



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

FROM: Kathryn Robb, Esq., Executive Director, CHILD USAAdvocacy

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 and members of the Committee, my name is Kathryn Robb. Thank you for allowing me to testify regarding H.B. 2306, which will increase access to justice for victims of childhood sexual abuse and enhance protection for Kansan children. Should this legislation be passed, it will place Kansas at the front of the national trend of increasing protection for children's rights.

By way of introduction, I am a survivor of childhood sexual abuse and the Executive Director of CHILD USAAdvocacy, a 501(c)(4) advocacy organization dedicated to protecting children's civil liberties and keeping children safe from abuse and neglect. CHILD USAAdvocacy draws on the combined expertise of the nation's leading experts and child advocates, specifically our sister organization and national think tank, CHILD USA (www.childusa.org), who advocates for child protection and better laws, including statutes of limitations (SOLs), through legal, social science, and medical research.

I commend you and the Committee for taking up H.B. 2306, which will eliminate the SOL for civil claims based on child sex abuse and open a permanent window during which all claims, previously time barred by the prior SOL, will be revived. This will allow all past, present, and future victims of child sex abuse to come forward and pursue civil justice, when they are ready. This will also greatly reduce the present danger to children in Kansas by educating the public about child sex abuse and exposing previously unknown predators. There is an epidemic of child sexual abuse. Changing the law surrounding the issue will push Kansas forward into a better future and in line with the national trend.¹

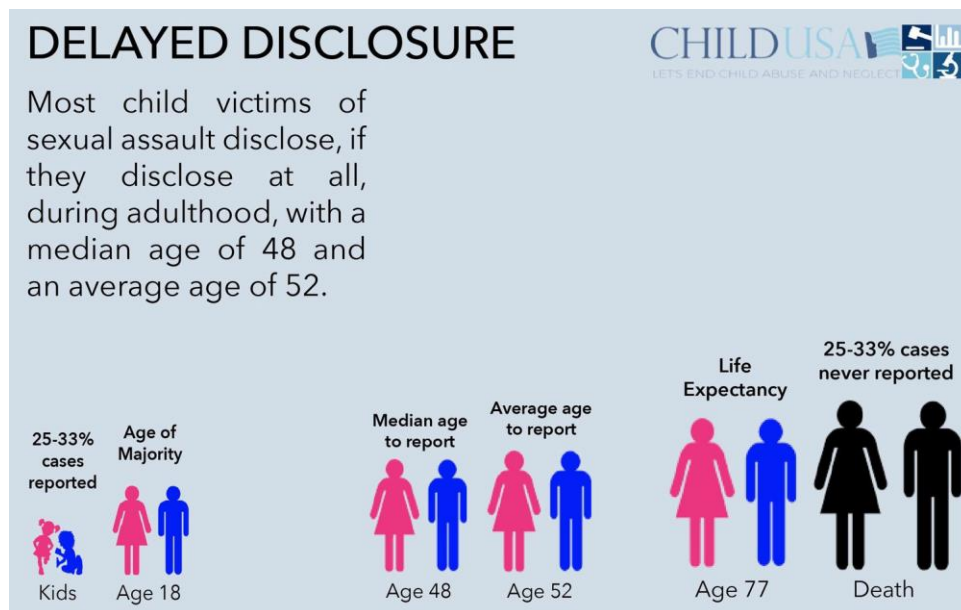
Kansas law currently provides that a claim for injury suffered as a result of childhood sexual abuse may be commenced within the later of age 21 or 3 years after the victim discovers or reasonably should have discovered that their injury or illness was caused by the abuse.² This civil SOL dates to 1992 and is one of the shortest in the nation.

¹ See *Testimony of CHILD USA* for graphics on national trends.

² KAN. STAT. ANN. § 60-523(a).



One in four girls and one in six boys are sexually assaulted or abused before their 18th birthday.³ Due to the arbitrary housekeeping rules that are SOLs, a significant majority of claims expire before a victim is capable of going to court. Of victims, approximately one-third disclose they have been abused. The average age of such disclosure, if it occurs at all, is 52 years of age.⁴ Until recently, most states had in place both criminal and civil SOLs blocking claims significantly before age 52. By the time most victims were ready to attempt to seek legal justice, the courthouse doors were already closed, effectively telling victims they did not deserve justice.



Research has consistently established that victims of child sexual abuse experience significant difficulty in coming forward about the abuses they survived. Survivors of childhood sexual abuse in particular are frequently unable to process the abuse they were victim to, are traumatized from such abuse, and are often dependent on those adults who perpetrated the abuse. Perpetrators often use grooming techniques to disguise the abuse they inflict on their child victims, such as painting the abuse as a game in the mind of the child, buying them things they want as “reward” for enduring the acts, or making the child think these abusive acts are acts of love. Without the social awareness that comes with age, children often do not realize this is abuse until much later in life. As well, the trauma of abuse often leads to significant disability, including post-traumatic stress disorder, depression, anxiety, substance abuse, and other physical and psychological disabilities.

Abuse survivors also face significant societal pressures which discourage disclosure, such as shame and a lack of people believing them. Adults inherently prefer adults and will seek to protect

³ See Linda Lowen, *The Cold Hard Facts on Child Sexual Abuse*, THOUGHTCO.COM (Oct. 6, 2019) (last visited Feb. 10, 2020), available at <https://www.thoughtco.com/facts-about-child-sexual-abuse-statistics-3533871>.

⁴ Source: www.childusa.org/sol; Delayed discovery studies available at *Delayed Disclosure of Child Sex Abuse*, CHILDUSA.ORG (last visited Feb. 10, 2020), available at www.childusa.org/delayed-disclosure.

them over children. Looking for instance at the Weinstein trial currently going on, even if it did not necessarily involve child abuse, it is clear how society paints victims in a unfavorable light, by saying they should not have put themselves in a position to be assaulted. Sex abuse is nasty; people do not like to think it happens, especially not as regularly as it does. By painting the victim as the cause, it creates a cognitive dissonance whereby the perpetrator is not at fault, but the victim, allowing onlookers to feel better about the world they live in and ignore the issues plaguing society.

Historically, a wall of ignorance and secrecy has kept child sex abuse hidden, which is reinforced by short SOLs. Perpetrators and institutions benefit from short SOLs and until, recently, most states shut down most cases, a major reason we have known so little about the epidemic until recently. There are lifelong effects on the health and well-being of victims that erect high barriers to disclosure, and the fact that many perpetrators pursue and assault children well into their elder years, childhood sexual abuse needs to be added to the list of laws that are not subject to SOLs, like kidnapping, fraud and embezzlement, war crimes, treason, and murder in the United States.

There is a national movement for SOL reform, as more and more states recognize the realities of delayed disclosure of child sex abuse and eliminate or extend the SOLs for criminal and civil claims. Specifically, ten states have eliminated the civil SOLs for child sex abuse, including Arkansas, Connecticut, Delaware, Florida, Illinois, Maine, Minnesota, Nebraska, Utah, and Vermont.⁵ Another 14 states have extended the civil SOL past the age of 50 for victims. While the Kansas criminal SOL is among the better in the nation, with rape having no criminal SOL⁶, this is not nearly enough. Providing victims access to civil court allows them to seek personal justice, on behalf of themselves, rather than criminal justice, which more often than not does not lead to prosecution and prison time. In statistics from the Department of Justice, only 9 of every 1,000 sexual assault allegations are referred to prosecution.⁷ By providing victims access to the civil justice system, they are more likely able to receive the justice they deserve.

As well as providing already-existing victims of abuse a path to justice, SOL reform also protects society at large. By allowing past-expired claims to be brought to court, hidden predators are brought into the light and are prevented from further abusing more children. Given the ways in which abuse impacts children into their adult lives, preventing further abuse only serves to help society – by reducing the costs of healthcare for victims, allowing more healthy people into the work force, and increasing the ability of children to grow into healthy adults. SOL reform also further educates the public about the costs of child sexual abuse. By shedding light on the problem, parents and others are better able to identify abusers and prevent further abuse. They are also able to better educate their children to be aware of the signs and create more social awareness as to what is and is not abusive behavior, thereby further protecting their children.

SOL reform validates victims and shifts the cost of abuse to the perpetrators and enabling institutions, placing them on notice that the state no longer stands with them – but with their

⁵ See *Child Sex Abuse Statute of Limitations Reform from January 2002 to December 2019*, CHILDUSA.ORG (Dec. 4, 2019) (last visited Feb. 10, 2019), available at <https://www.childusa.org/sol-report-2019>,

⁶ KAN. STAT. ANN. § 21-5107(a).

⁷ See RAINN, *The Criminal Justice System: Statistics*, (last visited Feb. 10, 2020), available at <https://www.rainn.org/statistics/criminal-justice-system> for full citations and further statistics.

victims. In 2019 alone, eight states and Washington, D.C. opened or extended windows or revival laws for civil SOLs, including: Arizona, California, Montana, New Jersey, New York, North Carolina, Rhode Island, and Vermont.⁸ There are already 26 states, including Kansas, that have introduced legislation for SOL reform in 2020, and that number only continues to climb.⁹ By passing H.B. 2306, Kansas will join the growing flood of states in acknowledging that access to justice for victims will make the children of Kansas safer.

In summary, there are three compelling public purposes served by child sex abuse statute of limitations reform: 1) SOL reform allows identification of previously unknown child predators to the public, preventing further abuse; 2) It shifts the cost of abuse from the victims to the predators and those that hid them, rather than forcing children to sustain the costs themselves, unjustly; and 3) It educates the public about the prevalence and harm caused by child sex abuse, so that families and others can protect victims, not perpetrators.

Challenges to revival legislation often require courts to identify the intent of the legislature when passing a bill into law. I recommend the following additions to H.B. 2306 for clarity of legislative intent:

- 1) The addition of "shall hereby be revived" after "1992" (at page 2, line 13).
- 2) The addition of "against a perpetrator, individual, private entity or the government" after "commenced" (at page 1, line 8).

I again commend you for taking up this issue head-on. Thank you for supporting this important legislation which will help protect Kansas's children from child predators and offer a long overdue opportunity for justice to victims of child sex abuse in this state.

Please do not hesitate to contact me if you have any questions or if I can help with this legislation in any other way.

Sincerely,

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⁸ See *Nine New SOL Windows or Revival Laws in 2019*, childusa.org (2019) (last visited Feb. 10, 2020), available at <https://static1.squarespace.com/static/5a120b962aeba581dd692cd4/t/5e1aa02c89643863811fe858/1578803246242/Revival+Law+Openings+1.12.20+FINAL.png>.

⁹ *2020 SOL Summary: Nat'l Overview of Statutes of Limitation (SOLs) for Child Sex Abuse*, CHILDUSA.ORG Part I.C. (last visited Feb. 10, 2020), available at <https://www.childusa.org/2020sol>.