

TO: Representative Fred Patton, Chair
and members of the Committee on Judiciary

FROM: Marci Hamilton, CEO & Academic Director, CHILD USA; Robert A. Fox
Professor of Practice, University of Pennsylvania

RE: H.B. 2306, relating to limitations on actions; victims of childhood sexual abuse;
amending KSA 2018 Supp. 60-523 and repealing the existing section

DATE: February 10, 2020

Mr. Chairman, members of the Committee, my name is Professor Marci Hamilton. Thank you for asking me to submit testimony regarding H.B. 2306. I commend you and the Committee for taking up H.B. 2306, which would eliminate the statute of limitations for civil actions brought by victims of childhood sexual abuse. If passed, this legislation will make Kansas a leader in the fight to protect children's rights.

By way of introduction, I am the Founder, CEO, and Academic Director of CHILD USA, an interdisciplinary think tank dedicated to the prevention of child abuse and neglect at the University of Pennsylvania, where I am the Robert A. Fox Professor of Practice. I am the author of *Justice Denied: What America Must Do to Protect Its Children* (Cambridge University Press 2008, 2012), which makes the case for statute of limitations (SOL) reform in the child sex abuse arena, and the leading expert on the history and constitutionality of SOL reform.

CHILD USA is the national leading organization tracking national SOLs for child sex abuse and provides an analytical overview of statute of limitations reform for child sex abuse, as well as other cutting-edge issues related to child protection, at www.childusa.org/law.

Statutes of limitations (SOLs) are judicial housekeeping rules: they set the deadline for pressing criminal charges or filing a civil lawsuit. An SOL is an arbitrary and technical legal rule that has prevented victims from naming their perpetrators publicly for fear of retaliation and from obtaining justice.

There is a worldwide epidemic of child sex abuse, with at least one in four girls and one in six boys sexually assaulted before they turn 18. The vast majority of claims expire before the victims are capable of getting to court. This bill would protect the children of Kansas by making it possible for victims to come forward and identify their perpetrators in a court of law. It would also shift the cost of abuse from the victims to the ones who caused it and bring delayed, but still welcome, justice to these victims. SOL reform validates victims and puts perpetrators and institutions on notice that the state stands with the victims.

There are untold numbers of hidden child predators in Kansas who are preying on child after child because the existing SOLs provide that opportunity. By eliminating the SOL, both prospectively



and retroactively, access to justice for past and future victims will be available; this will also greatly reduce the present danger to Kansas's children.

There are three compelling public purposes served by child sex abuse statute of limitations reform:

- 1) SOL reform *identifies previously unknown child predators to the public so children will not be abused in the future;***
- 2) *It shifts the cost of abuse from the victims to the predators and those that hid them; and***
- 3) *It educates the public about the prevalence and harm from child sex abuse so that families and the legal system can protect victims more effectively.***

The net result is that society finally comes together to support the traumatized victims and heal itself. This is a vital step in the process toward children's civil rights, and human rights overall.

Historically, a wall of ignorance and secrecy has been constructed around child sex abuse, which has been reinforced by short SOLs that kept victims out of the legal system. Perpetrators and institutions have benefitted from short SOLs and until recently, most states have shut down most cases. That is a major reason we knew so little about the epidemic of sex abuse.

It is a medical fact that victims of child sex abuse often need decades to come forward. They are traumatized from the abuse, incapable of processing what happened to them, and often dependent on the adults who perpetrated or caused the abuse. Eliminating the civil SOLs for child sex abuse ensures that justice will be made available to more victims. Short SOLs for child sex abuse play into the hands of the perpetrators and the institutions that cover up for them and disable victims' voices and empowerment.

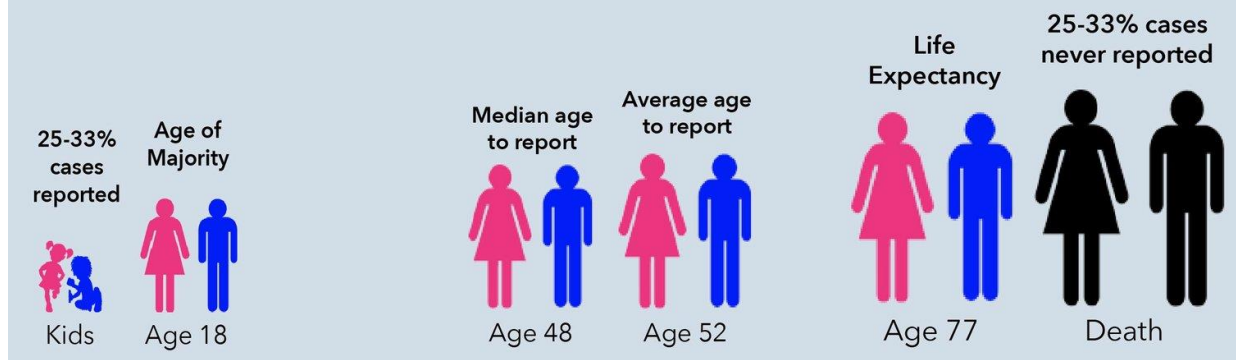
As the following graphic demonstrations, based on the best science, age 52 is the average age of disclosure for victims of child sex abuse.¹ Yet, until recently, many states blocked criminal charges and civil lawsuits well before age 52. By the time most victims were ready to come forward, the courthouse doors were locked, shutting victims out of justice.

¹ Delayed discovery studies available at *Delayed Disclosure of Child Sex Abuse*, CHILDUSA.ORG (last visited Feb. 9, 2020), available at www.childusa.org/delayed-disclosure.

DELAYED DISCLOSURE



Most child victims of sexual assault disclose, if they disclose at all, during adulthood, with a median age of 48 and an average age of 52.



Studies establish that child sex abuse survivors have an inherently difficult time coming forward. Yet, it is in society's interest to have sex abuse survivors identify hidden child predators to the public—whenever the survivor is ready.

Because of its lifelong effect on health and well-being that can erect high barriers to disclosure and the fact that many perpetrators pursue and assault children even in their elder years, childhood sexual abuse needs to be added to the list of laws that should not be subject to an SOL, like kidnapping, fraud and embezzlement, war crimes, treason, and murder in the United States.

There is a national and global movement for SOL reform. The trend is toward elimination of civil and criminal SOLs and the revival of expired civil claims. For an analysis of the SOL reform movement from 2002 through 2019, see CHILD USA's 2019 SOL Report.² 2019 was a banner year for SOL reform with 23 states and Washington D.C. improving their SOLs for child sex abuse.³ This year, Kansas is one of 26 states that are already considering SOL reform.⁴

² 2019 SOL Report, CHILDUSA.ORG (last visited Jan. 28, 2020), available at www.childusa.org/sol-report-2019.

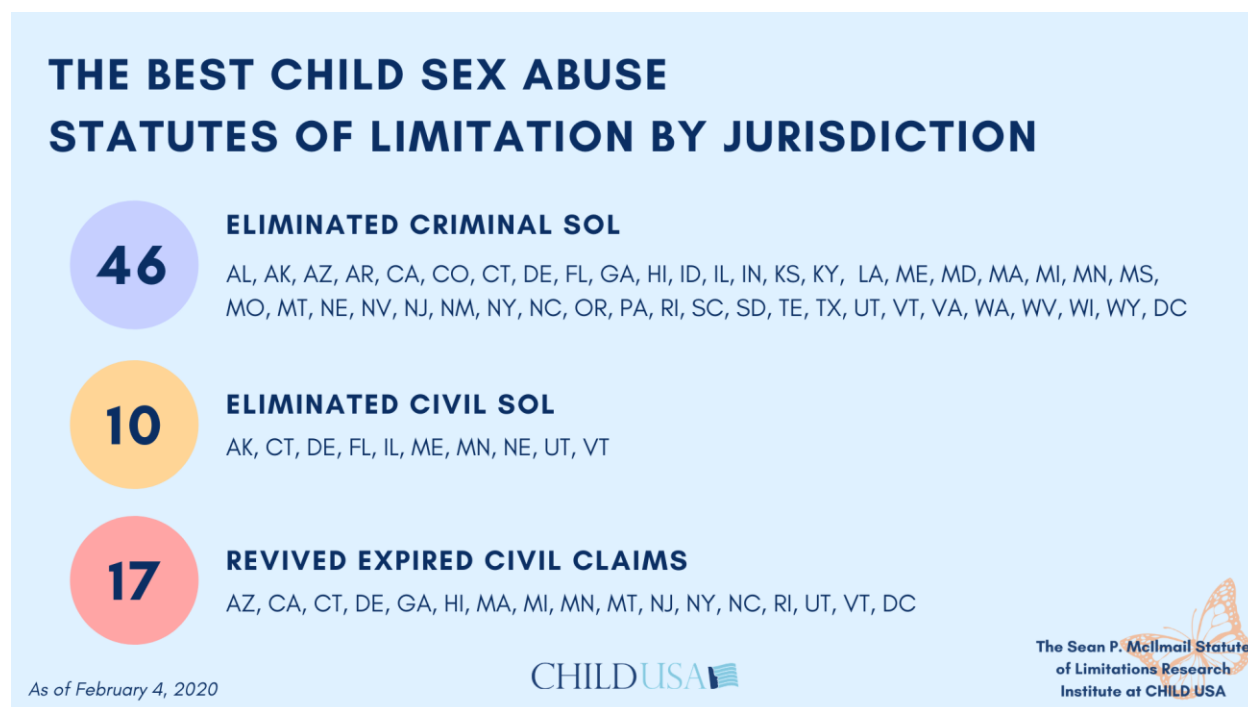
³ For more information on SOL reform in 2019, visit *2019 Summary of Child Sexual Abuse Statutes of Limitations (SOLs): Introduced, Signed into Law and State Laws by Category*, CHILDUSA.ORG (last visited Jan. 28, 2020), available at www.childusa.org/2019sol.

⁴ For the latest updates on the current landscape of SOL reform in 2020, see *2020 SOL Summary*, CHILDUSA.ORG (last visited Feb. 9, 2020), available at www.childusa.org/2020sol; *Current Laws for Child Protection*, CHILDUSA.ORG (last visited Jan. 28, 2020), available at www.childusa.org/law.

At this point, 10 states have eliminated civil SOLs for child sex abuse.⁵ Another 14 states have extended civil SOLs past 50 years of age.

Sixteen states and Washington D.C. enacted revival laws - which revive expired civil claims that had been blocked by unfairly short SOLs.⁶ The states that have revived expired civil SOLs have learned about hidden child predators while empowering victims. These revival laws do not yield a high number of cases,⁷ but provide long-overdue justice to older victims of child sex abuse.

The graphic below provides a national overview of SOL reform for child sex abuse and details the states that currently have the best criminal and civil SOL laws.



Vermont led the way for access to justice for child sex abuse victims in 2019, enacting a civil elimination and permanent revival window law similar to this legislation. In 2020, Kansas stands alongside 11 other states seeking to eliminate their civil SOLs and 13 states pursuing laws to revive expired civil claims.⁸

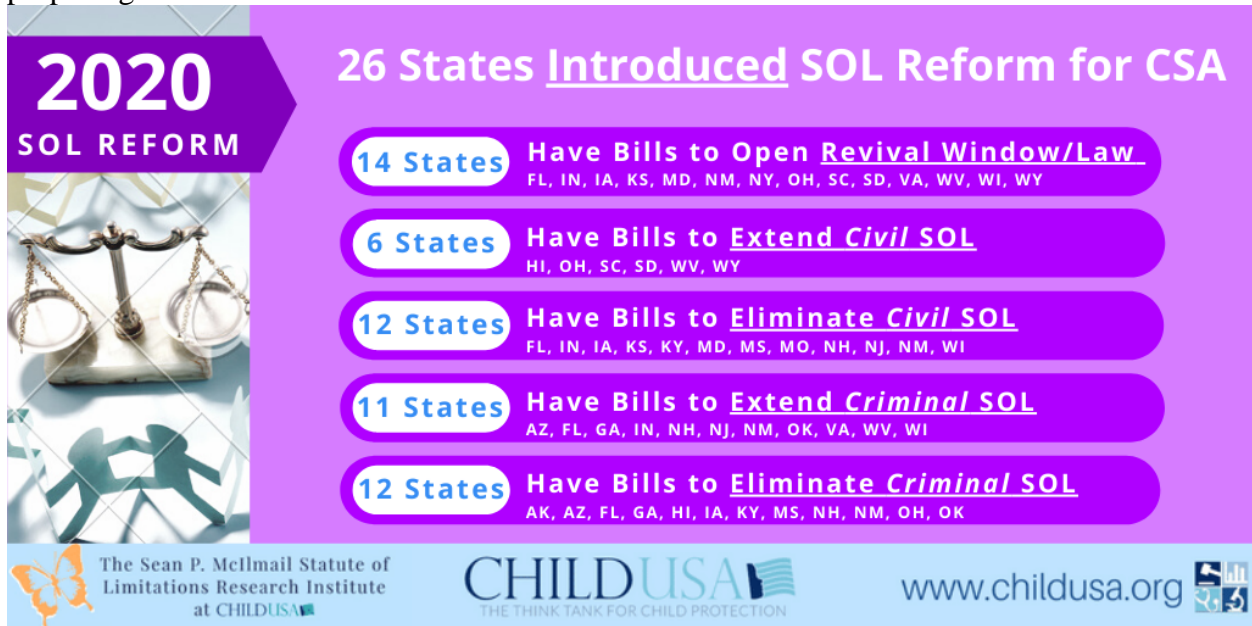
⁵ AK, CT, DE, FL, IL, ME, MN, NE, UT, and VT. For more information on civil SOL elimination, visit *Statute of Limitation (SOL) Reform by Jurisdiction: Who Has Done the Most for Victims of Child Sex Abuse?*, CHILDUSA.ORG (last visited Feb. 9, 2020), available at www.childusa.org/best-sols.

⁶ For more information on SOL revival, visit *Statute of Limitation (SOL) Reform by Jurisdiction: Who Has Done the Most for Victims of Child Sex Abuse?*, CHILDUSA.ORG (last visited Feb. 9, 2020), available at www.childusa.org/best-sols.

⁷ See *The Relative Success of Civil SOL Window and Revival Statutes State-by-State*, CHILDUSA.ORG (last visited Feb. 9, 2020), available at www.childusa.org/law.

⁸ See *2020 SOL Reform Activity*, CHILDUSA.ORG (last visited Feb. 9, 2020), available at www.childusa.org/2020sol.

The following graphic provides a summary of the 26 states, including Kansas, that have already introduced SOL reform legislation in 2020, with a breakdown of what type of reform each state is proposing.



The following graphics demonstrate Kansas ranks amongst other states regarding child sexual abuse statutes of limitation:







Once again, I commend you for supporting this legislation, which is desperately needed to help victims of childhood sexual abuse, and for taking up the cause of child sex abuse victims. Kansas's children deserve SOL reform to protect children today and into the future. Eliminating the civil SOL and reviving expired claims is a positive step for Kansas's children and families.

Please do not hesitate to contact me if you have questions regarding SOL reform or if I can be of assistance in any way on other child protection issues.

Sincerely,

Marci A. Hamilton
 Founder, CEO & Academic Director
 CHILD USA

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