviving claims
11 against public entities that were blocked not only by statutes of limitations, but also by a
12 “claim presentation deadline.” Arizona’s statutory language is unique, as it is one of the
13 only window statutes with explicit applicability language reviving claims also time barred
14 by a claim presentation deadline. *See also* CAL. CIV. PROC. CODE § 340.1(Q) (2020) (any
15 claim for damages . . . that would otherwise be barred as of January 1, 2020, because the
16 applicable statute of limitations, claim presentation deadline, or any other time limit had
17 expired, is revived . . .”). The legislature’s deliberate use of language including survivors
18 of abuse within state institutions in its window for justice sets it apart from other states’
19 revival provisions and should be recognized by this Court.
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23 An interpretation of the Child Protection Act that reinstates a claim presentation
24 deadline for window claims against state entities would violate the explicit language of the
25 Notice of Claim Statute, the window provision, and the clear directive of the Arizona
26 Legislature. The Legislature’s purposeful judgment to enact a broad revival window that
27
28

1 gave victims with claims against public institutions one year and seven months to bring
2 their abuser's enablers to justice and help eradicate child sex abuse in Arizona should be
3 given deference and upheld by this Court.
4

5 **CONCLUSION**

6 For these reasons, *Amicus Curiae* CHILD USA respectfully requests this Court
7 reverse the trial court's grant of the *Motion to Dismiss* and rule a notice of claim was not
8 required.
9

10 RESPECTFULLY SUBMITTED this 21st day of March 2022.

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12
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