

CHILD USA
3508 Market Street, Suite 202
Philadelphia, PA 19104
Tel: (215) 539-1906

W.S. (initials representing Plaintiff),

Plaintiff/Respondent,

v.

DEREK HILDRETH, and its teachers,
directors, officers, employees, agents,
counselors, servants or volunteers and ABC
ENTITIES and its teachers, directors,
officers, employees, agents, counselors,
servants or volunteers, and JOHN DOES 1-
10,

Defendants,

and

LAWRENCE TOWNSHIP SCHOOL
DISTRICT and MYRON L. POWELL
ELEMENTARY SCHOOL

Defendants/Appellants.

SUPREME COURT OF NEW JERSEY
DOCKET NO. 086633

ON APPEAL FROM:
THE SUPERIOR COURT OF
NEW JERSEY
APPELLATE DIVISION
ORDER ENTERED DEC. 21, 2021
DOCKET NO. A-2066-20T1

Sat Below:

HON. CARMEN MESSANO, P.J.A.D.
HON. ALLISON E. ACCURSO, J.A.D.
HON. LISA ROSE, J.A.D.

**BRIEF OF AMICUS CURIAE CHILD USA IN SUPPORT OF PLAINTIFF-
RESPONDENT, DENYING DISMISSAL**

Counsel of Record:

Alice Nasar Hanan, Esq.
ID: 02922-2008
CHILD USA
3508 Market Street, Suite 202
Philadelphia, PA 19104
Tel: (215) 539-1906
ahanan@childusa.org

On the Brief:

Prof. Marci A. Hamilton, Esq.
University of Pennsylvania
Founder & CEO, CHILD USA
marcih@sas.upenn.edu

Alice Bohn, Esq.
Legal Director, CHILD USA

Carina Nixon, Esq.
Staff Attorney, CHILD USA

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....i

STATEMENT OF INTEREST OF AMICUS CURIAE..... v

PRELIMINARY STATEMENTvi

PROCEDURAL HISTORY AND STATEMENT OF FACTS viii

ARGUMENT 1

I. THE LEGISLATIVE HISTORY AND NEW JERSEY CASE LAW CONFIRM THAT CSAA REVIVED CLAIMS ARE NOT SUBJECT TO A NOTICE OF CLAIM DEADLINE UNDER NEW JERSEY’S TORT CLAIMS ACT..... 1

A. The Legislative History of the Amendments Evidences Intent to Revive All Child Sex Abuse Claims Unencumbered by a Notice of Claim Requirement.....3

B. The New Jersey Superior Court Has Concluded That the Legislature Intended the Amendments to Expand Child Sex Abuse Claims Against Public Entities by Eliminating the TCA’s Prohibitive Procedural Limitations6

II. THE AMENDMENTS REFLECT DELAYED DISCLOSURE SCIENCE AND ADDRESS NEW JERSEY’S COMPELLING INTEREST IN PROTECTING CHILDREN..... 8

A. Child Sex Abuse Uniquely Prevents Victims from Bringing Timely Claims.....8

B. The Amendments Address New Jersey’s Compelling Interest in Child Protection... 12

III. REVIVAL LAWS FOR CHILD SEX ABUSE CLAIMS ACROSS THE UNITED STATES SUPPORT THAT A NOTICE OF CLAIM IS NOT REQUIRED FOR REVIVED CLAIMS..... 15

CONCLUSION 19

TABLE OF AUTHORITIES

Cases

<u>DiProspero v. Penn</u> , 874 A.2d 1039 (N.J. 2005)	2
<u>E.C. by D.C. v. Inglima-Donaldson</u> , 268 A.3d 1029 (Sup. Ct. App. Div. 2021).....	v, 5, 6, 7
<u>Hardwicke v. Am. Boychoir Sch.</u> , 845 A.2d 619 (N.J. Sup. Ct. App. Div. 2004), <u>aff'd as modified</u> , 902 A.2d 900 (2006)	7
<u>Hoefers v. Jones</u> , 672 A.2d 1299 (N.J. Super. Ct. Ch. Div. 1994).....	11
<u>J.L. v. J.F.</u> , 722 A.2d 558 (N.J. Sup. Ct. App. Div. 1999)	7
<u>Jones v. Jones</u> , 576 A.2d 316 (N.J. Sup. Ct. App. Div. 1990), <u>certif. denied</u> , 585 A.2d 412 (N.J. 1990).....	7
<u>Murray v. Plainfield Rescue Squad</u> , 46 A.3d 1262 (N.J. 2012).....	2
<u>Nw. Bergen Cnty. Utils. Auth. v. Donovan</u> , 143 A.3d 290 (N.J. 2016).....	3
<u>Packingham v. North Carolina</u> , 137 S. Ct. 1730 (2017).....	11
<u>R.L. v. Voytac</u> , 971 A.2d 1074 (N.J. 2009)	9
<u>Rothman v. Rothman</u> , 320 A.2d 496 (N.J. 1974).....	11
<u>Short v. Short</u> , 858 A.2d 571 (N.J. Super. Ct. App. Div. 2004).....	11
<u>State v. Berger</u> , 134 P.3d 378 (Ariz. 2006)	11
<u>Stogner v. California</u> , 539 U.S. 607 (2003).....	11

Statutes

2021 N.M.I. Pub. L. No. 22-12	17
A.R.S. §§ 12-542; 12-502.....	10
ARK. CODE ANN. § 16-118-118.....	15
CAL. CIV. PROC. CODE § 340.1	15, 18
CONN. GEN. STAT. § 52-577d (2002).....	15
D.C. CODE § 12-301	17
DEL. CODE tit. 10, § 8145	15

DEL. CODE tit. 18, § 6856	15
F.S.A. § 95.11	15
GA. CODE § 9-3-33.1	15
HAW. REV. STAT. § 657-1.8.....	16
KAN. STAT. ANN. § 413.249	16
LA. STAT. ANN. § 9:2800.9.....	16
MASS. GEN. LAWS ch. 260, § 4C	16
ME. STAT. tit. 14, § 752-C.....	16
MINN. STAT. § 541.073.....	16
MO. REV. STAT. § 537.046.....	16
MONT. CODE § 27-2-216.....	16
N.J.S.A. §§ 2A:14-2A & 2A:14-2B.....	16
N.J.S.A. § 2A:14-2a	vi
N.J.S.A. § 2A:30B-6.....	vi
N.J.S.A. § 2A:61B-1.....	vi
N.J.S.A. § 59:2-1.3(a).....	vi
N.J.S.A. § 59:8-3(b)	vi
N.Y. C.P.L.R. § 214-g	17
N.C. GEN. STAT. § 1-17	17
NEV. REV. STAT. §§ 11.215	16
OR. REV. STAT. § 12.117.....	17
R.I. GEN LAWS § 9-1-51.....	17
Tit. 7 G.C.A §§ 11306	15
UTAH CODE ANN. § 78B-2-308	17
VT. STAT. ANN. tit. 12, § 522.....	17

W. VA. CODE § 55-2-1517

Other Authorities

Angelakis, I., Gillespie, E.L., Panagioti, M., Childhood maltreatment and adult suicidality: a comprehensive systematic review with meta-analysis, PSYCHOLOGICAL MEDICINE 1-22 (2019)14

Assembly Bill No. 53923, 4

Assembly Judiciary Committee Statement for Assembly No. 5392 (May 20, 2019)4

At the Heart of Gold: Inside the USA Gymnastics Scandal (HBO 2019).....13

Bessel A. van der Kolk M.D., et al., Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body, and Society (2006)10

CHILD USA, Revival Laws for Child Sex Abuse Since 2002 (Jan. 1, 2022)15

D. Finkelhor et al., Sexually Assaulted Children: National Estimates and Characteristics, US Dept. of Justice, Office of Justice Programs (2008).....10

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).....8

David Finkelhor & Anne Shattuck, Characteristics of Crimes Against Juveniles, University of New Hampshire, Crimes Against Children Research Center (2012)10

Delayed Disclosure of Child Sexual Abuse, CHILD USA, <https://childusa.org/wp-content/uploads/2020/03/delayed-disclosure-childUSA-1.jpg> (last visited Mar. 8, 2022)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)9

Elizabeth J. Letourneau et al., The Economic Burden of Child Sexual Abuse in the United States, 79 CHILD ABUSE NEGL. 413 (2018).....14

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)..9

Gail Hornot, Childhood Trauma Exposure & Toxic Stress: What the PNP Needs to Know, J. PEDIATRIC HEALTHCARE (2015)14

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)10

Jeffrey Epstein: Filthy Rich (Netflix 2020).....13

<u>Legislative Fiscal Estimate for Assembly No. 5392 (June 24, 2019)</u>	5
<u>Legislative Fiscal Estimate to the Senate Committee Substitute for S. 477 (March 29, 2019)</u>	5
M. Stoltenborgh, et. al., <u>A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence Around the World</u> , 16(2) CHILD MALTREATMENT 79 (2011)	9
<u>Making the Case: Why Prevention Matters</u> , PREVENTCHILDABUSE.ORG.....	13
Michelle Elliott et al., <u>Child Sexual Abuse Prevention: What Offenders Tell Us</u> , 19 Child Abuse Negl. 579 (1995).....	12
N. Pereda, et. al., <u>The prevalence of child sexual abuse in community and student samples: A meta-analysis</u> , 29 CLINICAL PSYCH. REV. 328, 334 (2009)	9
Patrick J. O'Leary & James Barber, <u>Gender Differences in Silencing following Childhood Sexual Abuse</u> , 17 J. CHILD SEX. ABUSE 133 (2008)	10
Perryman Group, <u>Suffer the Little Children: An Assessment of the Economic Cost of Child Maltreatment</u> , (2014)	14
<u>Preventing Adverse Childhood Experiences</u> , CDC.gov	13
<u>Preventing Child Sexual Abuse</u> , CDC.gov (last visited Feb. 22, 2022).....	8
Ramona Alaggia et al., <u>Facilitators and Barriers to Child Sexual Abuse (CSA) Disclosures: A Research Update (2000-2016)</u> , 20 TRAUMA VIOLENCE ABUSE 260, 279 (2019)	9
Rebecca Campbell, Ph.D., <u>The Neurobiology of Sexual Assault: Explaining Effects on the Brain</u> , NAT'L INST. OF JUSTICE (2012)	10
Sarah E. Ullman, <u>Relationship to Perpetrator, Disclosure, Social Reactions, and PTSD Symptoms in Child Sexual Abuse Survivors</u> , 16 J. CHILD SEX. ABUSE 19 (2007)	9
SB21-088, 73 rd General Assembly, 1 st Reg. Sess. (Colo. 2021)	16
Senate Bill No. 477.....	3
<u>Statement to S. Comm. Substitute for S. 477 (Mar. 7, 2019)</u>	3, 11, 19
Stephanie Innes, <u>Enrollment in Arizona's Medicaid program hits record 2M adults and children</u> , AZCENTRAL.COM (Jul. 14, 2020 at 1:10 PM)	14

STATEMENT OF INTEREST OF AMICUS CURIAE

Amicus curiae, CHILD USA, is the leading national nonprofit think tank fighting for the civil rights of children. Our mission is to employ in-depth legal analysis and cutting-edge social science research to protect children, prevent future abuse and neglect, and bring justice to survivors.

CHILD USA is the leading organization in the United States 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 current research and analysis regarding New Jersey’s revival law for sexual abuse claims, the compelling public interest in revival of expired civil SOLs, impacts of the revival laws on public safety, the science of delayed disclosure by victims of their abuse, and the national landscape on revival laws for sexual abuse.

PRELIMINARY STATEMENT

CHILD USA respectfully submits this brief as *amicus curiae*. Plaintiff-Respondent supports the lower court's ruling that Plaintiff-Respondent was not required to file a notice of claim pursuant to New Jersey's Tort Claims Act ("TCA") prior to filing a child sex abuse cause of action against Defendant-Appellant under New Jersey's Child Sexual Abuse Act ("CSAA"). CHILD USA submits that the New Jersey Legislature's amendments to the TCA and CSAA enacted on December 1, 2019 eliminated the notice of claim requirement for all child sex abuse cases timely filed in accordance with the CSAA's newly extended statute of limitations ("SOL") and claim revival provisions. See N.J.S.A. 59:2-1.3(a); N.J.S.A. 59:8-3(b); N.J.S.A. 2A:14-2a; N.J.S.A. 2A:30B-6; N.J.S.A. 2A:61B-1; Pub. Law 2019, c. 120; Pub. Law 2019, c. 239.

This interpretation of the statutory amendments is directly supported by the clear legislative intent and significant public interest in remedying the injustice of New Jersey's prior unreasonably short SOLs and procedural requirements, which obstruct child sex abuse victims' access to the courts and has kept the public in the dark about child predators. It is additionally supported by New Jersey court decisions. See, e.g., E.C. by D.C. v. Inglima-Donaldson, 268 A.3d 1029 (Sup. Ct. App. Div. 2021).

A ruling upholding notice of claim requirements for cases filed on or after December 1, 2019 pursuant to the CSAA's extended SOL and claim revival provision could have negative ramifications for the hundreds of child sex abuse survivors throughout New Jersey who are now embracing the extended time limits in pursuit of long overdue justice. Also at stake are the important public policies of justice, public safety, and preventing future sex abuse, which the New Jersey Legislature sought to achieve for the public when it passed these amendments.

Accordingly, CHILD USA respectfully submits that this Court should affirm the Appellate Division's finding that a notice of claim is not required in cases like Plaintiff-Respondent's, which were timely filed in accordance with the CSAA's claim revival provision.



PROCEDURAL HISTORY AND STATEMENT OF FACTS

CHILD USA relies on the procedural history and statement of facts as presented by the parties.



ARGUMENT

Pursuant to Rule 1:13-9, CHILD USA respectfully submits this amicus brief. As a national think tank dedicated to furthering the civil rights of children, CHILD USA has gathered and produced cutting-edge legal and social science research related to the need for statute of limitations reform. In this brief, CHILD USA will address the following issue: whether a previously time-barred child sex abuse claim, timely filed in accordance with the New Jersey Legislature's recent amendments to the Child Sexual Abuse Act and Tort Claims Act reviving claims against public entities, was nevertheless barred by the Tort Claims Act's prior notice of claim requirement.

I. THE LEGISLATIVE HISTORY AND NEW JERSEY CASE LAW CONFIRM THAT CSAA REVIVED CLAIMS ARE NOT SUBJECT TO A NOTICE OF CLAIM DEADLINE UNDER NEW JERSEY'S TORT CLAIMS ACT

In May 2019, the New Jersey Legislature passed Chapter 120, which became effective December 1, 2019. Pub. Law 2019, c. 120, § 10. By passing Chapter 120, the Legislature amended several pieces of legislation, including New Jersey's Tort Claims Act ("TCA") and Child Sexual Abuse Act ("CSAA"). N.J.S.A. § 59:2-1.3(a); N.J.S.A. § 59:8-3(b); N.J.S.A. § 2A:14-2a; N.J.S.A. § 2A:14-2b; N.J.S.A. § 2A:30B-6; N.J.S.A. § 2A:61B-1. In August of the same year, the Legislature passed Chapter 239, which further clarified the standard of liability for public entities under the TCA and the standard's applicability to revived claims, and which also took effect on December 1, 2019. Pub. Law 2019, c. 239, §§ 1-2.

Notably, Chapter 120 enacted a new statute of limitations ("SOL") for sex abuse and exploitation tort claims. N.J.S.A. § 2A:14-2a. Relevant here is the new SOL for child sex abuse claims, which was extended to "thirty-seven years after the minor reaches the age of majority, or within seven years from the date of reasonable discovery of the injury and its causal relationship

to the act, whichever is later.” *Id.* Importantly, Chapter 120 also revived expired child sex abuse claims until the victim reaches age fifty-five, as well as opened a two-year revival window for expired child sex abuse claims from December 1, 2019 until November 30, 2021. *Id.*; N.J.S.A. § 2A:14-2b.

As to the TCA, Chapter 120 eliminated public entity immunity for sex abuse claims and added a provision stating that the TCA’s “procedural requirements,” including its notice of claim requirement, **“shall not apply” to CSAA causes of action.** N.J.S.A. § 59:8-3(b) (stating, “[t]he procedural requirements of this chapter shall not apply to an action at law for an injury resulting from the commission of sexual assault, any other crime of a sexual nature, a prohibited sexual act as defined in section 2 of P.L. 1992, c. 7 (C.2A:30B-2), or sexual abuse as defined in section 1 of P.L. 1992, c. 109 (C.2A:61B-1).”). Chapter 239 subsequently clarified the new liability standards for sexual abuse claims against public entities and their employees filed on or after December 1, 2019. N.J.S.A. § 59:2-1.3.

Thus, when read as a whole, the Chapter 120 and Chapter 239 amendments (“the Amendments”) allow a child sex abuse victim to bring a claim against a public entity or public employee until they reach age fifty-five, or during the two-year revival window, without concern for the TCA’s notice of claim requirement. As discussed below, this conclusion is supported by the Legislature’s intent in passing the Amendments, as well as by published New Jersey case law.¹

¹ Because unpublished opinions cannot be considered precedent by this court, *Amicus Curiae* solely discusses published opinions. *See* N.J. Ct. R. § 1:36-3.

A. The Legislative History of the Amendments Evidences Intent to Revive All Child Sex Abuse Claims Unencumbered by a Notice of Claim Requirement

When interpreting statutes, it is well established that the court’s role is to “discern and effectuate” the legislative intent. Murray v. Plainfield Rescue Squad, 46 A.3d 1262 (N.J. 2012). In doing so, the court is required to consider the statute’s plain language, giving the words used “their ordinary meaning and significance.” DiProspero v. Penn, 874 A.2d 1039 (N.J. 2005). In instances where the Legislature passes a bill that amends several statutes, courts “must attempt to harmonize the provisions of all statutes that the Legislature has enacted affecting the subjects involved.” Nw. Bergen Cnty. Utils. Auth. v. Donovan, 143 A.3d 290 (N.J. 2016). Simply put, to properly ascertain the Legislature’s intent in passing one statutory amendment, the court should look to the Legislature’s intent in passing the legislation in its entirety. Accordingly, an analysis of the Legislature’s intent in passing Senate Bill No. 477 (“S. 477”)—which became Chapter 120—and Assembly Bill No. 5392 (“A.B. 5392”)—which became Chapter 239—is necessary to determine the Legislature’s intent in amending the TCA.

First and foremost, the Legislature expressly stated that S. 477 was meant to “extend the statute of limitations in civil actions for sex abuse claims, as well as create a two-year window for parties to bring previously time-barred actions based on sex abuse. **The bill would also expand the categories of potential defendants in civil actions.**” Statement to S. Comm. Substitute for S. 477 (Mar. 7, 2019) (“Senate Committee Statement”) (emphasis added). As to applicability, S. 477’s provisions would apply “**to lawsuits which could be filed beginning on December 1, 2019, the bill’s effective date.**” Id. (emphasis added). These lawsuits were specifically intended to include “any child victim of past abuse who is under the age of 55 years when the bill takes effect, or who will reach 55 years of age sometime after the bill takes effect, and who is aware of the injury and its cause,” or who filed during the two-year revival window.

Id. at §§ 2, 9. Thus, the Legislature clearly communicated its intent that *all* of S. 477's provisions apply to all lawsuits filed on or after December 1, 2019, including those previously-time barred by child victims under age fifty-five, or those age fifty-five and older who filed during the two-year revival window.

To clarify S. 477's effect on the TCA, the Legislature wrote Section 8 of the Senate Committee Statement, which explains that the bill,

“eliminates the [TCA's] two-year statute of limitations period . . . for bringing a sexual abuse lawsuit against a public entity, as well as **any of the act's procedural requirements, such as the 90-day period for filing notice of a claim** of liability against a public entity for such lawsuits; **the process of filing a lawsuit with service upon the public entities would thus be the same as when suing a private organization.** Public entities would also be subject, just like a private organization, to the new, extended statute of limitations periods for child and adult victims of abuse.”

Id. (emphasis added). It is an inescapable conclusion, that, as a provision of S. 477, the Legislature intended its elimination of the notice of claim requirement to apply to *all* lawsuits timely filed after December 1, 2019, pursuant to the newly extended statute of limitations and claim revival provisions.

This clear intent is reaffirmed by the Legislature's subsequent Chapter 239 amendment to the TCA, which clarified that the new carve out from immunity for sexual abuse claims that public entities historically enjoyed was applicable to revived claims “filed on or after December 1, 2019.” A.B. 5392. The Assembly Judiciary Committee Statement for Assembly No. 5392, explicitly states that the bill's “**new liability standards in sexual abuse lawsuits filed against public entities and public employees**” would “**take effect on December 1, 2019**, the same effective date as [Chapter 120].” (May 20, 2019) (“Assembly Statement”). Importantly, the Assembly Statement concludes that “[t]he bill expressly indicates that once lawsuits can commence against public entities and public employers beginning on December 1, 2019,

these suits, and any suits previously filed that have not been finally adjudicated or dismissed, **would be subject to the new, extended statute of limitations.**” *Id.* (emphasis added).

Finally, the Legislature once again asserted its intent on this matter in its March 29, 2019 Legislative Fiscal Estimate to the Senate Committee Substitute for S. 477 and its June 24, 2019 Legislative Fiscal Estimate for Assembly No. 5392 (the “Fiscal Estimates”). The Fiscal Estimates include identical language from the Office of Legislative Services (“OLS”), explicitly noting that,

“the State, school districts, and local units of government are likely to face an elevated number of claims that will have to be defended in the first few years after the bill’s enactment. Once these retroactive, previously impermissible claims will have been adjudicated or settled, the count of additional cases filed as a result of this bill will normalize.”

(emphasis added). The OLS’s analysis clearly evidences that the Legislature intended S. 477 and A.B. 5392 to allow child sex abuse victims to bring previously time-barred lawsuits against public entities, unencumbered by the TCA’s notice of claim requirement. Had this not been the Legislature’s intent, the OLS would not have expected case numbers against public entities to rise so substantially right after the bill’s enactment, as claims for abuse from years ago—where the minor did not file a timely notice of claim—would still be effectively barred on December 1, 2019. See N.J.S.A. § 59:8-8(a). Such an interpretation would render the claim revival provisions essentially meaningless for child sex abuse victims with claims against public entities.

Thus, it is inconsistent with the Legislature’s intent and its own estimation of S. 477’s and A.B. 5329’s effect to conclude that the TCA’s ninety-day notice requirement applies to cases filed pursuant to the new claim revival provisions. In enacting the Amendments together, the Legislature exerted concerted effort into restoring justice to survivors of abuse within public entities by (1) reviving decades-old child sexual abuse claims against public entities, (2)

removing the notice of claim requirement, and (3) eliminating sovereign immunity. As evidenced by the legislative documents referenced above, as well as by the Amendments themselves, the Legislature did not intend to open a window to justice for child sex abuse victims with claims against public entities that simultaneously curtailed that justice by continuing to enforce a defunct notice of claim requirement. Instead, the Legislature made abundantly clear its desire to *revive* and *expand* the number of child sex abuse claims that could be brought against public entities pursuant to the extended SOL and claim revival provisions.

B. The New Jersey Superior Court Has Concluded That the Legislature Intended the Amendments to Expand Child Sex Abuse Claims Against Public Entities by Eliminating the TCA’s Prohibitive Procedural Limitations

The Appellate Division of the Superior Court’s holding in the case at hand was a natural extension of its ruling just days earlier² in E.C. by D.C. v. Inglima-Donaldson.³ 268 A.3d 1029 (Sup. Ct. App. Div. 2021). In Inglima-Donaldson, the plaintiff was sexually abused from 2015 to 2016 by defendant Inglima-Donaldson, a teacher hired by the board of education. Id. at 1031. Plaintiff filed an action against the board of education based on vicarious liability, which survived the board’s motion for summary judgment, and was addressed by the Superior Court on appeal. Id. at 1032. On appeal, the court considered whether the Amendments deprived the board of education of its TCA immunities. Id.

In its analysis, the court described the Amendments as “a group of laws enacted to expand the rights of victims of sexual assaults and other sexual misconduct,” and that the Legislature “address[ed] the fact that victims might also encounter sexual misconduct involving

² Inglima-Donaldson was decided on December 16, 2021 and the Hildreth decision was handed down on December 21, 2021.

³ Because unpublished opinions cannot be considered precedent by this court, *Amicus Curiae* solely discusses published opinions. See N.J. Ct. R. § 1:36-3.

public entities and public employees” by “disabl[ing] Tort Claim[s] Act immunities . . . and eliminat[ing] the procedural notice-of-claim requirements.” *Id.* (citing N.J.S.A. § 2A:14-2(a); N.J.S.A. § 2A:30B-6; N.J.S.A. § 2A:61B-1 and N.J.S.A. § 59:8-3(b)). The court therefore analyzed “the meaning and scope of N.J.S.A. § 59:2-1.3(a) as illuminated by the Legislature’s stated desire to expand the rights of victims of sexual assaults and other sexual misconduct.” *Id.*

The Superior Court concluded that the amendments to the TCA were “intended to deprive public entities of their Tort Claims Act immunities when the sexual misconduct suffered by the plaintiff” was encompassed by the causes of action expressly stated in the statute. *Inglima-Donaldson*, 268 A.3d at 1038. Importantly, the court noted that “[b]y disabling Tort Claims Act immunities in sexual misconduct cases, the Legislature undoubtedly intended to make the plaintiff’s pursuit of a remedy realistic rather than illusory.” *Id.* at 1035 (highlighting in Footnote 6 the OLS’s analysis of the Amendment’s heightened liability and additional fiscal impact to public entities). To that end, the Superior Court decided against the board of education’s interpretation of the statute,⁴ finding that it would “make more difficult if not insurmountable a plaintiff’s pursuit of a remedy provided in N.J.S.A. § 59:2-1.3(a)(1).”⁵ *Id.*

⁴ The board argued the court should interpret N.J.S.A. 59:2-1.3(a)(1) as saying a public entity would lose its TCA immunities only if the public entity’s *and* the public employee’s conduct was willful, wanton, or grossly negligent, “despite the statute’s declaration that such conduct need be attributed only to ‘the public entity or public employee.’” *Inglima-Donaldson*, 268 A.3d at 1033 (emphasis original).

⁵ New Jersey courts have a history of considering the public policy implications of time limitations in child sex abuse cases and have often construed such limitations favorably for the child victim. See *Hardwicke v. Am. Boychoir Sch.*, 845 A.2d 619, 631 (N.J. Sup. Ct. App. Div. 2004), *aff’d as modified*, 902 A.2d 900 (2006) (criticizing the trial court’s interpretation of the CSAA because it would allow the public entity school to avoid liability in a child sex abuse action); *J.L. v. J.F.*, 722 A.2d 558, 567 (N.J. Sup. Ct. App. Div. 1999) (reversing the trial court’s dismissal of plaintiff’s child sex abuse claims on SOL grounds, reasoning that should the child plaintiff’s “horrific allegations be true, it might not be equitable to permit defendant to benefit from a strict adherence to the statute of limitations”); *Jones v. Jones*, 576 A.2d 316, 322 (N.J.

As such, the Superior Court affirmed the Legislature’s intent in enacting the Amendments to the TCA was to allow a greater number of plaintiffs to bring claims against public entities for child sex abuse. Thus, the court determined that any interpretation of the statute that would undermine this clear legislative intent should be rejected.

Taking the above legislative history and case law into account, this Court should interpret the Amendments—including the elimination of the TCA’s notice of claim requirement—as applying to *all* child sex abuse cases brought before the victim’s fifty-fifth birthday or during the two-year revival window, as the Legislature intended.

II. THE AMENDMENTS REFLECT DELAYED DISCLOSURE SCIENCE AND ADDRESS NEW JERSEY’S COMPELLING INTEREST IN PROTECTING CHILDREN

New Jersey’s Amendments acknowledge that victims of child sex abuse often take decades to disclose their abuse. The claim revival provisions in the CSAA and the elimination of the notice of claim requirement from the TCA correct the injustice of New Jersey’s historically unreasonably short SOLs and other procedural requirements, like the claim presentment deadline, that blocked child sex abuse victims’ access to courts and kept the public uninformed.

A. Child Sex Abuse Uniquely Prevents Victims from Bringing Timely Claims

Child sex abuse is a national public health crisis, with 3.7 million children sexually abused every year.⁶ In the United States, at least one in five girls and one in thirteen boys is

Sup. Ct. App. Div. 1990), certif. denied, 585 A.2d 412 (N.J. 1990) (reversing the trial court’s dismissal of plaintiff’s child sex abuse claims on SOL grounds, noting that New Jersey has a “long history of instances” of declining to uphold a time limitation “when some conduct on the part of the defendant . . . has rendered it inequitable”).

⁶ 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).

sexually abused before they turn eighteen.⁷ An extensive body of evidence establishes that childhood sex abuse victims are traumatized in a way that is distinguishable from victims of other crimes. Many victims of child sex abuse suffer in silence for decades before they talk to anyone about their traumatic experiences. As children, child sex abuse victims often fear the negative repercussions of disclosure, such as disruptions in family stability, loss of relationships, or involvement with the authorities.⁸ These victims may also 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.⁹

Additionally, disclosing sexual abuse to the authorities for criminal prosecution or an attorney in pursuit of civil justice is a difficult and emotionally complex process, which involves the victim knowing that he or she was abused; being willing to identify publicly as a sexual abuse victim; and deciding to act against their abuser. This last variable may be particularly difficult for victims, as nearly 90% of perpetrators are someone the child knows; in fact, roughly one-third of child sex abuse offenses are committed by family members.¹⁰ It is hardly surprising,

⁷ 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).

⁸ 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).

⁹ 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).

¹⁰ 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

then, that one study found 44.9% of male victims and 25.4% of female victims of child sex abuse delayed disclosure by more than twenty years.¹¹ In another study of victims of abuse in Boy Scouts of America, 51% of victims disclosed their abuse for the first time at age fifty or older.¹² An estimated 70% of child sexual assault victims never report abuse to the police.¹³ Victims, therefore, often need decades to process the abuse they suffered, much less to report it.¹⁴

Moreover, cultures of secrecy paired with unreasonably short SOLs and other time restraints shield organizations from public scrutiny and discourage victims from disclosing abuse. The Boston Globe's 2002 Spotlight investigative report uncovered rampant sexual abuse in the Catholic Church, and an alarming number of institutional scandals have since emerged, with more institutions and perpetrators publicly named each year.¹⁵

Until 2019, child sex abuse victims in New Jersey only had until age twenty or two years from discovering their claim to file a civil suit against their abusers and other defendants. N.J.S.A. §§ 2A:14-2; 2A:61B-1(b) (West 1992). As detailed above, nearly all victims fail to bring claims within such an unreasonably short timeframe. To remedy the problem, the

http://www.unh.edu/ccrc/pdf/CV26_Revised%20Characteristics%20of%20Crimes%20against%20Juveniles_5-2-12.pdf.

¹¹ Patrick J. O'Leary & James Barber, Gender Differences in Silencing following Childhood Sexual Abuse, 17 J. CHILD SEX. ABUSE 133 (2008).

¹² Delayed Disclosure of Child Sexual Abuse, CHILD USA, <https://childusa.org/wp-content/uploads/2020/03/delayed-disclosure-childUSA-1.jpg> (last visited Mar. 8, 2022).

¹³ 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/ojjdp/214383.pdf>.

¹⁴ R.L. v. Voytac, 971 A.2d 1074 (N.J. 2009); 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/TonicImmobility Webinar.pdf](https://upc.utah.gov/materials/2014Materials/2014sexualAssault/TonicImmobility%20Webinar.pdf); Bessel A. van der Kolk M.D., et al., Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body, and Society (2006).

¹⁵ 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).

Legislature passed the Amendments, which retroactively and prospectively extended the civil SOL to age fifty-five or seven years from discovery, whichever is later. N.J.S.A. § 2A:14-2a (2019). It additionally opened a two-year window permitting victims of child sex abuse in New Jersey to assert otherwise time-barred civil claims—from December 1, 2019 through November 30, 2021. N.J.S.A. § 2A:14-2b (2019). Importantly, procedural requirements under the TCA were also eliminated for lawsuits filed during this window or pursuant to the extended statute of limitations, allowing public entities to be sued in the same manner as private organizations. Senate Committee Statement at Section 8.

Because a law to revive a previously time-barred *criminal* prosecution violates the Ex Post Facto Clause of the United States Constitution, filing a civil claim using a revival provision is the sole redress for many child sex abuse victims whose claims unjustly expired. See Stogner v. California, 539 U.S. 607, 610, 632–33 (2003). By passing the Amendments, the New Jersey Legislature recognized the injustice of short time restraints and took a reasonable step to address this issue, providing long-denied access to justice to victims of child sex abuse and greatly reducing the present danger to New Jersey’s children.

The Legislature regularly exercises its police power to enact laws that “promote the public health, safety, morals or general welfare.” Rothman v. Rothman, 320 A.2d 496, 500–01 (N.J. 1974). It is clear the Legislature intended the Amendments to benefit the broader public and provide relief to sexual abuse victims with claims that would otherwise be untimely. The manifest injustice argument fails because it relies on the potential unfairness to a defendant—who is alleged to have committed, allowed, or enabled child sex abuse—that could result from mandatory compensation to a victim for the injury they caused. See Short v. Short, 858 A.2d 571, 576 (N.J. Super. Ct. App. Div. 2004) (holding that “it can hardly be considered manifestly

unjust that the family’s assets will now be available to recompense the wronged family member at the expense of the family member who caused that wrong.”). As such, public policy weighs heavily in favor of compensating survivors for the life-long losses suffered because of the intentional or tortious conduct of others.

B. The Amendments Address New Jersey’s Compelling Interest in Child Protection

The Amendments to the CSAA and TCA also serve New Jersey’s “compelling” interest in child protection. E.g., Packingham v. North Carolina, 137 S. Ct. 1730, 1736 (2017); Hoefers v. Jones, 672 A.2d 1299, 1308 (N.J. Super. Ct. Ch. Div. 1994) (noting the “duty to protect infants and those of legal disability unable to protect themselves” is “the fundamental principle guiding our courts in promoting a child’s welfare and best interests It is the state’s quintessential compact with its citizens, an organic precept of decency of inherent constitutional dimension,” and “is a preeminent promise of human kind, binding one generation to another that those who cannot protect themselves will be protected; that those who need care will receive it; and that the powers of the state, administratively, legislatively, and through its courts, will be utilized to oversee that promise.”), aff’d, 672 A.2d 1177 (N.J. Super. Ct. App. Div. 1996). Three important public purposes are served by the Legislature’s enactment of the Amendments. They: (1) identify previously unknown child predators and the institutions that shield them; (2) shift the cost of abuse from victims to those who caused the abuse; and (3) educate the public to prevent future abuse.

First, the CSAA claim revival provisions and the elimination of procedural requirements from the TCA facilitate the identification of previously unknown child predators¹⁶ and the

¹⁶ Michelle Elliott et al., Child Sexual Abuse Prevention: What Offenders Tell Us, 19 CHILD ABUSE NEGL. 579 (1995).

institutions that shield them, who would otherwise remain hidden. The decades before a victim is ready to disclose give perpetrators and institutions wide latitude to suppress the truth to the detriment of children, parents, and the public. Unfortunately, unidentified predators continue abusing children; for example, one study found that 7% of offenders sampled committed offenses against forty-one to 450 children, and the longest time between offense and conviction was thirty-six years.¹⁷ Through the Amendments, the Legislature empowered victims to identify New Jersey's hidden child predators and the institutions that endanger children, which helps prevent those predators from further abusing children and allows the public to develop policies to inhibit new abuse from occurring in the long-term.¹⁸

Second, the CSAA claim revival provisions and the elimination of procedural requirements from the TCA help to educate the public about the dangers of child sexual abuse and how to prevent such abuse. 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 communities about the insidious ways child molesters operate to sexually assault children, as well as the institutional failures that enabled their abuse.¹⁹ Because the Amendments permit an increased number of child victims to come forward, they shed light on the prevalence of child sex abuse, which allows parents and other guardians to become better equipped with the tools necessary to identify abusers and responsible institutions, while empowering the public to recognize grooming and

¹⁷ Id.

¹⁸ See generally, Making the Case: Why Prevention Matters, PREVENTCHILDBUSE.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>.

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

abusive behavior. Indeed, SOL and notice-of-claim reform not only provide access to justice previously withheld from victims of child sexual abuse; it prevents further abuse by fostering social awareness while encouraging public and private institutions to implement accountability and safe practices.

Third, the cost of child sexual abuse to victims is enormous,²⁰ and they, along with the State of New Jersey, unjustly carry the burden of this expense.²¹ The estimated lifetime cost to society from child sexual abuse cases that occurred in the U.S. in 2015 is \$9.3 billion, while the average cost per non-fatal female victim was estimated at \$282,734.²² Average costs per victim include but are not limited to \$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.²³ Costs associated with suicide deaths are estimated at \$20,387 for female victims.²⁴ These staggering costs gravely affect victims and also impact the nation's health care, education, criminal justice, and welfare systems.²⁵ Revived child sexual abuse cases that result in awards and settlements not only equitably shift some of the costs

²⁰ 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).

²¹ While one in four Arizonans receive Medicaid, sex abuse victims 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/>.

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

²³ Id.

²⁴ Id.

²⁵ Id.

away from victims and onto the abusers, but they also save the State money by reducing expenditures on public services.

As a result, the Legislature’s enactment of the CSAA claim revival provisions and its elimination of procedural requirements from the TCA not only remedy the long-standing injustice to child sexual abuse victims barred from bringing their claims under unreasonably short time restraints, but also serve New Jersey’s compelling interest in keeping its children safe and preventing future child sexual abuse.

III. REVIVAL LAWS FOR CHILD SEX ABUSE CLAIMS ACROSS THE UNITED STATES SUPPORT THAT A NOTICE OF CLAIM IS NOT REQUIRED FOR REVIVED CLAIMS

In 2019, New Jersey joined the growing national movement to protect children from sexual predators and to honor justice for victims of child sexual abuse. Since 2002, revival legislation has grown in popularity, and even more rapidly with the #metoo movement, as legislatures recognize that child sexual abuse victims need more time to come forward and SOLs and notice of claim deadlines have historically blocked their claims.²⁶ New Jersey stands alongside at least **thirty states and territories** that enacted civil revival laws for childhood sexual abuse claims that were blocked by unreasonably short SOLs and notice of claim deadlines. The following table shows this prevailing trend:

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)
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

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

Jurisdiction	Revival Law	Statute
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*	3-Year Window (2021)	SB21-088, 73 rd General Assembly, 1 st 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 victims whose claims have expired.
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), available at https://www.guamlegislature.com/Public_Laws_31st/P.L.%2031-07%20Bill%20No.%2034-31.pdf
Hawaii	2-Year Window (2018)	HAW. REV. STAT. § 657-1.8; 2018 Hawaii Laws Act 98 (S.B. 2719)
	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

Jurisdiction	Revival Law	Statute
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)

Jurisdiction	Revival Law	Statute
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 legislatures recognize the public interest in stopping predators from sexually abusing children is equally as compelling within public institutions as it is in the private sphere. Indeed, other states have permitted the revival of child sex abuse causes of action against public entities based on statutes with far less exacting language than that used by the New Jersey Legislature.

Here, the New Jersey Legislature was careful to include explicit language reviving claims against public entities that were blocked not only by statutes of limitations but also by “procedural requirements,” such as the ninety-day period for filing notice of a claim against a public entity for “an injury resulting from the commission of sexual assault.” N.J.S.A. § 59:8-3;

Senate Committee Statement, § 8. New Jersey’s statutory language is unique, as it is one of the only window statutes with explicit language removing a claim presentation deadline. See also CAL. CIV. PROC. CODE § 340.1(Q) (2020) (any claim for damages . . . that would otherwise be barred as of January 1, 2020, because the applicable statute of limitations, claim presentation deadline, or any other time limit had expired, is revived . . .”). The Legislature’s deliberate use of language including survivors of abuse within state institutions in its revival provision sets it apart from other states’ revival provisions and should be recognized by this Court.

An interpretation of the Amendments that reinstates a claim presentation deadline for revived claims against public entities would violate the explicit language of the amendments to the TCA, the CSAA revival provisions, and the clear directive of the New Jersey Legislature. The Legislature’s purposeful judgment to enact broad revival provisions that gave victims with claims against public institutions two years or until age fifty-five to bring their abuser’s enablers to justice and help eradicate child sex abuse in New Jersey should be given deference and interpreted as such by this Court.

CONCLUSION

For these reasons, *Amicus Curiae* CHILD USA respectfully requests this Court affirm the lower court’s denial of the Motion to Dismiss and rule a notice of claim was not required.

Respectfully submitted,

/s/ Alice Nasar Hanan

Alice Nasar Hanan
ID: 02922-2008
CHILD USA
3508 Market Street, Suite 202
Philadelphia, PA 19104
Tel: (215) 539-1906
ahanan@childusa.org

Counsel of Record