



TO: Honorable Members of the Assembly Committee on Judiciary

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

RE: A.B. 1547: Childhood sexual assault: statute of limitations.

DATE: April 10, 2023

Dear Honorable Members of the Assembly Committee on Judiciary,

Thank you for allowing us to submit testimony in support of A.B. 1547, which will open a revival window in the statute of limitation (“SOL”) for children who have been sexually abused by Division of Juvenile Justice employees. This legislation will not only bring long overdue justice to these survivors, but it will also greatly reduce the present danger to children in California by exposing hidden predators who are still abusing children in juvenile justice facilities 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 limitation to reflect the science of delayed disclosure of childhood sexual abuse (“CSA”) 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 1 in 5 girls and 1 in 13 boys sexually abused before they turn 18. Child sexual abuse is a social problem that occurs in all social groups and institutions, including familial, religious, educational, medical, athletic, and governmental. Nearly 90% of CSA perpetrators are someone the child knows.

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

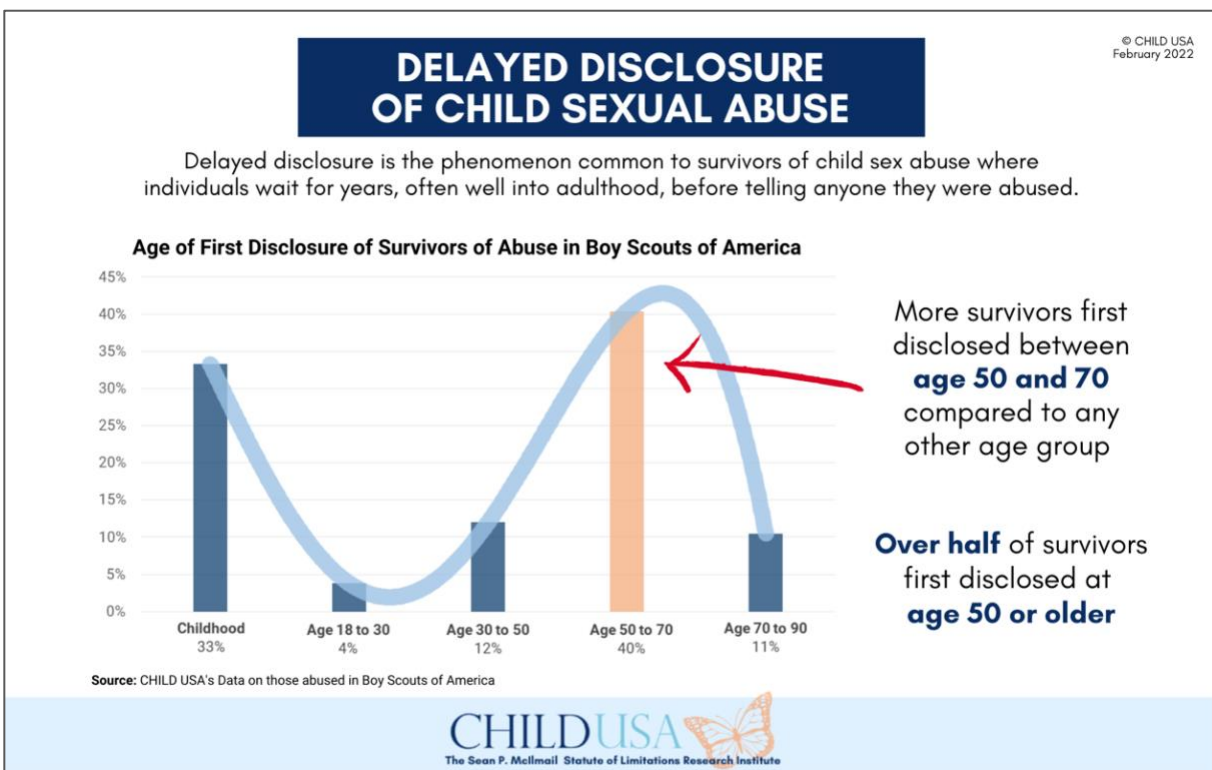
- Childhood trauma, including CSA, can have **devastating impacts on a child’s brain**, including disrupted neurodevelopment; impaired social, emotional, and cognitive development; psychiatric and physical disease, such as post-traumatic stress disorder (“PTSD”); and disability.



- CSA victims suffer an **increased risk of suicide**—in one study, female CSA survivors were 2 to 4 times more likely to attempt suicide, and male CSA survivors were 4 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 an attorney in pursuit of civil justice is a difficult and emotionally complex process, which involves the survivor knowing they were 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**.

- An estimated **70%** of CSA victims **never contact police** to report abuse.
- **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 have 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.



The Sean P. McIlmail 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 California's children by identifying sexual predators in our midst. By reviving short, restrictive SOLs and 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 California.

B. SOL Reform Punishes Bad Actors and 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 California taxpayers to be the only ones who bear this burden; this bill helps level 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, California could gain millions of dollars in revenue from Medicaid reimbursements as a result of the settlement funds and damages awards that survivors recover.

B. 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, 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, like the Division of Juvenile Justice, to implement accountability and safe practices.

III. California Should Join the National Trend Toward SOL Reform for CSA

The gold standard of the SOL reform movement for CSA is for states to eliminate civil and criminal SOLs and revive all expired civil claims—like Vermont, Maine, Guam, and NMI have already done. California has made tremendous progress and is already amongst the several states and U.S. territories that have revival laws giving survivors an opportunity to file claims for

decades-old abuse that were blocked by short SOLs. However, its revival law still cuts off survivors’ rights prematurely at age 40, preventing older victims from accessing justice.

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. 18 U.S.C. § 2255. “The science of trauma is clear: it often takes years for victims to come forward,” stated Senator Richard Durbin (D-Ill.), the sponsor of the bill. Co-sponsor Senator Marsha Blackburn (R-Tenn.) correctly pointed out that “[t]he statute of limitations for sexual abuse offenses should never prohibit young survivors from getting the justice they deserve.”

A. California Should Eliminate Civil SOLs

Currently, California’s civil SOL for claims against perpetrators expires when victims reach age 40 or 5 years after discovering their injuries. As shown in the graphic below, **California is lagging behind in civil SOL reform**. In contrast, **seventeen U.S. states and territories, along with the federal government, have already abolished their age cap for many CSA claims**. The states and territories that block claims with age limits—like California—are out of touch with science and the realities of child sex abuse trauma.



This bill’s civil revival window is in line with the recent federal changes and the overall trend to give older victims more time to come forward in accordance with the delayed disclosure of abuse science.

B. California Should Revive All Expired Claims

There is only one way to restore justice to California’s CSA survivors blocked from pursuing their claims by unfairly short SOLs—to revive their expired civil claims. Revival laws are not solely about justice for victims; there are also important public safety reasons for allowing older claims of abuse to proceed. When victims are empowered to disclose their abuse and sue for their injuries, the public benefits from finding out who the perpetrators are, the cost of abuse is shifted to those who created it, and it learns how to prevent CSA.

California currently has a confusing patchwork of CSA civil SOLs that has helped few survivors and left most without meaningful recourse for their injuries. Up until 2019, CSA survivors were blocked from filing suit after age 26 or 3 years after discovering their injuries. However, this discovery rule was ineffective for claims against government entities. In 2019, the legislature acknowledged this was not nearly enough time, amending the SOL to give survivors until age 40 or 5 years from discovery of their injuries to sue all those responsible for their abuse, including government entities. California has also opened two separate revival windows, the first from January 1, 2003 until December 31, 2003, and the second from January 1, 2020 until December 31, 2022. While California has made some progress, many adult survivors are still shut out of the courts, and institutions that enabled rampant CSA have yet to be held accountable.

As you can see in the graphic below, **California is not amongst the highest ranked states because its age 40 revival law does not help all survivors.**



The jurisdictions that have fully 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 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. While this bill's revival window will incentivize the Division of Juvenile Justice to implement prevention policies, **California needs a permanent revival window to motivate all youth-serving organizations to immediately report abuse and safeguard the children in their care.** A permanent revival window sends a strong message that California will not tolerate "passing the trash" or looking the other way when a person is raping or molesting a child in their midst.

With A.B. 1547, California can take a step in this direction by removing barriers to civil justice for survivors who suffered CSA at the hands of Division of Juvenile Justice employees. A.B. 1547 will give these survivors time to do the legal and emotional work necessary to revisit their childhood traumas and coordinate with attorneys to file their cases. If there is sufficient evidence to prove civil liability, the mere passage of time should never prevent survivors from accessing justice.

IV. Conclusion

Once again, we commend you for supporting this legislation, which is desperately needed to validate adult survivors of CSA and protect California's children from preventable sexual abuse in Division of Juvenile Justice facilities. Reviving these expired claims is a positive step for California's children and families. For more information about SOL reform, visit childusa.org/sol/ or email 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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