

# CHILD USA

THE THINK TANK FOR CHILD PROTECTION

**TO:** Senator Winfield, Representative Stafstrom, Senator Kissel, Representative Rebinbas, and members of the Judiciary Committee

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

**DATE:** March 29, 2019

**RE:** Connecticut Senate Bill 3, Time's Up Act

I commend you and the Committee for taking steps forward in child protection by moving to eliminate the statute of limitations for civil actions brought by minor victims of sexual offenses and revive expired civil statutes of limitations ("SOL") for the sexual abuse of children for two years. If passed, it will put Connecticut firmly at the forefront of child protection.

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 reform in the child sex abuse arena, and the leading expert on the history and constitutionality of SOL reform. CHILD USA is the leading organization tracking the 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](http://www.childusa.org/law).

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. By making it possible for victims to come forward and identify their perpetrators in a court of law children are safer. Shifting the cost of abuse from the victims to the ones who caused the abuse brings delayed, but still welcome, justice to victims. SOL Reform validates victims and puts perpetrators and institutions on notice that the state stands with the victims.

Statutes of limitations or 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 are untold numbers of hidden child predators in Connecticut who are preying on one child after another because the existing SOLs provide that opportunity for predators. Eliminating the civil SOL prospectively and creating a revival window so victims from the past are not shut out of justice, greatly reduces the present danger to 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 gives child sex abuse survivors access to justice; 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.**

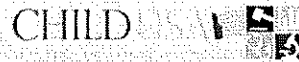
The net result is that the society as a whole comes together to support the traumatized victims and to heal itself. This is a vital step in the process toward children's civil rights and human rights overall.

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. Therefore, 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.

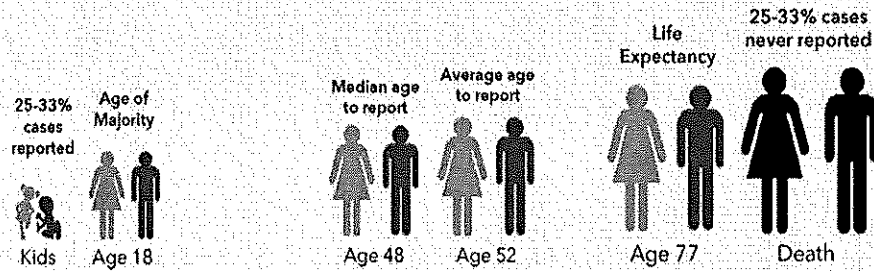
Historically a wall of ignorance and secrecy has been constructed around child sex abuse, which has been reinforced by short SOLs that kept victims out of the legal system. Perpetrators and institutions have benefitted from short SOLs and until recently, most states have shut down most cases. That is a major reason we knew so little about the epidemic of sex abuse. Based on the best science, 52 is the average age of disclosure for victims of child sex abuse. Yet, until recently, many states blocked criminal charges and civil lawsuits well before age 52.

Currently, Connecticut law caps the civil SOL at 1 or 5 years after the sexual assault for certain crimes, at age 48 (the age of majority, 18, plus 30 years) for certain crimes, or no SOL at all for aggravated sexual assault of a minor. As the following graphic demonstrates, the average age for disclosure of child sex abuse is age 52 and the median age is 48. 48 is below the average age of disclosure for victims of child sex abuse, and 1 to 5 years after the abuse may be well below both the median and average ages, meaning that a majority of Connecticut's victims have been shut out of justice. By the time many victims are ready to come forward, the courthouse doors are locked. Prospective elimination of the civil SOL for victims of child sex abuse dramatically increases access to justice for victims.

## 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. Dozens of states have considered and passed significant SOL reform. The trend is toward elimination of civil and criminal SOLs and the revival of expired civil SOLs. Every year, SOL reform moves forward. For an analysis from 2002 through 2018, see CHILD USA's 2018 SOL Report at <https://www.childusa.org/sol-report-july-2018>.

At this point, 41 jurisdictions, including the Federal Government and Connecticut, have eliminated the criminal SOLs for at least the most serious child sex abuse crimes. Ten states and Washington DC have enacted SOL revival legislation—this legislation revives the expired SOL for a set period of time.<sup>1</sup> The states that have revived expired civil SOLs have learned about hidden child predators while empowering victims. These revival windows help to identify many previously unidentified perpetrators, making the state safer. In California, during 2003 when the civil SOL was revived, 300 predators were identified to the public that had not been identified before. SB 3 would create a twenty-seven month lookback window, reviving expired SOLs for victims who were previously unable to file a claim against a perpetrator due to a procedural deadline.

<sup>1</sup> California, 1-year window (2003); Connecticut, revival to age 48 (2010); Delaware, 2-year revival window,

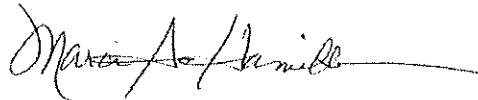
Some states have attempted to revive expired criminal SOLs but the United States Supreme Court, in a very close decision, held that it is unconstitutional to revive an expired criminal SOL (1993). Therefore, for the victim whose criminal SOL has expired, the only option is to file a civil lawsuit. Civil revival is constitutional. Connecticut is a leader on this front, determining in *Doe v. Hartford Roman Catholic Diocesan Corp.*, that a civil revival window for a victim of child sexual abuse did not violate the Connecticut Constitution. 119 A.3d 462 (Conn., 2105). Neighboring Massachusetts reached the same conclusion in *Sliney v. Previte*, 471 Mass. 1101 (2015).

Statutes of limitations reform legislation does not target any particular perpetrator or organization. Enabling claims to proceed against a responsible institution is essential to the quest for justice for victims, and I commend Connecticut for recognizing the central importance of holding institutions accountable for their role in covering up childhood sexual abuse. Prospective elimination of the statute of limitations and the enactment of a 27-month lookback window in cases arising out of child sex abuse is a decisive step forward for Connecticut's children and families.

Once again, I commend you for your commitment to help victims of childhood sexual abuse, and for taking up the cause of child sex abuse victims. Connecticut's children deserve SOL reform to protect children today and into the future.

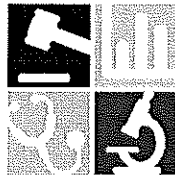
Please do not hesitate to contact me if you have questions regarding SOL reform or if I can be of assistance in any way on other child protection issues.

Sincerely,



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