

HISTORY OF CHILD SEX ABUSE STATUTES OF LIMITATION REFORM IN THE UNITED STATES

2002 TO 2021

CHILD USA

Senate Judiciary Committee

The Sean P. McIlmail Statute of Limitations Research Date: 3-23-23

Attachment: 14

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. McInnall Statute of Limitations Research Institute

© CHILD USA
February 2022



TO: Honorable Members of the Senate Committee on Judiciary

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

RE: SB317: Permitting a prosecution for child sexual abuse to be commenced at any time, extending the time to file civil actions for recovery of damages caused by childhood sexual abuse, and providing exceptions in the Kansas tort claims act for claims arising from such abuse

DATE: March 22, 2023

Dear Honorable Members of the Senate Committee on Judiciary,

Thank you for allowing us to submit testimony in support of SB317, which will amend the statutes of limitation (“SOLs”) for child sexual abuse (“CSA”). This legislation will not only bring long overdue justice to survivors, but it will also greatly reduce the present danger to children in Kansas 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 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.

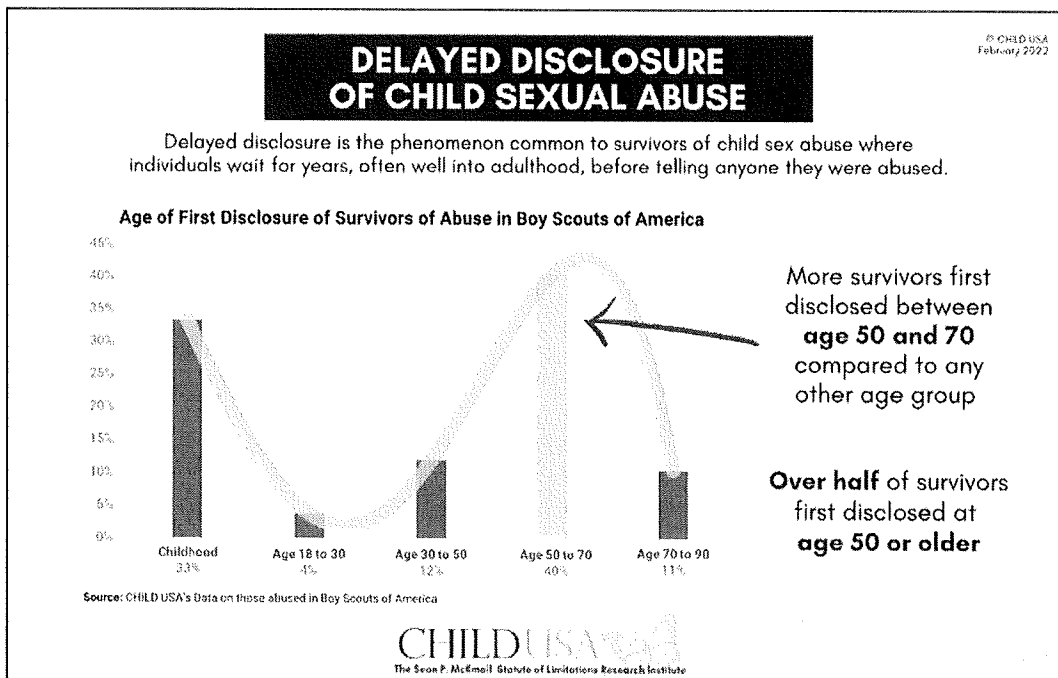


14-3

- 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 USAAdvocacy 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. McElmool Statute of Limitations Research Institute

© CHILD USA
February 2022

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 Kansas's children by identifying sexual predators in our midst. By extending and eliminating 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 Kansas.

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 Kansas 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 statute is passed, Kansas could gain millions of dollars in revenue from Medicaid reimbursements as a result of settlement funds and damages awards that survivors would 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. Kansas Should Join the National Trend Toward SOL Reform for CSA

The gold standard of the CSA SOL reform movement is for states to eliminate civil and criminal SOLs and revive expired civil claims—like Vermont, Maine, Guam, and NMI have already done. Kansas's SOLs currently block many CSA survivors from accessing justice.

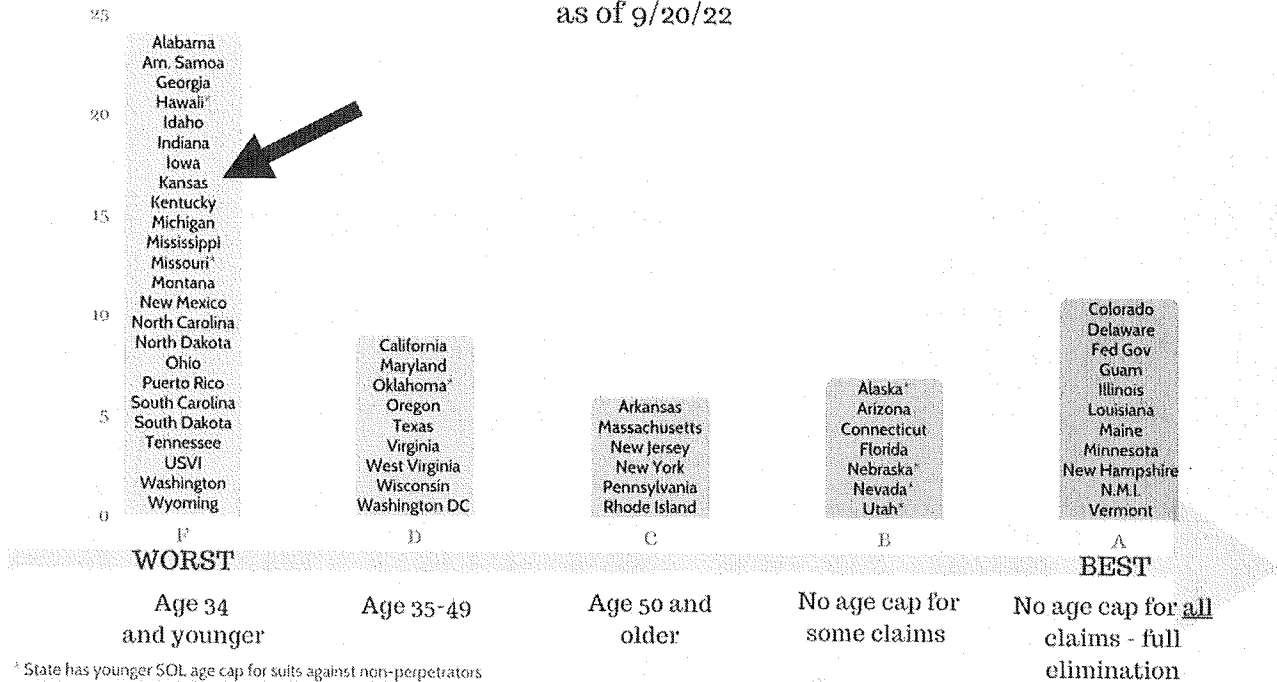
A. Kansas Should Eliminate Civil SOLs and Revive All Expired Claims

CHILD USA and CHILD USA Advocacy 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.”

Currently, Kansas’s civil SOL for claims against perpetrators expires when victims reach age 21 or 3 years after discovering their injuries. In contrast, as you can see in the graphic below, **seventeen states and territories, along with the federal government, have already abolished their age cap for many CSA claims.** SB317’s civil extension amendment would improve Kansas’s SOL significantly. It 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.

© CHILD USA

Civil SOL Age Cap Ranking as of 9/20/22



* State has younger SOL age cap for suits against non-perpetrators



There is only one way to restore justice to Kansas’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.

Kansas's current civil SOLs for CSA have helped few survivors and left most without meaningful recourse for their injuries. Many adult survivors are still shut out of the courts, and institutions that enabled rampant CSA have yet to be held accountable. State institutions in particular have been and continue to be immunized from liability by an archaic law that caps damages against them at \$500,000 for enabling sexual abuse of children.

The jurisdictions 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 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. This bill will incentivize youth serving organizations to implement prevention policies and take action to immediately report abuse in real time. A revival window sends a strong message that the state will not tolerate "passing the trash" or looking the other way when a person is raping or molesting a child in their midst.

A. Kansas Should Eliminate Criminal SOLs

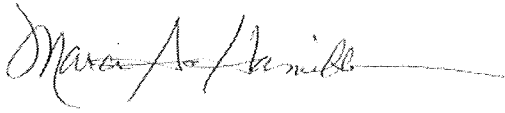
There should never be a limit on when the government can prosecute CSA crimes when they have sufficient evidence to file charges against a perpetrator. At this point, forty-four states and the federal government have eliminated the criminal SOLs for at least the most serious CSA crimes. There are even states, like Connecticut, that have no criminal SOL for prosecuting all felony and misdemeanor CSA crimes. Kansas is lagging behind, with SOL elimination only for felony rape and aggravated sodomy. Passing SB317, and removing the criminal SOL for CSA, trafficking, and child sexual abuse material claims, would be a step in the right direction for Kansas.

IV. Conclusion

With SB317, Kansas can remove many barriers to criminal and civil justice for survivors and make meaningful progress towards the gold standard for SOL reform. If passed, SB317 will give all survivors more 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 liability, the mere passage of time should never prevent survivors from accessing justice.

Once again, we commend you for supporting this legislation, which is desperately needed to validate adult survivors of CSA and protect Kansas children from preventable sexual abuse. Eliminating the criminal SOL, extending the civil SOL, and reviving some expired civil claims are positive steps for Kansas's children and families. For more information about statute of limitations 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,



Marci A. Hamilton, Esq.
Founder & CEO
CHILD USA
3508 Market Street, Suite 202
Philadelphia, PA 19104
mhamilton@childusa.org
(215) 539-1906



Kathryn Robb, Esq.
Executive Director
CHILD USA Advocacy
3508 Market Street, Suite 201
Philadelphia, PA 19104
krobb@childusadvocacy.org
(781) 856-7207