

TO: Chair Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and Honorable Members of the Senate Judiciary Committee

FROM: Marci Hamilton, Esq. & Kathryn Robb, Esq.

RE: H.B. 35

DATE: June 20, 2023

Dear Chair Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and Honorable Members of the Senate Judiciary Committee,

Thank you for allowing us, Professor Marci Hamilton of CHILD USA and Kathryn Robb of CHILD USA Advocacy, to submit testimony regarding H.B. 35. Marci Hamilton is the Founder & CEO of CHILD USA, an interdisciplinary think tank dedicated to the prevention of child abuse and neglect at the University of Pennsylvania, where she is a Professor in the Fels Institute of Government and a Senior Resident Fellow in the Program for Research on Religion. Kathryn Robb is the Executive Director of CHILD USA Advocacy, a 501(c)(4) advocacy organization dedicated to protecting children’s civil liberties and keeping children safe from abuse and neglect.

We urge you to vote “YES” on H.B. 35

H.B. 35 eliminates the limitation period for civil actions resulting from childhood sexual abuse (“CSA”) for purposes of filing claims against a bankruptcy estate of an organization chartered under federal law.

We do urge that H.B. 35 be amended at Line 121 to read “from childhood sexual abuse, may be brought at any time **before or** after” (emphasis added) to avoid confusion and clarify that while a victim is not required to bring such an action prior to the age of majority, the same is permitted.

I. Child Sex Abuse Results in Life-long, Individualized Trauma

Child sex abuse is a widespread public policy crisis. While the prevalence of child sex abuse is difficult to determine because so many victims never report, the best science holds that 1 in 5 girls and 1 in 13 boys are sexually abused before the age of 18.¹ The trauma stemming from

¹ 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) (finding a 20.4% prevalence rate of child sexual abuse among North American girls); M. Stoltenborgh, et. al., *A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence Around the World*, 16(2) CHILD MALTREATMENT 79 (2011) (finding a 20.1% prevalence rate of child sexual abuse among North American girls); N. Pereda, et. al., *The prevalence of child sexual*



child sexual abuse is complex and individualized, and it typically affects victims throughout their lifetimes. There is an overwhelming body of science exposing the ways in which the trauma of sexual abuse during childhood impacts the individual. It is settled that PTSD, memory deficits, and complete disassociation are common results², and that such victims suffer disproportionately from depression, addiction, and suicidal ideation and suicide.³ These trauma effects typically delay disclosure. In fact, the **average age of disclosure of child sexual abuse in a study of 1,000 victims was 52 years-old.**⁴

Trauma is only one of the barriers preventing the victims from disclosing abuse during childhood and well into adulthood. “Among other barriers, children often lack the knowledge needed to recognize sexual abuse, lack the ability to articulate that they have been abused, don’t have an adult they can disclose their abuse to, don’t have opportunities to disclose abuse, and aren’t believed when they try to disclose.”⁵ Studies suggest that roughly one-third never disclose their abuse to anyone.⁶ The disclosure of child sexual abuse is a process and not a discrete event in which a victim comes to terms with their abuse. Often this happens in the context of therapy; sometimes it is triggered many years after the abuse by an event the victim associates with the abuse; other times it happens gradually and over time as a victim recovers their specific memories.⁷

The legal system can be a difficult venue for the victims to enter, but it is much more difficult than it should be in the currently configured chapter 11 system. Federal bankruptcy law is being deployed against survivors in a way that foreshortens their access to justice and trivializes their suffering.

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

abuse in community and student samples: A meta-analysis, 29 CLINICAL PSYCH. REV. 328, 334 (2009) (finding a 7.5% and 25.3% prevalence rate of child sexual abuse among North American boys and girls respectively).

² Jacobs-Kayam.A. and Lev-Weisel, R., *In Limbo: Time Perspective and Memory Deficit Among Female Survivors of Sexual Abuse*, FRONTIERS IN PSYCHOL. (April 24, 2019) available at <https://www.frontiersin.org/articles/10.3389/fpsyg.2019.00912/full>.

³ van der Kolk, B., *The Body Keeps the Score: Memory & the Evolving Psychobiology of Posttraumatic Stress*. HARVARD REV. OF PSYCHIATRY (1994) 1(5), 253-65; Jim Hopper, *Why Can’t Christine Blasey Ford Remember How She Got Home?*, SCIENTIFIC AMER. (Oct. 5, 2018), available at <https://blogs.scientificamerican.com/observations/why-cant-christine-blasey-ford-remember-how-she-got-home/>; see also Hoskell, L. & Randall, M., *The Impact of Trauma on Adult Sexual Assault Victims*, JUSTICE CANADA 30 (2019), available at https://www.justice.gc.ca/eng/rp-pr/jr/trauma/trauma_eng.pdf (hereinafter “Hoskell”).

⁴ See *supra* n. iv.

⁵ CHILD USA, *Delayed Disclosure: A Factsheet Based on Cutting-Edge Research on Child Sex Abuse*, CHILDUSA.ORG, 3 (Mar. 2020) available at <https://childusa.org/wpcontent/uploads/2020/04/Delayed-Disclosure-Factsheet-2020.pdf>. (citing N. Spröber et. al., *Child sexual abuse in religiously affiliated and secular institutions*, 14 BMC PUB. HEALTH 282, 282 (2014).

⁶ *Id.*

⁷ Hoskell, at 24.



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.⁸ **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.



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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.⁹ SOL reform helps protect Ohio's children by identifying sexual predators in our midst.

B. SOL Reform Prevents Further Abuse

⁸ For an analysis of the SOL reform movement since 2002, see CHILD USA, *History of US SOL Reform: 2002-2020*, CHILDUSA.ORG (last visited Aug. 30, 2021), available at www.childusa.org/sol-report-2020.

⁹ Michelle Elliott et al., *Child Sexual Abuse Prevention: What Offenders Tell Us*, 19 CHILD ABUSE NEGL. 579 (1995).



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.¹⁰ 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. Conclusion

Bankruptcy proceedings are unintentionally sheltering institutions and affiliated non-debtors from being held accountable for pervasive child sexual abuse, sparing them from discovery that would inform the public about the truth while ensuring the institution emerges intact. Moreover, the process subordinates the legitimate needs of victims to the financial demands of a debtor institution. We commend you for considering H.B. 35, which is desperately needed to validate adult survivors of CSA, protect Ohio's children, and to battle the institution-based child sex abuse that is plaguing this country.

For more information about SOL reform and other child protection measures, 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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¹⁰ E.g., Netflix's *Jeffrey Epstein: Filthy Rich*; HBO's *At the Heart of Gold: Inside the USA Gymnastics Scandal*.

