

LD 1790



TO: Honorable Members of the Joint Judiciary Committee

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

RE: SP 715, eliminating criminal and civil statutes of limitation for certain sexual offenses against minors

DATE: May 9, 2023

Dear Honorable Members of the Joint Judiciary Committee,

Thank you for allowing us to submit testimony in support of SP 715, which will eliminate 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 Maine 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 18.¹ 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.²

The trauma stemming from CSA is complex and individualized, and it impacts victims throughout their lifetimes.³

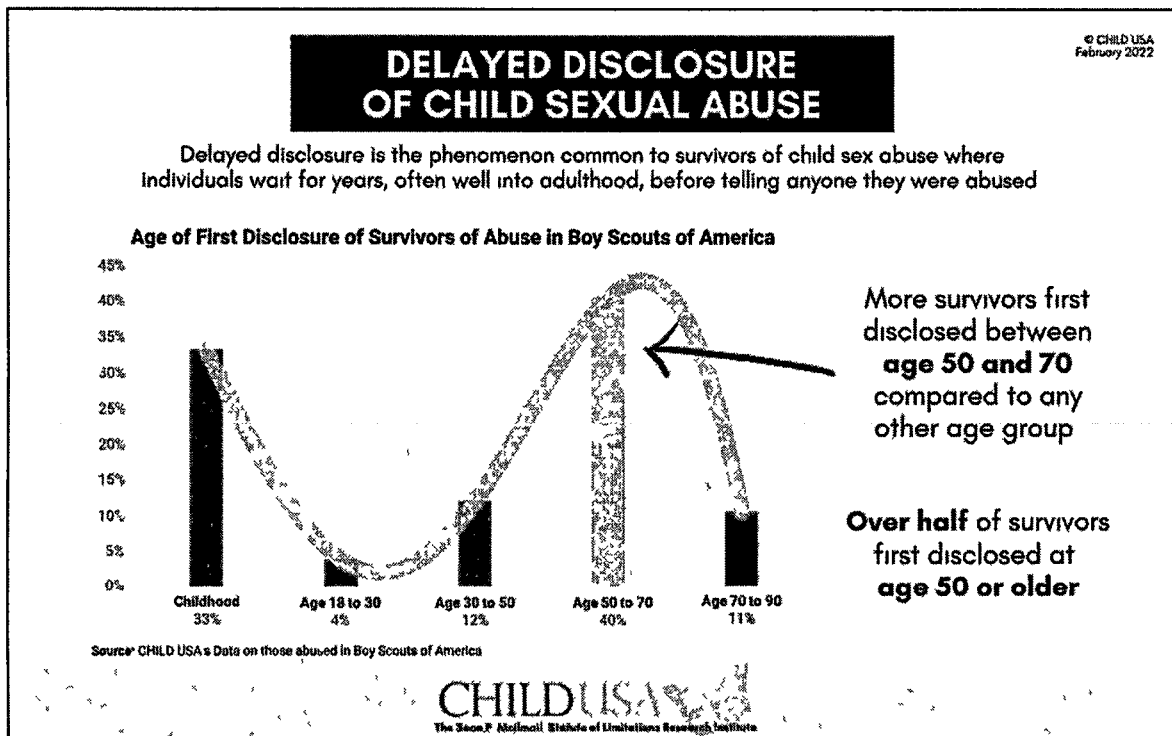
- Childhood trauma, including CSA, can have **devastating impacts on a child’s brain**,⁴ including disrupted neurodevelopment, impaired social, emotional, and cognitive development, psychiatric and physical disease, such as post-traumatic stress disorder (PTSD)⁵, and disability.⁶



- 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 ⁷
- 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 ⁸

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 ⁹. 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 ¹⁰. 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**

- An estimated 70% of child sexual assault victims **never contact police** to report abuse
- **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 ¹¹ 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 USA Advocacy 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 ¹² **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. McInnis Statute of Limitations Research Institute

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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.¹³ SOL reform helps protect Maine's children by identifying sexual predators in our midst. By eliminating and reviving 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 Maine.

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.¹⁴

It is unfair for the victims, their families, and Maine 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.

B. 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.¹⁵ 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.

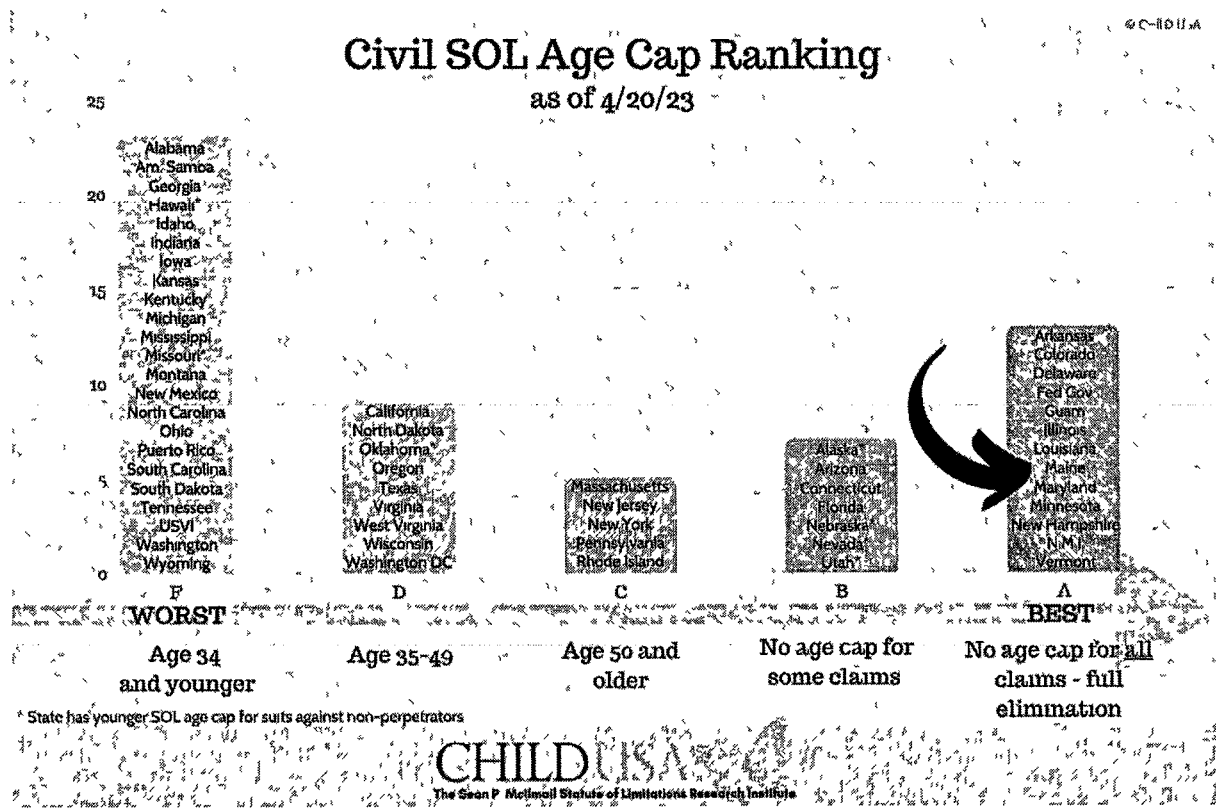
III. Maine Should Join the National Trend Toward SOL Reform for CSA

Maine is among jurisdictions who set the gold standard of the SOL reform movement for CSA as for states to eliminate civil and criminal SOLs and revive expired civil claims—along with Vermont, Guam, and NMI. Maine has made tremendous progress and is already amongst the two-dozen states across the U.S. and three territories have revival laws giving survivors an opportunity to file claims for decades old abuse that were blocked by short SOLs.

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 ”

A. Maine Should Eliminate Civil SOLs for All Sexual Offenses Against Children

Currently, Maine’s has no civil SOL for most claims for sexual offenses against children, and SP 715 will expand the list of offenses to which this applies to include incest, sexual assault, and sexual exploitation of minors As shown in the graphic below, **Maine’s civil SOL ranks among the best in the country**



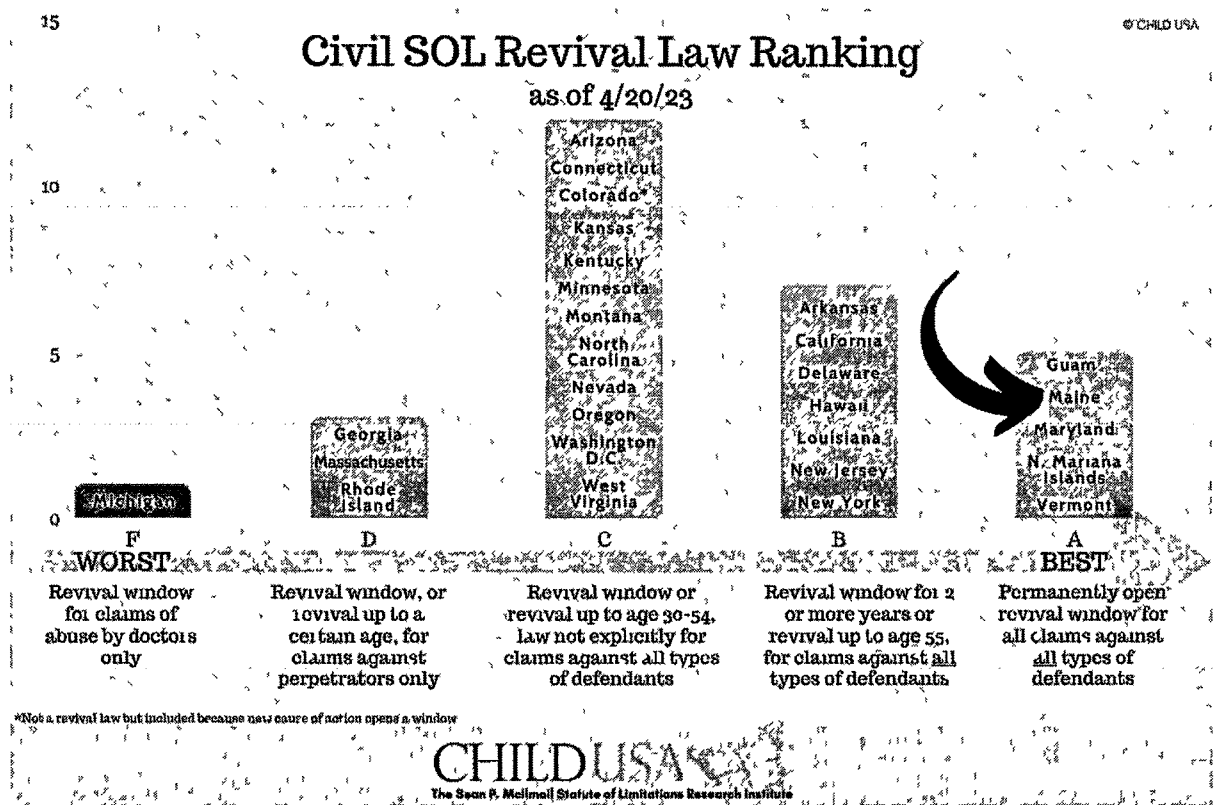
This bill’s inclusion of similar sexual offenses for which Maine has already eliminated the civil SOL would improve Maine’s SOL significantly It is in line with the recent federal changes and the overall trend to give older victims more time to come forward in accordance with the delayed disclosure of abuse science

B. Maine Should Revive All Expired Claims for All Sexual Offenses Against Children

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

Maine currently has no civil SOL for most sexual offenses against children, and SP 715 will expand that list to include similar offenses which have been previously excluded from Maine’s gold standard protection for children.

As you can see in the graphic below, Maine’s revival law is among the best in the country because it revives all claims.



The jurisdictions that have revived expired civil SOLs more broadly 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

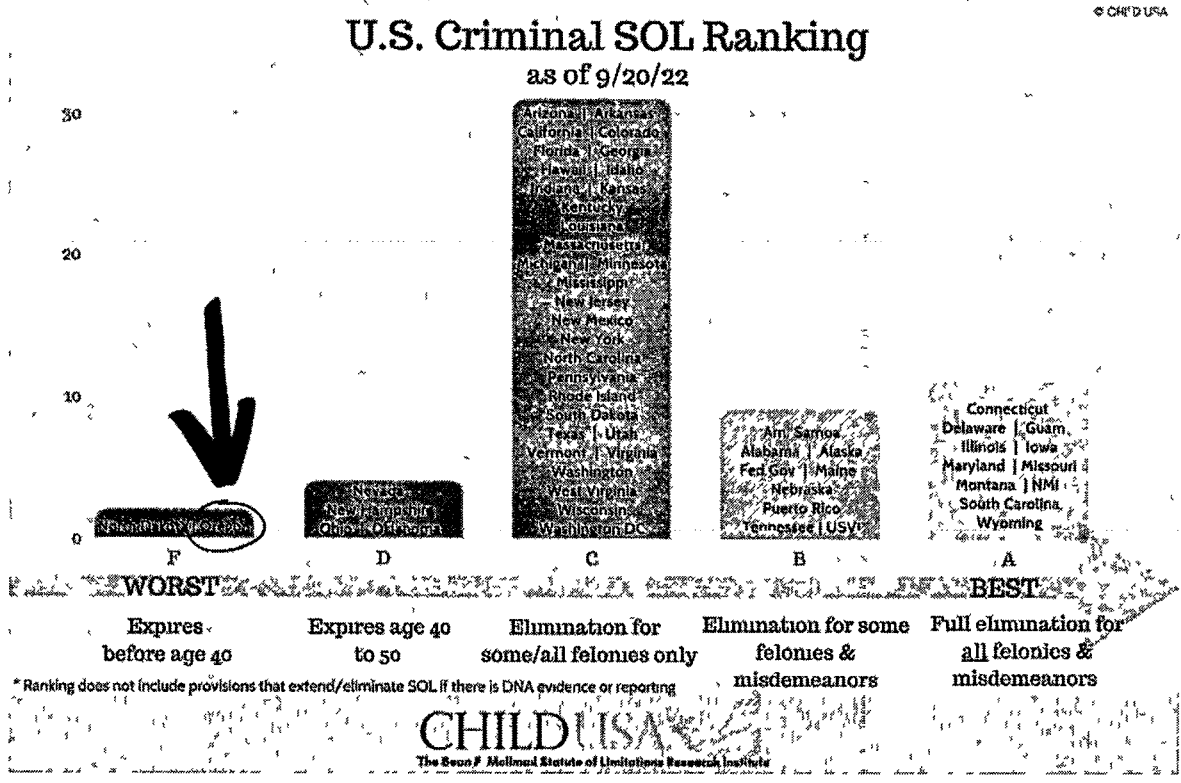
take action to immediately report abuse and safeguard victims and other children. A revival window sends a strong message that the state will not tolerate “passing the trash” or looking the other way when a person is raping or molesting a child in their midst.

With SP 715, Maine can remove all barriers to civil justice for survivors and maintain the gold standard for SOL reform. If passed, Maine will uphold its reputation as a national leader, along with Vermont, and the U.S. territories of Guam and the Northern Mariana Islands, who also revived all expired claims—allowing all CSA survivors to file claims for abuse whenever they are ready and no matter how long ago they were abused. SP 715 will give all survivors the time they need 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 civil liability, the mere passage of time should never prevent survivors from accessing justice.

C. Maine Should Eliminate Criminal SOLs

Currently, Maine has no time limit for the State to initiate criminal proceedings against the abuser for many sexual offenses against children. Typically, the criminal SOL for most CSA crimes is when the survivor turns 30, except for some cases where the perpetrator is identified by DNA evidence, in which case there is no SOL. According to the accompanying chart, **Maine is approaching the gold standard, and for criminal SOLs, and SP 715 will help to achieve it.**

In contrast, an overwhelming majority of U.S. states, including 44 states and 5 territories, as well as the Federal Government, have eliminated their criminal SOL for prosecuting some types of CSA offenses. Some states, such as Montana and Missouri, have gone further and eliminated criminal SOLs for *all* CSA offenses. States and territories that maintain age limitations preventing the prosecution of CSA crimes are not in line with the latest scientific evidence and the profound impact of the trauma caused by CSA. These criminal SOLs continue to represent a significant barrier to justice for survivors and an impediment to holding perpetrators accountable and preventing sexual abuse.



There should never be a time limit on when the government ought to be able to prosecute CSA crimes when they possess substantial evidence to charge an offender. The scientific and empirical evidence overwhelmingly support the need to provide CSA victims seeking to bring their perpetrators to justice more time to come forward. Short SOLs keep the public in the dark as to the identities of individuals who pose an ongoing and significant risk to our children. This proposed legislation is a step in the right direction towards justice for victims and the protection of children.

IV. Conclusion

Once again, we commend you for supporting this legislation, which is desperately needed to validate adult survivors of CSA and protect Maine’s children from preventable sexual abuse. Expanding the list of offenses for which Maine’s gold-standard civil and criminal SOLs apply is a positive step for Maine’s children and families. For more information about SOL 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,

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¹ 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) (finding a 20.4% prevalence rate of CSA among North American girls), M Stoltenborgh, et al, *A Global Perspective on Child Sexual Abuse Meta-Analysis of Prevalence Around the World*, 16(2) CHILD MALTREATMENT 79 (2011) (finding a 20.1% prevalence rate of CSA among North American girls), 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) (finding a 7.5% and 25.3% prevalence rate of CSA among North American boys and girls respectively)

² Perpetrators often being parents, stepparents, siblings, and grandparents Sarah E Ullman, *Relationship to Perpetrator, Disclosure, Social Reactions, and PTSD Symptoms in Child Sexual Abuse Survivors*, 16 J CHILD SEX ABUSE 19 (2007), David Finkelhor & Anne Shattuck, *Characteristics of Crimes Against Juveniles*, University of New Hampshire, Crimes Against Children Research Center (2012), available at http://www.unh.edu/ccrc/pdf/CV26_Revised%20Characteristics%20of%20Crimes%20against%20Juveniles_5-2-12.pdf

³ B A van der Kolk, *The Body Keeps the Score Memory & the Evolving Psychobiology of Posttraumatic Stress*, 1(5) HARVARD REV OF PSYCHIATRY 253-65 (1994), see also Hoskell, L & Randall, M, *The Impact of Trauma on Adult Sexual Assault Victims*, JUSTICE CANADA (2019), https://www.justice.gc.ca/eng/rp-pr/jr/trauma/trauma_eng.pdf

⁴ As explained by the Center for Disease Control, “Adverse Childhood Experiences” (“ACEs”), like CSA, “have a tremendous impact on future violence victimization and perpetration, and lifelong health and opportunity” Vincent J Felitti et al, *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults The Adverse Childhood Experiences (ACE) Study*, 14(4) AM J PREV MED 245 (1998), S R Dube et al, *Childhood Abuse, Household Dysfunction, and the Risk of Attempted Suicide Throughout the Life Span Findings from the Adverse Childhood Experiences Study*, 286 JAMA 24, 3089 (Dec 2001)

⁵ Josie Spataro et al, *Impact of Child Sexual Abuse on Mental Health Prospective Study in Males and Females*, 184 Br J Psychiatry 416 (2004)

⁶ See Felitti, at 245–58, see also R. Anda, et al, *The Enduring Effects of Abuse and Related Adverse Experiences in Childhood*, 256 EUR ARCH PSYCHIATRY CLIN NEUROSCIENCE 174, 175 (Nov 2005) (“Numerous studies have established that childhood stressors such as abuse or witnessing domestic violence can lead to a variety of negative health outcomes and behaviors, such as substance abuse, suicide attempts, and depressive disorders”), M Merricka, et al, *Unpacking the impact of adverse childhood experiences on adult mental health*, 69 CHILD ABUSE & NEGLECT 10 (July 2017), see also Sachs-Ericsson, et al, *A Review of Childhood Abuse, Health, and Pain-Related Problems The Role of Psychiatric Disorders and Current Life Stress*, 10(2) J TRAUMA & DISSOCIATION 170, 171 (2009) (adult survivors are thirty percent more likely to develop serious medical conditions such as cancer, diabetes, high blood pressure, stroke, and heart disease), T L Simpson, et al, *Concomitance between childhood sexual and physical abuse and substance use problems A review*, 22 CLINICAL PSYCHOL REV 27 (2002) (adult survivors of CSA are nearly three times as likely to report substance abuse problems than their non-survivor peers)

⁷ Beth E Molnar et al, *Psychopathology, Childhood Sexual Abuse and other Childhood Adversities Relative Links to Subsequent Suicidal Behaviour in the US*, 31 PSYCHOL MED 965 (2001)

⁸ Shanta R Dube et al, *Long-Term Consequences of Childhood Sexual Abuse by Gender of Victim*, 28 AM J PREV MED 430, 434 (2005)

⁹ Delphine Collin-Vezina et al, *A Preliminary Mapping of Individual, Relational, and Social Factors that Impede Disclosure of Childhood Sexual Abuse*, 43 CHILD ABUSE NEGL 123 (2015)

¹⁰ 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)

¹¹ Often, this happens in the context of therapy, sometimes it is triggered many years after the abuse by an event the victim associates with the abuse, other times it happens gradually or over time as a victim recovers their memory Hoskell, at 24

¹² For an analysis of the SOL reform movement since 2002, see CHILD USA, *History of US SOL Reform 2002-2020*, CHILDUSA.ORG (last visited Aug 30, 2021), available at www.childusa.org/sol-report-2020

¹³ Michelle Elliott et al, *Child Sexual Abuse Prevention What Offenders Tell Us*, 19 CHILD ABUSE NEGL 579 (1995)

¹⁴ Elizabeth J Letourneau et al, *The Economic Burden of Child Sexual Abuse in the United States*, 79 CHILD ABUSE NEGL 413 (2018)

¹⁵ E.g., Netflix's *Jeffrey Epstein Filthy Rich*, HBO's *At the Heart of Gold Inside the USA Gymnastics Scandal*