

Child Sex Abuse Statute of Limitations Reform in the Wake of the Boston Archdiocese Clergy Sex Abuse Scandal January 2002

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INTRODUCTION*

The *Boston Globe's* groundbreaking Spotlight series on clergy sex abuse in the Boston Archdiocese, which was published in January 2002,¹ led to one award after another—from Pulitzer Awards to an Academy Award for the Best Picture of the Year.² There is little question that the series was a towering journalistic accomplishment. It was also a turning point in the history of child protection as the public was shown the paradigm of sex abuse in a trusted institution by an equally-trusted news source. It was the first public introduction of the broad themes of institution-based child sex abuse: powerful men motivated by image and self-preservation; studied or real ignorance of the clear risks to children; and protection of the abusers within the institution rather than the child victims. While those in power dithered and/or ignored the horror in plain sight, the perpetrators were permitted latitude to abuse countless children. The story was picked up across the country and clergy sex abuse developments—there and elsewhere—became standard content in the headlines in the United States and abroad.

The Catholic bishops' recklessness appeared so brazen that, at first, some people believed the problem had to be limited to the Boston Archdiocese. For example, Sen. Rick Santorum blamed it on liberalism specific to Boston: "While it is no excuse for this scandal, it is no surprise that Boston, a seat of academic, political and cultural liberalism in America, lies at the center of the storm."³ Not long thereafter, Philadelphia District Attorney Lynne Abraham initiated the most comprehensive grand jury investigation into Archdiocesan clergy sex abuse, which established that the cover-up of child sex

¹ Michael Rezendes, *Church Allowed Abuse by Priest for Years*, THE BOSTON GLOBE: SPOTLIGHT SERIES (Jan. 6, 2002), <https://www.bostonglobe.com/news/special-reports/2002/01/06/church-allowed-abuse-priest-for-years/cSHfGkTlrAT25qKGvBuDNM/story.html>; <http://www.bostonglobe.com/arts/movies/spotlight-movie>. see also

² SPOTLIGHT (Universal Home Studios 2015).

³ Rick Santorum, *Fishers of Men*, CATHOLIC ONLINE (2002), <http://www.catholic.org/featured/headline.php?ID=30>; see also Marci Hamilton, *How Senator Rick Santorum, In Acting for His Church, Persistently Fails to Consider the Larger Public Good*, FINDLAW (Aug. 11, 2005), <http://supreme.findlaw.com/legal-commentary/how-senator-rick-santorum-in-acting-for-his-church-persistently-fails-to-consider-the-larger-public-good.html>.



abuse by dozens of priests in the Philadelphia-area Catholic dioceses was not related to liberalism. Rather, it was a pattern that repeated itself in diocese after diocese.⁴

The *Spotlight* paradigm created numerous new ways for the public to comprehend child endangerment embedded in institutions. Patterns that were formerly masked became visible as institutional dominos started to fall. The church reports were followed by disturbing stories about other religious organizations⁵ and the “perversion files” in the Boy Scouts of America.⁶ Then the first secular institutional scandal appeared: Penn State. From there, many other institutions, like elite boarding schools and sports teams and organizations. These were important journalistic and educational achievements.

The question must be answered, however, whether the knowledge yielded about the Boston Archdiocese and its progeny resulted in lasting change that would protect children in the future. The revelations of institution-based abuse contributed to large numbers of victims coming forward at roughly the same time.

With such numbers, questions about justice and fairness were repeatedly raised by a growing group of victims across the United States. Groups like SNAP, or the Survivors Network of Those Abused by Priests, led the way. The two pathways for justice—criminal prosecution and civil lawsuits—were presumed to be available options. As it turned out, the vast majority of the victims could not prosecute or file civil lawsuits because they had missed the arbitrary procedural deadline—the statute of limitations (“SOLs”)—for their claims.

Most of the victims missed the deadlines because of the disclosure delay that is common among child sex abuse victims. Only 25-33% of victims disclose in childhood and the same number never do, so 33-50% disclose in adulthood, with age 48 as the median, and age 52 as the average.⁷ The reasons for delay are specific to each individual, but often involve disabilities that result from the trauma (e.g., depression, PTSD, substance abuse, and alcoholism).

The institutional disclosures revealed callous disregard for the welfare of children. When the SOLs blocked justice for the victims and simultaneously protected the perpetrators and institutions, a strong argument was made to do away with the SOLs: this deadline appeared to be patently unfair. There were two classes of sex abuse

⁴ COMMONWEALTH OF PENNSYLVANIA: OFFICE OF THE ATTORNEY GENERAL, A REPORT OF THE THIRTY-SEVENTH STATEWIDE INVESTIGATING GRAND JURY (April 2014), <https://www.scribd.com/document/301459233/Grand-jury-report-on-Altoona-Johnstown-Catholic-Diocese>. See also www.bishopaccountability.org (leading archive of sex abuse in the Catholic Church).

⁵ For example, the Jehovah’s Witnesses. Hemant Mehta, *Dozens of Alleged Victims Share Stories of Abuse Within the Jehovah’s Witnesses*, PATHEOS (Mar. 26, 2018), <http://www.patheos.com/blogs/friendlyatheist/2018/03/26/dozens-of-alleged-victims-share-stories-of-abuse-within-the-jehovahs-witnesses/>.

⁶ Paul Dugan, *Boy Scout ‘perversion files’ released*, WASH. POST (Oct. 18, 2012), https://www.washingtonpost.com/local/crime/boy-scout-perversion-files-released/2012/10/18/62c7a6ec-1940-11e2-b97b-3ae53cdeaf69_story.html?utm_term=.fb006cc70429.

⁷ For more information, see www.childusa.org/law (delayed disclosure graphic of ages at which victims of child sex abuse come forward); see also N. Spröber et al., *Child Sexual Abuse in Religiously affiliated and Secular Institutions*, 3 (Mar. 27, 2014), <https://www.childusa.org/search?q=BMC>.

victims to consider: (1) the victims whose claims have expired and (2) the children currently being abused.

For those whose claims expired, California attempted to revive expired criminal and civil SOLs. The United States Supreme Court held the criminal revival was unconstitutional in *Stogner v. California*.⁸ The California civil window, though, was found to be constitutional and, therefore, California led the way with its one-year civil window, which was open during the calendar year 2003.

The window concept was not a novel approach crafted solely for child sex abuse victims. It was borrowed from the revival of expired SOLs in other contexts where the harm to the individual was not immediately apparent when injury first occurred. For example, veterans exposed to Agent Orange have been permitted to file claims for injury long after exposure.⁹

While it is difficult to prove direct cause and effect, it is a fact that the pace of legal reform to extend and eliminate the child sex abuse SOLs has been intense since 2002. Moreover, there has been innovation never before seen as states have grappled with the challenge of creating justice for the victims whose claims have expired. It is also a fact that the predominant example of institution-based child sex abuse from 2002 until the Penn State/Jerry Sandusky scandal broke in 2011 was clergy sex abuse in the Catholic Church. The post-2002 clergy sex abuse scandals reinforced the Spotlight-identified paradigm. The diocesan model also triggered identification of sex abuse across many institutions.

There was a trickle of information mostly focused on individual victims for decades, which led the public to believe child sex abuse was relatively uncommon and a problem related solely to individual perpetrators, as opposed to institutional responsibility. Moreover, the pervasive understanding was that children needed to be protected by “Stranger Danger,” while in fact the primary danger rested with their fathers, priests, teachers, or coaches.

The pace of disclosure by sex abuse victims and the identification of responsible institutions increased significantly starting in 2002. There was also a pronounced shift from a focus on individual abusers to institutions. The following is a timeline of widely publicized child sex abuse scandals:

1977. Roman Polanski (CA).

1985. Fr. Gilbert Gauthe, Louisiana dioceses (LA).

1987. Bob Villard (CA).

1986. Thayer Academy (MA).

1991. Washington Times investigative report on pervasive sex abuse in Boy Scouts.

1992. Woody Allen (NY).

1993. Mount Alvernia High School (MA).

⁸ *Stogner v. California*, 539 U.S. 607 (2003), <https://supreme.justia.com/cases/federal/us/539/607/>.

⁹ Marci A. Hamilton, *The Time Has Come for a Restatement of Child Sex Abuse*, 79 BROOKLYN L. REV. 397 (2014).

- 1995.** Notre Dame Academy (MA); Phillips Academy (MA).
- 1996.** USA Volleyball (IL).
- 1997.** Washington Academy (ME).
- 1998.** Cheverus High School (ME). Solomon Schechter Day School (MA).
- 2000.** Austin Preparatory School (MA); Kent Hills School (ME); St. Paul's School (NH).
- 2002.** Boston Globe discloses Boston Archdiocese (MA); Boston College High School (MA); Catholic Memorial School (MA); Manchester Diocese (NH); Cincinnati Diocese (OH); Cardinal Spellman High School (MA); Spokane Diocese (WA); Bridgeport Diocese (CT); Tucson Diocese (AZ); Davenport Diocese (IA); Toledo Diocese (OH).
- 2003.** Linden Hill School (MA); Riverview School (MA); Saint Thomas More School (CT); Philadelphia Archdiocese (PA); Los Angeles Diocese (CA); San Diego Diocese (CA); Orange Diocese (CA).
- 2004.** John Dewey Academy (MA); Jason Michael Handy (CA); Portland Archdiocese (OR).
- 2005.** Bill Cosby – first rape allegation made public; The Loomis Chaffee School (CT); Chicago Archdiocese (IL); Burlington Diocese (VT); Hartford Archdiocese (CT).
- 2006.** Berkshire School (MA); Eagle Hill School (CT); Lyndon Institute (VT); Maine Central Institute (ME); Milton Academy (MA); St. Dominic Savio Preparatory High School (MA). Charles Bennison – Episcopal Church (PA); Wilmington Diocese (DE).
- 2007.** Baptist Church (TX); USA Judo (OH); Miami Archdiocese (FL).
- 2008.** Buckingham Browne & Nichols School (MA); Cardigan Mountain School (NH); Tony Alamo Christian Ministries (AR, IN).
- 2009.** Cathedral High School (MA); Yona Weinbeg, ultra-Orthodox Jew (NY); The Cambridge School of Weston (MA); Williston Northampton School (MA).
- 2010.** U.S. Women's Swimming; Assumption Catholic School (CT); Brewster Academy (NH); Notre Dame Academy (MA); St. Stanislaus School (CT); Vermont Academy (VT); St. John's School for the Deaf (WI).
- 2011.** Jerry Sandusky – Penn State (PA); Syracuse Basketball (NY); Fundamental Church of Jesus Christ of Latter-Day Saints (TX); Fessenden School (MA); LA United School District (CA); Christ the King Regional H.S. (NY); Riverside Church basketball program (NY).
- 2012.** Jehovah's Witnesses (CA). Horace Mann (NY); James Madison High (NY); Monsignor Lynn (PA); Phillips Andover Academy (MA); Carrabassett Valley Academy (ME). Landmark School (MA); Maimonides School (MA); Westover School (CT); Orthodox Jewish Camp Shalva (NY); Yeshiva University (NY); Santa Fe Archdiocese (NM).
- 2013.** Ariel Castro (OH); USA Speed skating; Father Gerald "Jerry" Funcheon (MN); Nicole Dufault (NJ); Brooks School (MA); Brunswick School (CT); Choate Rosemary Hall (CT); Deerfield Academy (MA); Notre Dame Catholic High School (CT); The Park School (MA); The Pike School (MA); The Taft School (CT).
- 2014.** Patrick Henry College (VA); Paks Karate (FL); Fr. James Thoennes (MN). Fruits of the Minnesota Window (MN). Solebury School (PA); Doctor Franklin Perkins School (MA); Miss Porter's School (CT); Quincy Catholic Academy (MA). Sacred Heart School (MA); Shaker Road School (NH); St. Mary of the Hills (MA). The Academy at Mount Saint John (CT). The Glenholme School (CT).
- 2015.** AAU Volleyball; Wrestling program, Yorkville High School (Dennis Hastert) (IL); Glade Run Lutheran Services (PA); James Madison High School (NY); Jared Fogle

(Subway); Northeast Portland Boys & Girls Club (OR); Sequoia Charter School (AZ); Sunrise Mountain High School (AZ); U.S. Marines & Afghanistan; Plum School District (PA); Pomfret School (CT); Shaloh House Jewish Day School (MA); St. Joseph School (CT); The Hotchkiss School (CT).

2016. St. George's (RI); Emma Willard School (NY); Berwick Academy (ME); Little League (WV); ABC Kidz Child Care (OH); Phillips Exeter Academy (NH); Michigan State University (MI); USA Gymnastics (IN); U.S. Olympic Committee (CO); Metropolitan Opera (NY); Bethlehem Baptist Church (AL); First Baptist Church (GA); Northeast Georgia Council Boy Scouts of America (GA); Minuteman Border Patrol Group (AZ); Arkansas Department of Human Services (AR); "Mr. Wonder" Show on KNOE-TV (LA); Rawlins Middle School (WY).

2017. Beth Tfiloh Dahan Community School (MD); Camp Shores (MD); Pacific Southwest Region of United Synagogue Youth (MN); Louisville Metro Police Department's Youth Explorer Program (KY); Camp Lejeune (NC); Hollywood Film Industry (CA); Orange County High School (VA); Amateur Athletic Union (IL); Sports Performance Volleyball Club (IL); Daphne Elementary School (AL); Apostolic Church of Jesus Christ (AL); University of Alabama in Huntsville (AL); The Darlington School in Rome (GA); Palo Alto Medical Foundation (CA); Dominican Hospital (CA); Roman Catholic Church in Phoenix (AZ); Mesa Police Department (AZ); St. Francis Xavier Church (NY); Stoddert Middle School (MD); Fusion Health Care and Silhouette Medspa (CA); Vungle (CA); Aggressive Christianity Missions Training Corps (NM); Satellite Hotel Churches (CO); Partners Program (CO); Dolores County Sheriff's Office (CO); Kent School (CT); The Brearley School (NY); Kidz Ink 2 Day Care (DE); Kamehameha School (HI); Midwest Academy (IA); Sioux Center Christian School (IA); Parkview Church (IA); The Learning Tree Child Care Center (WI); St. Pius X Catholic School (WI).

2018. Jehovah's Witnesses Church (NV); U.S. Military (VA); Nichols School (NY); St. Mary's Academy (OR); Randolph Union High School (VT); The Awakening Church (TN); Mount Gilead Baptist Church (AL); City of Highfill Mayor's Office (AR); Highfill United Methodist Church (AR); Palestine-Wheatley High School (AR); The International Water Polo Club (CA); USA Water Polo (CA); Iglesia La Familia De Dios (CA); Fort Carson (CO); New Smyrna Beach Middle School (FL); Roman Catholic Diocese of Boise (ID); Wrestling program, Bergen Catholic H.S. (NJ).

With so many institutions in the headlines and thousands of victims coming forward, the pressure for justice became acute. Most states and the federal government made access to justice, or SOL reform, a priority. Forty-one states plus the District of Columbia, or 80%, have amended their child sex abuse SOLs since January 2002.¹⁰ Some amended their SOLs more than once, e.g., on the civil side, Alaska, Hawaii, Illinois, Maryland, Nebraska, New Hampshire, North Dakota, and Utah. And on the criminal side, the following states amended the criminal SOL more than once: Arkansas, California, Florida, Illinois, Missouri, Nebraska, Oklahoma, Oregon, Pennsylvania, Tennessee, Washington, and Wisconsin.

¹⁰ The only states to make no changes in the length of child sex abuse SOLs since 2002 are Alabama, Arizona, Colorado, Iowa, Mississippi, Montana, New Jersey, New Mexico, North Carolina, and Rhode Island.

Yet, with all of the activity in the states since 2002, no state has reached the pinnacle of SOL reform, which is to simply eliminate the civil and criminal SOLs backwards and forwards. Only Guam has done that. First, it enacted a window but no one took advantage of it. Thus, in 2016 Guam became the first jurisdiction to dispense with the child sex abuse SOLs altogether.¹¹ The result has been the identification of Catholic Archbishop Apuron, who has been accused by many victims, and a number of other perpetrators in the church and elsewhere.¹²

This study reports on the pace of child sex abuse SOL reform in the federal government, the 50 states, and the District of Columbia. It also ranks the states. Each state was assigned a score for its current civil SOL, current criminal SOL, and a combined score. The best states for civil SOLs are Minnesota and Delaware and the worst are Alabama, Mississippi, and New York. Moreover, the worst are in a class by themselves as they have set an age cap on civil claims that is so short as to guarantee that 2/3 of the victims will be denied justice. The rigidity of their formula combined with the reality of delayed disclosure means that child abusers have the upper hand. Their short deadlines for filing claims incentivize pedophiles to pursue more children.

The best states for criminal SOLs are Alabama, Colorado, Delaware, Illinois, South Carolina, West Virginia, and Wyoming.¹³ In each of these states, there is simply no criminal SOL for child sex abuse crimes, whether felonies or misdemeanors. The worst are Iowa, Montana, and North Dakota, each of which forces victims to press charges before age 30 (unless there is DNA evidence). Alabama is the only state to be one of the best states in one category (criminal) while being one of the worst in the other (civil).

Overall, the best state for child sex abuse SOL reform is Delaware, and the worst states are Iowa, Louisiana, Montana, North Dakota, and Ohio. Among the worst states, Iowa and Montana have made no changes since 2002, and the changes made by Louisiana, North Dakota, and Ohio are well behind the rest of the country. For states like Iowa and Montana, standing still in the midst of this active movement means that the state is increasingly out of step with the rest of the country.

I. The State-by-State Developments in Child Sex Abuse Statutes of Limitations After January 2002

• The Federal Government

¹¹ Guam Gov signs bill ending time limits in child sex cases, <https://www.usatoday.com/story/news/nation-now/2016/09/23/guam-governor-signs-bill-ending-time-limits-child-sex-cases/90892188/>

¹²For a summary, see http://www.bishop-accountability.org/bishops/accused/global_list_of_accused_bishops.htm#%E2%80%9CApuron%E2%80%9D

¹³ It is important to understand, however, that for the states that only recently eliminated or extended the criminal SOL, there are still many victims who do not have access to justice. For those victims whose SOLs expired before the recent extension or elimination, there is nothing that can be done for them on the criminal side. It is unconstitutional to revive the expired criminal SOLs. *Stogner v. California*, 539 U.S. 607 (2003). For them, the only hope is to revive expired civil SOLs.

Criminal. The federal government has followed the general trend in favor of elimination of the criminal statute of limitations for crimes related to child sex abuse. As of January 2002, the federal criminal SOL was age 25¹⁴. In 2006 the child sex abuse SOLs were eliminated for all sex crimes against children¹⁵.

Civil. Masha's Law is the federal statute creating civil liability to compensate child pornography victims, a subset of the child sex abuse universe. It was originally passed in 2006 with an SOL of age 21 (the age of majority + 3)¹⁶. In 2005, statutory damages of \$150,000.00 were added for each violation¹⁷, and then in 2018, as part of the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act, the SOL was further extended to a discovery rule wherein a victim has 10 years from the date on which the victim understands that her injuries were caused by the pornography¹⁸.

Other federal laws that can create civil liability for child sex abuse include the civil rights statutes as applied to public schools, wherein the SOL is typically borrowed from the state SOL where the abuse occurred.

- **Alabama**

¹⁴ 108 Stat. 2149 (1994), <https://www.gpo.gov/fdsys/pkg/STATUTE-108/pdf/STATUTE-108-Pg1796.pdf#page=354>.

¹⁵ Sex abuse crimes in the federal code for which there is no limitation include: "Crimes related to Child Abduction and Sex Offenses 18 U.S.C. § 1201 (kidnapping a child); 18 U.S.C. § 1591 (sex trafficking by force, fraud or of a child); 18 U.S.C. ch.109A; 18 U.S.C. § 2241 (aggravated sexual abuse) 18 U.S.C. § 2242 (sexual abuse) 18 U.S.C. § 2243 (sexual abuse of a ward or child) 18 U.S.C. § 2244 (abusive sexual contact); 18 U.S.C. § 2245 (sexual abuse resulting in death); 18 U.S.C. § 2250 (failure to register as a sex offender); 18 U.S.C. § 110; 18 U.S.C. § 2251 (sexual exploitation of children); 18 U.S.C. § 2251A (selling or buying children); 18 U.S.C. § 2252 (transporting, distributing or selling child sexually exploitive material); 18 U.S.C. § 2252A (transporting or distributing child pornography); 18 U.S.C. § 2252(B) (misleading names on the internet); 18 U.S.C. § 2260 (making child sexually exploitive material overseas for export to the U.S.); 18 U.S.C. ch.117; 18 U.S.C. § 2421 (transportation of illicit sexual purposes); 18 U.S.C. § 2422 (coercing or enticing travel for illicit sexual purposes); 18 U.S.C. § 2423 (travel involving illicit sexual activity with a child); 18 U.S.C. § 2424 (filing false immigration statement); 18 U.S.C. § 2425 (interstate transmission of information about a child relating to illicit sexual activity)." CHARLES DOYLE, STATUTE OF LIMITATION IN FEDERAL CRIMINAL CASES: AN OVERVIEW 21 (2017), <https://fas.org/sgp/crs/misc/RL31253.pdf>. See also 18 USCA § 3283: "Offenses Against Children: No statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse, or kidnapping, of a child under the age of 18 years shall preclude such prosecution during the life of the child, or for ten years after the offense, whichever is longer." See also 18 USC § 3299, enacted in 2006: "Notwithstanding any other law, an indictment may be found or an information instituted at any time without limitation for any offense under section 1201 involving a minor victim, and for any felony under chapter 109A, 110 (except for section 2257 and 2257A), or 117, or section 1591."

¹⁶ Pub. L. 109-248, Title II, §211(1) (2006), <https://www.gpo.gov/fdsys/pkg/PLAW-109publ248/pdf/PLAW-109publ248.pdf>. See also 120 Stat. 616 (2006), <https://www.gpo.gov/fdsys/pkg/STATUTE-120/pdf/STATUTE-120-Pg587.pdf#page=30>.

¹⁷ 18 U.S.C. § 2252 (2006). See also James Marsh, *Masha's Law: A Federal Civil Remedy for Child Pornography Victims*, 61 SYRACUSE L. REV. 459 (2011).

¹⁸ Pub. L. 115-26 (2017), <https://www.congress.gov/115/plaws/publ26/PLAW-115publ26.pdf>.

Alabama has eliminated the criminal SOLs but remains one of the worst for civil claims. No changes have been made since 2002. Overall, on a scale of 1-10, it ranks as a 6 and is worse than 57% of the country.

Criminal. In 1985, Alabama eliminated the criminal SOL for victims under the age of 16, for both felonies and misdemeanors.¹⁹ This put Alabama at the forefront of child sex abuse criminal SOLs. There have been no changes since then.

Civil. Alabama's civil SOLs, which were last amended in 1996, are some of the shortest in the country. For personal injury, victims must file by age 21, though if the injury involves false imprisonment or assault and battery, they have until age 25, which is still extremely young to capture most victims.²⁰ No changes have been made since 2002.

- **Alaska**

Alaska is in the middle of the pack of states when it comes to child sex abuse SOLs. It has eliminated the SOL for felony sexual abuse but not for the other crimes related to child sex abuse. On the civil side, it has eliminated the SOL for some cases based in certain crimes, e.g., exploitation of a minor and trafficking. While it made no changes in the criminal SOL since 2002, it amended its civil SOL in 2003 and again in 2013. On a scale of 1-10, overall it is an 8.

Criminal. In 1992, Alaska eliminated the criminal SOL for felony sexual abuse against a minor.²¹ All other crimes involving child sex abuse are subjected to a 5-year SOL. There have been no changes since 2002.

Civil. In 2001, Alaska eliminated the civil SOL for felony sexual abuse of a minor or felony sexual assault. In 2003, the state started to eliminate the SOL for select categories. The civil SOL for unlawful exploitation of a minor was eliminated in 2003, and for felony sex trafficking and felony human trafficking in 2013.²² For all other civil claims involving child sex abuse, it remains 3 years.

- **Arizona**

Arizona is one of the worst states for access to justice for child sex abuse victims in the country. The criminal SOL is capped at age 25, 7 years after the age of majority (18), unless the perpetrator has left the state or is unknown. Civil claims expire at age 20, well under the median age of 48 for victims to come forward. It has not been responsive to the improving atmosphere for SOLs since 2002. On a scale of 1-10, overall it ranks as a 6.

¹⁹ Ala. Code. § 15-3-5.

²⁰ Ala. Code § 6-2-38; § 6-2-34(1).

²¹ Alaska Stat. Ann. § 09.10.065.

²² *Id.*

Criminal. Arizona has no SOL for “violent sexual assault,”²³ but otherwise imposes a short criminal SOL for prosecution: 7 years after the age of majority. The SOL is tolled, which is to say the clock stops running on the 7-year limit, when the perpetrator is out of state or has no “reasonably ascertainable place of abode within the state.” The criminal SOL is also tolled when the identity of the perpetrator is unknown.²⁴ There have been no SOL changes since 2002.

Civil. Arizona also has a very short civil SOL. Civil claims are capped at age 20, which was established in 1996.²⁵ However, in certain circumstances, Arizona has adopted a discovery rule. The discovery rule may provide for a different accrual date—when the plaintiff knew or should have known by reasonable diligence that the alleged injury occurred.²⁶

- **Arkansas**

Arkansas made no changes to its civil SOL after 1993, which is a 3-year discovery rule, but it extended the criminal SOL in 2011 and then two years later eliminated it for some felony offenses. On a scale of 1-10, overall it ranks as a 7.

Criminal. As of 2002, Arkansas’s criminal SOL was 6 years. Following 2002, Arkansas changed the SOL from age 24 to age 28 (age of majority plus 10 years), and then eliminated the criminal SOL for some felony offenses in 2013.²⁷

Civil. Those who are sexually abused in Arkansas have until 3 years after the victim discovers she was injured and the injury was caused by the sex abuse.²⁸

- **California**

California has been a leader in child sex abuse SOL innovation. In 1996, it passed a law that would revive expired criminal SOLs, but it was held unconstitutional. In 2014, it extended the criminal SOL to age 40 and then eliminated it three years later for felony sex crimes. In 2003, it enacted a civil window, which was upheld and which has led the way for civil SOL reform. The civil SOL is modest: victims have to age 26 or a 3-year discovery rule to file civil claims. On a scale of 1-10, overall it ranks as a 7.

Criminal. Before 2002, California enacted a law that would revive an expired criminal SOL, but it was held unconstitutional in *Stogner v. California*.²⁹ As of

²³ Ariz. Rev. Stat. Ann. § 13-107; § 13-1423.

²⁴ Ariz. Rev. Stat. Ann. § 13-107;

²⁵ Ariz. Rev. Stat. Ann. § 12-542.

²⁶ See, e.g., *Doe v. Roe*, 191 Ariz. 313 (1998) (“[A] cause of action does not accrue until the plaintiff knows or with reasonable diligence should know the facts underlying the cause.”); *Gust v. Prudential Ins. Co.*, 898 P.2d 964, 969 (1995) (“The important inquiry in applying the discovery rule is whether the plaintiff’s injury or the conduct causing the injury is difficult for plaintiff to detect, not whether the action sounds in contract or in tort.”).

²⁷ Ark. Code Ann. § 5-1-109.

²⁸ Ark. Code Ann. §16-56-130(a).

2002, the criminal SOL was age 28.³⁰ In 2014, California expanded the criminal SOL from age 28 to age 40, and in 2017 it was eliminated for felony sex offenses. The 2017 amendments applied to both children and adults.³¹

Civil. In 2003, in direct response to the revelations about the Boston Archdiocese, California enacted a 1-year window, which revived civil claims during the 2003 calendar year. It has not amended the civil SOL otherwise, which is age 26 or discovery plus 3 years, whichever is later.³²

- **Colorado**

By 2002, Colorado had eliminated all criminal SOLs for child sex abuse, which put it out front of most states. But its civil SOL, which is mediocre, has not changed since 1999. On a scale of 1-10, overall it ranks as an 8.

Criminal. As of 2001, Colorado eliminated the SOLs for all child sex abuse crimes.³³ Thus, it is a leader in the criminal SOL category.

Civil. Colorado set a limit of age 24 in (age of majority, 18, plus 6 years) in 1990.³⁴ Case law added a discovery rule in 1999, which pushes the SOL out to any age at which the victim discovers that an injury was caused by the sex abuse.³⁵ Several attempts have been made to enact a window, which would revive expired SOLs, but they have been unsuccessful.³⁶ There have been no other changes since 2002.

- **Connecticut**

Connecticut eliminated the criminal SOL for a narrow range of felonies in 1998 and has made no other changes since. After January 2002, however, it enacted a more progressive civil SOL, which permits all victims to file claims for damages up to age 48, regardless of expiration of the SOL earlier, and eliminates the civil SOL when there is a conviction for aggravated assault or sexual assault. On a scale of 1-10, overall it ranks as an 8.

²⁹ *Stronger v. California*, 539 U.S. 607 (2003) (holding West's Ann. Cal. Penal Code § 803 unconstitutional).

³⁰ Cal. Penal Code § 799.

³¹ *Id.*

³² Cal. Civ. Proc. Code § 340.1.

³³ C.R.S. § 16-5-401(1).

³⁴ C.R.S. § 13-80-103.7.

³⁵ The discovery rule tolls the civil SOL, until the victim has discovered that the injury and its cause are known or should have been known by reasonable diligence. *Sailsbery v. Parks*, 983 P.2d 137, 138 (Colo. Ct. App. 1999) (“Section 13-80-108, C. R. S. 1998, provides that an action for personal injury accrues on the date both the injury and its cause are known or should have been known by the exercise of reasonable diligence.”).

³⁶ Marci A. Hamilton, *JUSTICE DENIED: WHAT AMERICA MUST DO TO PROTECT ITS CHILDREN* 54-58, 90-109 (Cambridge University Press 2012).

Criminal. In 1998, Connecticut eliminated the criminal SOL for all Class A sex abuse felonies, and aggravated sexual assault of a minor.³⁷ For all other sex abuse crimes, the SOL is five years.³⁸

Civil. Before 2002, Connecticut's civil SOL was age 35.³⁹ In 2002, however, the state eliminated the civil SOL for any claim that led to an aggravated or sexual assault conviction, and for all other claims, expanded the SOL to age 48. The extension was retroactive so that now in Connecticut victims to age 48 (age of majority, 18, plus 30 years), whether or not the claim previously expired, can sue for damages.⁴⁰ Connecticut stands alongside Massachusetts in enacting an age-limit on the revival of expired civil SOLs.

- **District of Columbia**

The District of Columbia has a short criminal SOL, which has been in place since 1981, but significantly improved its civil SOL in 2009, though it has considered several times reviving expired SOLs and made no progress. On a scale of 1-10, overall it ranks as a 5.

Criminal. Since 1981, D.C. has limited the criminal SOL to age 36 (age of majority, 21, plus 15 years) for child sex abuse felonies in the first and second degree, and age 31 (age of majority, 21, plus 10 years) for third and fourth degree sexual abuse.⁴¹

Civil. The civil SOL in 2002 was age 21.⁴² The civil SOL for D.C. was extended in 2009 to age 25 (age 18 plus 7 years) or discovery plus 3 years, whichever is later.⁴³

- **Delaware**

Delaware is the most progressive state in the country for child sex abuse SOLs. At this point, there is no SOL for criminal or civil claims going forward, and there was a window in place 2007-2009 during which civil claims could be brought whether or not the civil SOL had expired previously. On a scale of 1-10, overall it is a 10.

Criminal. In 2002, Delaware's criminal SOL was 2 years following its initial disclosure to the Delaware Division of Child Protective Services or to an appropriate law enforcement agency.⁴⁴ The next year, the state eliminated it for all child sex abuse offenses.⁴⁵

³⁷ Conn. Gen. Stat. § 54-193.

³⁸ *Id.*

³⁹ 1991 Conn. Legis. Serv. P.A. 91-240 (S.H.B. 7316).

⁴⁰ Conn. Gen. Stat. § 52-577d.

⁴¹ D.C. Code § 23-113.

⁴² D.C. Code § 12-301.

⁴³ *Id.*

⁴⁴ 1992 Delaware Laws Ch. 397 (S.B. 286)

⁴⁵ 11 Del. C. § 205(e).

Civil. In 2002, Delaware's civil SOL was age of majority + 2.⁴⁶ Five years later, it eliminated the civil SOL going and forward and put in place a 2-year window that ran from July 2007 to July 2009.⁴⁷ During that time nearly 1000 victims of pediatrician Earl Bradley came forward with 175 from other arenas.

- **Florida**

Since 2002 Florida has partially eliminated the criminal and civil SOLs. In 2003, it eliminated the criminal SOL for first-degree felonies and child sexual battery. It also eliminated the civil SOL for claims based on child sexual battery in 2010. On a scale of 1-10, overall it ranks as an 8.

Criminal. As of 2002, the criminal SOL for child sex abuse was age 23.⁴⁸ Florida eliminated the criminal SOL for first degree felonies in 2003, and for sexual battery for children under 16 in 2010.⁴⁹ The SOL for misdemeanors remains 2 years.⁵⁰

Civil. In 2002, Florida's civil SOL was age 25.⁵¹ Eight years later, the state eliminated the civil SOL for child sexual battery offenses. All other civil claims for child sex abuse must be brought by age 25 (age of majority, 18, plus 7 years) or date of discovery plus 4 years, which is later.⁵²

- **Georgia**

Georgia has made several changes since 2002 to its child sex abuse SOLs. On the criminal side, it eliminated the criminal SOL for some felonies in 2012. Then, in 2015, it added a 2-year discovery rule to the civil SOL and enacted a narrow window that revived expired civil SOLs against a perpetrator, but not institutions. On a scale of 1-10, overall it ranks as a 6.

Criminal. As of 2002, the criminal SOL for child sex crimes was 7 years from age 18, and there was no SOL for certain felonies when DNA evidence was available.⁵³ In 2012, the state eliminated the SOL for some felony offenses.⁵⁴ The SOL for other felonies and misdemeanors remains 7 years.

Civil. In 2002, the Georgia civil SOL was age 23, making it one of the worst in the United States.⁵⁵ In 2015, the state added a discovery rule which gives a victim up to 2 years after the victim discovers that the abuse caused a current injury. Georgia also added a provision that permitted victims to bring civil claims

⁴⁶ 76 Del. Laws, c. 80 § 72.

⁴⁷ Del. C. § 8145(b).

⁴⁸ Fla. Stat. § 775.15.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Fla. Stat. § 95.11.

⁵² *Id.*

⁵³ *Tompkins v. State*, 265 Ga. App. 760 (2004); *See*, O.C.G.A. § 17-3-1.

⁵⁴ O.C.G.A. § 17-3-2.1.

⁵⁵ GA Code § 9-3-33.1(a)(K)(2).

against the perpetrator from 2015-17.⁵⁶ This was the first window that was limited to perpetrators and did not include institutions. Very few cases were brought, 14, and, therefore, it is not looked upon as a model. In 2018, Georgia considered a window that would encompass institutions, but the measure failed.⁵⁷

- **Hawaii**

Hawaii has been one of the busiest states since 2002, enacting some of the most effective SOL changes. It has eliminated the criminal SOL for some felonies, which puts it in the mainstream, but it also extended its civil SOL both in terms of years (adding 6 years) and by enacting a 4-year discovery rule. In 2018, Hawaii also extended its civil SOL both in terms of years (adding 22 years) and enacting a 10-year discovery rule. In addition, Hawaii has had the longest civil window, which so far has revived expired civil SOLs for a total of 4 years. In 2018, the state reopened the window and added 2 years.⁵⁸ On a scale of 1-10, overall it ranks as an 8.

Criminal. In 2002, the Hawaii criminal SOL was age 20. In 2012, the state eliminated the criminal SOL for some felonies.⁵⁹ The state has a SOL of age 24 for Class A felonies, and age 21 for all other felonies.

Civil. In 2002, the Hawaii civil SOL was age 20 (age of majority, 18, plus 2 years). In 2012, the Hawaii civil SOL moved up to age 26 (age of majority, 18, plus 8 years) and there is a 3-year discovery rule, which is triggered by the victim discovering problems after age 18 were caused by the sex abuse.⁵⁸ The victim gets the benefit of whichever comes later. As of 2018, the Hawaii civil SOL is up to age 40 (age of majority, 18, plus 22 years) and there is a 10-year discovery rule.⁶⁰ Hawaii has enacted the longest civil window, during which the civil SOLs were lifted for all civil claims, regardless of whether the SOL previously expired. In 2012, the state also enacted a 2-year window.⁵⁹ Two years later, the state added another 2 years to the window. In 2018, Hawaii reopened this window that had previously been closed in 2016. The window allows victims of

⁵⁶ GA Code § 9-3-33.1.

⁵⁷ Letter to Rep. Spencer from Prof. Marci Hamilton, analyzing 2018 window bill https://static1.squarespace.com/static/5a120b962aeba581dd692cd4/t/5a97527a419202f909ef78cf/1519866492894/Georgia_HPA2018_Letter_sent.pdf; See Kate Brumback, *Georgia Bill Aiming to Help Child Sex Abuse Victims Fails*, ASSOCIATED PRESS (Mar. 30, 2018), available at: <https://www.usnews.com/news/best-states/georgia/articles/2018-03-30/georgia-bill-aiming-to-help-child-sex-abuse-victims-fails>.

⁵⁸ Haw. Rev. Stat. § 657-1.8 (2018).

⁵⁹ Haw. Rev. Stat. § 701-108.

⁶⁰ *Id.*

child sex abuse whose cases were time-barred to bring civil lawsuits against perpetrators. The window is in effect until July 1, 2020.⁶⁰ Hawaii has had 6 years during which civil claims can be revived, which would be far longer than the closest other window, which was its own 4-year window and a 3-year window in Minnesota.⁶¹

- **Idaho**

In 2002, Idaho had some of the most restrictive civil and criminal SOLs. Since then it has eliminated the criminal SOL for some felonies and extended the civil SOL to age 23 and by means of a 5-year discovery rule. On a scale of 1-10, overall it ranks as a 7.

Criminal. As of 2002, the Idaho criminal SOL was age 23. In 2006, the state eliminated the criminal SOL for felony sex abuse or lewd conduct with a child.⁶² The SOL for all other child sex abuse felonies is age 23, and age 19 for all misdemeanors.

Civil. In 2002, Idaho hearkened back to a bygone era when SOLs were measured from the date of the abuse, and not the age of majority. It expired 5 years after the abuse., which means a 5-year-old who was sexually abused had until age 10 to file a claim. In 2007, however, the state modernized the SOL by making it age 23 (age of majority, 18, plus 5 years). It also went further and added a 5-year discovery rule, which gives the victim up to age 23 or 5 years after the victim discovers that the abuse caused current injuries or conditions, whichever is later.⁶³

- **Illinois**

Illinois has been one of the most active states in this area since 2002. It amended its criminal SOL four times since 2002, and its civil SOL 3 times. It now has no criminal SOL for felonies and no civil SOL. On a scale of 1-10, overall it ranks as a 9.

Criminal. Illinois currently has no criminal SOL for felony sex abuse crimes. Before Jan. 2002, the criminal SOL was age 28. In 2003, the state increased the SOL to age 38 for child sex abuse felonies. In 2009 it added an SOL of age 28 for child sex abuse misdemeanor crimes. In 2014, it eliminated the criminal SOL for felonies but only if there was corroborating evidence or a report had been made. In 2017, following the Dennis Hastert sex abuse scandal, Illinois eliminated the SOL for sex abuse felonies.⁶⁴

⁶¹ Testimony by Prof. Marci Hamilton regarding Hawaii proposed 2018 amendments to child sex abuse SOLs. <https://www.childusa.org/testimony/>.

⁶² I. C. § 19-401.

⁶³ I. C. § 6-1704.

⁶⁴ 720 ILCS 5/3-6(j)(1).

Civil. In 2002, the civil SOL was age 20 or discovery plus 2 years up to age 30. In 2003, the state changed it by adding 8 years so that the SOL was age 28. In 2010, it added another ten years, bringing the civil SOL to age 38 (age of majority, 18, plus 20 years). Finally, in 2014, it eliminated the civil SOL completely.⁶⁵

- **Indiana**

Indiana had some of the most restrictive SOLs in the country as of 2002. Since then it has eliminated the criminal SOL for felonies and expanded the civil SOL modestly. On a scale of 1-10, overall it ranks as a 6.

Criminal. In 2002, Indiana's criminal SOL was age 23. In 2014, the state eliminated the SOL for Class A, Level 1 and 2 felonies.⁶⁶ For child molestation, vicarious sexual gratification, child solicitation, child seduction, and incest, the SOL is capped at age 31 (age of majority, 18, plus 13 years). For all child sex offenses not listed, the criminal SOL is 10 years from commission of the abuse or four years from the victim leaving their abuser's dependence.

Civil. In 2002, the civil SOL was the date of accrual plus 2 years. According to case law, accrual is triggered by a victim's discovery that she is injured as a result of another's tortious act.⁶⁷ It was assumed that a child understands that they had been harmed at the time of the abuse. There was no tolling to the age of majority and, therefore, if a child became aware of an injury during childhood and two years passed, the SOL expired. In 2013, Indiana extended the civil SOL to whichever is later: accrual plus 7 years, 4 years after the elimination of dependency on the abuser, or 2 years after majority.⁶⁸

- **Iowa**

Iowa has made no changes to its SOLs since 2002, and is one of the most restrictive states for child sex abuse victims. On a scale of 1-10, overall it ranks as a 4 (where 4 is the lowest combined score).

Criminal. Iowa's criminal SOL expires for most crimes at age 28 (age of majority, 18, plus 10 years) or three years after the date the alleged perpetrator is identified via DNA.⁶⁹ It is one of only 12 states (plus the District of Columbia) not to eliminate at least felony crimes from the SOL.⁷⁰

⁶⁵ 735 ILCS 5/13-202.2.

⁶⁶ Burns Ind. Code Ann. § 35-41-4-2.

⁶⁷ *Doe v. United Methodist Church*, 673 N.E.2d 839, 842 (Ind. 1996) ("Under Indiana's discovery rule, a cause of action accrues, and the statute of limitations begins to run, when the plaintiff knew or, in the exercise of ordinary diligence, could have discovered that an injury had been sustained as a result of the tortious act of another. ... For a cause of action to accrue, it is not necessary that the full extent of the damage be known or even ascertainable but only that some ascertainable damage has occurred.").

⁶⁸ Burns Ind. Code Ann. § 34-11-2-4.

⁶⁹ Iowa Code § 802.2.

⁷⁰ States that have not eliminated any criminal SOL for child sex abuse: AZ, DC, IA, LA, MT, NV, NH, ND, OH, OK, PA, TN, WA. States that have eliminated at least some criminal SOLs for child sex abuse:

Civil. Iowa has a discovery rule that gives the victim 4 years from the date that she discovers both the injury and that it was caused by the sexual abuse.⁷¹

- **Kansas**

Kansas has made few changes since 2002. It did eliminate the criminal SOL for rape, but has made no changes to its civil SOL. On a scale of 1-10, overall it ranks as a 7.

Criminal. The criminal SOL in Kansas in 2002 was age 28 (age of majority, 18, plus 10 years) or 1 year after the date the perpetrator is identified via DNA testing.⁷² In 2013, the state eliminated the SOL for rape.⁷³ The pre-2013 SOL remains the same as it was in 2002 for all other crimes.

Civil. Kansas has not changed its civil SOL since 1992. It provides for age 21 (age of majority, 18, plus 3 years) or 3 years after discovery, whichever is later.⁷⁴

- **Kentucky**

Kentucky has not amended its criminal SOL for child sex abuse since 1974, but it did eliminate felonies at that time. It did significantly extend its civil SOL in 2017. On a scale of 1-10, overall it ranks as a 7.

Criminal. Kentucky has not changed its criminal SOL for child sex abuse since at least 1974. There is no criminal SOL for any child sex abuse felonies.⁷⁵

Civil. In 2002, Kentucky's civil SOL was 23 (age of majority, 18, plus 5 years). Fifteen years later, in 2017, it extended the civil SOL to the later of age 28 (18 plus 10 years); 10 years after the act or series of acts; 10 years after the victim knew or should have known of the act; or 10 years after conviction of the defendant for child sex abuse or assault.⁷⁶

- **Louisiana**

Louisiana has some of the shorter SOLs in the United States. It is one of only 10 states (and D.C.) not to eliminate at least felonies from the criminal SOLs and caps civil claims at age 28. On a scale of 1-10, overall it ranks as a 4 (where 4 is the lowest combined score).

AL, AK, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, KS, KY, ME, MD, MA, MI, MN, MS, MO, NE, NJ, NM, NY, NC, OR, RI, SC, SD, TX, UT, VT, VA, WV, WI, WY.

⁷¹ Iowa Code § 614.8A.

⁷² K.S.A. § 21-5107(c).

⁷³ K.S.A. § 21-5107(a).

⁷⁴ K.S.A. § 60-523(a).

⁷⁵ Ky. Rev. Stat. § 500.050.

⁷⁶ Ky. Rev. Stat. § 413.249.

Criminal. The criminal SOL in Louisiana in 2002 was 22. In 2005, it expanded the criminal SOL to age 48 (age of majority, 18, plus 30 years).⁷⁷

Civil. Louisiana has not revisited its civil SOL since 1993. The civil SOL expires at age 28 (age of majority, 18, plus 10 years), but there is also a common law discovery rule.⁷⁸

- **Maine**

Maine eliminated its criminal SOL in 2013. It did not need to change its civil SOL after 2002, because it had already eliminated the civil SOL in 1994. On a scale of 1-10, overall it ranks as an 8.

Criminal. In 2002, Maine's criminal SOL was 24. In 2013, Maine eliminated the criminal SOL for felonies for victims under 16.⁷⁹ The SOL for misdemeanors remains age 24.

Civil. In 1994, Maine eliminated the civil SOL for child sex abuse.⁸⁰

- **Maryland**

Maryland has no criminal SOL for all felonies, including those related to child sex abuse. No changes have been made in the criminal category since 2002. Maryland extended its civil SOL in 2017. On a scale of 1-10, overall it ranks as a 7.

Criminal. Maryland has no criminal SOLs under common law.

Civil. The civil SOL was extended in 2003 to age 25 (age of majority, 18, plus 7 years). In 2017, Maryland extended the civil SOL further to age 38 (age of majority, 18, plus 20 years) or 3 years after the defendant is convicted of a crime related to the victim's abuse under the law of the federal government or any state.⁸¹

- **Massachusetts**

Massachusetts has an unusual criminal SOL in that it has eliminated the SOL for felony sex abuse crimes but it imposes a limit of age 45 unless there is corroborating or DNA evidence. No changes have been made to the criminal SOL since 2002. Its civil SOL is one of the more innovative. In 2014, the civil SOL was extended to age 53 and a discovery rule of 7 years. The innovation is in the extension to age 53, which applies retroactively, so that individuals up to age 53 can sue even if the civil SOL previously expired. This is a different model from the windows in states like California, Delaware, Hawaii, and Minnesota

⁷⁷ La. C. Cr. P. Art. 571.1.

⁷⁸ La. R.S. § 9:2800.0.

⁷⁹ 17-A M.R.S. § 8.

⁸⁰ 14 M.R.S. § 752-C.

⁸¹ Md. Courts and Judicial Proceedings Code Ann. § 5-117(b).

where the state sets a closed time period during which claims can be retroactively revived. On a scale of 1-10, overall it ranks as an 8.

Criminal. In 1996, Massachusetts eliminated the criminal SOL for felonies related to sex abuse of a victim under age 16, except if more than 27 years passes from the date of the offense, the SOL is capped at age 45 unless there is corroborating or DNA evidence.⁸² No amendments have been made since then.

Civil. In 2002, the civil SOL in Massachusetts was age 21 (age of majority, 18, plus 3 years). In 2014, Massachusetts extended the civil SOL to age 53 (age of majority, 18, plus 35 years), which applies whether or not the civil SOL previously expired, and added a rule of discovery, which gives a victim 7 years after the victim discovers an injury was caused by the sex abuse.⁸³ Massachusetts joined Connecticut in enacting a civil SOL that is both retroactive and has an age cap.

- **Michigan**

Michigan amended its criminal and civil SOLs in 2018. The criminal SOL for felony sex abuse was eliminated in 2001. In 2018, Michigan extended its statute of limitations for all civil offenses to 30 years after the offense was committed or by the victim's 48th birthday, whichever is later.⁸⁴ Michigan also enacted a discovery rule of three years and a 90-day window for victims of Larry Nassar. On a scale of 1-10, overall it ranks a 6.

Criminal. In 2001, Michigan eliminated the criminal SOL for felony sex abuse. All other felonies and misdemeanors have an SOL of 30 years after the offense was committed or by the victim's 48th birthday, unless there is DNA evidence.⁸⁵ If there is DNA evidence of the offense, an indictment may be filed at any time after the offense is committed.

Civil. Up until 2018, Michigan had the shortest civil SOL in the United States. Since at least 1986, civil claims expired at the age of 19.⁸⁶ As of 2018, the civil SOL in Michigan is set at age 28 for victims who were minors at the time of the assault with a 3-year discovery rule. Michigan also enacted a 90-day window for victims of Larry Nassar.⁸⁷

- **Minnesota**

⁸² ALM GL ch. 277, § 63.

⁸³ ALM GL ch. 260 § 4C.

⁸⁴ S.B. 871, 2018 Leg., Reg. Sess. (Mich.2018) (enacted).

⁸⁵ Mich. Comp. Laws Ann. § 767.24.

⁸⁶ Mich. Comp. Laws Ann. § 600.5805.

⁸⁷ S.B. 872, 2018 Leg., Reg. Sess. (Mich.2018) (enacted).

Minnesota has not changed its criminal SOL since 2000 when it eliminated it for cases where DNA evidence is gathered. In 2013, however, it dramatically improved the civil SOL by eliminating it going forward and creating a 3-year window during which victims could bring civil claims even if the civil SOL previously expired. On a scale of 1-10, overall it ranks as a 9.

Criminal. The Minnesota criminal SOL was last amended in 2000, when the state eliminated the criminal SOL if DNA evidence is collected. If not, the SOL is 9 years after the offense or 3 years after it is reported to the authorities, whichever is later.⁸⁸

Civil. In 2002, the civil SOL was age 20 (age of majority, 18, plus 2 years). In 2013, the child sex abuse civil SOL was eliminated.⁸⁹ In addition, a window was added, which was open for three years, 2014-17.⁹⁰ This was the second-longest window enacted to date and approximately 1000 victims benefitted from it.

- **Mississippi**

Mississippi has made no changes to its child sex abuse SOLs since the 1990s. While it has eliminated the criminal SOL for felonies, its civil SOL of age 24 makes it one of the shortest in the country. On a scale of 1-10, overall it ranks as a 5 (where 4 is the lowest combined score).

Criminal. In 1997, Mississippi eliminated the criminal SOL for child sex abuse felonies.⁹¹ Misdemeanors are subjected to a 2-year SOL.⁹²

Civil. Mississippi has made no changes to its civil SOL since 1990, when it set the age to 24 (age of majority, 21, plus 3 years).⁹³ This makes it one of the most restrictive civil SOLs in the country.

- **Missouri**

Missouri has made three changes since, 2002 and is one of the states firmly in the middle of the pack. It eliminated felony criminal SOLs in 2004 and extended the SOLs for all other crimes in 2011 to age 48. It extended its civil SOL to age 31 and added a 3-year discovery rule in 2004. On a scale of 1-10, overall it ranks as a 7.

Criminal. The criminal SOL in Missouri in 2002 was age 28. In 2004, the criminal SOL was eliminated for some felonies and left at age 38 (age of majority, 18, plus 20 years) for all other offenses. In 2011, for those crimes whose SOL was not

⁸⁸ Minn. Stat. § 628.26.

⁸⁹ Minn. Stat. § 541.073 (Only eliminated against perpetrator).

⁹⁰ *Id.*

⁹¹ Miss. Code Ann. § 99-1-5.

⁹² *Id.*

⁹³ Miss. Code Ann. § 15-1-49(1).

already eliminated, the SOL was extended another 10 years, so that the age cap is 48 (age of majority, 18, plus 30 years).⁹⁴

Civil. In 2002, the Missouri civil SOL was age 26 (age 21 plus 5 years). Two years later, Missouri added another 5 years to make the civil SOL age 31 (age 21 plus 10 years) and added a discovery rule of 3 years.⁹⁵

- **Montana**

Montana has made no changes to its child sex abuse SOLs since 2002. The criminal SOLs are remarkably short as even felony prosecution is capped at age 28 unless there is DNA that establishes the identity of the perpetrator. The civil SOL is short as well with an age of 21, although the 3-year discovery rule permits some breathing room as it is applied retroactively. On a scale of 1-10, overall it ranks as a 4 (where 4 is the lowest combined score).

Criminal. Montana has made no changes to its criminal SOL, which are some of the shortest in the United States, since 2002. The criminal SOL for felonies is age 28 (age of majority plus 10 years) and for misdemeanors is age 23 (age of majority, 18, plus 5 years).⁹⁶ There is a one-year SOL if DNA establishes the identity of the perpetrator at any time, even if the previous criminal SOL expired.⁹⁷

Civil. The civil SOL was last amended in 1989 and is capped at age 21 or discovery plus 3 years. In addition, all claims for abuse after 1989 are retroactive such that even if the SOL previously expired, the victim can go forward if under 21 or up to 3 years past discovery.⁹⁸

- **Nebraska**

Nebraska has been making steady progress on child sex abuse SOLs since 2002. It amended the criminal SOLs in 2005 and 2006, eventually eliminating it for some felonies. And it eliminated the civil SOL in 2017. On a scale of 1-10, overall it ranks as an 8.

Criminal. Nebraska's criminal SOL was amended in 2005 to add sexual assault in the first degree and sexual assault of a child in the first degree to the list of eliminated offenses. It was amended again in 2006 to add sexual assault in the second degree and sexual assault of a child in the second and third degree to the list of eliminated offenses.⁹⁹ All other offenses have a criminal SOL of the later of 7 years after the offense or 7 years from the victim's 16 birthday.¹⁰⁰

⁹⁴ § 556.037 R.S. Mo.

⁹⁵ § 537.046 R.S. Mo.

⁹⁶ § 45-1-205, MCA.

⁹⁷ § 45-1-205(9), MCA.

⁹⁸ § 27-2-216, MCA.

⁹⁹ R.R.S. Neb. § 29-110.

¹⁰⁰ R.R.S. Neb. § 29-110 (3).

Civil. Nebraska has changed its civil SOL twice since 2002, when it was age 25. In 2012, it extended it to age 33 (21 years + 12) and in 2017, Nebraska eliminated the civil SOL.¹⁰¹

- **Nevada**

Nevada has made several changes since 2002. In 2013, it extended its criminal SOL to age 36 (unless the abuse was not reasonably discoverable, which would extend the SOL to age 43). Despite the criminal SOL extension, Nevada is one of the only 10 states (plus D.C.) not to eliminate at least some child sex abuse felony SOLs. The civil SOL was extended in 2017 to age 38, but more importantly for victims, Nevada put into place the longest discovery period in the country, permitting victims 20 years past the date of discovery of injury and its cause. On a scale of 1-10, overall it ranks as a 5 (where 4 is the lowest combined score).

Criminal. In 2013, the criminal SOL was extended to age 36, or age 43 if the abuse was not reasonably discoverable by age 36 for felonies and misdemeanors.¹⁰²

Civil. In 2002, the civil SOL was 28 (age of majority, 18, plus 10 years). In 2017, it was extended to age 38 (age of majority, 18, plus 20 years) and added a generous discovery rule that permits the victim 20 years following discovery that injury was caused by the sex abuse.¹⁰³

- **New Hampshire**

New Hampshire has not changed its criminal SOL since 2002. It is one of the few states that has not yet eliminated at least some felony SOLs. The civil SOL was amended in 2005 and 2008, and is now age 30 with a 3-year discovery rule. On a scale of 1-10, overall it ranks as a 5 (where 4 is the lowest combined score).

Criminal. In 1990, New Hampshire made its last change to the criminal SOLs, setting the criminal SOL for felony sex abuse at age 40 (age of majority, 18, plus 22 years).¹⁰⁴ The SOL for all other felony crimes is age 24, and age 19 for all misdemeanors.

Civil. The civil SOL in New Hampshire in 2002 was age 21 (age of majority, 18, plus 3 years) and a 3-year discovery rule. In 2005, the age was extended to age 25 (age of majority, 18, plus 7 years). In 2008, the age again was extended, this time

¹⁰¹ R.R.S. Neb. § 25-228.

¹⁰² Nev. Rev. Stat. Ann. § 171.095; § 171.083.

¹⁰³ Nev. Rev. Stat. Ann. § 11.215.

¹⁰⁴ N.H. Rev. Stat. Ann. § 625:8.

to age 30 (age of majority, 18, plus 12 years). The 3-year discovery rule also remains.¹⁰⁵

- **New Jersey**

New Jersey has made no changes to its child sex abuse SOLs since 2002. It eliminated the criminal SOL for some felonies in 2001 and subjects all other crimes to an age limit of 23. The civil claims are limited to age 20 or a 2-year discovery rule, whichever is later. On a scale of 1-10, overall it ranks as a 6.

Criminal. Since 2001, New Jersey's criminal SOL has been eliminated for felonious sexual assault. All other crimes are subjected to an SOL of age 23 (age of majority, 18, plus 5 years) or 2 years following discovery of the child sex abuse.¹⁰⁶

Civil. New Jersey's civil SOL dates back to 1992, and provides for age 20 (age of majority, 18, plus 2 years) and a 2-year discovery rule.¹⁰⁷ The discovery rule is determined from the perspective of a child sex abuse victim.¹⁰⁸

- **New Mexico**

New Mexico has made no changes in the length of its child sex abuse SOLs since 1997. No criminal SOL for felonies places it in the mainstream of states. The civil SOL is relatively short at age 24 or 3 years after disclosure to a health care professional. On a scale of 1-10, overall it ranks as a 7.

Criminal. New Mexico has made no changes to its criminal SOLs since 1997. There is no criminal SOL for first degree felonies.¹⁰⁹ The SOL for all other crimes is between 3 to 6 years depending on the nature of the offense.¹¹⁰

Civil. The civil SOL is to age 24 or 3 years after the victim first disclosed sex abuse to a healthcare professional, which has been in place since 1995.¹¹¹

- **New York**

Since 2002, New York has eliminated some felonies from the criminal SOL. In all other respects, it is one of the worst states for access to justice for child sex abuse victims in the country. The SOL for all other crimes is age 23; the civil SOL against the perpetrator is only age 23, but the civil SOLs against employers are even shorter. Claims for negligence top out at age 21 and claims for vicarious

¹⁰⁵ N.H. Rev. Stat. Ann. § 508:4-g.

¹⁰⁶ N.J.S.A. 2C:1-6.

¹⁰⁷ N.J.S.A. 2A:30B-6; N.J.S.A. 2A:61B-1(b) (discovery rule).

¹⁰⁸ *R.L. v. Kenneth Voytac*, 199 N.J. 285 (2009).

¹⁰⁹ N. M. S. A. 1978, § 30-1-8.

¹¹⁰ *Id.*

¹¹¹ N. M. S. A. 1978, § 37-1-30.

liability expire age 19. On a scale of 1-10, overall it is a 5 (where 4 is the lowest combined score).

Criminal. In 2006, New York eliminated the criminal SOL for some felonies.¹¹² The SOL for all other felonies is age 23 (age of majority, 18, plus 5 years) and age 20 for all other misdemeanors (age of majority, 18, plus 2 years).¹¹³

Civil. In 2002, the civil sol was up to ten years from the date of conviction of any first degree felony.¹¹⁴ In 2006, it was extended to age 23.¹¹⁵ The civil SOL is one of the shortest in the United States: age 23 (age of majority, 18, plus 5 years) against the perpetrator.¹¹⁶ It remains age 21 (age of majority, 18, plus 3 years) for injury or negligence and only age 19 (age of majority, 18, plus 1 year) for vicarious assault or liability.¹¹⁷ There is no discovery rule.

- **North Carolina**

North Carolina has made no changes to its civil or criminal SOLs in decades. There is no criminal SOL for felonies, putting the state in the mainstream for criminal SOLs. The civil SOL is among the shorter in the U.S., at age 21 with a 3-year discovery rule, in large part because the discovery rule is capped with a statute of repose of 10 years. On a scale of 1-10, overall it ranks as a 7.

Criminal. North Carolina has no criminal SOL for felonies. Its criminal SOL for misdemeanors is 2 years.¹¹⁸

Civil. The North Carolina civil SOL is age 21 (age of majority, 18, plus 3 years).¹¹⁹ There is also a judicial interpretation that institutes a discovery rule, permitting the victim to have 3 years after the victim discovers she was injured by the perpetrator's actions. North Carolina, however, has a statute of repose which places a further upper limit on all claims. The maximum that the discovery rule can stretch the age 21 limit is to a maximum of 10 years after the last act by the defendant. This ensures that claims expire in early adulthood.

- **North Dakota**

North Dakota has some of the shortest criminal SOLs in the United States, capped at age 28, unless DNA identifies the perpetrator or the offense is first reported to law enforcement. In the latter two instances, the criminal SOL expires 3 years after those events. The civil SOL is a narrow discovery rule of 10

¹¹² N.Y. Crim. Proc. Law § 30.10 (McKinney).

¹¹³ *Id.*

¹¹⁴ N.Y. C.P.L.R. 213-b (McKinney).

¹¹⁵ N.Y. C.P.L.R. 213-c (McKinney).

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ N.C. Gen. Stat. Ann. § 15-1.

¹¹⁹ N.C. Gen. Stat. Ann. § 1-52.

years. On a scale of 1-10, overall it ranks as a 4 (where 4 is the lowest combined score).

Criminal. The criminal SOL in 2002 was age 25.¹²⁰ North Dakota amended the criminal SOL in 2015 to extend it to age 28 (age of majority, 18, plus 10 years) or 3 years after the offense is reported to law enforcement or DNA evidence establishes the identity of the perpetrator, even if the prior SOLs expired.¹²¹

Civil. In 2002, North Dakota's civil SOL was age 20 (age of majority, 18, plus 2 years).¹²² It has been amended twice since then. In 2011, the age limit was replaced with a 7-year discovery rule. And in 2015, the discovery rule was extended to 10 years from the date the victim "knew or reasonably should have known that a *potential* claim exists resulting from childhood sexual abuse."¹²³ While this is a "discovery rule" it is a very narrow one that makes it difficult for the victim to bring a claim years after the abuse occurred.

- **Ohio**

While Ohio has made changes since 2002, it lags behind most of the rest of the country. Ohio has not yet eliminated any criminal SOL, placing it in the 20% of states that have not. It amended the criminal SOL in 2015 by extending the age for some felonies to age 43. The civil SOL is also relatively short as it is capped at age 30. On a scale of 1-10, overall it ranks as a 4 (where 4 is the lowest combined score).

Criminal. Ohio is one of the states that has not eliminated any criminal SOLs for child sex abuse. In 2002, the criminal SOL was 24 for felony offenses and age 20 for misdemeanor crimes.¹²⁴ In 2015, the criminal SOL was extended to age 43 for rape and sexual battery, 38 for other felonies, and age 20 for misdemeanors.¹²⁵

Civil. The Ohio civil SOL was age 19 (age of majority, 18, plus 1 year) in 2002.¹²⁶ In 2016, though, the civil SOL was extended to age 30 (age of majority, 18, plus 12 years).¹²⁷ Ohio came very close to enacting a window that would have permitted revival of expired civil SOL claims, but the measure was defeated by the Catholic bishops.¹²⁸

- **Oklahoma**

¹²⁰ N.D. Cent. Code Ann. § 29-04-03.2.

¹²¹ N.D. Cent. Code Ann. § 29-04-03.1.

¹²² N.D. Cent. Code Ann. § 28-01-18.

¹²³ N.D. Cent. Code Ann. § 28-01-25.1 (emphasis added).

¹²⁴ Ohio Rev. Code Ann. § 2901.13.

¹²⁵ *Id.*

¹²⁶ Ohio Rev. Code Ann. § 2305.111.

¹²⁷ *Id.*

¹²⁸ Justice Denied, *supra*, at 56-59, 80-85.

Oklahoma had very short SOLs until 2017. In 2005, the criminal SOL for some felonies was extended to what appears to be a maximum of age 31. In 2017, Oklahoma extended the criminal SOL for felonies and the civil SOL to age 45. This was a large leap for the state, although it is one of the states that has yet to join the mainstream in eliminating the criminal SOL for at least some felonies. On a scale of 1-10, overall it ranks as a 5 (where 4 is the lowest combined score).

Criminal. The criminal SOL was age 25 in 2002.¹²⁹ In 2005, it was amended to up to 12 years past “discovery,” which is defined as being reported to the authorities, although it appears that there is an upper limit of age 31.¹³⁰ In 2015, it was extended to age 45 for child sex abuse crimes.¹³¹

Civil. The civil SOL was age 19 in 2002.¹³² It was extended in 2017 to age 45.¹³³

- **Oregon**

Oregon has made changes to both criminal and civil SOLs since 2002. The criminal SOLs are relatively short at age 30 for felonies and 22 for misdemeanors. But the 2015 elimination for felonies if there is DNA evidence moves it closer to the mainstream. The civil SOL at age 40 with a 5-year discovery rule, which is applied liberally, makes it one of the most progressive civil SOLs in the country short of a window as in California, Delaware, Hawaii, or Minnesota. On a scale of 1-10, overall it ranks as a 7.

Criminal. In 2002, the criminal SOL for Oregon was age 14.¹³⁴ In 2005, it moved the SOL to age 30 or 12 years after the commission of the crime, whichever is later, for some felonies.¹³⁵ In 2015, it was further eliminated for felonies if there is DNA evidence. Other felonies are subject to an age 30 cap and misdemeanors must be brought by age 22.¹³⁶

Civil. In 2002, the civil SOL was age 24 (age of majority, 18, plus 6 years) with a 3-year discovery rule.¹³⁷ In 2016, this was extended to age 40 and a 5-year discovery rule.¹³⁸ The discovery rule is very liberal in application.

- **Pennsylvania**

¹²⁹ Okla. Stat. Ann. tit. 12, § 245.

¹³⁰ Okla. Stat. Ann. tit. 22, § 152 (L)(“As used in paragraph 1 of subsection C of this section, “discovery” means the date that a physical or sexually related crime involving a victim under the age of eighteen (18) years of age is reported to a law enforcement agency, up to and including one (1) year from the eighteenth birthday of the child.”).

¹³¹ Okla. Stat. Ann. 22, § 152.

¹³² Okla. Stat. Ann. 22, § 95.

¹³³ Okla. Stat. Ann. 12, § 95.

¹³⁴ Or. Rev. Stat. Ann. § 131.125.

¹³⁵ Or. Rev. Stat. Ann. § 131.125.

¹³⁶ *Id.*

¹³⁷ Or. Rev. Stat. Ann. § 12.117.

¹³⁸ *Id.*

Pennsylvania has yet to join the large majority of states to eliminate at least felonies from its criminal SOLs. The extension to age 50 for the criminal SOL is the only change made since 2002. The civil SOL at age 30 is increasingly short in comparison with the developments in the rest of the country. On a scale of 1-10, overall it ranks as a 5 (where 4 is the lowest combined score).

Criminal. The criminal SOL was extended in 2002 from age 23 to 30 (age of majority, 18, plus 12 years).¹³⁹ Five years later, following the 2005 Philadelphia District Attorneys Grand Jury Report on sex abuse in the Philadelphia Archdiocese, it was extended to age 50.¹⁴⁰

Civil. Before 2002, the civil SOL in Pennsylvania was age 20.¹⁴¹ Since 2002, Pennsylvania's civil SOL has been age 30.¹⁴² There have been many efforts in the state to extend or eliminate it and to pass a window, but to date they have not been successful. This is so despite the fact that Pennsylvania has generated the most grand jury reports on child sex abuse in the country.¹⁴³ There have been no changes in the civil SOL since 2002.

- **Rhode Island**

Rhode Island has made no changes to its criminal or civil SOLs since 2002. The criminal SOL elimination of some felonies is in the mainstream. The civil SOL is in the middle of the states though far behind the states that have revived expired SOLs like its nearby neighbors Massachusetts and Connecticut. On a scale of 1-10, overall it ranks as a 7.

Criminal. Rhode Island eliminated the criminal SOLs for some felonies in 1985.¹⁴⁴ The sol for all other child sex abuse crimes is 3 years.¹⁴⁵

¹³⁹ 42 Pa. Stat. and Cons. Stat. Ann. § 5552.

¹⁴⁰ 42 Pa. Stat. and Cons. Stat. Ann. § 5552.

¹⁴¹ 42 Pa. Stat. and Cons. Stat. Ann. § 5533.

¹⁴² *Id.*

¹⁴³ In addition to the first diocesan grand jury reports, *See*, Reports of Attorneys General, Grand Juries, Individuals, Commissions, and Organizations, <http://www.bishop-accountability.org/AtAGlance/reports.htm>; *See also*, Sandusky Presentment, NPR, https://www.npr.org/assets/news/2011/11/sandusky_presentment.pdf (the Pennsylvania Attorney General produced a grand jury report sparking the Penn State Jerry Sandusky prosecutions); *See also*, Commonwealth of Pennsylvania Office of the Bucks County District Attorney, *Grand Jury Report on Solebury School Sexual Abuse Released*, BUCKCOUNTY.ORG (Feb. 1, 2017), <http://www.buckscounty.org/government/RowOfficers/DistrictAttorney/NewsReleasesDA/2017/02/01/grand-jury-report-on-solebury-school-sexual-abuse-released> (the Bucks County District Attorney issues a grand jury report on sex abuse at the private boarding school, the Solebury School); *See*, Ed Mahon, *Six dioceses now under investigation in Pa.*, York Daily Record, (Sept. 16, 2016, 9:16 P.M.), <https://www.ydr.com/story/news/2016/09/16/some-hope-harrisburg-diocese-investigation-gives-answers/90510824/> (Pennsylvania Attorney General's Office is now investigating six other Catholic dioceses. The investigation began in 2016 and continues in 2018).

¹⁴⁴ 12 R.I. Gen. Laws Ann. § 12-12-17.

¹⁴⁵ *Id.*

Civil. The Rhode Island civil SOL for child sex abuse is age 25 or discovery plus 7 years against the perpetrator and 3 years against other defendants.¹⁴⁶ The discovery rule is applied liberally in favor of the victim.

- **South Carolina**

South Carolina is among the leaders in the country for child sex abuse criminal SOLs, because it has eliminated all of them. The civil SOL, however, at age 27 with a 3-year discovery rule is on the short side. Nothing has happened on this issue since 2002 in the state. On a scale of 1-10, overall it ranks as an 8.

Criminal. South Carolina has no SOL for felonies or misdemeanors for child sex abuse.¹⁴⁷

Civil. The South Carolina civil SOL is age 27 or a 3-year discovery rule, which has been in place since 2001.¹⁴⁸ There have been no changes since.

- **South Dakota**

South Dakota has long had no criminal SOL for felonies, putting it into the mainstream. The civil SOL is restrictive, however. It runs to age 21 with a 3-year discovery rule. The discovery rule, however, is capped by a statute of repose that blocks all claims against anyone other than the perpetrator at age 40. On a scale of 1-10, overall it ranks as a 5 (where 4 is the lowest combined score).

Criminal. South Dakota eliminated the criminal SOL for Class A, B, and C felonies in 1978, 40 years ago.¹⁴⁹ All other crimes and misdemeanors are subjected to an SOL of age 25 (age of majority, 18, plus 7 years).¹⁵⁰

Civil. South Dakota is the only state to backtrack on child sex abuse SOLs since 2002. In 2002, the civil SOL was age 21.¹⁵¹ In 2010, the state added to the civil SOL of age 21 (age of majority, 18, plus 3 years) with the addition of discovery plus 3 years.¹⁵² They limited the extension, however, by adding a statute of repose of age 40 for all but the perpetrator, which immunized institutions for any claims by those over 40 years of age. The targets that was intentionally kept out of court were Native Americans who had attended boarding schools on the Native American Reservations, where Catholic priests taught.¹⁵³ The 40-year-old statute of repose for institutions meant the church would not be held liable for the abuse that occurred.

¹⁴⁶ 9 R.I. Gen. Laws Ann. § 9-1-51.

¹⁴⁷ S.C. Code Ann. § 16-3-655.

¹⁴⁸ S.C. Code Ann. § 15-3-555.

¹⁴⁹ S.D. Codified Laws § 23A-42-1.

¹⁵⁰ S.D. Codified Laws § 23A-42-2.

¹⁵¹ S.D. Codified Laws § 26-10-25.

¹⁵² *Id.*

¹⁵³ *Id.*

- **Tennessee.**

Tennessee is one of the few states not to eliminate even felonies from the criminal SOLs. The ages now in place, 33 to 43, make it one of the more restrictive for criminal prosecution. The civil SOL expansion to a liberal 3-year discovery rule in 2016 puts it into the mainstream. On a scale of 1-10, overall it ranks as a 5 (where 4 is the lowest combined score).

Criminal. Tennessee has expanded its criminal SOL three times since 2002. In 2006, it extended the SOL for rape and incest committed between 1997 and 2006 to age 21.¹⁵⁴ In 2012, the state extended the criminal SOL for crimes of sexual exploitation committed after 2012 to age 43.¹⁵⁵ Most recently, in 2016, it extended the criminal SOL for rape to age 33.¹⁵⁶

Civil. The civil SOL in 2002 was age 19.¹⁵⁷ In 2016, Tennessee added to the civil SOL by including a 3-year discovery rule. The 3-year limit is triggered by the victim becoming aware that current injury or illness was caused by the sex abuse. It is not enough to just know that the abuse took place.¹⁵⁸

- **Texas**

Since 2002, Texas has amended its criminal and civil SOLs one time apiece. Texas's current criminal SOL is in the mainstream with its elimination of the SOL for most crimes. The civil SOL is 15 years after the abuse occurred. On a scale of 1-10, overall it ranks as a 6.

Criminal. In 2002, the criminal SOL was 28.¹⁵⁹ In 2007, Texas eliminated the criminal SOLs for sexual assault and continuous sexual abuse of a child so that the criminal SOL has been eliminated for most crimes.¹⁶⁰ It is age 38 (age of majority, 18, plus 20 years) for child porn¹⁶¹ and age 28 (age of majority, 18, plus 10 years) for trafficking or compelling prostitution.¹⁶²

Civil. In 2002, the Texas civil SOL was date of accrual plus 5 years.¹⁶³ In Texas, the date of accrual may be age of majority, 18, but it also may be extended somewhat by a narrow discovery rule. For most cases, the civil SOL would have expired by age 23 (age of majority, 18, plus 5 years). In 2015, Texas added 10

¹⁵⁴ Tenn. Code Ann. § 40-2-101.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ Tenn. Code Ann. § 28-3-104.

¹⁵⁸ Tenn. Code Ann. § 28-3-116.

¹⁵⁹ Tex. Crim. Proc. Code Ann. § 12.01

¹⁶⁰ Tex. Crim. Proc. Code Ann. § 12.01 (1) (B)-(E), (G), (H)

¹⁶¹ Tex. Crim. Proc. Code Ann. § 12.01 (5).

¹⁶² Tex. Crim. Proc. Code Ann. § 12.01 (6).

¹⁶³ Tex. Civ. Prac. & Rem. Code Ann. § 16.0045.

years to the civil SOL to make it the date of accrual plus 15 years, which in most cases amounts to age 33 (age of majority, 18, plus 15 years).¹⁶⁴

- **Utah**

Utah's elimination of the criminal SOL for felonies places it in the mainstream. The elimination of the civil SOL places it ahead of many states. Its window, however, is very limited, as it only applies to the perpetrator, which is likely why only one case has been brought under the window. On a scale of 1-10, overall it ranks as an 8.

Criminal. In 2002, the Utah criminal SOL was age 22.¹⁶⁵ In 2008, Utah eliminated the criminal SOL for felonies.¹⁶⁶

Civil. In 2002, the civil SOL in Utah was age 22 (age of majority, 18, plus 4 years).¹⁶⁷ In 2015, Utah eliminated its civil SOL. In 2016, it enacted a window, which revives expired civil SOLs. The window runs for three years from enactment; after that, the civil SOL is age 53 (age of majority, 18, plus 35), for those whose civil SOL has expired. The window, however, is only valid against a perpetrator.¹⁶⁸ The constitutionality of the window is being challenged in court.¹⁶⁹

- **Vermont**

Vermont eliminated the criminal SOLs for most felonies in 2009, placing it in the mainstream of the states. The civil SOL has been in place at least since 1989 and includes a 6-year discovery rule. On a scale of 1-10, overall it ranks as a 7.

Criminal. The Vermont criminal SOL in 2002 was age 24.¹⁷⁰ In 2009, Vermont eliminated the criminal SOL for most felonies, and extended the SOL for sexual exploitation of a minor to age 58.¹⁷¹

Civil. Vermont has made no changes in its civil SOL for decades. Its civil SOL is age 24 (age of majority, 18, plus 6 years) or discovery plus 6 years, whichever is later.¹⁷² The discovery rule is liberal in that the victim does not make the discovery unless she discovers that the injury was caused by the sex abuse

- **Virginia**

¹⁶⁴ Tex. Civ. Prac. & Rem. Code Ann. § 16.0045.

¹⁶⁵ 1995 Utah Laws Ch. 232 (H.B. 109).

¹⁶⁶ Utah Code Ann. § 76-1-301.

¹⁶⁷ Utah Code Ann. § 78B-2-308.

¹⁶⁸ *Id.*

¹⁶⁹ *Lawson v. Boy Scouts of America*, No. 16-EV-001155, 2016 WL 1070633 (Ga. State Ct. Mar. 17, 2016).

¹⁷⁰ Vt. Stat. Ann. 13, § 4501.

¹⁷¹ *Id.*

¹⁷² Vt. Stat. Ann. 12, § 522.

Virginia is in the mainstream of other states as it has eliminated the criminal SOL for felonies. Its civil SOL is relatively short as it was age 20 until 2011 and then only extended to age 38. On a scale of 1-10, overall it ranks as a 7.

Criminal. Virginia eliminated the criminal SOL for felonies.¹⁷³ The criminal SOL for misdemeanors related to child sex abuse is age 19.¹⁷⁴

Civil. In 2002, the civil SOL was age 20 (age of majority, 18, plus 2 years).¹⁷⁵ In 2011, the state extended the civil SOL to age 38 (age of majority, 18, plus 20).¹⁷⁶

- **Washington**

Washington state has been very busy but is still one of the few states not to eliminate at least some felony criminal SOLs. The age 30 criminal SOL is very short. Yet, Washington only reached age 30 for most felonies with 3 different amendments since 2002. The civil SOL, which has been in place since 1991, at age 21 with a 3-year window is also on the shorter side of most of the states. On a scale of 1-10, overall it ranks as a 5 (where 4 is the lowest combined score).

Criminal. In 2002, the criminal SOL in Washington state was age 21 (age of majority, 18, plus 3 years).¹⁷⁷ In 2009, Washington extended the SOLs for rape, child molestation and incest to age 28 (age of majority, 18, plus 10 years).¹⁷⁸ In 2013, it further extended the same criminal SOLs to age 30 (age of majority, 18, plus 12 years).¹⁷⁹ Then in 2017, the state extended the criminal SOL for commercial sex abuse of a minor and promotion of commercial sex abuse of a minor to age 30 (age of majority, 18, plus 12 years), making the criminal SOL in Washington for child sex abuse age 30 for most felonies.¹⁸⁰ The SOL for misdemeanors is age 20.¹⁸¹

Civil. As of 1991, Washington's civil SOL was age 21 (age of majority, 18, plus 3 years) or discovery plus 3 years.¹⁸² No changes have been made in the interim.

- **West Virginia**

There have been no changes to West Virginia's child sex abuse SOLs since 2002. West Virginia is one of the leaders among the states for criminal SOLs it has eliminated both felonies and misdemeanors. The civil SOL of age 20 with a 2-

¹⁷³ *Taylor v. Commonwealth*, No. 2213-13-3, 2015 WL 324627, at *4 n.5 (Va. Ct. App. Jan. 27, 2015).

¹⁷⁴ Va. Code Ann. § 19.2-8 (in 2017 Virginia also capped the criminal SOL against a minor perpetrator at age 19 by the age of majority which is 18 plus 1 year).

¹⁷⁵ Va. Code Ann. § 8.01-243.

¹⁷⁶ *Id.*

¹⁷⁷ Wash. Rev. Code Ann. § 9A.04.080.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ Wash. Rev. Code Ann. § 9A.04.080.

¹⁸¹ *Id.*

¹⁸² Wash. Rev. Code Ann. § 4.16.340.

year discovery rule is not among the shortest but is on the shorter side compared to the other states. On a scale of 1-10, overall it ranks as a 7.

Criminal. There is no criminal SOL for felonies or misdemeanors related to child sex abuse.

Civil. Since 1959, the civil SOL in West Virginia has been age 20 (age of majority, 18, plus 2 years)¹⁸³ and has a judicially crafted 2-year discovery rule.¹⁸⁴ There have been no changes in the interim.

- **Wisconsin**

Wisconsin's criminal SOL, which has eliminated the SOL for most felonies, is in the mainstream among the states. The civil SOL up to age 35 is in the middle of the rest of the states. On a scale of 1-10, overall it ranks as a 7.

Criminal. Since 2002, Wisconsin has twice amended its criminal SOLs. As of 2002, the criminal SOL for child sex abuse was age 25.¹⁸⁵ In 2003, the state extended the criminal SOLs for most felonies to age 45.¹⁸⁶ Finally, in 2005, it eliminated the criminal SOL for most felonies.¹⁸⁷ The SOL for misdemeanors is age 21.¹⁸⁸

Civil. The 2002 civil SOL in Wisconsin was age 23 (age of majority, 18, plus 5 years).¹⁸⁹ In 2004, it was extended to age 35.¹⁹⁰

- **Wyoming**

Wyoming has made no changes to its civil or criminal SOLs since 2002. On the criminal side, Wyoming has no SOL for either felonies or misdemeanors, making it a leader among the states. For civil claims, its age 26 with a 3-year discovery rule sits in the middle of the other states. On a scale of 1-10, overall it ranks as an 8.

Criminal. Wyoming has no criminal SOL for felonies or misdemeanors related to child sex abuse.

¹⁸³ W. Va. Code Ann. § 55-2-12.

¹⁸⁴ *Merrill v. W. Va. Dep't of Health & Human Res.*, 219 W. Va. 151, 156, (W. Va. 2006) ("In Syllabus point 4 of *Gaither v. City Hospital, Inc.*, this Court held that [i]n tort actions, unless there is a clear statutory prohibition to its application, under the discovery rule the statute of limitations begins to run when the plaintiff knows, or by the exercise of reasonable diligence, should know (1) that the plaintiff has been injured, (2) the identity of the entity who owed the plaintiff a duty to act with due care, and who may have engaged in conduct that breached that duty, and (3) that the conduct of that entity has a causal relation to the injury. 199 W. Va. 706(1997).").

¹⁸⁵ Wis. Stat. Ann. § 939.74.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ Wis. Stat. Ann. § 893.587.

¹⁹⁰ *Id.*

Civil. The civil SOL in Wyoming has been the same since at least 1993: age 26 (age of majority, 18, plus 8 years) or a 3-year discovery rule.¹⁹¹

II. SOL Reform After January 2002

A. The Pace of Child Sex Abuse SOL Change Since 2002

Child sex abuse SOL reform has been a very active area of the law as shown by the following graphs. There were more amendments to criminal SOLs than civil SOLs since 2002, though both saw a great deal of activity. This study also underemphasizes the actual legislative activity in that it only tracks the bills that became law; there were many more bills introduced. Moreover, for some states, bills were introduced repeatedly, e.g., New York lawmakers in both houses repeatedly introduced the Child Victims Act for over a decade. It has not yet passed as of July 2018.

1. For Criminal SOLs, the move of choice was to eliminate the SOLs

19 states eliminated at least some SOLs for child sex abuse crimes, felonies and/or misdemeanors.¹⁹²

13 states extended at least some SOLs for child sex abuse crimes.¹⁹³

3 states both extended and eliminated criminal SOLs.¹⁹⁴

The federal government effectively eliminated criminal SOLs.

The current net result (including states that previously eliminated the criminal SOL) is that 41 states and the federal government now have *eliminated* at least some criminal SOLs.

2. For Civil SOLs: three paths were taken: extension, elimination, and/or revival

9 states passed laws that revived expired SOLs.¹⁹⁵

9 states eliminated some civil SOLs.¹⁹⁶

25 states and the federal government extended the civil SOLs.¹⁹⁷

4 states extended and eliminated at least some civil SOLs.¹⁹⁸

Only 1 state, South Dakota, backtracked on an earlier extension, and only 1 state, California, enacted a window with no accompanying elimination or extension.

¹⁹¹ Wyo. Stat. Ann. § 1-3-105.

¹⁹² States that eliminated at least some criminal SOLs for felonies, and/or misdemeanors since 2002: AR, CA, DE, FL, GA, HI, ID, IL, IN, KS, ME, MO, NE, NY, OR, TX, UT, VT, WI.

¹⁹³ States that have extended at least some criminal SOLs: LA, MI, MO, NV, ND, OH, OK, OR, PA, TN, VT, VA, WA.

¹⁹⁴ 3 states that both extended and eliminated criminal SOLs: MO, OR, VT.

¹⁹⁵ States that revived civil SOLs: CA, CT, DE, GA, HI, MI, MA, MN, UT.

¹⁹⁶ States that eliminated at least some civil SOLs: AK, CT, DE, FL, IL, MD, MN, NE, UT.

¹⁹⁷ States that extended civil SOLs: CT, DC, FL, GA, HI, ID, IL, IN, KY, MD, MA, MI, MO, NV, NH, ND, NY, OH, OK, OR, PA, TN, TX, VA, WI.

¹⁹⁸ States that extended and eliminated some civil SOLs: CT, FL, IL, MD.

3. Some states took no action after January 2002

Most states instituted amendments to the child sex abuse criminal or civil SOLs following Jan. 2002.

29, or 57%, of states made changes to the criminal SOL following 2002; 22, or 43%, did not.¹⁹⁹

32, or 63%, of states amended the civil SOLs; 19, or 37%, made no changes to the civil SOL following 2002.²⁰⁰

Only 13 states took no action since January 2002.²⁰¹ For most of those states, however, SOL reform was introduced even if not enacted. States that actively considered SOL reform but did not yet pass a bill included Colorado, Iowa, New Jersey, North Carolina, South Carolina, and Rhode Island.

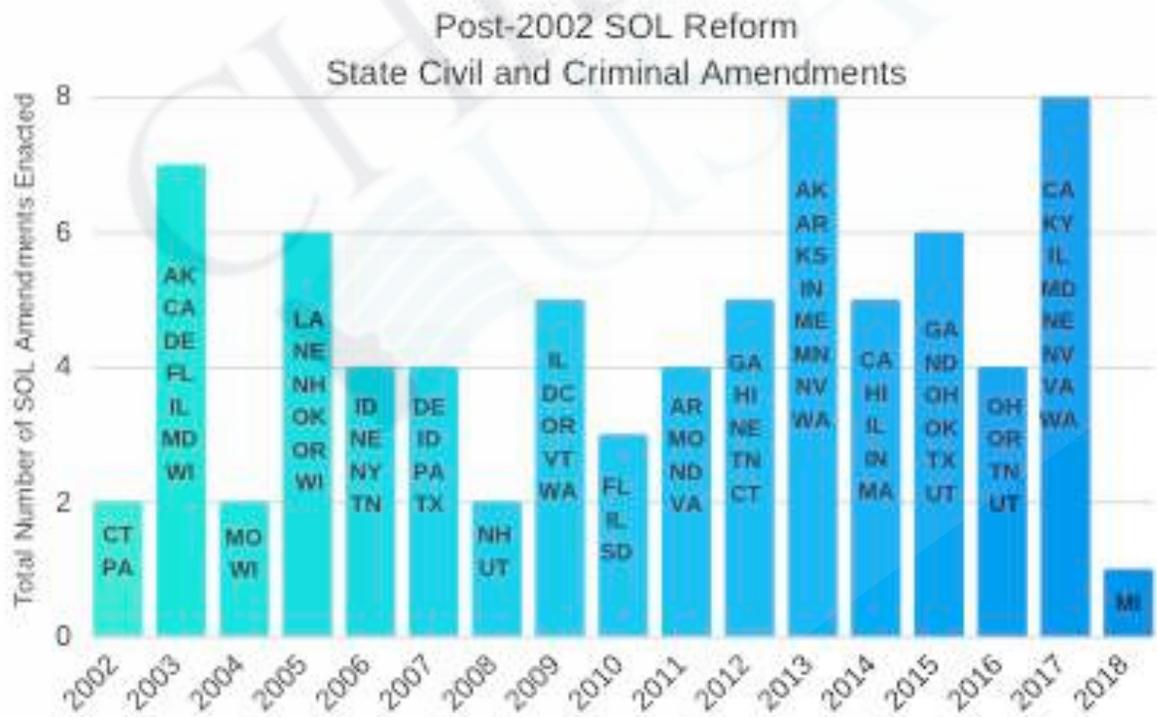
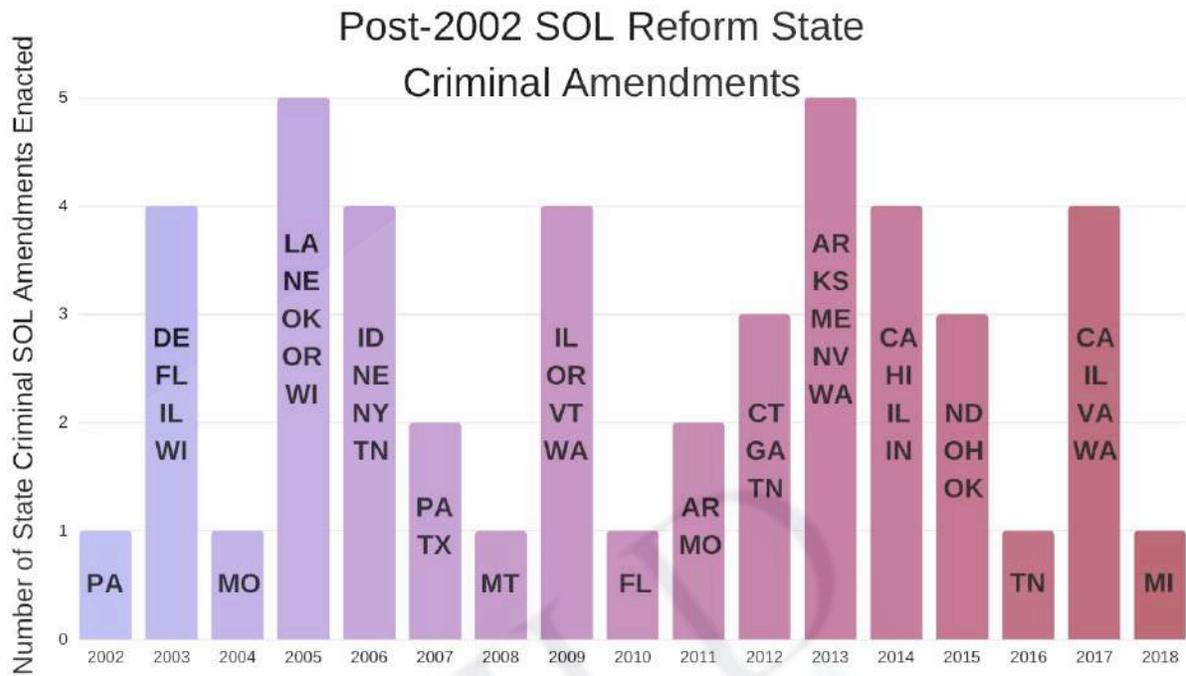
The following graphs illustrate the pace of SOL change and the number of states to engage in such change.



¹⁹⁹ The states that did not make changes to their criminal SOLs after 2002: AL, AK, AZ, CO, CT, DC, IA, KY, MA, MD, MN, MS, MT, NH, NJ, NM, NC, RI, SD, WV, WY.

²⁰⁰ The states that did not make changes to their civil SOLs after 2002: AL, AZ, AR, CO, IA, KS, LA, ME, MS, MT, NJ, NM, NC, RI, SC, VT, WA, WV, WY.

²⁰¹ The states that amended neither criminal nor civil SOL after 2002: AL, AZ, CO, IA, MS, MT, NJ, NM, NC, RI, SC, WV, WY.



B. Changes to the Civil and Criminal SOLs State-by-state

The following chart summarizes the changes made to the civil and criminal statute of

limitations for child sex abuse in each state since 2002.

State	Change to Criminal SOL	Change to Civil SOL
Alabama	None	None
Alaska	None	Eliminated for some felonies
Arizona	None	None
Arkansas	Eliminated for some felonies	None
California	Eliminated (Attempted revival of criminal SOL ruled unconstitutional)	1-yr revival window in 2003
Colorado	None	None
Connecticut	None	Eliminated if perpetrator convicted Revival and extension to age 48 for others
Delaware	Eliminated	Eliminated 2-year revival window (2007-09)
District of Columbia	None	Extended to age 25 or discovery +3
Florida	Eliminated for some felonies	Eliminated for some felonies, extended to age 25 for others, and discovery + 4
Georgia	Eliminated for some felonies	Extended to age 23 or discovery + 2 2-yr revival window against perpetrator (2015 to 2017)
Hawaii	Eliminated for some felonies	Extended to age 26 or discovery + 3 2-year + 2-year revival window (2012-2016) 2-year revival window (2018-2020)
Idaho	Eliminated for some felonies	Extended to age 23 or discovery + 5
Illinois	Eliminated	Prospective elimination
Indiana	Eliminated for some felonies	Extended to accrual + 7 or age 20
Iowa	None	None
Kansas	Eliminated for some felonies	None
Kentucky	None	Extended to age 28
Louisiana	Extended for felonies and misdemeanors until age 48	None

Maine	Eliminated for felonies for victims under age 16	None
Maryland	None	Eliminated for some and extended to age 38 others
Massachusetts	None	Revival and extension to age 53 against perpetrator or discovery +7 against entity
Michigan	Extended for victims of Larry Nassar	Extended to age 28 or discovery +3 90-day revival window (2018)
Minnesota	None	Elimination
Mississippi	None	None
Missouri	Eliminated for some felonies Extended to age 48 for others	Extended to age 31
Montana	None	None
Nebraska	Eliminated for some felonies	Eliminated
Nevada	Extended to age 36 or 43, depending on circumstances, for felonies and misdemeanors	Extended to age 38
New Hampshire	None	Extended to age 30 or discovery + 3
New Jersey	None	None
New Mexico	None	None
New York	Eliminated for some felonies	Extended to age 23
North Carolina	None	None
North Dakota	Extended to 10 years after offense /3 years after reporting DNA testing added	Extended discovery + 10
Ohio	Extended to age 43 for rape and sexual battery	Extended to age 30
Oklahoma	Extended to age 45	Extended to age 45
Oregon	Eliminated for some felonies; others extended to age 30 Extended to age 22 for misdemeanors	Extended to age 40 or discovery + 5
Pennsylvania	Extended to age 50	Extended to age 30
Rhode Island	None	None
South Carolina	None	None
South Dakota	None	Only state to backtrack; Limited to age 21 or discovery + 3 but up to age 40 only

Tennessee	Extended to age 33/43 for most felonies	Extended to discovery + 3
Texas	Eliminated for most felonies	Extended to 15 years post accrual
Utah	Eliminated for felonies	Eliminated Revival of 18 + 35 or 3 years from effective date, whichever is later
Vermont	Eliminated for most felonies; extended for sexual exploitation of a minor	None
Virginia	Eliminated for felonies; extended to age 19 for misdemeanors	Extended to age 38
Washington	Extended to age 30 for most felonies	None
West Virginia	None	None
Wisconsin	Elimination for most felonies	Extended to age 35
Wyoming	None	None
Federal Gov't	Effective elimination	Extended to age 28 and discovery +10 years

III. The Current Status of Child Sex Abuse SOLs: Grading the States

The pace of change has been consistent and persistent since 2002, and there is no indication it is slowing down. Therefore, one can expect the landscape to continue to change. No two states are absolutely identical, which means that child sex abuse SOL reform is a prime example of Justice Louis Brandeis's concept of the states as "laboratories."²⁰² This is truly a 50-state experiment.

In this section, this study will take a snapshot of the states in 2018 and grade them according to how far they have advanced toward elimination of the criminal and civil SOLs for present and future victims and revival of expired SOLs for victims from the past. On these metrics, Delaware is the best state and there are 5 states that fall into "the worst" overall category: Iowa, Louisiana, Montana, North Dakota, and Ohio. It is important, though, to separate out the criminal SOLs from the civil SOLs as they serve different ends.

The criminal SOLs make it possible for prosecutors to prosecute child sex crimes for the purpose of putting the perpetrator behind bars and/or on a state sex offender registry. The downside of the criminal prosecution of child sex abuse is that it is relatively rare because prosecutors tend not to prosecute those cases where the child is very young and therefore a potentially "unreliable" witness or any case where the evidence is not strong enough to withstand the "beyond a reasonable doubt" burden of proof. When DNA is collected and tested, this calculus changes as it is a very strong identifier of the perpetrator. Without

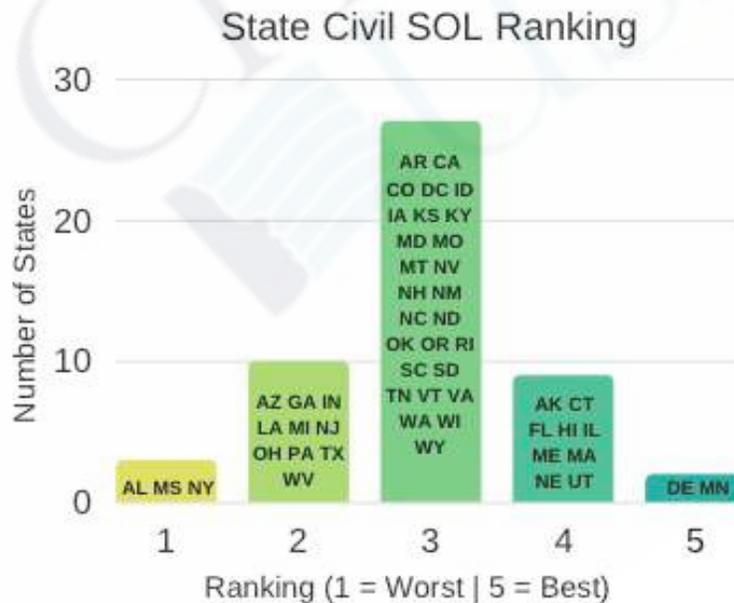
²⁰² *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting) (stating that a "state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.").

physical evidence, however, the cases rest on corroborating evidence like witnesses and other victims of the same perpetrator.

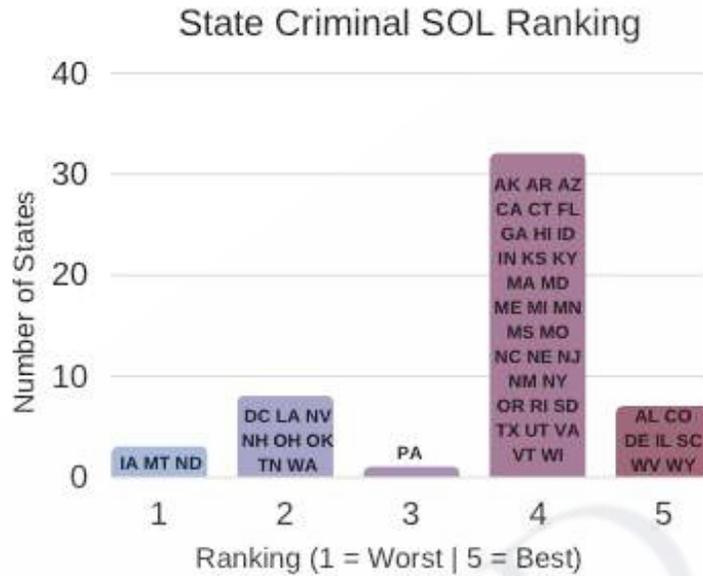
Civil claims serve a distinct purpose as they shift the costs of the abuse from the victim to the person and/or institution that caused the abuse. Thus, while the criminal justice system protects future victims through incarceration and sex offender registration of the perpetrator, the civil system redresses the impact of abuse on the victim, past or present. The civil system also creates a deterrent for future bad behavior by institutions by imposing damages for endangering children through negligent oversight of employees and volunteers. It also spurs the insurance industry to require organizations to prevent abuse. The worst civil SOL states—Alabama, Mississippi, Michigan, and New York—provide the least deterrence for organizations by cutting off claims when the victim is in her early twenties.

For civil claims, there are two categories of victims: those from the past and those being abused now and into the future. Those from the past have been excluded through expired SOLs in many states. In an effort to give these victims access to justice, 8 states have revived expired SOLs. Those states that only extend or eliminate the civil SOLs going forward often leave those from the past without recourse, which in turn means that there is a strong risk that their perpetrators may never be named publicly.

Those states to revive expired SOLs and to eliminate the SOLs going forward—Delaware and Minnesota—have done the most for all categories of victims, past, present, and future. The civil SOL rankings take into account whether a state has helped both past and future victims (with revival legislation and forward elimination or extension, respectively) or only those going forward (through forward elimination or extension).



²⁰³ 1 = Under age 30; 2 = Under age 30 and a discovery rule; 3 = Age 30 and above and/or discovery rule over 2 years; 4 = Window applied to perpetrators and institutions without forward elimination, revived expired claims against perpetrators and institutions up to a certain age; 5 = Window applied to perpetrators and institutions with forward elimination or extension of civil SOL prospectively; 5 = Window



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applicable to perpetrators and institutions and eliminated the civil SOL prospectively. The Georgia and Utah windows that only apply to perpetrators were not factored in given that they generated so few cases (Georgia with 14 and Utah with 1); they amount to a null set.

²⁰⁴ 1 = Under age 30; 2 = Age 30 to 49; 3 = Age 50 and above; 4 = Eliminated for felonies only; 5 = Eliminated for felonies and misdemeanors. The criminal SOL rankings do not include provisions that extend the SOL if there is DNA evidence.

²⁰⁵ The combined graph adds together each state's scores from the criminal and the civil graphs.

Conclusion

Child sex abuse SOL reform has been very active across the United States since January 2002 when the *Boston Globe's* Spotlight team first disclosed institution-based sex abuse in a trusted institution, the Boston Archdiocese. The movement has been mobilized by the appearance in the public square of victims of child sex abuse who were previously invisible to the public. With 1 in 4 girls and 1 in 6 boys sexually abused, there are millions in the United States and most even today have not disclosed the abuse to the public. While the opposition to victims' greater access to justice remains strong from certain corners,²⁰⁶ it is apparent that with the #MeToo movement and a steady stream of child sex abuse victims coming forward, lawmakers are likely to continue to focus on SOL reform. The pace of change is unlikely to slow down anytime soon.

*Thanks to University of Pennsylvania law students Katrina Kaczynski, Rachel Chiger, Ryan Blake, and Fox Fellow Amelia Ventura, who provided excellent research assistance for this report, and to the Penn Law Toll Public Interest Center. Thank you also to Benjamin N. Cardozo School of Law student Corrine Shea for her excellent help with research and citations for this report.

²⁰⁶ Chris Glorioso and Evan Stulberger, I-Team: Insurance Industry Helped Squash Child Sex Abuse Law in New York, NBC NEW YORK, (Mar. 29, 2018, 3:30 P.M.), www.nbcnewyork.com/news/local/Child-Victims-Act-Sex-Abuse-Law-Insurance-Industry-New-York-Albany-478315153.html. Page 40 of 40