

Federal Bankruptcy Code Reform: Making Chapter 11 Proceedings Humane for Child Sex Abuse Victims

THE PROBLEM

Chapter 11 is inhumane for child sex abuse (CSA) survivors. The Boy Scouts, USA Gymnastics, and 32 U.S. Catholic dioceses and religious orders have deployed Chapter 11 as a shield while silencing and re-victimizing the CSA victims they created. It is time to amend the Bankruptcy Code to make Chapter 11 humane for these brave CSA survivors.

How does the bankruptcy system work in practice?

In CSA cases, Chapter 11 has been transmogrified into a system that flips the roles: the bad actors are the ones who are offered assistance to put their problems behind them while the victims are herded into a system where they are denied discovery, given no voice during the process, and reduced to mere creditors when what they deserve is justice in the service of the public interest that will compensate them fairly and provide meaningful leverage to force the bad actor to protect all children in the future

The beneficiaries of Chapter 11 include the bad actor debtors and their related organizations that can obtain the benefits of Chapter 11 without the obligations. It has been interpreted to allow for “blanket immunity” to non-debtor third parties who can be released from liability without having to file as a debtor or revealing their assets and wealth. The system is geared to make the debtor and non-debtors whole and unaccountable. The victims and the public lose out.

THE SOLUTION: MAKE CHAPTER 11 HUMANE FOR CSA VICTIMS

CHILD USA is proposing the following amendments to Chapter 11 of the Bankruptcy Code to create a humane process for child sex abuse victims:

- 1. Prohibit nonconsensual non-debtor releases in Chapter 11 proceedings related to child sex abuse.**
- 2. Exempt child sex abuse cases from the automatic stay and expand the scope of discovery in Chapter 11 proceedings.**
- 3. Require an opportunity for public victim impact statements prior to the confirmation of a reorganization plan.**
- 4. No court order shall seal any evidence of crimes against children. Simple changes to 11 U.S. Code § 107, Bankruptcy Rule 9018, and FRCP Rule 26(c) will protect children, alert the public and allow prosecutable crimes against children to be exposed to the public and law enforcement.**

It is time for Congress to make Chapter 11 humane for child sex abuse victims.

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