



**TO:** Honorable Members of the Senate Judiciary Committee

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

**RE:** North Dakota Senate Bill 2282: An Act to amend and reenact sections 28-01-18, 28-01-22.1, and 28.02-25.1 of the North Dakota Century Code, relating to limitations on civil actions alleging sexual assault, sexual abuse, gross sexual imposition, or childhood sexual abuse; and to provide an expiration date.

**DATE:** January 30, 2023

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Dear Honorable Members of the Senate Judiciary Committee,

Thank you for allowing us to submit testimony in support of SB 2282, which will open a two-year revival window during which claims related to child sexual abuse (“CSA”) and adult sexual abuse, previously time barred, will be revived and permit recovery of damages, including against public schools that enabled abuse. This legislation will not only bring long overdue justice to survivors, but it will also greatly reduce the present danger to children in North Dakota by exposing hidden predators who are still abusing children today.

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

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

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

Currently, more than 10% of children are sexually abused, with at least one in five girls and one in thirteen boys sexually abused before they turn 18. CSA is a social problem that occurs in all social groups and institutions, including familial, religious, educational, medical, and athletic. Nearly 90% of CSA perpetrators are someone the child knows; in fact, roughly one third of CSA offenses are committed by family members.

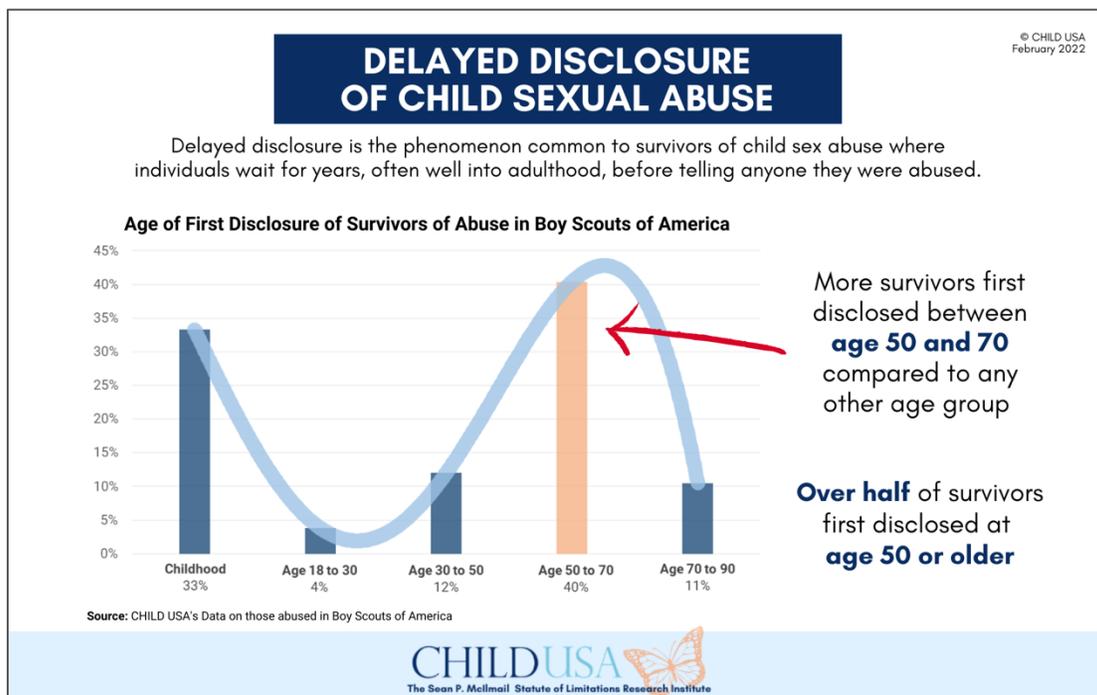
The trauma stemming from CSA is complex and individualized, and it impacts victims throughout their lifetimes:



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

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

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



Moreover, disclosure of CSA to the authorities for criminal prosecution or an attorney in pursuit of civil justice is a difficult and emotionally complex process, which involves the survivor knowing

that he or she was abused, being willing to identify publicly as an abuse survivor, and deciding to act against their abuser. In light of these barriers to disclosure, it is not surprising that:

- In a study of survivors of abuse in Boy Scouts of America, **51%** of survivors disclosed their abuse for the first time at **age 50 or older**.
- **One-third** of CSA survivors **never report** their abuse to anyone.

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

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

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

CHILD USA and CHILD USA Advocacy are leading the vibrant national and global movement to eliminate civil and criminal SOLs and revive expired civil claims as a systemic solution to the preventable CSA epidemic. **There are three compelling public purposes served by the child sexual abuse SOL reform movement**, which are explained in the graphic below:

## HOW STATUTE OF LIMITATIONS REFORM HELPS EVERYONE



**Identifies Hidden Child Predators and the Institutions that Endanger Children**  
to the public, shielding other children from future abuse.



**Punishes Bad Actors & Shifts the Cost of Abuse**  
from the victims and taxpayers to those who caused it.



**Prevents Further Abuse**  
by educating the public about the prevalence, signs, and impact of child sex abuse so that it can be prevented in the future.



**CHILD USA**  
The Sean P. McInnis Statute of Limitations Research Institute

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

It is in society's best interest to have sex abuse survivors identify hidden child predators to the public—whenever the survivor is ready. The decades before public disclosure give perpetrators and institutions wide latitude to suppress the truth to the detriment of children, parents, and the public. Some predators abuse a high number of victims and continue abusing children well into their elderly years. For example, one study found that 7% of offenders sampled committed offenses against 41 to 450 children, and the highest time between offense to conviction was 36 years. SOL reform helps protect North Dakota's children by identifying sexual predators in our midst. By extending, eliminating, and reviving short restrictive SOLs, especially allowing claims for past abuse to be brought to court, hidden predators are brought into the light and are prevented from further abusing more children in North Dakota.

### **B. SOL Reform Shifts the Cost of Abuse**

CSA generates staggering costs that impact the nation's health care, education, criminal justice, and welfare systems. The estimated lifetime cost to society of child sexual abuse cases occurring in the US in 2015 is \$9.3 billion, and the average cost of non-fatal per female victim was estimated at \$282,734. Average cost estimates per victim include, in part, \$14,357 in child medical costs, \$9,882 in adult medical costs, \$223,581 in lost productivity, \$8,333 in child welfare costs, \$2,434 in costs associated with crime, and \$3,760 in special education costs. Costs associated with suicide deaths are estimated at \$20,387 for female victims.

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

### **C. SOL Reform Prevents Further Abuse**

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

## **III. North Dakota Should Join the National Trend Toward SOL Reform for CSA**

The SOL reform trend for states is to eliminate civil and criminal SOLs and revive expired civil claims—like Vermont, Maine, Guam and NMI have already done. In fact, two dozen states across

the U.S. and three territories have revival laws giving survivors an opportunity to file claims for decades old abuse that were blocked by short SOLs. **North Dakota's criminal and civil SOLs are among the worst in the nation.** The civil SOL for child sexual abuse claims is currently the shortest in the country, expiring after a survivor reaches age 19, with a discovery rule. Further, there are only six states that have not yet eliminated the criminal SOL for any CSA crimes, with North Dakota being one of them.

There is only one way to restore justice to survivors in North Dakota who are blocked from pursuing their claims by unfairly short SOLs: to revive their expired civil claims. The states that have revived expired civil SOLs have gained valuable information about hidden child predators and the institutions that harbored them, enabling them to better empower victims. These revival laws do not yield a high number of cases, but instead provide long-overdue justice to older victims of child sex abuse. They also address the systemic issue of institutional CSA, which occurs with alarming frequency in schools, athletic institutions, youth-serving organizations, medical facilities, and religious groups. Without institutional accountability for enabling or turning a blind eye to child sex abuse, the children these institutions serve remain at risk. SB 2282 will incentivize these organizations to implement prevention policies and take action to report abuse immediately.

CHILD USA and CHILD USAAdvocacy are proud to have played a major role working with bipartisan leaders on a new federal law eliminating the SOL for over a dozen federal civil CSA claims and permitting victims to bring a lawsuit against perpetrators and institutions for compensation for their injuries. Sen. Marsha Blackburn R-Tenn., stated that “[t]he statute of limitations for sexual abuse offenses should never prohibit young survivors from getting the justice they deserve.” According to Sen. Richard Durbin, D-Ill., “the science of trauma is clear: it often takes years for victims to come forward.”

SB 2282 is in line with the trend to give older victims more time to come forward in accordance with the science of delayed disclosure of abuse.

#### **IV. Conclusion**

Once again, we commend you for supporting this legislation, which is desperately needed to validate adult survivors of CSA and protect children in North Dakota from preventable sexual abuse. For more information about statute of limitations reform, visit [childusa.org/sol/](http://childusa.org/sol/) or email [info@childusa.org](mailto:info@childusa.org). Please do not hesitate to contact us if you have questions regarding SOL reform or if we can be of assistance in any way on other child protection issues.

Sincerely,



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