

# HIDDEN PREDATOR ACT 2020

*Will Maryland protect its children or protect its predators?*

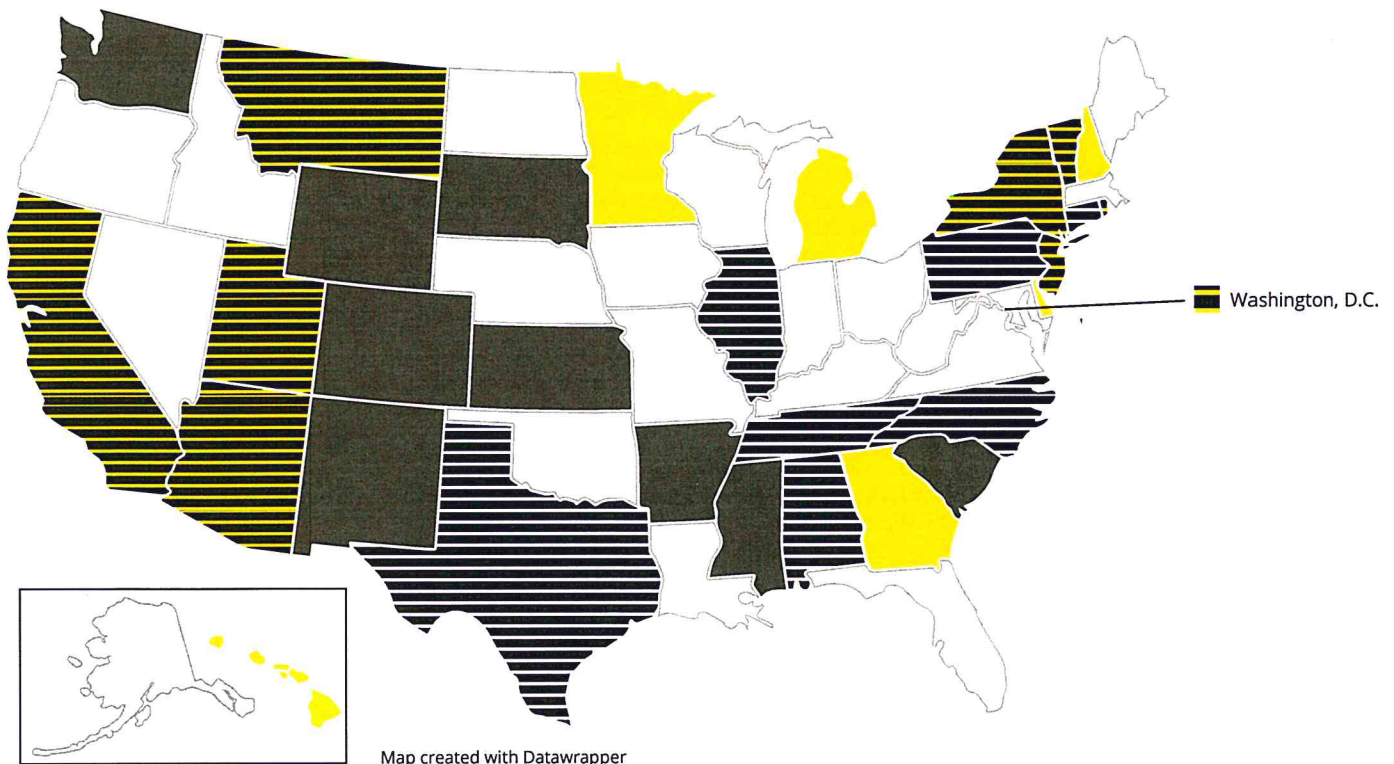
## GOALS OF HIDDEN PREDATOR ACT

-  Identify Hidden Predators
-  Disclose Facts of Sex Abuse Epidemic to Public
-  Arm Trusted Adults to Protect Children
-  Shift Cost of Abuse from Victim to Those Who Caused It
-  Justice for Victims Ready to Come Forward

## WHAT WILL THE HIDDEN PREDATOR ACT DO?

- Eliminate the civil statute of limitations going forward.
- Create a lookback window for those victims who have been previously barred by the statute of limitations, allowing them to file suit for a period of two years.
- Removes the "statute of repose" making it clear to the courts, the public and survivors that the Maryland General Assembly did not intend to vest constitutionally protected property rights in child sexual predators nor the individuals and organizations that hid predators from discovery and prosecution.

Since 2018, 1/3 of states have passed laws extending the civil statute of limitations (SOL) and establishing a lookback window for child sexual abuse claims, enabling survivors the opportunity to have their claim considered in a court of law. This bill would apply to all individuals and organizations, **no one would be exempt from civil litigation.**



Map created with Datawrapper



# HIDDEN PREDATOR ACT 2020

**FACT: There is a national shift towards exposing Hidden Predators through civil SOL lookback windows.**

In 2019, Washington D.C.:

- Extended the civil SOL where victim was under 35-40 with a 5 year discovery rule
- Opened 2 year revival window for victims abused as minors and adults
- 16 states + D.C. have passed "lookback windows" or revival laws and 9 states, including MD, have introduced these laws in 2020

In 2019, New Jersey:

- Extended the civil SOL for child sex abuse to age 55 or 7 years from discovery for claims against individuals, public and private institutions
- Removed claim presentment requirement for claims against public entities
- Opened 2 year revival window for victims abused as minors or adults against perpetrators and institutions

**FACT: In other states lookback windows have exposed hidden predators.**

In Delaware:

- During 2 year lookback window ('07-'09), 175 survivors filed claims
- Under follow-up window for healthcare providers, 1,000 claims made solely against Pediatrician Dr. Earl V. Bradley, the most active previously undisclosed predator to date

In Minnesota:

- 125+ predators identified, including the predator in the high-profile cold case of Jacob Wetterling
- During the 3 year lookback window ('13-'16), 1,006 claims were filed

In California:

- 300+ predators were identified
- During the 1 year look back window in '03, 1,150 survivors filed claims

**Q: Is there a need for further Civil SOL reform?**

A: Criminal and civil proceedings provide different solutions and both are needed for justice to be served. Criminal prosecutions are at the discretion of prosecutors and law enforcement with limited resources and are often not pursued. If pursued, the remedy is a criminal sentence for perpetrators. Civil suits empower victims to initiate a court case to shift the cost from the victim to those who caused the harm.

**Q: How will the lookback window impact institutions that provide education and social services to low-income individuals and communities?**

A: Many institutions receive a large percentage of their funding from government agencies as payment for services provided. This bill would have no effect on that funding or the ability to provide those social services. For example, nearly 77% of Catholic Charities revenue comes from governmental agencies. In rare circumstances, an organization may choose to seek legal relief under the bankruptcy code to reorganize their debt. This legal relief does not cause operations to close.

**Q: In 2017, did the Maryland General Assembly intend to include a "statute of repose" in the legislation?**

A: A "statute of repose" gives constitutionally protected property rights to a defendant. It is intended to be used in product liability cases to limit the length of time that the builder or inventor may be held responsible for problems or defects. It was never intended to protect wrongdoing by sexual predators and those that protect them from prosecution or discovery.

In 2017 There was no discussion or debate of the constitutional implications of the "statute of repose" in committee or on the floor of either chamber. Neither the Fiscal and Policy Note, nor the Revised Fiscal and Policy Note, make any notice of the pivotal constitutional implications to this law. Neither the constitutionality of a lookback window nor a "statute of repose" in child sexual abuse cases has been decided by the Maryland courts. Constitutionality should be determined by the courts.

The Hidden Predator Act removes the "statute of repose" language making it clear to the courts, the public, and survivors that the Maryland General Assembly did not intend to vest constitutionally protected property rights in child sexual predators nor the individuals and organizations that hid predators from discovery and prosecution.

**Q: How will this bill help Maryland prosper?**

A: The average age for adults to disclose childhood sexual abuse is 52. Research shows that children who experience Adverse Childhood Experiences (ACEs) can have poor long-term mental and physical health, educational, and employment outcomes at enormous cost to individuals and the state. The trauma from childhood sexual abuse may lead to PTSD, alcohol and opioid abuse, depression, suicide, and poor educational and employment outcomes. The lookback window provides survivors a window of time to access justice and shifts the costs of healing to those who caused the harm. It also provides protection for our children who may still be at risk from formerly unknown abusers and leads to improved institutional practices that keep children safe from sexual predators.

**For additional information, please contact the State Council for Childhood Abuse and Neglect (SCCAN):**

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