

**MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT**

LAW DOCKET NO. BCD-23-122

ROBERT E. DUPUIS, et al.,

Plaintiff-Appellees,

v.

ROMAN CATHOLIC BISHOP OF PORTLAND, MAINE,

Defendant-Appellant.

On appeal from the Superior Court
Business and Consumer Docket, Cumberland County

**BRIEF OF AMICUS CURIAE CHILD USA, MAINE COALITION
AGAINST SEXUAL ASSAULT, AND PINE TREE LEGAL ASSISTANCE,
INC., IN SUPPORT OF PLAINTIFF-APPELLEES**

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IDENTITY AND STATEMENT OF INTEREST OF *AMICI CURIAE*

CHILD USA is an interdisciplinary nonprofit think tank fighting for the civil rights of children. Our mission is to pair in-depth legal analysis with 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, state governors, legislatures, and courts on the constitutionality of revival laws for child sex abuse throughout the United States.

The Maine Coalition Against Sexual Assault (MECASA) is a statewide 501(c)(3) non-profit organization with over forty years of experience representing and servicing Maine’s sexual violence service providers. MECASA’s work includes initiating and advocating for victim-centered public policy; providing support and assistance to Maine’s sexual violence service providers and serving as a liaison between the centers and statewide and national partners; reducing common myths and misperceptions about sexual violence through building and sustaining public

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awareness; and providing expert training, statistics, and resources about sexual violence to organizations, groups and individuals throughout the state.

Central to MECASA's mission and work is to ensure ongoing support and quality services for victims and survivors of sexual violence. To that end, the primary goal of our technical assistance and support Maine's sexual violence service providers is to increase their capacity to better serve victims and survivors of sexual violence and to ensure the quality of that service provision. Maine's sexual violence service providers deliver the following services in each county:

- Support and advocacy for survivors of sexual violence, their families, and concerned others, including a twenty-four-hour crises and support line, support groups, crises intervention and information, and referrals for mental health and other community resources, no matter when the incident took place.
- Support, advocacy, and in-person accompaniment for survivors who seek medical attention and police assistance.
- Community education for all ages on topics including the root causes and impact of sexual violence; sexual harassment; drug and alcohol facilitated sexual assault; Internet safety; and personal safety.
- Outreach to underserved populations and communities.

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One in five Maine people will experience sexual assault at some point in their lifetime.¹ Each year, approximately 14,000 Maine people experience sexual assault. Between six and seven thousand of these victims reach out through the MECASA helpline. Roughly half of these calls are about sexual violence that happened to a minor, and many of those calls are from adults who are disclosing their abuse for the first time.

Pine Tree Legal Assistance, Inc. is Maine's oldest and largest nonprofit civil legal aid provider. Since 1967, Pine Tree Legal Assistance has provided free legal services to low-income people throughout the State of Maine, handling over 7,000 cases each year. Attorneys in Pine Tree's statewide Family Law and Victim Rights unit represent survivors of sexual assault, domestic violence, and stalking. In 2022, Pine Tree attorneys represented survivors in 1,333 cases, primarily Protection from Abuse, family matters, and other civil legal cases related to the violence they have experienced.

Pine Tree's mission is to ensure that state and federal laws affecting poor people are upheld, while also addressing the systemic barriers to justice faced by Mainers with low incomes. Our strategies include direct representation, community education, and providing legal information through our website. In our work with

¹ R. Dumont and G. Shaler, *Maine Crime Victimization Report, Informing Public Policy for Safer Communities*, Muskie School of Public Service, University of Southern Maine (2015).

survivors of sexual violence, we prioritize representation of child victims of sexual assault and their non-offending parents or caretakers in the civil legal system. Because of our work with survivors of sexual assault, Pine Tree is often asked to provide training to other attorneys and members of the justice system and testimony to the legislature regarding Maine's statutory protections for victim/survivors of sexual violence.

Amici are uniquely positioned to provide this Court with current research and analysis regarding Maine's revival law for child sexual abuse claims, the public policy interests underpinning revival legislation for child sexual abuse claims, the science of trauma that impact disclosure timing including the long-term effects of child sexual abuse, and the prevention of such abuse, as well as the national landscape on revival laws for child sexual abuse. This contribution will aid the Court's analysis beyond that which the parties' lawyers provide.

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SUMMARY OF THE ARGUMENT

Amici respectfully submit this brief pursuant to Rule 7A(e) of the Maine Rules of Appellate Procedure. The Defendant-Appellant challenges the constitutionality of 14 M.R.S. § 752-C(3), which revives expired civil claims for child sex abuse in Maine (the “revival provision”). Defendant-Appellant additionally asserts the revival provision should not be applied to organizations. *Amici* submit that Maine’s child sex abuse claim revival provision easily comports with due process under the United States and Maine Constitutions and is applicable to organizations. The revival provision and its broad applicability is supported by clear legislative intent and the significant public interest to remedy the injustice of Maine’s prior unreasonably short statute of limitation (“SOL”), which obstructed sex abuse victims’ access to the courts and kept the public in the dark about child predators and their enabling institutions. Maine’s revival provision is a reasonable response to the substantial harms caused by the inability to hold those responsible for child sexual abuse accountable.

Moreover, ruling against the constitutionality of the claim revival provision and its applicability to organizations like Defendant-Appellant would negatively impact the hundreds of child sexual abuse victims throughout Maine who embraced the window in pursuit of long overdue justice. Such a ruling would severely jeopardize the important public policies of justice, public safety, and preventing

future sexual abuse that the Maine Legislature sought to uphold and improve when it passed 14 M.R.S. § 752-C(3). Additionally, the provision and its applicability to organizations is in accordance with a growing contingency of states and territories that have also enacted civil revival laws for child sexual abuse claims. Accordingly, *amici* respectfully submit that this Court should uphold the Business & Consumer Court's ruling and find that the claim revival provision is constitutional under the Maine State Constitution and that it applies to organizations like Defendant-Appellant.

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ARGUMENT

I. THE CLAIM REVIVAL PROVISION COMPORTS WITH DUE PROCESS UNDER THE FEDERAL AND MAINE CONSTITUTIONS

The Fourteenth Amendment of the United States Constitution directs that no State shall “deprive any person of life, liberty, or property, without due process of law.” In determining whether a legislative enactment is constitutional under the Fourteenth Amendment, the United States Supreme Court began moving away from its antiquated vested rights analysis towards the modern substantive due process analysis beginning in the nineteenth century. This shift first became apparent in relation to SOL legislation in *Campbell v. Holt*, which clearly distinguished a statutory bar operating to vest persons with title to real property from an SOL that constitutes a defense to a personal claim. 115 U.S. 620, 624 (1885). The *Campbell* Court explained that,

in an action to recover real or personal property, where the question is as to the removal of the bar of the statute of limitations by a legislative act that passed after the bar has become perfect, that such act deprives the party of his property without due process of law. The reason is that, by the law in existence before the repealing act Both the legal and the real ownership had become vested in him But we are of opinion that *to remove the bar which the statute of limitations enables a debtor to interpose to prevent the payment of his debt stands on very different ground.*

Id. (emphasis added). The *Campbell* Court further expounded upon the term “vested right,” refusing to apply it to an SOL defense and narrowing its application to real


or personal property:

It is much insisted that this right to defense is a vested right, and a right of property which is protected by the provisions of the fourteenth amendment. It is to be observed that the words ‘vested right’ are nowhere used in the constitution, neither in the original instrument nor in any of the amendments to it. We understand very well what is meant by a vested right to real estate, to personal property, or to incorporeal hereditaments . . . *We certainly do not understand that a right to defeat a just debt by the statute of limitations is a vested right, so as to be beyond legislative power* in a property case. The statutes of limitation, as often asserted, and especially by this court, are founded in public needs and public policy; are arbitrary enactments by the law-making power.

Id. at 628 (emphasis added).

The Supreme Court affirmed the *Campbell* Court’s conclusion in Chase Securities Corp. v. Donaldson, holding that “[s]tatutes of limitation find their justification in necessity and convenience rather than logic. They represent expedients, rather than principles. They are practical and pragmatic devices.” 325 U.S. 304, 314 (1945). The *Chase* Court expressly determined the inapplicability of a vested rights approach in its constitutionality analysis, finding that SOLs represent “a public policy [enacted by a legislature] about the privilege to litigate. Their shelter has never been regarded as what is now called a ‘fundamental’ right or what used to be called a ‘natural’ right of the individual.” *Id.*

Importantly, “the substantive due process rights of the United States and Maine Constitutions are coextensive.” *Doe I v. Williams*, 2013 ME 24, ¶ 23, 61 A.3d



718. United States Supreme Court to determine whether a law violates due process: if the law infringes upon a “fundamental” right, then the law will be subject to strict scrutiny and will be deemed constitutional if it serves a compelling state interest that is narrowly tailored to effectuate that interest; if the law does not infringe upon a “fundamental” right, then it is subject to rational basis review and will be upheld as constitutional so long as it is rationally related to the legitimate governmental objective it is serving. *Id.* at 738 (citing *Washington v. Glucksburg*, 521 U.S. 702, 721-22 (1997)). Under this modern substantive due process analysis, the pertinent question is thus not the effect of the retroactivity on a “vested right,” but rather whether the retroactivity is not an irrational means of executing the goal of the law.

Under the Maine Constitution, the claim revival provision enjoys a presumption of constitutionality. *In re Evelyn A.*, 2017 ME 182, ¶ 25, 169 A.3d 914 (noting, “[s]tatutes are presumptively valid, with reasonable doubts resolved in favor of constitutionality.”). Moreover, Defendant bears the “heavy burden of overcoming [the] presumption that the statute is constitutionally valid” by “proving that no conceivable facts exist to support the legislative action.” *Irish v. Gimbel*, 691 A.2d 664, 669 (Me. 1997); *School Admin. Dist. No. 1 v. Commissioner, Dept. of Educ.*, 659 A.2d 854, 857 (Me. 1995).

In this case, the claim revival provision does not infringe upon fundamental rights under the federal or Maine Constitutions. Additionally, the Maine Legislature

purposefully enacted 14 M.R.S. § 752-C(3) with a compelling public policy purpose in mind: to rationally remedy the injustice of Maine's untenably short child sex abuse SOL, which did not reflect the effects of trauma on child sex abuse victims' ability to disclose their abuse, inequitably blocked their access to the courts, and concealed from the public the predators who continued to sexually abuse children. As such, the revival provision passes due process muster under Maine's Constitution.

A. The Claim Revival Provision Does Not Infringe Upon a Fundamental Right

This Court should defer to the Legislature's judgment, as there is no fundamental right in a statute of limitations in Maine. As explained by the Business & Consumer Court in its underlying Opinion, "statutes of limitation are different than property rights. They are creatures of statute within the prerogative of the legislature" (citing *Myrick v. James*, 444 A.2d 987, 989-93 (Me. 1982); *Miller v. Fallon*, 183 A. 416, 417 (1936)). There is no legal precedent in Maine that extends vested property rights to statutes of limitation. *See* Business & Consumer Ct. Order, 4. In the absence of Maine legal precedent, looking to United States Supreme Court precedent is proper and persuasive. *Id.* at 5. *See also, Penobscot Area Housing Dev. Corp. v. City of Brewer*, 434 A.2d 14, 24 n. 9 (Me. 1981) (noting, "[t]his Court has long adhered to the principle that the Maine Constitution and the Constitution of the United States are declarative of identical concepts of due process") (citing *Pool*

Beach Ass'n v. City of Biddeford, 328 A.2d 131, 135 n. 6 (Me. 1974); *Michaud v. City of Bangor*, 196 A.2d 106, 108 (1963); *Jordan v. Gaines*, 8 A.2d 585, 587 (1939)).

The retroactive elimination of a civil statute of limitations is constitutional under the United States Constitution.² In *Landgraf v. USI Film Products*, the United States Supreme Court demonstrated the correct modern approach by implementing the substantive due process analysis. 511 U.S. 244 (1994). It held that retroactive civil legislation is constitutional if two conditions are met: (1) the legislative intent is clear and (2) the change is procedural. *Id.* at 267.

Regarding the first prong, the revival of expired SOLs is something no legislature should take lightly. The Maine Legislature certainly did not do so when it enacted the revival provision found in 14 M.R.S. § 752-C(3). When creating the claim revival provision, the Maine Legislature carefully considered the reality faced by child sex abuse victims in bringing their claims to court. As evidenced by the name of the bill alone, “An Act to Provide Access to Justice for Victims of Child Sexual Abuse,” the Maine Legislature enacted the claim revival provision to rectify its prior SOL, which was an incomplete solution to the obstacles faced by child sex

² *Cf.*, *Stogner v. California*, 539 U.S. 607, 610 (2003) (holding that retroactive application of a criminal statute of limitations to revive a previously time-barred prosecution violates the *Ex Post Facto* Clause of the United States Constitution).

abuse victims. *See* H.P. 432, 130th Leg., 1st Reg. Sess. (Me. 2021). Because the Maine Legislature’s intent to pass the claim revival provision was unambiguous, the first prong is satisfied.

As to the second prong, Maine Courts have agreed with the *Chase* Court that statutes of limitation are procedural instead of substantive. *See Myrick*, 444 A.2d at 989–93 (quoting Justice Jackson’s majority opinion in *Chase*, explaining that it “accurately synthesized the nature, purpose and effect of statutes of limitations,” and affirming Justice Jackson’s conclusion that “interests secured by a statute of limitations are procedural in nature”) (citing *Dishon v. Oliver*, 402 A.2d 1292, 1294 (Me. 1975); *Miller*, 183 A. at 417). Because SOLs are “pragmatic devices” that are procedural in nature instead of substantive “principles,” the claim revival provision does not infringe upon “vested” or fundamental rights and therefore satisfies the second prong of the *Landgraf* test.

Beyond accordance with the United States Supreme Court, in the context of child sexual abuse cases the court must additionally weigh creating a property right for child predators against protecting the state’s children from sex abuse. On its face, and for the reasons discussed in section I.B. below, this is a circumstance warranting special consideration in a constitutionality analysis. For the reasons stated above, the claim revival provision is constitutional under the United States Constitution and should be similarly considered constitutional under the Maine State Constitution.

B. The Claim Revival Provision Rationally Serves a Compelling State Interest

When a legislative enactment does not implicate a fundamental right, as is the case here, “it will be upheld if it is reasonably related to a legitimate state interest.” *Williams*, 61 A.3d at 737. The claim revival provision surpasses the “legitimate interest” standard, as it serves Maine’s “*compelling* interest” in child protection. *Sparks v. Sparks*, 2013 ME 41, ¶ 20, 65 A.3d 1223 (concluding that “the State does have a compelling interest in protecting a child from harm or a threat of harm”) (citing *Rideout v. Riendeau*, 2000 ME 198, ¶ 23, 761 A.2d 29 (noting that “the threat of harm to a child is certainly sufficient to provide the State with a compelling interest”). As set forth below, the claim revival provision assists the Legislature in protecting Maine’s children from the harm of sexual abuse.

1. Decades of Social Science Research Shows That Child Sex Abuse Uniquely Prevents Victims from Bringing Timely Claims

Child sexual abuse is a national public health crisis, with 3.7 million children sexually abused every year.³ It affects *one in five girls and one in thirteen boys* in the United States.⁴ Similarly, one in five Mainers will experience sexual assault at

³See *Preventing Child Sexual Abuse*, CDC.gov, <https://www.cdc.gov/violenceprevention/pdf/can/factsheetCSA508.pdf>; 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).

⁴ 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*

some point in their lifetime with fourteen thousand Mainers experiencing sexual violence each year.⁵ And in 2019, approximately fifty percent of calls to Maine's sexual assault crisis and support line were related to child sexual abuse.⁶ Approximately ninety percent of child sexual abuse perpetrators are someone the child knows.⁷ An extensive body of evidence establishes that childhood sexual abuse victims are traumatized in a way that is distinguishable from victims of other crimes and that can significantly impact disclosure timing. Indeed, victims of sexual abuse under the age of eighteen are the population least likely to disclose their abuse and many suffer in silence for decades before they speak to anyone about their traumatic experiences.⁸

As children, sex abuse victims often fear the negative repercussions of disclosure, such as disruptions in family stability, loss of close relationships, or

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).

⁵ Robyn Dumont and George Shaler, *2015 Maine Crime Victimization Report: Informing Public Policy for Safer Communities* 30 (2015).

⁶ Maine Coalition on Sexual Assault, Center Service Statistics, 2018, 2019, <https://www.mecasa.org/stats.html> (last visited Aug. 16, 2023).; see also Salisbury, N., *The girls project: A report to the Children's Cabinet* (2002) (finding that girls who were committed and/or detained at Maine's Long Creek Youth Development Center between December 2001 and September 2002 indicated that twenty percent of the girls reported a history of sexual abuse or rape.).

⁷ 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), <https://pubmed.ncbi.nlm.nih.gov/29333973/>; David Funkelhor & Anne Shattuck, *Characteristics of Crimes Against Juveniles*, University of New Hampshire, Crimes Against Children Research Center 5 (2012), https://www.unh.edu/ccrc/sites/default/files/media/2022-03/characteristics-of-crimes-against-juveniles_0.pdf.

⁸ *Id.*

involvement with the authorities.⁹ This is a crime that typically occurs in secret, and many child victims assume no one will believe them.¹⁰

Additionally, child sex abuse survivors may struggle to disclose their abuse because of psychological barriers such as shame and self-blame, as well as social factors like gender-based stereotypes or the stigma of sexual victimization.¹¹ Victims may also develop a variety of coping strategies—such as denial, repression, and dissociation—to avoid recognizing or addressing the harm they suffered.¹² Moreover, they disproportionately develop depression, substance abuse, Post-traumatic Stress Disorder (“PTSD”), and challenges in personal relationships.

These mechanisms may persist well into adulthood, long past the date of the abuse. In fact, one study found that 44.9% of male victims and 25.4% of female child sex abuse victims delayed disclosure by *more than twenty years*.¹³

⁹ 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), <https://pubmed.ncbi.nlm.nih.gov/25846196/>.

¹⁰ See *Myths and Facts About Sexual Assault*, CAL. DEP’T OF JUST., https://www.meganslaw.ca.gov/mobile/Education_MythsAndFacts.aspx (last visited Aug. 17, 2022); National Child Traumatic Stress Network Child Sexual Abuse Committee, *Caring for Kids: What Parents Need to Know about Sexual Abuse*, NAT’L CTR. FOR CHILD TRAUMATIC STRESS 7 (2009), https://www.nctsn.org/sites/default/files/resources/fact-sheet/caring_for_kids_what_parents_need_know_about_sexual_abuse.pdf.

¹¹ 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), <https://pubmed.ncbi.nlm.nih.gov/29333973/>.

¹² G.S. Goodman et. al., *A prospective study of memory for child sexual abuse: New findings relevant to the repressed-memory controversy*, 14 PSYCHOL. SCI. 113–8 (2003), <https://pubmed.ncbi.nlm.nih.gov/12661671/>.

¹³ Patrick J. O’Leary & James Barber, *Gender Differences in Silencing following Childhood Sexual Abuse*, 17 J. CHILD SEX. ABUSE 133 (2008).

Remarkably, it is estimated that 70–95% of child sex abuse victims never report their abuse to the police.¹⁴ This translates to a harsh reality: *more victims first disclose their child sex abuse between ages fifty and seventy than during any other age.*¹⁵

In sum, trauma affects child sex abuse victims in serious and wide-ranging ways, logically necessitating decades for them to process their abuse, much less report it.¹⁶ It is with this understanding that the Maine legislature passed the revival window provision, providing previously barred child victims an additional window of time to come forward and file a claim. *See An Act to Provide Access to Justice for Victims of Child Sexual Abuse: Hearing on L.D. 589 Before the J. Standing Judiciary Comm.*, 130th Legis. 1 (2021) (“[T]he nature of child sexual abuse injuries frequently results in victims not coming forward for years or decades because of the psychological injury and victims’ survival instincts. Injuries from sex abuse are very different than fractures or other physical injuries.”) (testimony of Michael Bigos, Maine Trial Lawyers Association); (“Many children wait to report or never report child sexual abuse, even into adulthood. The reasons folks do not disclose vary;

¹⁴ 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>.

¹⁵ CHILD USA, *History of Child Sex Abuse Statutes of Limitation Reform in the United States: 2002 to 2021* 3 (June 21, 2022), <https://childusa.org/6-17-2022-2021-sol-report-final/>.

¹⁶ 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); *R.L. v. Voytac*, 971 A.2d 1074 (N.J. 2009); Bessel A. van der Kolk M.D. et al., *Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body, and Society* (2006).

however, many survivors of sexual abuse often feel shame, fear, uncertainty, guilt and often avoid reliving the pain and emotional trauma that these events evoke.”) (statement by Rep. Lori K. Gramlich); (“This bill will help stand up for the survivors who were too scared, young or otherwise inhibited from coming forward to report their abusers.”).(statement by Sen. Donna Baily). Simply put, lawmakers “endeavor[ed] to provide justice for people who may not have a voice for themselves at the time of their abuse and do [their] “best to rectify past harm.” *Id.* (statement of Sen. Donna Baily).

2. *The Claim Revival Provision is a Reasonable Response to Maine’s Compelling Public Policy Interests in Child Protection*

The claim revival provision additionally serves three important public purposes: it (1) identifies previously unknown child predators; (2) shifts the cost of abuse from victims to those who caused the abuse; and (3) educates the public to prevent future abuse.

First, the claim revival provision facilitates the identification of previously unknown child predators¹⁷ and the organizations that shield them, who would otherwise remain hidden. The decades before a victim is ready to disclose give perpetrators and organizations wide latitude to suppress the truth to the detriment of

¹⁷ Michelle Elliott et al., *Child Sexual Abuse Prevention: What Offenders Tell Us*, 19 CHILD ABUSE NEGL. 579 (1995).

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.¹⁸ Through the revival provision, the Legislature empowered prior victims to identify Maine's hidden child predators and the organizations that endanger children, which has helped prevent those predators from further abusing children and is allowing the public to develop policies to inhibit new abuse from occurring in the long-term.¹⁹

Second, the revival provision has helped educate the public about the dangers of child sexual abuse and how to prevent such abuse. Because the revival provision permits an increased number of child victims to come forward, it sheds 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 organizations, while empowering the public to recognize grooming and abusive behavior. Indeed, SOL reform not only provides access to justice previously withheld from victims of child sexual abuse, it also prevents further abuse by fostering social awareness while encouraging public and private organizations to

¹⁸ *Id.*

¹⁹ See generally, *Making the Case: Why Prevention Matters*, PREVENTCHILDDABUSE.ORG, <https://preventchildabuse.org/resource/why-prevention-matters/> (last visited Aug. 17, 2022); *Preventing Adverse Childhood Experiences*, CDC.GOV, <https://www.cdc.gov/violenceprevention/pdf/preventingACES.pdf>.

implement accountability and safe practices. *See An Act to Provide Access to Justice for Victims of Child Sexual Abuse: Hearing on L.D. 589 Before the J. Standing Judiciary Comm.*, 130th Legis. 1 (2021) (“No one is safe if perpetrators of sexual abuse are unaccountable.”) (testimony of Michael Bigos, Maine Trial Lawyers Association). By appropriately treating child sexual abuse as a “significant but preventable . . . public health problem,” the Legislature prioritized the health and safety of its citizens. *Id.* (statement of Rep. Lori K. Gramlich).

Third, the cost of child sexual abuse to victims is enormous,²⁰ and they, along with the State of Maine, unjustly carry the burden of this expense. 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 \$282,734.²¹ 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.²² Costs associated with suicide deaths are estimated at

²⁰ See M. Merricka. et al., *Unpacking the impact of adverse childhood experiences on adult mental health*, 69 CHILD ABUSE & NEGLECT 10 (July 2017); I. Angelakis et al., *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), <https://www.perrymangroup.com/media/uploads/report/perryman-suffer-the-little-children-11-2014.pdf>.

²¹ Elizabeth J. Letourneau et al., *The Economic Burden of Child Sexual Abuse in the United States*, 79 CHILD ABUSE NEGL. 413 (2018).

²² *Id.*

\$20,387 for female victims.²³ These staggering expenses gravely affect victims and also impact the nation's health care, education, criminal justice, and welfare systems.²⁴ Revived child sexual abuse cases that result in awards and settlements not only equitably shift some of these costs away from victims and onto the abusers, they also save the State money by reducing expenditures on public services.

Nevertheless, the SOL in Maine for child sex abuse victims previously constituted an oppressive barrier to justice because it denied victims who were sexually abused before the year 2000 access to court. Yet, because it is unconstitutional to revive a criminal statute of limitations, filing civil claims pursuant to a revival provision is the only avenue of justice available to many survivors. *See Stogner*, 539 U.S. at 610.²⁵ The Legislature's enactment of the claim revival provision not only reasonably remedies the long-standing injustice to child sexual abuse victims barred from bringing their claims, but also serves Maine's public policy interests in keeping its children safe, preventing future child sexual abuse, and shifting the economic impacts of abuse from the State onto the perpetrators.

²³ *Id.*

²⁴ *Id.*

²⁵ *Stogner*, 539 U.S. 607, 610 (2003) (retroactive application of a criminal statute of limitations to revive a previously time-barred prosecution violates the *Ex Post Facto* Clause of the United States Constitution).

Creating a vested or fundamental right in a statute of limitation for child sex abuse would establish an additional layer of protection for child abusers and another nearly insurmountable hurdle for their victims, effectively ensuring that abusers would not be held accountable in a vast number of cases. Doing so would be incongruous with this Court's recent movement away from outdated analyses, like the vested rights approach, in favor of justice for victims. *See Brown v. Delta Tau Delta*, 2015 ME 75, 118 A.3d 789 (allowing plaintiff's negligence claim against a fraternity for her sexual assault by a fraternity member to proceed based on public policy concerns instead of disposing the claim on summary judgment pursuant to the outdated "special relationship" analysis).

As the foregoing makes abundantly clear, this case is not simply about protecting "vested" rights; it is about giving child abuse victims a voice and a chance to prevent their abusers and enabling institutions from harming more children. In essence, Defendant-Appellant is asking the Court to sanction child sex abuse by placing a higher value on an abuser's right to an arbitrary limitations defense than on the victims right to justice and on Maine's compelling interest in protecting children. The Court should not make such an unjust holding.

II. REVIVAL LAWS FOR CHILD SEX ABUSE CLAIMS ACROSS THE UNITED STATES SUPPORT THE CONSTITUTIONALITY OF MAINE'S CLAIM REVIVAL PROVISION AND ITS APPLICABILITY TO ORGANIZATIONS

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In 2021, Maine joined a growing list of states and territories that have enacted civil revival laws for child sexual abuse claims since 2002. Over the past twenty years, revival legislation has grown in popularity as legislatures have recognized that child sex abuse victims need more time to come forward and that statutes of limitation have historically blocked their claims.²⁶ Today, Maine stands alongside at least *thirty states and territories* that have enacted civil revival laws for childhood sex abuse claims that were blocked by unreasonable SOLs. Nearly all courts that have considered the constitutionality of these revival laws upheld them, even where they adopted a stricter standard of constitutionality than the federal standard. The following table shows this trend:

Jurisdiction	Revival Law	Statute	Constitutional Challenge
Arizona	1.5-Year Window & Age 30 Limit (2019)	ARIZ. REV. STAT. ANN. § 12-514; H.B. 2466, 54th Leg., 1st Reg. Sess. (Ariz. 2019)	Constitutional ²⁷
Arkansas	2-Year Window Extension (2023)	Arkansas Act 616; S.B. 204, 94th Gen. Assemb., Reg. Sess. (Arkansas 2023); ARK. CODE ANN. § 16-118-118	Not challenged

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

²⁷ *John I M Doe v. Big Brothers Big Sisters of Am.*, No. CV2020-017354 (Ariz. Super. Ct. Sept. 28, 2021); *John C D Doe v. Big Brothers Big Sisters of Am.*, No. CV2020-014920 (Ariz. Super. Ct. Aug. 26, 2021), *rev. denied*, No. CV-22-0003-PR (Ariz. April 8, 2022).

Jurisdiction	Revival Law	Statute	Constitutional Challenge
	2-Year Window (2021)	Arkansas Act 1036; S.B. 676, 93rd Gen. Assemb., Reg. Sess. (Arkansas 2021); ARK. CODE ANN. § 16-118-118	Challenge Pending ²⁸
California	1-Year Window (2020)	CAL. CIV. PROC. CODE § 340.16 (2021); 2020 CAL. LEGIS. SERV. CH. 246 (A.B. 3092)	Not challenged
	1-Year Window (2019)	CAL. CIV. PROC. CODE § 340.16 (2020); 2019 CAL. LEGIS. SERV. CH. 462 (A.B. 1510)	Not challenged
	3-Year Window & Age 40 Limit (2019)	CAL. CIV. PROC. CODE § 340.1 (2020); 2019 CAL. LEGIS. SERV. CH. 861 (A.B. 218)	Constitutional ²⁹
	1-Year Window (2003)	CAL. CIV. PROC. CODE § 340.1 (2002); 2002 CAL. LEGIS. SERV. CH. 149 (S.B. 1779)	Constitutional ³⁰
Connecticut	Age 48 Limit (2002)	CONN. GEN. STAT. § 52-577D; 2002 Conn. Legis. Serv. P.A. 02-138 (S.H.B. 5680).	Constitutional ³¹
Delaware	2-Year Window (2010)	DEL. CODE tit. 18, § 6856; 2010 Delaware Laws Ch. 384 (H.B. 326)	Not challenged ³²

²⁸ *H.C. et al. v. Nesmith*, No. CV-23-328 (Ark. Ct. App. 2023), available at https://caseinfo.arccourts.gov/cconnect/PROD/public/ck_public_qry_doct.cp_dktrpt_frames?backto=D&case_id=CV-23-328&begin_date=&end_date=.

²⁹ *Coats v. New Haven Unified Sch. Dist.*, 259 Cal.Rptr.3d 784, 792 (Cal. Ct. App. 2020); *Huth v. Cosby*, No. BC565560, 2022 WL 17583304, at *3 (Cal. Super. Ct. May 17, 2022); *Huth v. Cosby*, No. BC565560, 2022 WL 17583301, at *4 (Cal. Super. Ct. Sep. 27, 2022).

³⁰ *Roman Catholic Bishop of Oakland v. Superior Court*, 28 Cal.Rptr.3d 355, 359 (Cal. Ct. App. 2005).

³¹ *Doe v. Hartford Roman Catholic Diocesan Corp.*, 317 Conn. 357, 406 (Conn. 2015).

³² See generally, *Sheehan v. Oblates of St. Francis de Sales*, 15 A.3d 1247, 1258-60 (Del. 2011).

Jurisdiction	Revival Law	Statute	Constitutional Challenge
	2-Year Window (2007)	DEL. CODE tit. 10, § 8145; 2007 Delaware Laws Ch. 102 (S.B. 29)	Constitutional ³³
Georgia	2-Year Window (2015)	GA. CODE § 9-3-33.1; 2015 Georgia Laws Act 97 (H.B. 17)	Constitutional ³⁴
Guam	Permanent Window (2016)	7 GUAM CODE ANN. §§ 11306 & 11301.1(b); Added by P.L. 33-187:2 (Sept. 23, 2016)	Constitutional ³⁵
	2-Year Window (2011)	7 GUAM CODE ANN. § 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	Not challenged
Hawaii	2-Year Window (2018)	HAW. REV. STAT. § 657-1.8; 2018 Hawaii Laws Act 98 (S.B. 2719)	Not challenged
	2-Year Window (2014)	HAW. REV. STAT. § 657-1.8; 2014 Hawaii Laws Act 112 (S.B. 2687)	Not challenged
	2-Year Window (2012)	HAW. REV. STAT. § 657-1.8; 2012 Hawaii Laws Act 68 (S.B. 2588)	Constitutional ³⁶

³³ *Whitwell v. Archmere Acad., Inc.*, No. CIV.A.07C08006RBY, 2008 WL 1735370, at *2 (Del. Super. Ct. Apr. 16, 2008).

³⁴ *Harvey v. Merchan*, 860 S.E.2d 561, 566 (Ga. 2021).

³⁵ *Rupley v. Balajadia*, No. 20-00030 (D. Guam June 3, 2021), available at <https://casetext.com/case/rupley-v-balajadia>.

³⁶ *Roe v. Ram*, No. CIV. 14-00027, 2014 WL 4276647, at *9 (D. Haw. Aug. 29, 2014).

Jurisdiction	Revival Law	Statute	Constitutional Challenge
Kansas	Age 31 Limit (2023)	2023 Kan. Sess. Laws Ch. 28 (H.B. 2127); KAN. STAT. ANN. § 60-523	Not challenged
Kentucky	Limited Window (2021)	2021 Ky. Laws Ch. 89 (HB 472); KY. REV. STAT. ANN. § 413.249	Challenge pending ³⁷
Louisiana	3-Year Window (2021)	2021 La. Sess. Law Serv. Act 322 (H.B. 492); LA. STAT. ANN. § 9:2800.9	Constitutional ³⁸
Maine	Permanent Window (2021)	ME. REV. STAT. ANN. tit. 14, § 752-C; 2021 Me. Legis. Serv. Ch. 301 (H.P. 432) (L.D. 589)	Challenge pending ³⁹
Maryland	Permanent Window (2023)	2023 Md. Laws Ch. 6 (H.B. 1); 2023 Md. Laws Ch. 5 (S.B. 686).	Not challenged

³⁷ *Killary v. Thompson*, No. 2020-CA-0194, 2022 WL 2279865 (Ky. Ct. App. June 24, 2022), rev. granted (Ky. Dec. 7, 2022).

³⁸ *Lousteau v. Congregation of Holy Cross S. Province, Inc.*, No. CV 21-1457, 2022 WL 2065539 (E.D. La. June 8, 2022), appeal filed, No. 2022-30407 (5th Cir. July 7, 2023); *T.S. v. Congregation of Holy Cross S. Province, Inc, et al.*, No. 2022-CA-1826 (La. Jan. 2023); *Doe v. Soc’y of the Roman Cath. Church of the Diocese of Lafayette*, 347 So.3d 148 (Mem) (La. 2022); *Doe v. Doe*, No. 2020-10745 (La. Civ. Dist. Ct. 2020).

³⁹ *Gillis v. Roman Cath. Bishop of Portland*, No. BCD-CIV-2022-00049, 2023 WL 2117842 (Me. Bus. & Consumer Ct. Feb. 13, 2023); *Doe v. Roman Cath. Bishop of Portland*, No. BCD-CIV-2022-00060, 2023 WL 2117843 (Me. Bus. & Consumer Ct. Feb. 13, 2023); *Bouffard v. Roman Cath. Bishop of Portland*, No. BCD-CIV-2022-00063, 2023 WL 2117844 (Me. Bus. & Consumer Ct. Feb. 13, 2023); *Fitzgerald v. Roman Cath. Bishop of Portland*, No. BCD-CIV-2022-00048, 2023 WL 2117845 (Me. Bus. & Consumer Ct. Feb. 13, 2023); *Rioux v. Roman Cath. Bishop of Portland*, No. BCD-CIV-2022-00062, 2023 WL 2117846 (Me. Bus. & Consumer Ct. Feb. 13, 2023); *Fortin v. Roman Cath. Bishop of Portland*, No. BCD-CIV-2022-00061, 2023 WL 2117847 (Me. Bus. & Consumer Ct. Feb. 13, 2023); *Mccarthy v. Roman Cath. Bishop of Portland*, No. BCD-CIV-2022-00066, 2023 WL 2117848 (Me. Bus. & Consumer Ct. Feb. 13, 2023); *Mccarthy v. Roman Cath. Bishop of Portland*, No. BCD-CIV-2022-00065, 2023 WL 2117849 (Me. Bus. & Consumer Ct. Feb. 13, 2023); *Fessenden v. Roman Cath. Bishop of Portland*, No. BCD-CIV-2022-00069, 2023 WL 2117850 (Me. Bus. & Consumer Ct. Feb. 13, 2023); *Mckenney v. Roman Cath. Bishop of Portland*, No. BCD-CIV-2022-00068, 2023 WL 2117852 (Me. Bus. & Consumer Ct. Feb. 13, 2023); *Dshea v. Roman Cath. Bishop of Portland*, No. BCD-CIV-2022-00064, 2023 WL 2117851 (Me. Bus. & Consumer Ct. Feb. 13, 2023).

Jurisdiction	Revival Law	Statute	Constitutional Challenge
Massachusetts	Age 53 Limit (2014)	MASS. GEN. LAWS Ch. 260, § 4C; 2014 Mass. Legis. Serv. Ch. 145 (H.B. 4126).	Constitutional ⁴⁰
Michigan	90-Day Window (2018)	MICH. COMP. LAWS § 600.5851b; 2018 Mich. Legis. Serv. P.A. 183 (S.B. 872)	Not challenged
Minnesota	3-Year Window (2013)	MINN. STAT. § 541.073, 2013 Minn. Sess. Law Serv. Ch. 89 (H.F. 681)	Not challenged
Montana	1-Year Window & Age 27 Limit (2019)	MONT. CODE § 27-2-216; 2019 Mont. Laws CH. 367 (H.B. 640)	Not challenged
Nevada	Permanent Window & Age 38 Limit (2021)	2021 Nev. Laws Ch. 288 (S.B. 203); NEV. REV. STAT. ANN. §§ 11.215 & 41.1396	Not challenged
New Jersey	2-Year Window & Age 55 Limit (2019)	N.J. STAT. ANN. §§ 2A:14-2A and 2A:14-2B; 2019 N.J. Sess. Law Serv. Ch. 120 (S.B. 477)	Constitutional ⁴¹

⁴⁰ *Sliney v. Previte*, 41 N.E.3d 732, 737 (Mass. 2015).

⁴¹ See *S.Y. v. Roman Catholic Diocese*, 2021 WL 4473153, at *4 (D.N.J. Sep. 30, 2021)); *B.A. v. Golabek*, 18-cv-7523, 2021 WL 5195665, at *6 (D.N.J. Nov. 8, 2021); *W.F. v. Roman Catholic Diocese of Paterson*, 2021 WL 2500616 (D.N.J. June 7, 2021); *Coyle v. Salesians of Don Bosco*, 2021 WL 3484547 (N.J. Super. L. July 27, 2021); *T.M. v. Order of St. Benedict of New Jersey, Inc.*, MRS-L-399-17 (Law Division, Morris County); *Bernard v. Cosby*, No. 1:21-cv-18566, 2023 WL 22486, at *8 (D.N.J. Jan. 3, 2023).

Jurisdiction	Revival Law	Statute	Constitutional Challenge
New York	2-Year Window (2022)	NEW YORK CITY, N.Y., CODE § 10-1105 (2022); L.L. 21/2022 § 2, eff. JAN. 9, 2022	Not challenged
	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)	Constitutional ⁴²
	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)	Constitutional ⁴³

⁴² *ARK269 v. Archdiocese of New York*, No. 950301/2020, 2022 WL 2954144, at *1 (N.Y. Sup. Ct. July 19, 2022); *McGourty v. Archdiocese of New York*, No. 950410/2020, 2022 WL 2715904, at *1 (N.Y. Sup. Ct. July 12, 2022); *Baum v. Agudath Israel of America*, No. 950207/2019, 2022 WL 2704237, at *1 (N.Y. Sup. Ct. July 8, 2022); *ARK10 v. Archdiocese of New York*, No. 950038/2019, 2022 WL 1452438, at *1 (N.Y. Sup. Ct. May 9, 2022); *S.K. v. Svrcek*, No. 400005/2021, 2021 WL 7286456, at *5 (N.Y. Sup. Ct. Dec. 1, 2021); *Shearer v. Fitzgerald*, No. 0514920/2020 (N.Y. Sup. Ct. Oct. 1, 2021), on appeal No. 2021-07975 (App. Div.2d Dept.); *Giuffre v. Prince Andrew*, Case No. 1:21-cv-06702-LAK (S.D.N.Y. 2021).

⁴³ *PB-36 Doe v. Niagara Falls City Sch. Dist.*, 182 N.Y.S.3d 850, 852 (N.Y. App. Div. 2023), aff'g 152 N.Y.S.3d 242 (N.Y. Sup. Ct. 2021); *S.T. v. Diocese of Rockville Centre*, Index No. 099997/2019, (N.Y. Sup. Ct. May 18, 2020); *PB-65 Doe v. Niagara Falls City Sch. Dist.*, No. E174572/2021, 2021 WL 5750878, at *4 (N.Y. Sup. Ct. Oct. 26, 2021); *Farrell v. United States Olympic & Paralympic Comm.*, 567 F.Supp.3d 378 (N.D.N.Y. 2021); *PC-41 Doe v. Poly Prep Cty. Day Sch.*, No.20 Civ. 3628, 2021 WL 4310891, at *3-9 (E.D.N.Y. Sept. 22, 2021), appeal filed, (2d Cir.Oct.22, 2021); *Torrey v. Portville Cent. Sch.*, 125 N.Y.S.3d 531 (N.Y. Sup. Ct. 2020) (Table); *Kastner v. Doe*, No. 900111 (Sup. Ct. Nassau Cty. Jan. 14, 2022); *Giuffre v. Dershowitz*, No. 19 CIV. 3377 (LAP), 2020 WL 2123214, at *2 (S.D.N.Y. Apr. 8, 2020); *Aldridge v. Governing Body of Jehovah's Witnesses*, No. 519063/2020, 2022 WL 17633010, at *1 (N.Y. Sup. Ct. Dec. 7, 2022); *Doe v. Yeshiva Univ.*, No. 950012/2020, 2022 WL 17585094, at *1 (N.Y. Sup. Ct. Dec. 9, 2022); *Rubin v. Poly Prep Country Day Sch.*, No. 501400/2020, 2023 WL 187905, at *1 (N.Y. Sup. Ct. Jan. 13, 2023); *Winecoff v. Seminary*, No. 950138/2019, 2023 WL 1439611, at *1 (N.Y. Sup. Ct. Jan. 30, 2023); *Sokola v. Weinstein*, No. 950250/2019, 2023 WL 1963908 (N.Y. Sup. Ct. Feb. 9, 2023); *Roe v. Poly Prep Country Day Sch.*, No. 527551/2019, 2023 WL 2265718, at *1–2 (N.Y. Sup. Ct. Feb. 28, 2023); *SR v. Gates Chili Bd. of Educ.*, 185 N.Y.S.3d 912, 923 (N.Y. Sup. Ct. 2023); *Furey v. St. Clements Roman Cath. Parish Church*, No. 514437/2020, 2023 WL 2760350, at *1 (N.Y. Sup. Ct. Mar. 23, 2023); *Montague v. Williams*, No. 21-CV-4054, 2023 WL 2710320, at *10 (E.D.N.Y. Mar. 30, 2023); *Poe v. Gerer Yeshiva & Mesivta Bais Yisroel, Inc.*, No. 500010/2021, 2022 WL 19329320, at *2 (N.Y. Sup. Ct. Oct. 6, 2022); *Barone v. Mary*, No. 502786/2021, 2023 WL 2933702, at *1 (N.Y. Sup. Ct. Apr. 12, 2023); *Elefant v. Yeshiva & Mestiva Torah Temimah, Inc.*, No. 504250/2020, 2023 WL 2933705, at *1 (N.Y. Sup. Ct. Apr. 12, 2023); *Brown v. Archdiocese of N.Y.*, No. 950670/2020, 2023 WL 3147175, at *1

Jurisdiction	Revival Law	Statute	Constitutional Challenge
North Carolina	2-Year Window (2019)	N.C. GEN. STAT. § 1-17; 2019 N.C. Laws S.L. 2019-245 (S.B. 199)	Challenge pending ⁴⁴
Northern Mariana Islands	Permanent Window (2021)	2021 N. Mar. I. Pub. L. No. 22-12 (HB 22-2, SDI)	Not challenged
Oregon	Age 40 Limit (2010)	OR. REV. STAT. § 12.117; 2009 Or. Laws Ch. 879 (H.B. 2827).	Not challenged
Rhode Island	Age 53 Limit (2019)	R.I. GEN. LAWS § 9-1-51; 2019 R.I. Adv. Legis. Serv. Ch. 19-83 (19-H 5171B).	Challenge pending ⁴⁵
Utah	3-Year Window & Age 53 Limit (2016)	UTAH CODE ANN. § 78B-2-308; 2016 Utah Laws Ch. 379 (H.B. 279)	Unconstitutional ⁴⁶
Vermont	Permanent Window (2019)	VT. STAT. ANN. tit. 12, § 522; 2019 Vt. Laws No. 37 (H. 330)	Constitutional ⁴⁷
West Virginia	Age 36 Limit (2020)	W.V. CODE §55-2-15; 2020 W.V. Laws Ch. 2 (H.B. 4559).	Not challenged

(N.Y. Sup. Ct. Apr. 27, 2023); *ARK287 Doe v. Archdiocese of N.Y.*, No. 950338/2020, 2023 WL 3094544, at *1 (N.Y. Sup. Ct. Apr. 24, 2023); *Engelman v. United Talmudical Acad. Torah V'Yirah Rabbinical, Inc.*, No. 511273/2020, 2023 WL 3337261, at *1 (N.Y. Sup. Ct. May 5, 2023); *Divers v. Roman Cath. Diocese of Brooklyn*, No. 518411/2020, 2023 WL 3505287, at *1 (N.Y. Sup. Ct. May 04, 2023); *Hernandez v. Church of the Most Holy Crucifix*, No. 950671/2021, 2023 WL 3480954, at *1 (N.Y. Sup. Ct. May 15, 2023).

⁴⁴ Rulings against the constitutionality of North Carolina's revival window are currently on appeal. See *Taylor v. Piney Grove Volunteer Fire & Rescue Dep't*, 20 CVS 13487, (N.C. Wake Cnty. Super. Ct. Dec. 20, 2021); *Mckinney v. Goins*, No. 21 CVS 7438, (N.C. Wake Cnty. Super. Ct. Dec. 20, 2021).

⁴⁵ *Edwardo v. Gelineau*, No. PC-2019-10530, 2020 WL 6260865, at *1 (R.I. Super. Ct. Oct. 16, 2020), *consol. appeal filed*, Nos. 2021-0032-A, 2021-0033-A, & 2021-0041-A (R.I. 2021).

⁴⁶ *Mitchell v. Roberts*, 469 P.3d 901, 903 (Utah 2020).

⁴⁷ *A.B. v. S.U.*, No. 22-AP-200, 2023 WL 3910756, at *5 (Vt. June 9, 2023).

Jurisdiction	Revival Law	Statute	Constitutional Challenge
Washington D.C.	2-Year Window (2019)	D.C. CODE § 12-301; 2018 D.C. Laws 22-311 (Act 22-593)	Constitutional ⁴⁸

Legislatures additionally recognize that the public interest in preventing those within institutions from enabling child sexual abuse is equally compelling as stopping the predators themselves. Indeed, other states have revived child sex abuse causes of action against institutions with language like that used by the Maine Legislature. *See* ARK. CODE ANN. § 16-118 (“Notwithstanding any other law . . . a vulnerable victim may bring a civil action against any party who committed sexual abuse against the vulnerable victim or whose tortious conduct caused the vulnerable victim to be a victim of sexual abuse”); CONN. GEN. STAT. § 52-577d (“action to recover damages for personal injury to a person under twenty-one years of age, including emotional distress, caused by sexual abuse, sexual exploitation or sexual assault may be brought by such person”); *Doe v. Boy Scouts of Am. Corp.*, 147 A.3d 104, 126 (Conn. 2016) (finding section 52-577d applies to actions against perpetrators and non-perpetrators); KAN. STAT. ANN. § 60-523(c) (2023) (“‘Childhood sexual abuse’ includes any act committed against the person which act

⁴⁸ *Bell-Kerr v. Baltimore-Washington Conference of the United Methodist Church*, No. 2021 CA.0013531B (D.C. Super. Ct.).

occurred when the person was under the age of 18 years and which act would have been a violation of any of the following”); LA. STAT. ANN. § 9:2800.9; 2022 La. Sess. Law Serv. Act, No. 386 (“It is the express intent of the legislature to revive . . . any cause of action related to sexual abuse of a minor that previously prescribed under any Louisiana prescriptive period”).

Maine courts have recognized the Legislature’s intent to address public policy interests when considering SOLs in other personal injury claims. Especially instructive is Maine’s history of asbestos litigation, where courts have consistently applied SOLs retroactively to allow injured plaintiffs to bring their claims. *See Bernier v. Raymark Indus.*, 516 A.2d 534, 541-44 (Me. 1986) (applying a strict liability statute to plaintiffs’ personal injury claims even though they inhaled the asbestos prior to the effective date of the statute, reasoning that, “The nature of the physical injuries in the instant case is different” because, “it can take anywhere from ten to forty years from the time of actual asbestos fiber inhalation for injuries or diseases, if any, to manifest themselves,” and as such the court concluded that “a judicially recognizable claim does not arise until there has been a manifestation of physical injury to a person, sufficient to cause him actual loss, damage, or suffering.”); *Norton v. C.P. Blouin, Inc.*, 511 A.2d 1056, 1060-61 (Me. 1986) (applying workers’ compensation statute retroactively where plaintiff became incapacitated due to asbestos inhalation prior to the effective date of the statute

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because “the harmful results of exposure to asbestos are not immediate,” and the “express language of the statute clearly reveals the Legislature’s intent that the substantive provisions of [the statute] apply retroactively to cases involving the onset of incapacity before the effective date,” and additionally holding that the retroactive application was not unconstitutional), *abrogated by DeMello v. Dept. of Env’t Prot.*, 611 A.2d 985 (Me. 1992) (finding *Norton* failed to properly interpret the statute at issue by focusing on “the distinction between procedural and substantive changes,” and determining the statute applied retroactively to claims “that accrued prior to the effective date of the [statutory] change” where the Legislature clearly intended that application).

An interpretation of the child sex abuse claim revival provision that ignores this history and prohibits survivors from bringing claims against institutions would undermine the clear intent of the Maine Legislature to address important public policy purposes. The Legislature’s purposeful judgment to enact a broad revival provision that gives victims with pre-2000 claims the opportunity to bring their abusers and their abuser’s enablers to justice should be given deference and interpreted as such by this Court.

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CONCLUSION

For these reasons, *amici* respectfully request this Court uphold the Business & Consumer Court's ruling and find that the claim revival provision is constitutional under the Maine State Constitution and that it applies to organizations including Defendant-Appellant.

Respectfully submitted,

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STATE OF MAINE

SUPREME JUDICIAL COURT
Sitting as the Law Court
Docket No. BCD-23-122

ROBERT E. DUPUIS, et al.,
Plaintiff-Appellees

v.

ROMAN CATHOLIC BISHOP OF
PORTLAND,
Defendant-Appellant.

**CERTIFICATE OF SIGNATURE
AND COMPLIANCE**

I am filing the electronic copy of a brief with this certificate. I will file the paper copies as required by M.R. App. P. 7A(i). I certify that I have prepared (or participated in preparing) the brief and that the brief and associated documents are filed in good faith, conform to the page or word limits set by Order of this Court (dated July 10, 2023), and conform to the form and formatting requirements of M.R. App. P. 7A(g).

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