

Jennifer Gross SB134 Written Testimony.pdf

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Position: FAV

**TESTIMONY IN SUPPORT OF SB134:
Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations
(Hidden Predator Act of 2021)**

**** SUPPORT ****

DATE: January 2021

Written testimony respectfully submitted by
Jennifer Gross
Licensed Certified Social Worker – Clinical, MD
Licensed Clinical Social Worker, VA
Certified Sex Offender Treatment Provider, VA
Clinical Member, ATSA

As parents, as advocates and as lawmakers, we surround our children with people we trust to protect them. When a child is sexually abused, 9 times out of 10 it is that very person we trusted and thus entrusted our child to who committed this horrific abuse upon them.

When a child is abused by someone we told them was safe, a child naturally blames themselves for what happened as they believe they must have done something to deserve it. When the abuser is a leader in the child's community, the damage is compounded as that place, that organization, that religion, that group often cannot be avoided. Perhaps the abuser can be, but what they represent, a church, a youth group, a sport cannot be. Over the years, interactions with those groups cause further pain.

By the time a child realizes what happened was not their fault, they did not deserve it and they gather the courage to tell us what caused them such pain for so many years, what was behind their drinking, failed relationships, suicide attempts and more, by that time most people are 52 years old.

Imagine then, reaching out, telling and seeking help, only to learn there are far worse things than being abused by that one person. What can be worse than

knowing one person viewed you as an object to be used, abused and discarded? What can be worse than knowing one person viewed you not as a human, worthy of dignity and love but viewed you as a thing to be used for their own deviant pleasure. What can be worse than that? What survivors tell us what is worse is when they tell, when they seek understanding and kindness, the very people they turn to then commit a betrayal of greater order. The very organizations which were founded to help, serve and protect then turn with vengeance to protect, not the victim, but themselves. They lie, they hide, they dissemble; thus mimicking the perpetrator's use of power, control, blame shifting and more, thus they re-victimize the victim.

Imagine, then being that survivor. Now you learn it was not just your abuser who does not see you as a human being, worthy of dignity and respect. Now you see it is an entire organization, a system, an institution. One person treating you like trash is damaging, an entire organization treating you like trash? This is institutional betrayal and it is abuse. It is devastating.

We stand before you today to ask you to open a door. That's all, just open a door to allow survivors to walk through and seek justice. We are not asking you to deliver that justice. This bill does not ask you to do anything other than open a door so adults can step through and access the legal system to seek healing and safety. If you open that door, all you are doing is giving survivors the ability to tell their story and let our justice system take over from there. That's all.

Abusers prey upon the innocence of children. When those abusers do so as employees or volunteers of an organization, far too often, when the abuse becomes known the institution chooses to protect itself instead of the child. Children cannot protect themselves from either of these things from occurring. Children cannot. But adults can. Pass this bill so brave survivors can tell their story and seek justice. By doing so, this creates safety for the children still in the care of those abusers (many of whom are still alive) and from those institutions who sheltered and protected them.

You have heard from powerful groups that opening that door will have calamitous effects upon groups and communities. To that I say, nonsense. Plain and simple nonsense. Do not allow them to insult your intelligence.

I am a parent, a social worker, a certified sex offender treatment provider. I am the mother of 2 former boy scouts. I am a Catholic, a direct decedent of Archbishop William Gross. I am a former Director of Safe Environments for a nearby diocese. I am the former chair of a Catholic regional review board, a board that reviewed

allegations of clergy abuse and reviewed safety plans and victim outreach. I currently volunteer to teach the Catholic church's mandatory prevention class. I am here to tell you in no uncertain terms, it is not extending the statute of limitations which will hurt the church. The church, the boy scouts and other organizations have inflicted this damage upon itself. It is not the original abuse committed by clergy or a leader which is causing the damage, it is the coverup, the duplicity, the ongoing efforts to protect the institution and not those who serve. When powerful organizations continue to engage in subterfuge and secrecy, when they make veiled threats of lost funding for programs, they are committing further abuse upon not only survivors but all of us. It is time for that to end. As a Catholic, deeply involved in this issue, I am urging you to remove the statue of repose and pass this bill as written. Shamefully, my church has only taken steps to reform and protect when pressured to do so by survivors, lawmakers and the media. So be it. They had their chance to do the right thing, they chose not to. They chose to ignore a problem, they chose to cover up an issue. They chose to move danger around. They have done this to themselves. I urge you to open pass the bill and let survivors walk through to seek justice for themselves and safety for our children. Let them now face those powerless children. Those children, now adults, who can speak for themselves, defend themselves, protect themselves. Let the church, the scouts and all others now go toe to toe with adults. They made their choices. Let them now face the consequences. By doing so you will be sending a loud and clear message, you will not allow this Institutional betrayal and abuse to continue.

For these reasons, I urge a favorable committee report and passage of SB134 without amendments.

Kay Connors UMD SB134 2021 - Written Testimony.pdf

Uploaded by: Hessler, Therese

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:

CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF LIMITATIONS

****SUPPORT****

TO: Hon. William Smith Jr., Chair, and members of the Senate Judicial Proceedings Committee

FROM: Kay Connors, LCSW-C, Instructor, Department of Psychiatry, University of Maryland School of Medicine

DATE: February 2, 2021

“The world is a dangerous place, not because of those who do evil, but because of those who look on and do nothing.” —Albert Einstein

As a clinical social worker and trauma therapist for over 35 years and a faculty member at the University of Maryland School of Medicine in the Department of Psychiatry, I am submitting this testimony in of support SB134, the Hidden Predator Act of 2021. SB134 is essential for justice and healing for survivors of child sexual abuse. Central to healing from child sexual abuse is the opportunity to be seen and heard along with creating safety for the survivor and potential future victims.

Child sexual abuse is the sexual victimization of a child by an adult or older child, and it is frequently accompanied by coercion, threats, and force. The National Child Abuse and Neglect Data System defines child sexual abuse as a range of sexual acts that may include oral, genital, or anal penetration, as well as sexual touching, exposure, exploitation, and voyeurism. Childhood sexual abuse is a worldwide public health problem that occurs throughout all communities and in socioeconomic, educational, racial and ethnic groups. Due to its hidden nature and the frequent absence of physical evidence, child sexual abuse often goes undisclosed and undetected and may not come to light until many years or decades after the abuse occurred.

Child sexual abuse can have wide-reaching and long-lasting effects. Recent brain science has demonstrated that childhood sexual abuse causes changes in the developing brain and its functioning and alters a child’s development, including the ability to be resilient and adjust later in life. The landmark Adverse Childhood Experiences (ACEs) study conducted with 17,000 adults and later replicated in several studies throughout the country with 500,000 participants, including Maryland citizens, consistently demonstrates that child sexual abuse is a common experience, estimated at 24.7% for women and 20.7% for men. The ACEs study and other research studies have shown that child sexual abuse commonly occurs with other adversities and traumatic experiences and is linked to chronic health and mental health problems. ACEs are known to impact child development, such as brain development, stress regulatory systems, social emotional and cognitive development, and increases the likelihood of having 2 or more co-occurring mental health diagnoses including ADHD, mood, anxiety, addiction, impulse control problems, as well as medical disorders such as, heart and digestive diseases, diabetes, asthma, cancer.

Child sexual abuse is also shown to be associated with some of the most serious mental health problems, suicide and psychosis. Adolescents and young adults who have experienced child sexual abuse are at a higher risk of developing psychotic disorders, such as schizophrenia. For example, researchers found that sexual abuse before the age of 16 was strongly associated with psychosis. Within individuals suffering from psychosis, a history of child sexual abuse is associated with higher levels of impairing and distressing symptoms, particularly hallucinations and delusions. This may be due in part to the hypervigilance and thinking patterns sexual abuse survivors need to use to cope while living in unsafe and psychologically damaging situations. With regards to suicide, child sexual abuse was strongly associated with a history of suicide attempts as well as suicidal intent and was more common in women. As people age, their PTSD symptoms may worsen. With aging comes life changes such as retirement, loss, moves and changes in life-style (e.g. more screen time), and increased risk of medical problems and decreased physical abilities. Increased isolation, feeling more vulnerable, along with not having the coping strategies that were available to them when they were younger put older child abuse survivors at risk of struggling with unwanted memories and re-emerging fears of the abuse.

Traumas, including child sexual abuse, greatly impact how memories, emotions and cognitions are processed and stored in the mind and impacts beliefs about oneself and relationships to others. Sadly, when children do not disclose sexual abuse, they can suffer long-term difficulties. Researchers have documented that the traumatic effects of sexual abuse may include:

- Powerlessness: having an ongoing sense of fear and vulnerability
- Betrayal: no longer being able to trust others' good intentions
- Stigmatization: feeling secrecy, shame and/or "damaged" related to the sexual abuse
- Traumatic sexualization: associating sexuality and sexual behavior with fear, pain, and coercion rather than pleasure, intimacy, and choice.

There are many reasons victims of child sexual abuse do not disclose to anyone for many years. Some people may never disclose. Fear of not being believed, reprisals from perpetrators and of being blamed are common reasons to not disclose. When it does happen, disclosure is often a process, not a single event. Childhood sexual abuse survivors report not wanting family or other people to know, being unable to prove the incident occurred, and fear that authorities will not take it seriously. Other reasons that childhood sexual abuse survivors do not disclose may include posttraumatic stress symptoms of trying to avoid thinking about, remembering, or talking about the sexual abuse because it is frightening and emotionally painful and brings up overwhelming feelings of shame and thoughts that they might have deserved what happened.

The Hidden Predator Act of 2021 (SB134) recognizes the rights of childhood sexual abuse survivors seek justice for past abuse and illegal acts and empowers survivors to move forward in their healing process. ***For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendments.***

Sincerely,



Kay Connors, LCSW-C

Instructor, Department of Psychiatry, University of Maryland School of Medicine

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Kurt Rupprecht SB134 written testimony.pdf

Uploaded by: Hessler, Therese

Position: FAV

TO: Senate Judicial Proceedings Committee

FROM: Kurt Rupprecht, Forest Hill, Maryland

DATE: February 2, 2020

POSITION: Support SB134

Dear Chairman Smith and Maryland Senators:

My name is Kurt Rupprecht from Forest Hill, MD and I am here as a Survivor of childhood sexual abuse to state my support for SB134, the Hidden Predator Act.

I was born in Salisbury, MD in 1970. I grew up attending church, actively participating and receiving my childhood sacraments at St. Francis de Sales parish in Salisbury. It was in Salisbury in 1979 that I was groomed, sexually molested and physically assaulted by Father Joseph A. McGovern.

I have testified previously to this committee in detail to the trauma I suffered as a terrified 9 years old boy and the agonizing mental and physical damage I have endured my entire life since those events.

More importantly today I also speak for others from my generation who suffered childhood sexual abuse at St. Francis de Sales. They continue to suffer in silence. I am humbled that since publicly declaring my abuse and speaking out in support of survivors they have reached out to me to speak for them.

Please understand that what significantly helped seal our fates was that we were children of the Diocese of Wilmington who lived in Maryland, not Delaware.

The abuses of the Diocese of Wilmington are well documented. 85% of their Parishes had Predator Priests assigned during the 1960s through 1990s. The Bishops and leadership in Wilmington conspired and covered the abuses as best they could for as long as they could, until 2007 when Delaware passed Statute of Limitations reforms which included a look back window for past victims. In Maryland in 2020 as past childhood abuse survivors we still wait because the abuse we suffered at the hands of that same Institution occurred in Salisbury, 6 miles on the other side of a state line.

Most infuriating as a survivor is the documented knowledge, which was brought to light only because Discovery was required by the State of Delaware's reforms previously mentioned, that the Diocese of Wilmington not only covered and protected their predator priests; but their explicit strategy was to avoid exposure within Delaware by concentrating their predators assignments within the Maryland parishes. Wilmington conducted this program with the knowledge and participation of elements of Delaware law enforcement. They would even send their abusing priests for the occasional psychiatric 'treatment' or 'rest' to Maryland facilities.

The numbers prove this dark reality. During this period the Parishes in Delaware contained 79% of the Diocese members and averaged 2.4 predator priest assignments per Parish. In Maryland, which contained only 21% of the Diocese members, the Parish average was 7 predator priest assignments per Parish.

Especially haunting for me today is knowing of the 59 parishes in the Wilmington Diocese, the one with by far the highest number of predator priests' assignments was... St. Francis de Sales in Salisbury. Two of its' Pastors, Fathers Lind and Irwin, were themselves abusers and considered 'predator mentors' to younger abusive priests which were so frequently assigned to their supervision. Salisbury became a virtual training ground for childhood abuse.

Please know I do not hate the Catholic Church. Because of my emotional wounds I personally can no longer attend Church. Yet I understand the Church is truly made of the people who are my family and friends, countless volunteers, teachers, counselors, caregivers, and many clergy who have my friendship and respect. All those people support me and support this Bill.

SB134 is for all our citizens and no single institution of any kind deserves the power to deny this protection to those of us who are damaged and to our children when they are at their most vulnerable.

Marylanders deserve Justice for our past abuse and the best possible protection for our children in the future. Justice and protection which 23 other states provide for their citizens and 20 more are actively pursuing just as we are here today.

With all my heart I implore you to support this Bill.

Thank you.

Mary Corzine SB134 written testimony.pdf

Uploaded by: Hessler, Therese

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: Mary Corzine

DATE: 02/02/2021

My name is Mary Corzine, and I am here to provide testimony as a survivor of childhood sexual abuse in support of SB134.

When I found the courage to come forward and tell a teacher, multiple priests, and a therapist the response was devastating.

I was told:

He is sick- it's not his fault.

You'll feel better when you forgive him.

Vengeance belongs to God alone. This last one is a common offering to victims and is particularly painful to me.

At least you weren't raped.

Is it any wonder that victims don't come forward for decades when this is the response they receive?

I tried several times to tell my parents but became overwhelmed with panic, worrying about what would happen next. I didn't know the words to describe what was happening. I was in fifth grade when I was instructed to sit on the abuser's lap in a darkened room in an empty house on school property. I thought he had a stick in his pocket -repeatedly poking at me. I was instructed to wrap my arms around his neck tightly while he "talked" to me. When it was over I flew outside red-faced and crying and went to the school bathroom, my uniform was wet with an unidentifiable white substance which I wiped off and then returned to class.

This happened several times in the same house and also in the boiler room in the school where I was placed across the top of a child-sized desk hidden in the back. I told a teacher about the abuse, and she never told my parents. My abuser was then moved to a different parish. Later, in 1986 I learned an 8th grade boy attempted suicide after being abused by the same man. The priest, now laicized at his request, was working as a basketball coach in the same archdiocese. He later pleaded guilty to four counts of sodomizing a minor, admitting to sexually abusing six other boys more than 50 times in the previous six years.

A plea deal granted him immunity from prosecution for abusing the other six boys. He served 9 months and is not on the Maryland Sex Offenders registry. It's heartbreaking to me that a person can commit repeated, constant and calculated pedophilia in Maryland and get away with it. He is a perfect example of how abusers will continue to abuse unless they are stopped. This bill will help to expose abusers like him, and protect children in the future.

Today, I am here for them as well as myself. When victims come forward perpetrators are exposed and children are safer. Predators depend on the statute of limitations to be able to continue to practice their compulsions. Institutions further protect abusers when they consistently demonstrate a lack of courage by protecting their institutions rather than its victims. There is hope for survivors but without resources trauma can seem insurmountable.

Thank you.

For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.

Maryland Catholics for Action SB134 Written Testim

Uploaded by: Hessler, Therese

Position: FAV



Executive Committee

Susan Kerin
St. Camillus Catholic
Church
Silver Spring, MD

Robert Cooke
St. Rose of Lima
Catholic Church
Gaithersburg, MD

Mary Kate Ryner
St. Francis of Assisi
Catholic Church
Rockville, MD

Suzanne Emerson
Blessed Sacrament
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Support for the Hidden Predator Act (SB134)

TO: Senate Judicial Proceedings Committee

FROM: Maryland Catholics for Action (<https://bit.ly/2twFUWV>)

DATE: February 2, 2020

POSITION: Support SB134

Dear Chairman Smith and Maryland Senators:

My name is Susan Kerin and I represent Maryland Catholics for Action. We are a coalition of lay and religious Catholics who support victims' rights related to the clergy sex abuse scandal. We feel that our institutional leadership has abandoned our injured brothers and sisters. Our leaders have not provided the transparency and accountability necessary to ensure that these criminal activities will end.

Recent pollings reveal that many US Catholics share our concerns. In a 2019 poll by the Economist, one in three US Catholics reported having an unfavorable view of our leadership. (<https://bit.ly/2HEjKpe>). A Gallup poll also in 2019 noted that 37% of US Catholics are personally questioning whether to remain Catholic because of the scandal. <https://bit.ly/2P9msqR>

It is important to keep in mind that these polls may actually be minimizing laity concerns. That is because most Catholics have no idea how much money and lobbying resources that our leaders have been spending to undermine bills like the Hidden Predators Act. Our leaders often share their legislative priorities on the pulpit, in bulletins, and flock notes. But challenging the HPA is never publicly mentioned.

Victims have shared with us the stigmatizing responses they have received of not being believed, judged or dismissed. Or hearing magnificent statements from the church hierarchy which never materialize into substantive support. The cost burden of this crime lies predominantly on the victims.

Anyone who is Catholic should regard this scandal as an existential issue: We are facing moral bankruptcy. The laity are the treasures of the church. We are the ones that provide the financial offertories and the hundreds of thousands of hours in charitable work. Many of us have an alternative narrative compared to the Bishops and I ask that you consider our voices when you think of the Catholic church.

SB134: The Hidden Predator Act is, first and foremost what all victims of child sexual abuse deserve. Resources and choices to help them heal. But it is also important to us Catholics who feel accountable and heartbroken by this scandal. **Our futures are intertwined.** This committee has an opportunity to solidify Maryland as a leader in children rights and protections rather than a protector of institutions. We urge this committee to issue a favorable report.

We are the "treasures" of the Catholic Church

Maryland Family Network SB134 Written Testimony.pdf

Uploaded by: Hessler, Therese

Position: FAV



Testimony Concerning SB 134
“Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations”
Submitted to the Senate Judicial Proceedings Committee
February 2, 2021

Position: Support

Maryland Family Network (MFN) supports SB 134, which would eliminate the civil statute of limitations on child sexual abuse, create a temporary “look-back window” for victims who were previously barred from seeking redress by the existing statute of limitations, and clarify that those who perpetrate child sexual abuse are not entitled to constitutionally protected property rights.

As Maryland's largest and oldest statewide child advocacy organization, MFN is strongly committed to ensuring the health and well-being of children across our state. MFN has worked since 1945 to improve the quality of life for Maryland children and their families. We are committed to a process that identifies and addresses factors affecting the well-being of children and youth, including the prevention of child abuse and neglect.

Studies indicate that one in five girls and one in 13 boys will experience child sexual abuse. Recent research also shows that adverse experiences faced in childhood change the structure and function of brains and have lasting impacts into adulthood. The trauma associated with childhood sexual abuse too often leads to PTSD, alcohol and opioid abuse, depression, suicide, and poor educational and employment outcomes. The impact is felt by individuals and by society as a whole. According to the CDC, the economic burden of child sexual abuse is over \$9 billion annually.

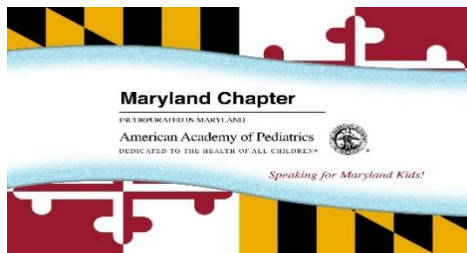
Maryland has no criminal statute of limitations for felonies, including those involving child sexual abuse. However, criminal and civil proceedings provide different remedies, and both are necessary for justice to be served. Certainly, we can all agree that survivors should have every option available to heal. Not only does this bill provide support and access for adult survivors, it provides preventative protection to children. In states such as California, Delaware, and Minnesota where “look-back windows” have been opened, hidden predators have been exposed.

MFN respectfully urges the Committee’s favorable consideration of SB 134.

MDAAP SB 134 Written Testimony.pdf

Uploaded by: Hessler, Therese

Position: FAV



TO: The Honorable William C. Smith, Jr., Chair
Members, Senate Judicial Proceedings Committee

FROM: Wendy Lane, M.D., MPH, Chair, Child Maltreatment and Foster Care Committee, Maryland Chapter of the American Academy of Pediatrics

DATE: January 29, 2021

RE: **SUPPORT** – Senate Bill 134: *Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations*

The Maryland Chapter of the American Academy of Pediatrics is a statewide association representing more than 1,100 pediatricians and allied pediatric and adolescent healthcare practitioners in the State and is a strong and established advocate promoting the health and safety of all the children we serve. On behalf of MDAAP, we submit this letter of support for Senate Bill 134: Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations.

Senate Bill 134 would eliminate the statute of limitations in civil actions related to child sexual abuse. In 2017, this statute of limitations was extended to 20 years from the age of majority from 7 years from the age of majority – i.e. from age 25 to age 38 years. Unfortunately, it also raised the standard of proof to sue employers from ordinary negligence to gross negligence, making it much more difficult to sue institutions for failure to protect children in their care from sexual abuse.¹ This current bill would completely eliminate the statute of limitations, and the gross negligence requirement.

We know from extensive research that sexual abuse can have profound and long-lasting, even lifetime-long negative effects on children. During childhood, victims may exhibit anxiety, social withdrawal, school failure, and inappropriate sexual behavior.² In adolescence, sexually abused teens are at increased risk for depression, self-injury, suicide attempts, eating disorders, risky sexual behavior, and teen pregnancy.³ Adults who experience child sexual abuse and exploitation are more likely to have alcohol and/or drug dependence, chronic abdominal and pelvic pain, and poor overall health.⁴ Women who have been sexually abused spend more on health care costs, and are more likely to rely on welfare for income.³

¹ <https://www.baltimoresun.com/news/opinion/oped/bs-ed-op-1012-abuse-victims-redress-20171011-story.html>

² Trickett PK, Noll JG, Putnam FW. The impact of sexual abuse on female development: Lessons from a multigenerational, longitudinal research study. *Development & Psychopathology*. 2011;23:453-476.

³ Homma Y, Wang N Saewyc E, Kishor N. The relationship between sexual abuse & risky sexual behavior among adolescent boys: A meta-analysis. *Journal of Adolescent Health*. 2012;51:18-24.

Sanci L, Coffey C, Olsson C, Reid S, Carlin JB, Patton G. Child sexual abuse & eating disorders in females. *Arch Pediatr Adolesc Med*. 2008;162:261-267.

Pallitto CC, Murillo V. Abuse as a risk factor for adolescent pregnancy in El Salvador. *J Adolescent Health*. 2008;42:580-586.

Mills R, Alati R, O'Callaghan M. Child maltreatment and adolescent mental health problems in a large birth cohort. *Child Abuse & Neglect*. 2013;37:292-302.

⁴ Fergusson DM, McLeod GFH, Horwood LJ. Childhood sexual abuse and adult developmental outcomes: Findings from a 30-year longitudinal study in New Zealand. *Child Abuse & Neglect*. 2013;37:664-764.

Delayed disclosure in child sexual abuse is extremely common.⁵ Children commonly wait months and even years before disclosing. There are numerous reasons for this delayed disclosure. Victims will frequently cite shame, fear of social stigmatization or ridicule, and fear of not being believed. Perpetrators of sexual abuse may threaten the child or family with physical harm or may threaten the child that she will be taken away from her family. Perpetrators often blame the child for the abuse, and the child internalizes this self-blame. Abused infants, toddlers, and other very young children may not understand that what is going on is abuse. And finally, a child may attempt disclosure to an adult who is distracted, disbelieving, or in denial, and no further action is taken. For all these reasons, children may tell no one for decades.

As noted above, adults who were sexually abused as children are often left with long-term physical and mental health problems that can be extremely costly. Under current law, adults who were abused as children are often left with no legal remedy, and no way to make them whole. Elimination of the statute of limitations would allow adults who were sexually abused as children to seek justice for the harm that they have suffered. For these reasons, MDAAP strongly urges a favorable report.

⁵ Munzer A, Fegert JM, Ganser HG, Loos S, Witt A, Goldbeck L. Please Tell! Barriers to disclosing sexual victimization and subsequent social support perceived by children and adolescents. *J Interpersonal Violence* 2016;3:355-377.

P.A.N.D.A. SB 134 Written Testimony.pdf

Uploaded by: Hessler, Therese

Position: FAV

Mid Atlantic P.A.N.D.A. Coalition

5900 Abriana Way, Elkridge, Maryland 21075

Written Testimony in Support of Senate Bill 134
Civil Actions-Child Sexual Abuse-Definition and Statute of Limitations
SUPPORT

To: Hon. William C. Smith, Jr. Chair, and members of the Senate Judicial Proceedings Committee

From: Mid Atlantic P.A.N.D.A. Coalition

Date: January 19, 2021

Dear Senator Smith

The Mid-Atlantic P.A.N.D.A. is in Favor of SB 134

We represent the Mid Atlantic P.A.N.D.A. Coalition (Prevent Abuse and Neglect through Dental Awareness). We were established in 2000, our mission is "To create an atmosphere of understanding in dentistry and other professional communities which will result in the prevention of abuse and neglect through early identification and appropriate intervention for those who have been abused or neglected." Dentists and Dental Hygienists (Dental Professionals) are mandated by the State of Maryland to report suspected cases of abuse and neglect. Our coalition has established a Continuing Education (CE) course that educates Dental Professionals and other how to recognize, report, or refer. The Maryland State Board of Dental Examiners has deemed this course as a mandatory CE requirement for Dentists and Hygienists to renew their licenses. We also address domestic violence, elder abuse, bullying and human trafficking in our CE course.

SB 134 will extend the time in which one can file sexual abuse claims. This added time would allow these victims that have been intimidated and afraid to report their sexual abuse the time to process what has happened to them. They also may not be aware of how to report. Developing the proper mechanisms to be able to stand up for themselves and seek help takes time. By extending this time period it will help these victims to be able to improve their self-esteem. This will result in helping one to heal.

We thank you for your consideration of SB 134 and we ask you vote favorable.

Respectfully submitted,

The Mid-Atlantic P.A.N.D.A. Coalition

Carol Caiazzo, RDH, President

Sue Camardese, RDH MS, Vice President

Sarah Conway SB134 Written Testimony.pdf

Uploaded by: Hessler, Therese

Position: FAV

Testimony in support of Senate Bill 134
Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations
SUPPORT

From: Sarah Conway
Date: February 2, 2021

To: Hon. William Smith Jr., Chair, and members of the Senate Judicial Proceedings Committee
Thank you for the opportunity to share my testimony with you in support of SB134.

I'm a longtime Annapolis resident and survivor of sexual abuse by teachers at The Key School. Last year a Baltimore law firm retained by Key, completed an independent investigation into abuse at my school. They concluded that at least 10 people in positions of authority sexually exploited 16 or more students. And even more importantly, they concluded that in all but one of these cases, others in the School community (including faculty, staff, administrators, and board members) were aware of the abuse and chose to remain silent rather than to intervene or report it. In my case, I was 14 when my two teachers singled me out for special attention. After creating a bond, gaining my trust and affection over many months, the sexual abuse started. It lasted for more than a year.

So why do we need a look back window? Because coming forward is tremendously difficult and even when a survivor reports, in the past or now, it does not assure justice.

The civil statute of limitations expired for me at 21 when I still had few words for the pain and confusion I felt. I was not yet strong enough to stand up against my entire school and enter the unknown world of police and courts. My parents were devastated and tried to take action at the time, but the school only shrugged. And when my mother consulted the AACo. State's Attorney, he strongly dissuaded her from contacting law enforcement. With nowhere to turn, my parents suffered terribly and soon separated.

In **1993**, Key School honored one of its most prolific abusers with a memorial service. Many of the attendees were Key teachers, administrators, and board members. When I stood up before the group and shared my story of abuse, I was met with silence—and later victim blaming. The headmaster denied the school had any institutional responsibility and hoped I would keep it quiet.

In **1997**, I met with police and gave a detailed accounting of my abuse and how common it was at Key. Yet no investigation was ever done. In **2018**, I was interviewed again.

Many who are arguing against the bill will say that “because there is no statute of limitations on felonies in Maryland” victims should seek justice in criminal court. But when I was 14, I was penetrated every which way by my teacher who still lives here in

Anne Arundel County. Yet, I continue to be told by law enforcement that they can't proceed because they are unsure whether those acts were felony crimes at the time.

Being turned away, silenced, and shamed by the school and law enforcement is the very definition of institutional betrayal. And research now shows institutional betrayal magnifies the harm caused by sexual abuse. It increases anxiety, PTS symptoms, sexual dysfunction and dissociation.

If institutions are causing real, measurable harm not only by allowing the abuse to occur but by silencing the victims, why shouldn't victims be empowered with the lookback window to hold them accountable for that harm?

For these reasons, I urge a favorable committee report and passage of the Hidden Predator Act (SB134) without amendments..

When a child is sexually abused within the context of a trusted institution, such as a school or church, the way the institution responds is predictive of how the child will fare. The institution's response has the power exacerbate or mitigate the harm of the original trauma. When institutions respond with denial, silencing, shaming, or ostracization, the child experiences this breach of trust as a profound betrayal that research shows causes psychological and even physical harm.

Institutional Betrayal

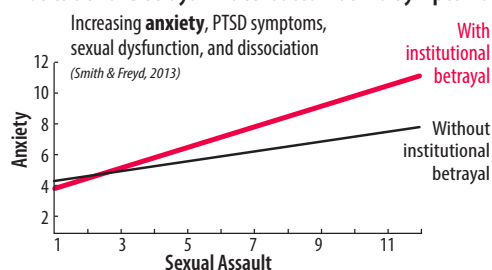
All too often, institutions fail the very people they should protect.

Institutional betrayal is a concept described by psychologist Jennifer Freyd referring to “wrongdoings perpetrated by an institution upon individuals dependent on that institution, including failure to prevent or respond supportively to wrongdoings by individuals (e.g. sexual assault) committed within the context of the institution.” In a landmark study, Carly P. Smith and Jennifer Freyd (2013) documented psychological harm caused by institutional betrayal. When institutions cover up violations such as child sexual abuse, this institutional betrayal undermines survivors’ recovery, increasing anxiety, PTSD symptoms, sexual dysfunction, and dissociation.

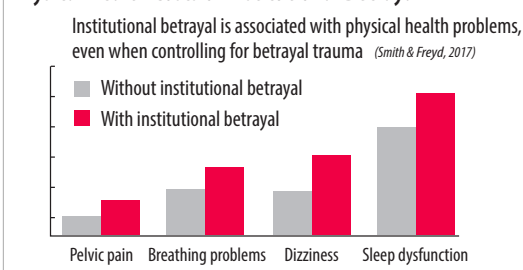
Common examples

- Failure to prevent abuse
- Normalizing abusive contexts
- Difficult reporting procedures
- Inadequate responses
- Covering up the abuse
- Denying the abuse
- Punishing the child
- Suggesting the child’s experience might affect the reputation of the institution
- Creating an environment where the child no longer feels like a valued member of the institution
- Creating an environment where continued membership was difficult for the child.

Institutional Betrayal Exacerbates Trauma Symptoms



Physical Health Costs of Institutional Betrayal



Institutional DARVO is a particularly aggressive form of institutional betrayal.

DARVO stands for “Deny, Attack, and Reverse Victim and Offender.” It refers to a reaction perpetrators of wrongdoing, particularly sexual offenders, may display in response to being held accountable for their behavior. The perpetrator or offender may Deny the behavior, Attack the individual doing the confronting, and Reverse the roles of Victim and Offender such that the perpetrator assumes the victim role and turns the true victim, or the whistle-blower, into an alleged offender. **DARVO** not only exacerbates the original harm, it also inflicts another entirely separate one — often in ways that are ongoing in the victim’s life.

This short video is a powerful depiction of institutional betrayal in action with aspects of DARVO



Copy link into your browser: <https://vimeo.com/337408766>

Institutional betrayal is a factor in why victims may delay reporting sexual abuse. While reporting can lead to a good outcome, **reporting is risky**. A bad response can make things worse for the victim. A bad response can be a new betrayal trauma. Often times survivors hold off reporting until they are strong enough to weather the blowback of an unsupportive response.

Teresa Lancaster SB134 written testimony.pdf

Uploaded by: Hessler, Therese

Position: FAV

TESTIMONY IN SUPPORT OF SB 0134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: Teresa F. Lancaster

DATE: 01/04/2021

My name is Teresa Lancaster. I am an Attorney, a survivor and an advocate for victims of childhood sexual abuse.

I was abused between 1970-1972 at Archbishop Keough High School and featured in the documentary *The Keepers* which exposed the sex abuse ring at Keough that was run by Father Maskell.

I was unable to come forward about my abuse back in the 70's because Maskell convinced me that I would not be believed and he threatened me with his gun. I feared for my life, which is common amongst survivors. RAINN reports that 20% of survivors list fear of retaliation as the reason that they did not come forward. I also struggled with the fact that the person who abused me was not only someone I trusted, but also had the respect of my entire community.

Survivors typically take years to come forward about their abuse. The severe nature of the trauma that was endured, coupled with the high social position that the abuser often hold are also factors which prevent survivors from coming forward earlier. Other factors such as depression and substance abuse are hurdles survivors often need to overcome.

Studies show that the average age to disclose abuse is 52. Reasons for the delays are specific to the individual. When we were finally ready to come forward, and started our civil suit, we quickly realized that the institution that we once held our trust in, would again betray us. Cardinal Keeler knew that our case was credible, but used the current SOL to make our case go away. The betrayal of a trusted institution adds another difficult layer onto the trauma of abuse.

For these reasons, I urge a favorable committee report and passage of House Bill 0134 without amendments.

The Family Tree SB134 Written Testimony.pdf

Uploaded by: Hessler, Therese

Position: FAV



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January 15, 2021

Hon. Chairman William Smith, Jr. &
Members of the Judicial Proceedings
Committee
6 Bladen Street
Annapolis, Maryland 21401

**RE:SB 134 Civil Actions -Child Sexual Abuse – Definition & Statute of Limitations
(Hidden Predator Act of 2021)
SUPPORT**

Dear Mr. Chair and Members of the Committee:

Thank you for taking up this important issue again which would eliminate the current age provision on the civil statute of limitations from of an alleged incident(s) of sexual abuse that occurred while the victim was a minor. Statute of limitation reform is one effective strategy to stop hidden child predators that are grooming children in Maryland and will shift the cost of abuse from the victim to those who cause it.

The Family Tree is Maryland's leading non-profit organization dedicated to improving our community by preventing child abuse and neglect. In the forty-five years since The Family Tree first laid roots, the organization's leadership has cultivated a deep understanding of child abuse in Maryland. With national affiliations such as Parents Anonymous®, Prevent Child Abuse America, and The National Exchange Clubs, The Family Tree belongs to a growing network of NGOs across the country devoted to protecting the most vulnerable members of society, its children.

Sexual abuse is a pervasive social problem and a major public health issue in America today according to the U.S. Justice Department and the Centers for Disease Control. Their studies state that 1 in 4 girls, and 1 in 6 boys, may experience sexual abuse by their 18th birthday. An estimated 90% of child sexual abuse goes unreported. Abuse occurs in homes, communities, and institutional settings. Home abuse is committed by relatives and other household members. Institutional abuse happens at the hands of trusted care-givers: teachers, doctors, clergy and coaches. While more children are abused in homes, the institutional abuser has more victims because he has better access and more opportunities.

Sexually abused children suffer from the effects of abuse for the rest of their lives. Substance abuse is common among victims because abusers use alcohol as a means to their end. Others self-medicate with alcohol and drugs. Victims frequently do not complete education, have sporadic employment, cannot manage personal relationships,

and have criminal justice issues. Besides damage to their lives, the abuse has enormous societal and economic costs.

And most importantly, child victims are powerless to stop the abuse. Furthermore, child sexual abuse victims experience enormous shame and numerous other impacts of trauma that delays disclosure of abuse. Most people who experience sexual abuse in childhood do not disclose this abuse until adulthood.(McElvaney, R., Disclosure of Child Sexual Abuse: Delays, Non-disclosure and Partial Disclosure. What the Research Tells Us and Implications for Practice. Child Abuse Rev.. doi: 10.1002/car.2280 (2013).

Here's what the Hidden Predator Act will achieve:

- Eliminate the civil statute of limitations for child sexual abuse claims going forward (for claims arising October 1, 2021 or later).
- Create a look back 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 (any such claims must be filed by October 1, 2023).
- Make clear to the courts, the public, and survivors that the General Assembly was unaware of the constitutional implications of so-called "statute of repose" included in 2017 revisions to the child sexual abuse statute of limitations, and did not intend to vest constitutionally protected property rights in child sexual predators or those individuals and organizations that hid predators from discovery and prosecution, allowing them to continue to victimize children.

We all have a role in stopping child sexual abuse. I served as past Chair of the State Council on Child Abuse and Neglect and chaired the Maryland Partnership to Prevent Child Sexual Abuse Campaign, and currently as the co-backbone organization for the Essential for Childhood. In addition to education, prosecution and accountability are the most effective strategies to protect children from sexual abuse.

I urge Maryland to take its place among those states promoting legislation that protect victims from child sexual abuse by delivering a favorable Committee Report without amendments. Thank you both and the Committee for considering this reform. If passed, you will have helped identify past and current predators and achieve justice for many victims. Please do not hesitate to contact me if I can assist you in any way.

Thank you,



Patricia K. Cronin, LCSW-C
Executive Director



Charles Roebuck
Board Member



UM Public Health Law Clinic Senate Written Testimo

Uploaded by: Hoke, Kathleen

Position: FAV

Testimony in Support of Senate Bill 134

Civil Actions - Child Sexual Abuse - Definition and Statute of Limitations
Before the Senate Judicial Proceedings Committee, February 2, 2021

This written testimony addresses whether language added to the Maryland Code in 2017 created a right in certain persons and institutions that permanently bars liability for child sexual abuse claims after a certain period of time. The testimony also discusses the likelihood of false claims of child sexual abuse and the impact of Senate Bill 134 on institutions.

In 2017, Courts and Judicial Proceedings Article §5-117 was modified to prospectively extend the statute of limitations to twenty years for civil matters alleging child sexual abuse against a perpetrator and an entity that owed a duty of care to the victim. An entity, including a governmental entity, may be held liable if it employed or otherwise exercised responsibility over the perpetrator and acted with gross negligence. In uncodified language, §5-117 also created a so-called statute of repose that acts prospectively and retroactively to bar claims after the period of limitations has run. Senate Bill 134, proposes to repeal the statute of limitations and the statute of repose, and to create a two-year look-back window for time-barred child sexual abuse claims. This approach reflects fairness to victims and organizations and would survive legal challenge.

WHAT WOULD BE THE EFFECT ON CERTAIN REVIVED CLAIMS OF SEXUAL ABUSE IF THE SO-CALLED STATUTE OF REPOSE IN §5-117 IS REPEALED?

Statutes of Repose and Statutes of Limitation Explained

A statute of repose sets a legislatively determined time after which a defendant is free from liability for a civil claim. When applying a statute of repose, the statute begins to run when a defendant acts, usually by placing a product into the stream of commerce or engaging in a professional service. The statute runs until a legislatively set time, after which it bars a remedy even if a claim has not yet accrued. *Statute of Repose*, Black's L. Dictionary (11th ed. 2019). Put another way, when a product is sold or a service is rendered, the manufacturer is no longer liable for injuries caused by the product and the professional is no longer liable for harm caused by their services after the statute of repose has run. For example, if a statute of repose of 10 years applies to engineering services, and an individual is harmed in year 12 because of the negligence of the engineer, the individual is barred from recovering damages from the engineer. It does not matter that the harm was not caused until after the statute of repose expired nor that the engineer acted negligently; the 10-year period of repose expired, and no claims may be brought.

By contrast, when applying a statute of limitations, a claim (usually a plaintiff's injury) must first accrue for the statute to begin to run. For example, if an individual is exposed to a toxin in year 1 but harm from the exposure is not known until year 12, the statute of limitations begins to run at year 12, when the harm was experienced and known to the individual, not at year 1 when the exposure occurred. Unlike statutes of repose designed to cutoff liability, a statute of limitations is procedural and

may be changed at any time. The legislature sets a statute of limitations “to spare the courts from litigating stale claims” and to protect against cases involving lost evidence and faded memories. *Chase Sec. Corp. v. Donaldson*, 325 U.S. 304, 314 (1945). Further, because statutes of limitation exist only for the public policy purpose of encouraging plaintiffs to file timely claims, they do not create fundamental rights. *Id.*

The purpose of a statute of repose is to prevent unpredictability for industry and professionals engaged in certain trades and to protect insurers’ ability to predict future claims. These protections allow for stability in the marketplace from which we all benefit. A statute of repose is used in many jurisdictions to protect defendants in product liability and product defects cases, construction defects cases, estate cases, and medical malpractice cases. When the statute of repose expires and bars a claim, the protected manufacturer or professional has a vested right in immunity from suit. Deprivation of that right must meet rigid due process standards to survive constitutional scrutiny.

Maryland’s Statutes of Repose and Related Case Law

In Maryland, the General Assembly uses a statute of repose to create vested property rights in “consideration[] of the ***economic best interests of the public.***” *SVF Riva Annapolis v. Gilroy*, 459 Md. 632, 636 n.1 (2018) (holding that the statute of repose did not apply). Maryland’s general statute of repose provides (1) a 20-year bar for claims involving improvements to real property, (2) a 10-year bar for claims against architects, professional engineers, or contractors, and (3) a 5-year bar for medical malpractice claims. MD. CODE ANN., CTS. & JUD. PROC. §§5-108(a)–(b), 5-109(a) (West 2019). Hence, in Maryland, as in other jurisdictions, a statute of repose prevents liability for claims related to maintenance of real property, professional services in construction, and medical malpractice.

In stark contrast to claims in the commercial and professional services context, the uncodified language in the 2017 modifications to §5-117 purports to create a statute of repose on child sexual abuse claims. Here, the statute of repose begins to run with a plaintiff’s injury—the sexual assault—and automatically ends 20 years after a plaintiff reaches the age of 18 (i.e. age 38). This tolling mechanism is more appropriate to a statute of limitations than a statute of repose because survivors of child sexual abuse do not discover their injury until, on average, age 52, and the statute will likely run long before a survivor is even aware of the possibility of filing a claim. *Child Sex Abuse Statutes of Limitation*, CHILDDUSA (last visited January 21, 2021), <https://www.childusa.org/sol>. Statutes of repose in Maryland have always been intended to protect the “economic best interests” of defendants for the benefit of the public. Applying a statute of repose in the context of interpersonal violence, particularly protecting those who sexually assault children, is a significant departure from Maryland law, does not fall within the purpose of statutes of repose, and is an inappropriate mechanism that prevents survivors from suing their abusers. Therefore, the uncodified language in §5-117 should not be interpreted as creating a vested right in sexual predators and entities that sheltered such heinous criminals while allowing victims to suffer grievous harm.

This conclusion is consistent with the apparent legislative intent from 2017. It is apparent that the General Assembly never intended to create a vested right in child sexual abuse cases for perpetrators and the entities that sheltered them. The 2017 bill files, House Bill 642 and Senate Bill 505, include no discussion or debate, either in Committee or on the Floor of the House or Senate,

regarding the constitutional implications of a statute of repose. Delegate Atterbeary noted that permanent immunity from liability “was never discussed,” and Senator Zirkin stated “it wasn’t anyone’s intent” to grant permanent immunity. Erin Cox and Justin Wm. Moyer, *When Maryland Gave Abuse Victims More Time to Sue, it May Have Also Protected Institutions, Including the Catholic Church*, WASH POST (Mar. 31, 2019), https://www.washingtonpost.com/local/when-maryland-gave-abuse-victims-more-time-to-sue-it-may-have-also-protected-institutions-including-the-catholic-church/2019/03/31/769537ca-4f3a-11e9-911a-7d51996d6f38_story.html. In 2019, when House Bill 687 (Hidden Predator Act of 2019) was introduced to, in part, repeal the statute of repose, legislators in both Chambers reiterated that they had not intended to create a vested right for defendants. The 2019 bill passed on the House floor by a vote of 135-3 before it failed in the Senate Judicial Proceedings Committee by a 5 to 5 vote. The Hidden Predator Act of 2020, House Bill 974, passed the House 127-0 but did not get a vote in the Senate Judicial Proceedings Committee before the early closure due to the pandemic.

Hence, not only is a statute of repose for child sexual abuse claims inapposite to Maryland law of statutes of repose, the 2017 General Assembly did not intend to create a true statute of repose granting vested rights in those who sexually assault children or those who protect the offenders. Repeal of the uncodified language adopted in 2017 should not interfere with property rights and should apply retroactively consistent with the proposed look-back provision in Senate Bill 134.

Impact of Repeal of the Uncodified Language in §5-117

Repealing a statute of repose prospectively does not raise constitutional concerns because a defendant does not have a vested right until the statute has run. For this reason alone, this Committee should feel comfortable passing Senate Bill 134 with the repeal of the uncodified language from 2017. The question of whether the repeal can be applied retroactively is not answered directly in Maryland case law; but the better answer is that the repeal could apply retroactively given the odd nature of a so-called statute of repose for child sexual assault and the lack of intent to vest rights by the General Assembly.

If the repeal of the uncodified language is applied retroactively, a defendant for whom a claim would have expired under the 2017 provision may argue that reviving a claim that had previously expired is an unconstitutional deprivation of rights. While there is no clear resolution of such a challenge, there is no reported case in Maryland that would mandate the unconstitutionality of repealing the 2017 uncodified language. Further, the U.S. Supreme Court ruled long ago that reviving a time-barred claim is constitutional as long as it does not infringe on a defendant’s vested property right. *Donaldson*, 325 U.S. at 316. It is highly doubtful that the 2017 uncodified language created a vested right in child predators and those who sheltered them, especially in light of no manifest legislative intent to create such a right.

This conclusion is consistent with Maryland law. An examination of Maryland court decisions reveals two relevant cases that address the issue of vested rights, however, neither case concerns the retroactive repeal of a statute of repose. In *Dua v. Comcast Cable of Md., Inc.*, where the legislature enacted laws that retroactively altered consumer contracts, the Court of Appeals relied on property law when it held that “the State is constitutionally precluded from abolishing a vested property right or taking one person’s property and giving it to someone else.” 370 Md 604, 623 (2002). In *Doe v. Roe*, the court addressed an earlier iteration of §5-117 that extended the statute of

limitations for child sexual abuse claims when it ruled that the statute was remedial and did not create a vested right because the legislature intended it to apply prospectively. 419 Md. 687, 691–92 (2011). Here, the court expressed no opinion on time-barred claims without clear legislative intent that the statute should apply retroactively. *Id.* Hence, while the court recognized a retroactive vested right in a commercial claim, it did not find a prospective vested right in a child sexual abuse claim. This supports a prediction that, should the General Assembly pass Senate Bill 134 with the intent to allow the retroactive revival of time-barred claims, Maryland courts would abide that legislative intent.

Statutes of Repose in Other States

No other jurisdiction has instituted a statute of repose for civil claims of child sexual abuse. Moreover, there is a trend among the states to extend civil statutes of limitation for child sexual abuse claims (e.g. AL, AZ, CA, CT, GA, IL, MI, MN, MT, NC, NH, NJ, NY, PA, RI, TN, TX, UT, VT) or to eliminate them entirely (e.g. AR, CO, DE, MS, ND, NM, KS, SC, WA, WY). The Delaware Supreme Court considered the constitutionality of a 2007 law that abolished the statute of limitations for child sexual abuse claims and instituted a two-year look-back window. The court followed the U.S. Supreme Court’s precedential ruling that reviving time-barred claims may be constitutional and held that the 2007 law could be “applied retroactively because it affects matters of procedure and remedies, not substantive or vested rights.” *Sheehan v. Oblates of St. Francis De Sales*, 15 A.3d 1247 (Del. 2011). In the absence of Maryland case law that specifically addresses the issue of retroactive vested rights in so-called statutes of repose, the Court of Appeals may consider decisions like Delaware’s to be persuasive.

WILL SENATE BILL 134 ENCOURAGE FALSE CLAIMS OR CLAIMS THAT ARE INDEFENSIBLE DUE TO STALE EVIDENCE?

Senate Bill 134 proposes to abolish both the statute of repose and the statute of limitations for civil claims of child sexual abuse. The ability to bring a claim at any time should not be construed as an invitation to falsify a claim. Although several studies show that approximately 10% of child sexual abuse claims are false, most of these fabricated allegations are made by children, not adult survivors. When a civil claim is brought in Maryland, the plaintiff bears the burden of proof and must come forward with sufficient, admissible evidence to support the allegation. When the plaintiff is unable to do so during the pre-trial discovery phase, the defendant may file a motion to dismiss and/or a motion for summary judgment. If the plaintiff cannot show sufficient evidence to justify trial on the claim, the case will be dismissed, or summary judgment will be awarded to the defendant. MD. R. 2-322, 2-501 (2019). Even when a case survives these early challenges, the plaintiff faces the rigorous rules of evidence and must prove all elements of the claim and damages by a preponderance of evidence. When, over time, memories may fade and evidence may be lost, the plaintiff must still produce enough reliable, relevant evidence to persuade the trier of fact that the sexual assault occurred, and the damage was sustained. While no system of justice is perfect, our system is designed with many mechanisms to test a plaintiff’s ability to prevail at trial and to stop a case if such proof is lacking.

IS THE INTENT OF SENATE BILL 134 TO PUNISH INSTITUTIONS?

The intent of Senate Bill 134 is to discover child sexual predators who remain hidden in Maryland communities and may still be abusing children, and to reveal those entities that were negligent in their supervision of these offenders. The bill gives survivors, who may not fully comprehend the harm they suffered until evoked many years later, access to justice that they otherwise would not have. Maryland law should not erect artificial barriers to prevent survivors from seeking and securing recompense through civil action for the harm they suffered. By permitting civil claims against culpable governmental, private, and non-profit institutions, passage of Senate Bill 134 will not flood the courts, but it will reveal hidden predators and hold their institutional enablers accountable. In jurisdictions with retroactive look-back windows, on average 1,000 claims were filed revealing 125–300 predators. *Hidden Predator Act 2020*, STATE COUNCIL FOR CHILDHOOD ABUSE AND NEGLECT (2020).

No one entity is the target of this bill and no one entity will survive or fail as a result of this bill. Only those entities against whom credible, supported claims are made and successfully litigated will suffer. There can be no sympathy for such organizations even if they otherwise contribute positively to the community. No charitable effort or community service can cancel the debt owed to those who have survived this most horrific crime of child sexual assault.

The argument that allowing claims against private entities is unfair because governmental entities that may be culpable for harboring sexual offenders are more protected from suit has nothing to do with Senate Bill 134. Rather, the State's inherent entitlement to sovereign immunity from liability pre-existed the ability to bring civil claims for child sexual abuse and is designed to protect the public fisc, especially in light of the high degree of risk in undertaking extensive government operations. Government actors may be unwilling to exercise discretionary powers but for the assurance of protection through sovereign immunity. *See The State as a Party Defendant: Abrogation of Sovereign Immunity in Tort in Maryland*, 36 Md. L. Rev. 653 (1977), available at: <http://digitalcommons.law.umaryland.edu/mlr/vol36/iss3/9>. That the State's liability may be limited to damages permitted under the State Tort Claims Act (MD. STATE GOV'T Title 12, Subtitle 1), the legislative waiver of sovereign immunity for civil actions is not unique to claims of child sexual assault. No private entity warrants similar protection, regardless of how popular, well-supported, or philanthropic such an entity may be.

Passage of Senate Bill 134 will demonstrate Maryland's unwavering support for survivors of child sexual abuse. For these reasons, we urge a favorable report on Senate Bill 134.

This testimony is submitted on behalf of the Public Health Law Clinic at the University of Maryland Carey School of Law and not by the School of Law, the University of Maryland, Baltimore, or the University of Maryland System.

St-lim - testimony - senate - 2021.pdf

Uploaded by: Jordan, Lisae C

Position: FAV



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Testimony Supporting Senate Bill 134 Lisae C. Jordan, Executive Director & Counsel February 2, 2021

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 134.

Senate Bill 134 – Expanding the Statute of Limitations in Civil Child Sexual Abuse Cases

This bill would help provide victims of child sexual abuse with meaningful access to Maryland's civil justice system by eliminating the statute of limitations and providing a 2 year window to file currently barred cases.

Senate Bill 134 is a survivor oriented approach to child sexual abuse. It would allow a civil action for damages caused by child sexual abuse to be filed at any time. Maryland most recently expanded the time period for filing suit in 2017. With those revisions, perpetrators can be ordered to pay damages at any time until the victim was 38 years old or 3 years after being convicted for the sexual abuse. Institutions, governments, and person which were not the direct perpetrator (such as schools or religious entities) do not face liability beyond the victim's 25th birthday UNLESS there are findings that they had a duty of care towards the victim, some degree of responsibility or control over the perpetrator, and were grossly negligent. The 2017 changes in the law were seen at the time as not perfect, but making progress. SB134 would continue this progress and help more survivors.

Child sexual abuse causes devastating problems for many of its victims. Child sexual abuse victims can suffer depression, aggression, somatic complaints, problems sleeping, eating disorders, regression, sexual acting out or promiscuity, seductive behaviors, self-mutilation, substance abuse, and suicide gestures and attempts. Long-term effects of child sexual abuse include post-traumatic stress disorder, difficulties forming relationships, early teenage sex with older men, prostitution, and poor self-esteem.

Victims of child sexual abuse need access to the civil justice system. The difficulties caused by child sexual abuse have real costs: emotional and financial. Victims often require and benefit from counseling. Others incur medical costs or have difficulty maintaining employment or schooling as a direct result of the abuse. It is unfair to force the victim to bear the costs of the harm caused by a perpetrator of child sexual abuse. Criminal restitution and family court provide only limited relief in a small number of cases. For most victims, access to the civil tort system is needed.

Child sexual abuse cases brought by adult survivors present unique circumstances and injuries that do not conform to the usual policy concerns supporting statutes of limitations. The Supreme Court of Nevada eliminated the statute of limitations in child sexual abuse (CSA) cases where a victim can make a preliminary showing by clear and convincing evidence that abuse occurred. That Court observed:

In a sense, such survivors are analogous to victims of false imprisonment, where each new day of confinement creates a new cause of action. Unfortunately, however, CSA survivors are hostage to their own thought processes, implanted by their abusers, and from which they may never be totally released. Indeed the mental and emotional dysfunction suffered by such victims may virtually prevent them from seeking relief against their tormentor until the period of limitations has long since expired. To place the passage of time in a position of priority and importance over the plight of CSA victims would seem to be the ultimate exaltation of form over substance, convenience over principle. *Peterson v. Bruney*, 792 P.2d 18, 24-25 (1990).

Other states have extended statutes of limitations in child sexual abuse cases via statute. See, for example, Maine (no statute of limitations for sexual acts towards minors; Me.Rev.Stat.Ann. 14 §752-C), Alaska (no statute of limitations for civil cases involving felony sexual abuse of minor or felony sexual assault; AS 09.10.065), and Connecticut (no statute of limitations if perpetrator convicted of certain sexual crimes, 30 year statute of limitations in other child sexual abuse cases, Public Act 02-138).

Maryland's case law clearly prevents child sexual abuse victims from bringing suit after the strict limits of the statute of limitations. Unlike the Nevada court quoted above, Maryland courts have refused to expand the statute of limitations in child sexual abuse cases. In *Doe v. Archdiocese of Wash.*, 114 Md.App. 169 (1997), a victim attempted to extend the statute of limitations by arguing that, for a long period of time, he was unable to understand that sexual acts forced on him by priests when he was child were wrong. The court rejected the victim's argument that the cause of action was not discovered until the victim realized the wrongness of the sexual abuse, and the case was dismissed. In another case, *Doe v. Maskell*, 342 Md. 2384 (1996), cert. denied, 519 U.S. 1093 (1997), the Court of Appeals refused to toll the statute of limitations based on a two girls' claims that they had repressed memories of child sexual abuse by a school chaplain. The victims in both these cases were denied the opportunity to even present their cases to a jury. They had no meaningful access to civil justice.

Children molested and sexually exploited are especially unlikely to be able to promptly file suit. Perpetrators use many tactics to prevent their victims from disclosing abuse. These range from threats against the victim or loved ones, manipulating the victim, convincing the victim nothing is wrong, and exploiting the victim's desire to keep a family together. Some victims remain financially and emotionally dependant on the perpetrator well into their early adulthood. Others face pressure from other family members to remain silent, or have a deep sense of shame. SB134 responds to this reality and would put Maryland's public policy clearly on the side of justice for victims of child sexual abuse.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to report favorably on Senate Bill 134**

Anonymous1 Written Testimony SB134.pdf

Uploaded by: Joseph, Nitai

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: Anonymous

DATE: 01/04/2021

I grew up in Annapolis 30 years ago and am a survivor of child sexual abuse. I wish to start by thanking the committee for allowing anonymous testimony today. Otherwise I wouldn't have the courage to speak. I can be reached at the email address at the bottom of the following page if needed.

From age 6-9, I was **sexually abused by my pediatrician**. Whenever I saw him, whether it was for an earache or an annual physical, he always insisted on examining my genitalia with his bare hands. He also prescribed a hormonal cream for me for the duration of the three years, a cream that is usually only used on adult women, which caused early puberty development and also required daily genital touching by a parent.

Eventually, at age 9, my parents took me for a second opinion about the way that doctor was treating me. I told that new pediatrician at my first appointment what had happened with the previous doctor. He said I did not require touching any genitalia, and referred me to a therapist. He never reported to police, and neither did the therapist he referred me to, or my parents. None of these adults ever brought it up with me again.

Today, I live with diagnoses of Post Traumatic Stress Disorder, Major Depressive Disorder, Anxiety Disorder and Panic Disorder, all as a result of the abuse I experienced as a child. I've spent at least **\$76,000** out-of-pocket on therapy, psychiatric medications, and other mental health treatment including multiple inpatient psychiatric hospitalizations for suicide attempts.

I reported both of the pediatricians to police in 2019. As far as I can tell, nothing has come of their investigation.

I learned recently that during the careers of both these pediatricians, there were other patients, parents, and medical professionals who also complained about them. But I've been told that there is no procedure for telling a doctor to stop practicing. So both of my pediatricians retired at a ripe old age, 15-20 years after I last saw them. I've been told they were both "grandfathered in" for their last decades in business, and didn't have to be fellows of the American Board of Pediatrics or show continuing education to practice.

I've also learned recently that the second pediatrician, the one to whom I reported my abuse, was on the Board of Trustees at my school. I went to **The Key School**, which — I'm sure you'll hear about from other survivors today — is now known to have covered up decades of child

sexual abuse by teachers. In fact, both of my pediatricians came recommended by people at Key. The second pediatrician was also a board member when several Key survivors first approached the school to report what teachers had done to them in the 1970s and 1980s. No one reported those teachers when that happened, including the pediatrician. So I wasn't the only child who that board member heard was being abused and failed to take action to protect — despite it being his professional duty to do so.

Furthermore, I learned recently that before being elected to the Board, that doctor was also the pediatrician of some of Key's survivors — while their teachers were abusing them. He did not report those teachers at that time, despite them abusing his patients. Then later, he was elected to the board of the same institution that harbored those patients' abusers.

Both pediatricians are still well-respected members of the Annapolis community, and the second is still well-loved within the Key community due to his service on the board. They both retired in financial comfort and now live in nice homes in and around Annapolis.

By contrast, I am unable to work due to mental health issues that resulted from my abuse as a child. I'm on **Social Security Disability** (SSDI), which is funded by our tax dollars and I'm only middle-aged.

Prior to going on SSDI, I worked for about 23 years. During that time, I missed at least one full day of work per week for mental health issues as a result of being abused as a child. I estimate that the income I lost during those 23 years because of missing work due to my childhood abuse was at least **\$84,408**. Now that my disabilities completely prevent me from working, I've lost still more income.

As much as we want to believe that the institutions to which we entrust our children are doing the right thing and protecting them, that's not always the case. I've been betrayed by two different pediatric offices, my school, my therapists, a couple of Maryland journalists who I asked for help, and the criminal justice system. In addition, the impact — both financial and emotional — on me in the wake of my abuse and betrayal by the institutions charged with protecting me has been enormous.

I submitted testimony for the Hidden Predator Act in 2020, so when the COVID-19 pandemic prevented voting on it, I was devastated. The pandemic has been especially hard because I live alone, and typically count on in-person communities for support. I don't even have coworkers, so the pandemic has been especially isolating. I've lost a lot of ground this year that I'd fought long and hard for, with my mental health, and spent way more this year on treatment (\$8,565) than previous years. Please don't delay passage of this bill again — my depression cannot handle it.

I urge lawmakers to please do the right thing and help protect the citizens who are least able to protect ourselves, by passing Senate Bill 134. It's time to shift the burden away from victims, and onto the perpetrators and the institutions that keep perpetrators safe. ***For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.***

Thank you for your time and attention. My email address is **fogoisland@protonmail.com**.

Anonymous2 SB134 written testimony.pdf

Uploaded by: Joseph, Nitai

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: Anonymous

DATE: 02/02/2021

I am testifying today in support of The Hidden Predators Act (HB263 and SB134.)

I am 53 years old and my life has been extremely difficult. I can only provide this testimony anonymously and I thank you for this opportunity.

I experienced my abuse between the ages of 8-16. I have only told three people about my abuse; my therapist, a support group leader and his wife. (with small bits to the rest of the support group.) I cannot share the details of my experience in this testimony, fearful of it becoming a public written record. I'm a mess. I could be your grown child, your aunt, your niece, your cousin, your friend. But I am alone – a loneliness experienced by countless victims of child sex abuse.

At 16, I attempted suicide and was hospitalized for one month. After discharge I spent weekends with one of those nurses on staff who took me in for safety reasons. In response to my trauma, I began suffering from an eating disorder during my teenage years. Keeping the abuse a secret was my primary goal because my perpetrator promised to harm my parents or siblings if I mentioned any word about it. What recourse does a child have in this scenario? Therapeutics for the eating disorder were not successful and I fell into an abyss of anxiety and depression. My behavior was not understood by family members and I felt rejected by them. I was unable to deal with the constant criticism of my weight, inability to hold down a job, and lack of social interaction.

I had several admissions to the Center for Eating Disorders costing \$50,000 for a 3-4 week stay. I subsequently had ten in-patient stays. I was an out-patient there for ten years accruing well over one million dollars in bills. I have received on and off psychiatric therapy and spent three or four stays at psych units between 2005-2006 and again in 2018 and 2019 at \$175,000 each time.

Along with emotional and psychological trauma, I also suffered painful physical affects from the abuse which I cannot even write about. I've never had a boyfriend and fear never getting married because I'm too afraid to get physically close to men. I suffer from debilitating depression unable to get out of bed too many days. The best type of housing I can afford is a former motel building which is filled with drug users. One thing I have been able to avoid is involvement with drugs and alcohol. I am too embarrassed to give anyone my address. As bills pile up my ability to function declines.

I have a B.A. degree in Accounting and a nursing certificate but my emotional struggles cause an inability to concentrate which leaves me unable to hold down full-time employment. My spiritual life suffers as well due to my abuser being the trusted priest in my parish and family friend. I have a fear of churches, unresolved anger at God and self-hatred.

My finances:

Amount	Yearly out of pocket
\$5,200	Mental Health Counseling
\$1,000	Doctor appointments: Diabetes, Hypertension, High Cholesterol, associated with Eating Disorder
\$5,000	Prescriptions

Recent years:

\$50,000	Hospitalization for Debilitating depression due to trauma, PTSD, Eating Disorder
\$35,000	Credit card debt
\$100,000	Approximate lost wages

What I need from you is at least the opportunity to get justice for what happened to me – an innocent child sexually abused by a priest; an adult who should have been my spiritual leader. I need at least the opportunity to seek compensation so I can try to help pay my bills and get the help and support that I need. The children being abused right now need your help. The people covering up these abuses need to be held accountable. Children who have yet been harmed need help. The Hidden Predators Act will provide a portion of the help needed. It will expose predators thus saving some children from harm. It will give an opportunity for victims to be compensated thus providing them with funds for counseling, job training, basic needs like food, housing and medical care. It will hold people and institutions accountable for their part in perpetrating or covering up instances of child sex abuse.

Please help me and so many others like me. It is way past time for Maryland to do the right thing to protect our children now and in the future. Pass the Hidden Predators Act. ***For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.***

Jennifer Gross SB134 Written Testimony.pdf

Uploaded by: Joseph, Nitai

Position: FAV

**TESTIMONY IN SUPPORT OF SB134:
Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations
(Hidden Predator Act of 2021)**

**** SUPPORT ****

DATE: January 2021

Written testimony respectfully submitted by
Jennifer Gross
Licensed Certified Social Worker – Clinical, MD
Licensed Clinical Social Worker, VA
Certified Sex Offender Treatment Provider, VA
Clinical Member, ATSA

As parents, as advocates and as lawmakers, we surround our children with people we trust to protect them. When a child is sexually abused, 9 times out of 10 it is that very person we trusted and thus entrusted our child to who committed this horrific abuse upon them.

When a child is abused by someone we told them was safe, a child naturally blames themselves for what happened as they believe they must have done something to deserve it. When the abuser is a leader in the child's community, the damage is compounded as that place, that organization, that religion, that group often cannot be avoided. Perhaps the abuser can be, but what they represent, a church, a youth group, a sport cannot be. Over the years, interactions with those groups cause further pain.

By the time a child realizes what happened was not their fault, they did not deserve it and they gather the courage to tell us what caused them such pain for so many years, what was behind their drinking, failed relationships, suicide attempts and more, by that time most people are 52 years old.

Imagine then, reaching out, telling and seeking help, only to learn there are far worse things than being abused by that one person. What can be worse than

knowing one person viewed you as an object to be used, abused and discarded? What can be worse than knowing one person viewed you not as a human, worthy of dignity and love but viewed you as a thing to be used for their own deviant pleasure. What can be worse than that? What survivors tell us what is worse is when they tell, when they seek understanding and kindness, the very people they turn to then commit a betrayal of greater order. The very organizations which were founded to help, serve and protect then turn with vengeance to protect, not the victim, but themselves. They lie, they hide, they dissemble; thus mimicking the perpetrator's use of power, control, blame shifting and more, thus they re-victimize the victim.

Imagine, then being that survivor. Now you learn it was not just your abuser who does not see you as a human being, worthy of dignity and respect. Now you see it is an entire organization, a system, an institution. One person treating you like trash is damaging, an entire organization treating you like trash? This is institutional betrayal and it is abuse. It is devastating.

We stand before you today to ask you to open a door. That's all, just open a door to allow survivors to walk through and seek justice. We are not asking you to deliver that justice. This bill does not ask you to do anything other than open a door so adults can step through and access the legal system to seek healing and safety. If you open that door, all you are doing is giving survivors the ability to tell their story and let our justice system take over from there. That's all.

Abusers prey upon the innocence of children. When those abusers do so as employees or volunteers of an organization, far too often, when the abuse becomes known the institution chooses to protect itself instead of the child. Children cannot protect themselves from either of these things from occurring. Children cannot. But adults can. Pass this bill so brave survivors can tell their story and seek justice. By doing so, this creates safety for the children still in the care of those abusers (many of whom are still alive) and from those institutions who sheltered and protected them.

You have heard from powerful groups that opening that door will have calamitous effects upon groups and communities. To that I say, nonsense. Plain and simple nonsense. Do not allow them to insult your intelligence.

I am a parent, a social worker, a certified sex offender treatment provider. I am the mother of 2 former boy scouts. I am a Catholic, a direct decedent of Archbishop William Gross. I am a former Director of Safe Environments for a nearby diocese. I am the former chair of a Catholic regional review board, a board that reviewed

allegations of clergy abuse and reviewed safety plans and victim outreach. I currently volunteer to teach the Catholic church's mandatory prevention class. I am here to tell you in no uncertain terms, it is not extending the statute of limitations which will hurt the church. The church, the boy scouts and other organizations have inflicted this damage upon itself. It is not the original abuse committed by clergy or a leader which is causing the damage, it is the coverup, the duplicity, the ongoing efforts to protect the institution and not those who serve. When powerful organizations continue to engage in subterfuge and secrecy, when they make veiled threats of lost funding for programs, they are committing further abuse upon not only survivors but all of us. It is time for that to end. As a Catholic, deeply involved in this issue, I am urging you to remove the statue of repose and pass this bill as written. Shamefully, my church has only taken steps to reform and protect when pressured to do so by survivors, lawmakers and the media. So be it. They had their chance to do the right thing, they chose not to. They chose to ignore a problem, they chose to cover up an issue. They chose to move danger around. They have done this to themselves. I urge you to open pass the bill and let survivors walk through to seek justice for themselves and safety for our children. Let them now face those powerless children. Those children, now adults, who can speak for themselves, defend themselves, protect themselves. Let the church, the scouts and all others now go toe to toe with adults. They made their choices. Let them now face the consequences. By doing so you will be sending a loud and clear message, you will not allow this Institutional betrayal and abuse to continue.

For these reasons, I urge a favorable committee report and passage of SB134 without amendments.

Mark ODonnell -SB134 Written Testimony.pdf

Uploaded by: Joseph, Nitai

Position: FAV

Testimony in Support of Senate Bill 134

CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF LIMITATIONS

****SUPPORT****

TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate Judicial Proceedings Committee

FROM: Mark O'Donnell

DATE: 01/28/2021

My name is Mark O'Donnell, and I am writing in support of Senate Bill 134.

I am 53 years of age, and a lifetime resident of Baltimore City and Baltimore County Maryland.

For the past 6 years I have worked as an advocate, writer, reporter, and consultant in the area of child sexual abuse, most notably within the Jehovah's Witness church. I attend both criminal and civil trials throughout the United States, seeking to understand and report on critical issues that face our systems of justice.

The legislative changes we have seen developing in the past few years are reflective of the prevalence of childhood sexual abuse, and its life-long impact on survivors, and those who have not survived.

When I was a young boy, I witnessed and learned about abuses of power, and abuses of my peers. These things haunted me throughout my life. I knew that men in appointed positions within the Jehovah's Witness church were capable of great evils, but I also knew that the Church placed a far higher value on the protection of its reputation than it did upon the safety of these children.

There are 1.2 million Jehovah's Witnesses in the United States, with about 23,000 active Witnesses practicing in the State of Maryland. Because of the Church's insular nature and internal judicial system, victims of child sexual abuse are internally barred from seeking any legal recourse for their abuse, until they become former members by leaving the church. As a result, it often takes many decades before a survivor is able to break free from the church and seek a measure of justice.

This is why Statute of Limitations reform is critical.

Seeking extensions for the Statutes of Limitations is not about attacking religious institutions. It is about holding abusers and organizations accountable for the endangerment of the most vulnerable among us. It is about allowing criminal and civil remedies the breathing room necessary to operate without interference, and with the time necessary.

The survivors who contact me on a routine basis are almost always adults whose abuse occurred 20, 30, or more years ago, and who are only now coming to grips with what happened to them. It is only just

that those who were previously barred from seeking civil relief have the opportunity to plead their case before the courts, and before a jury.

It is not unreasonable to seek a window to justice that will allow survivors the opportunity to come forward after being assaulted by their abuser, denied by their church, and blocked by now-outdated laws in Maryland.

For victims of abuse, justice is does not necessarily mean financial compensation. It means acknowledgment of the crimes committed and the exposure of the institutional cover-up of these crimes. This cannot happen without our civil justice system.

In the case of Jehovah's Witness victims, there is an extensive database of documents held in congregation files here in Maryland, and at Watchtower Headquarters in New York. These records are not just the confidential confessions of child molesters, they include a far larger archive of church interrogations of both victims, family members, and abusers themselves.

Sadly, victims are banned from accessing these documents. The only remedy is to permit our civil justice system to legally extract these documents through discovery, and grant victims the transparency and justice they deserve.

This process is both legally necessary and morally healing for victims of abuse, but it takes a long time for these survivors to come forward.

If there is one thing that a survivor needs from the State of Maryland, it is patience and the understanding that child abuse is a crime that is not easily reported. And for so many victims, by the time they report their abuse, it is too late.

I respectfully urge our lawmakers to please pass Senate Bill 134 and grant those who have suffered so much for so long, the opportunity for justice. ***For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.***

Respectfully submitted,

Mark J. O'Donnell

References:

- <https://www.theatlantic.com/family/archive/2019/03/the-secret-jehovahs-witness-database-of-child-molesters/584311/> (The story of Mark and Kimberly O'Donnell and the abuse database)
- Speaker at 2017 Reveal Conference in London, sponsored by the [Center for Investigative Reporting](#)
- Testified for the 45th Investigative Grand Jury of the State of Pennsylvania August and December 2019
- Editor [JWSurvey.org](#) ([jwwatch.org](#))
- Subject of the upcoming Vice documentary The Crusaders

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Contact:

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Testimony Why Survivors Delay Disclosure of Sexual

Uploaded by: Lander, John-Michael

Position: FAV

TESTIMONY: Why Survivors Delay Disclosure of Sexual Abuse.

John-Michael Lander

Board Member of The Army of Survivors and Founder of [An Athlete's Silence](#)

It seems hard for the public to understand how a coach or person in power could sexually abuse a male athlete. And believe it or not, it is just as hard for that male to comprehend. It is equally difficult for the public to understand why a male does not report the incident. The patriarchal stigma, stipulations, and expectations of "what it is to be a man" have enslaved males into silence and forced them to deal with sexual abuse independently due to fear, shame, and even guilt. Many men do not know where to turn for help or resources because of the societal mentality that "men cannot be raped" or "you must have allowed it to happen," resulting in emasculation. Many men think that they can handle it and push the experience aside, so they do not have to remember it, or as many may say, "Simply, get over it." But as studies indicate, many men who have suppressed their trauma deal with it later in life, leading to depression, anxiety, substance abuse, crime, and suicide.

My story is more familiar with other men who choose not to come forward. Although everyone's trauma experience is unique and individualized, the pressure to keep silent usually outweighs the degradation when reporting. The humiliation of sharing the details with the police is an oppressive experience in itself. There is the constant fear of not being believed if the victim cannot provide all the requested details. What about the predator's reputation? A predator may be a respected contributor to society. Many organizations cover up the allegations to protect themselves, as we have seen with Dr. Larry Nassar, Dr. Robert Anderson, Dr. Richard Strauss, James Levine, and Jerry Sandusky, to name a few.

As an Amateur Athlete, I could not accept any outside financial support directly connected to my athletic abilities. When I started competing, I had to pay for my coach, practice time, swimsuit, travel to meets, lodging, etc. The initial investment was challenging because my parents were struggling financially. Living in an old farmhouse in rural Southwestern Ohio, with six children, meant we were barely making ends meet.

When I was fifteen, I finished eighth at the Junior Olympics in Lincoln, Nebraska. By sixteen, I competed internationally in springboard and platform diving competition with dreams of Olympic glory. The pressures and sacrifices that came along with this level of competition provided an environment of secrets. Relationships between athletes and coaches, and medical examiners were heightened and manipulated. Leaving my family behind while still developing mentally, emotionally, and physically made me prime prey for a predator's fantasy and the perfect candidate to be groomed into the world of silence, shame, and denial.

My mother was approached by a lawyer who groomed her by proposing an offer she couldn't refuse and indicated it was the only solution for me to remain in the sport. He promised to set up a fund at a local bank where people could make donations; he would manage the money and pay the diving costs in alignment with the legalities to keep my amateur status. He indicated that he knew other professionals who wanted to help and provide the family with their expertise. What the lawyer failed to tell my mother was that there was a cost for this transaction. The lawyer took

me to the city to meet a doctor who wanted to help me get into the university and was left with him for the weekend or the week on several occasions. I was then passed off to others and then to others and still others. I was wined and dined, the financial pressures eased, and other pro-bono services such as free doctor appointments, eye exams, medication, etc., were provided for the whole family.

Confusion, shame, and depression littered my teenage mind as I tried to comprehend what the professionals represented. I did try and tell someone that the abuse was happening. As a black Towncar drove up the driveway to our farmhouse, I told my mother that I didn't want to go. She asked why, and I tried to explain that the men touched me. I thought this would be the end of it. Mother looked at me and then slapped me. She said that the men were professionals, highly respected by the community, and helping the family with medicine, exams, and treatments. She sternly told me that it was a sin to make up lies about people, and if I wanted to continue to dive, I would have to do my part. She informed me that it was probably my fault if anything ever really happened. She handed me my coat and escorted me out the door. I quickly learned that if my mother did not believe me, no one would. So, I choose to remain silent. I somehow figured out a way to disassociate the abuse and present myself to function in everyday life. I told myself if I could excel in diving, I could pretend none of this happened.

The coach noticed a change in me and started asking questions. He said he was worried that whatever was happening could affect my potential and interfere with my upcoming international competitions. He expressed that I could tell him anything and seemed very concerned. He approached my mother and told her that I had the potential for the Olympics and a College Scholarship, but he had noticed a change in my attitude. He explained to her that he would step in and that I needed to listen and do everything he said. He informed her that he would have to take me on overnight trips to practice with the OSU diving team. He wanted absolute control over my practices and diet and needed my trust without outside interference, especially from her. He even extended a payment plan, which she assumed the family could manage with assistance from the lawyer and the professionals. My mother agreed to this arrangement.

Only after gaining my mother's trust did the coach implement his subtle and inconspicuous grooming methods on me. The coach acted as if he knew my secret, and it didn't change how he felt about me and wanted us to become close. He whispered diving corrections in my ear, so the other divers could not hear. He informed me that the teammates were jealous because I would compete at the Norway Cup and Canadian Cup. He began complimenting me on my diving and physical appearance. He touched me more and more while giving corrections. He started hugging me after a good dive or after a good performance. He asked me about school and family issues and encouraged me to only talk with him about anything.

All this played in normalizing his actions and making me feel special. He informed me that my diving career was not possible without him, and he was the only one who believed in me enough to get me to the Olympics. He made me promise that although his coaching methods may seem odd, I was not to let anyone know about them. He didn't want his coaching techniques used by other coaches. His grooming elevated to more alone time outside of practice, which included alcohol and eventually sex. He always confessed that he was not able to remember anything because of the drinking. We spent more and more alone time together when I was not with the

professionals. He stated how special our relationship was, and we needed to protect it by keeping it a secret. No one would understand. If anyone ever found out, it would ruin everything. He advised me that no one would believe me since he was a well-known and respected coach. He explained that I would lose my financial support, he would not be able to coach me, and my dreams of a college scholarship and the Olympics would end. He also informed me that no one would ever want to coach me.

My religious father shared Bible verses at home that depicted how I was an abomination and going to hell. I felt incredibly alone and had nowhere to turn for help. My inner world began to fall apart while my external world appeared held together. It took everything I had to keep all the pieces together, but it was too much to comprehend. I started trying to figure where to put each thought, memory, idea into some regions of my mind to function every day. The puzzle pieces did not always fit, so I created different identities to survive: the son, the student, the diver, and the sinner. I juggled anger, shame, confusion, pleasure, attention, and acceptance and organized them every morning so I could face and function throughout the day. I hid behind a smile as I slipped deeper into depression.

My internal battle was raging. I convinced myself that the coach was different from the professionals. How? I was not sure. The coach saw something in me and didn't want to pass me on to someone else. He thought that I could do incredible things, and he encouraged me to be my best. I trusted the coach. When the touching escalated to physical, I thought I could handle it by saying, "No!" But my teenage body betrayed me. If the wind blew against me, my hormones always reacted. It didn't matter who touched me, I responded, even if it was against my wishes. He led me to believe we had a special relationship. I never told anyone about the coach because of all the dreams we had together, the Olympics and college.

I created a silent trifecta, which included my coach, the medical team, and the professions. They were all men. I learned I had two alternatives: to disappoint everyone in the trifecta and my mother; or get it over as quickly as possible, and no matter what, make sure he had the orgasm and not me. I convinced myself that this gave me control, and it wasn't sex. I struggled with my sexual orientation. Before the silent trifecta, I was concerned with which young lady to take to homecoming. I had not experimented with anyone my age before the first traumatic experience. I was confused that since my body responded, that I must have been homosexual. Did the silent trifecta choose my sexual identity for me?

It was not until later in my life, while I was teaching high school English when a student came into my classroom and wanted to talk. He shared with me that he was gay and had a boyfriend who was older, much older, in his thirties. The student shared that he was sexually active and that his mother and grandmother were supportive of this. When I asked, "Why?" he responded with, "He helps pay the bills and groceries." I felt this rush of heat inside of me as my heart constricted. I explained that I was going to have to report it. He seemed okay with it and almost relieved. When I shared the information with the assistant-principal, she informed me that she and the principal knew the situation and nothing could be done since the mother and grandmother were aware. I was told, "This boy has a history of this."

I remember leaving the school and feeling disturbed. Why was this single-story bothering me so much? Other students shared stories with me. Why couldn't I shake this off? Why did I feel that I let this teenager down? As the months passed, I started noticing a sense of depression come over me, a sense of low self-worth, a feeling of powerlessness, and dread. I did my best to ignore it, to pass it off by saying that I was working too hard. But flashes of images and memories became more intense than ever, and I realized that I lived in a continuous state of anxiety, alienation, nonexistence, and guilt. I felt like a liar. I lied to myself and others because I was hiding something. And my secret was that I was sexually abused. Not once, but on many occasions throughout my high school years as a male athlete.

As I struggled with the student's story and the revelation of my own, I slipped deeper into depression. By the end of December 2016, despite my fight, depression took hold, I had gained over 30 lbs., my health was terrible, and I felt that I no longer was a contributor to society. I wrote a note to my partner of fifteen-years, said goodbye to my two Boston Terriers, and went to the garage. While sitting in the car inhaling the exhaust fumes, I heard a small voice that said, "This isn't fair for Nathan to find you like this. Get out of the car and go back into the house," which I did. I fell to the floor and cried. I picked myself up and decided to break my silence and say something.

Studies indicate 1 in 6 males are sexually abused—and those are only the cases reported and investigated. In athletics, the numbers are higher and rarely reported. The long-term effects of childhood sexual abuse may not be evident until later in life, like depression, anxiety, denial, and even suicide. 93% of victims know their abuser. 90% don't report it, which is higher in athletics. Recent events have shed light on this "secret." Abused males are still hiding since our society's conditioning believe these acts are a rite of passage, simple hazing, or initiation.

If you can take a moment and step into a sexually abused person's shoes, you may understand why we don't report the event, especially males and especially male athletes. Our societal expectations of what it is to be a man, the cultural and systemic problems of sports regarding medals and money more than an athlete's wellbeing, and the unawareness of grooming, manipulating, and stigmatizing may help you understand this epidemic. Each victim's response and experience are unique, and each survivor has different symptoms.

Do I wake up every morning feeling guilty that it all was my fault? Yes. Does the constant ramification impede daily chores and obligations? Sometimes. Have the experiences prevented me from contributing to society? No! I no longer need to carry the labels that I have created for myself because of the choices an adult, mentor, coach, and others have made.

Healing is a long-term process. It may take many years before the victim is even aware of the abuse they sustained. By not permitting the person to decide on their own when to come forward, we encourage victims to remain silent. Remaining silent empowers the predator to abuse more and more people. By eliminating the civil statute of limitations, it forces predators/abusers to be responsible for their actions and face the consequences for the lives they have destroyed for a moment of their narcissistic pleasure. As a society, we need to understand and acknowledge that even if a predator/abuser is convicted and sentenced does not mean the trauma is over. The victims face a lifetime of healing.

SB 134 Testimony.pdf

Uploaded by: Legal Aid, Maryland

Position: FAV



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

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01.2021



February 2, 2021

The Honorable Senator William C. Smith, Jr.
Chairperson of the Judicial Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

**RE: MARYLAND LEGAL AID'S TESTIMONY IN SUPPORT OF
SENATE BILL 134
Family Law – Child Custody and Visitation**

Dear Chairman Smith and Members of the Committee:

Thank you for your invitation to present testimony on SB 134. Maryland Legal Aid (MLA) is a private non-profit law firm representing indigent persons in civil matters throughout Maryland. As a part of its representation, Maryland Legal Aid's staff provides legal services to thousands of Maryland children every year in the child welfare system and adults in family law cases and has expertise in child and family law. MLA strongly supports SB 134 and asks this committee to give it a favorable report.

SB 134 seeks to broaden the definition of child sexual abuse and eliminates the statute of limitations for filing an action for damages in child sexual abuse cases found in Courts and Judicial Proceedings Code Ann. § 5-117.

Data shows the high incidence of sexual abuse among minors, even though child sexual abuse is severely underreported. 45% of child victims do not tell anyone for at least five years, and some children never disclose the abuse.ⁱ Approximately, 67% of all sexual assaults reported to police involved persons under the age of 17.ⁱⁱ Estimates show that 1 in 7 girls and 1 in 25 boys will be sexually abused before they turn 18 and that 7-12% or about 1 in 10 children are sexually abused.ⁱⁱⁱ Every 11 minutes, Child Protective Services substantiates or finds evidence or claim of child sexual abuse.^{iv}

The median age a victim discloses their abuse is 48; the average age is 52.^v CJP § 5-117 permits an action until 20 years after the age of majority falling far short of age 48 or 52. The national trend is expanding the statute of limitations for actions related to childhood sexual abuse, allowing time-barred claims. Thirty-nine jurisdictions have expanded or eliminated limitations since 2002 and 17 jurisdictions expanded the limitation or created a window for filing claims previously barred by time limits in 2018-2019. Thirteen jurisdictions have eliminated time limitations for civil actions and five jurisdictions allow claims to be brought by a victim age 50 or older.^{vi}

This recognition that a victim of childhood sexual abuse should not be limited to a timeframe, which may not comport with the victim's ability to acknowledge the crime, is overdue in Maryland. "According to data from 2016, 93% of childhood victims of assault know their perpetrator well, with 80% of those cases involving a parent, and 15% involving a close relative or unmarried partner to a parent. Statistics on substantiated crimes only tell us a small portion of the story. Many child sexual abuse victims never come forward to state their case. Being abused as a child often instills a sense of abandonment, self-hate, confusion, and guilt, which makes coming forward to discuss the assault impossible for many. Statutes of limitation on how long a victim has to report a crime also result in many undocumented and investigated crimes. Children often experience changes in behavior, mood, and awareness after the abuse has taken place. When questioned about the alleged abuse, children are often unable to recall specific details related to the event, such as time, place, and sequence of events."ⁱ Countless victims will be left behind without this expansion.

Maryland Legal Aid strongly supports SB 134 and asks this committee give it a favorable report.

/s/ Erica I. LeMon

Erica I. LeMon, Esq.

Director of Advocacy for Children's Rights

Maryland Legal Aid

/s/ Zach Cardin

Zach Cardin, Esq.

Staff Attorney

Baltimore City Child Advocacy Unit

Maryland Legal Aid

ⁱ Journal of Clinical Child and Adolescent Psychology, "Sexual Assault Disclosure in Relation to Adolescent Mental Health: Results from the National Survey of Adolescents", J. Broman-Fulks, 2007.

ⁱ Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Sexual Assault of Young Children as Reported to Law Enforcement (2000).

ⁱ Townsend, C. & Rheingold, A. "Estimating a Child Sexual Abuse Prevalence Rate for Practitioners: A review of Child Sexual Abuse Prevalence Studies," Darkness to Light (2013).

ⁱ RAINN. Children and Teens: Statistics. Retrieved 2/20/19 from <https://www.rainn.org/statistics/children-and-teens>

ⁱ <https://childusa.org/2021sol/>

ⁱ <https://childusa.org/2021sol/>

ⁱ <https://lernercenter.syr.edu/2019/07/30/childhood-sexual-abuse-the-truth-behind-the-trauma/2019>

SB 134 Final.pdf

Uploaded by: LeMon, Erica

Position: FAV



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05.04.17



SB134 Center for Hope SOL FAV.pdf

Uploaded by: Lombardi, Joyce

Position: FAV



Senate Bill 134 – SUPPORT

Civil Actions – Child Sexual Abuse - Definition and Statute of Limitations (Hidden Predator Act)

Senate Judicial Proceedings Committee – February 2, 2021

Testimony of Adam Rosenberg, Executive Director, Center for Hope

Position: **SUPPORT**

Center for Hope writes in SUPPORT of SB134. This bill does three important things:

- It extends Maryland’s statute of limitations (SOL) to allow adult victims of child sexual abuse the ability to take civil action when they are ready to remedy the trauma they endured in childhood
- It provides a temporary “look-back” window that would suspend the SOL for all claims for two years.
- Finally, it adds a severability clause, which allows Maryland’s high court to decide whether the state’s “statute of repose” – a legal device historically used to protect construction and building trades – can be used to insulate youth-serving institutions and others from claims arising from sex crimes

The Center for Hope’s mission is to advance hope, healing, and resilience for those impacted by trauma, abuse, and violence through comprehensive response, treatment, education and prevention. Center for Hope’s innovative programs address child abuse; domestic violence; community and street-based violence; and elder justice. Center for Hope, a subsidiary of LifeBridge Health, includes one of the nation’s oldest nationally accredited children’s advocacy centers, the Baltimore Child Abuse Center.

Only one-third of child abuse victims report what happened to them while they are still minors. Some never report at all. Research shows that trauma caused by adverse childhood experiences (ACEs), such as child sexual abuse, puts an individual at higher risk for poor long-term mental and physical health. It is usually not until adulthood that a child has the emotional, mental and financial stability to confront their attackers – predators who almost always occupied a position of trust, power and care. **The average disclosure age for reporting child abuse is 52 years old.** *CHILD USA (2020).*

When an adult survivor does come forward, she or he is often met with disbelief or anger. “Why didn’t you come forward sooner?” “Why can’t you get over it?” Often, extended family or community members will reject the victim for daring to disturb their cherished memories or social relations. Often, it is the survivor who is shunned and shamed, not the perpetrator. Even worse, many times administrators representing youth serving institutions are complicit in willfully ignoring, intentionally failing to report, and sadly even covering up the abuse itself.



Left untreated, childhood trauma can have lasting effects on a person's social development, and physical and mental health. It is estimated that the annual public cost due to child maltreatment, including child sex abuse and neglect, is \$1.5 billion in Maryland. Long term costs stemming from child sex abuse are estimated to be about \$200,000 to \$800,000 per victim. *Md State Council on Child Abuse and Neglect.*

Healing takes many forms. And while very few victims wish to pursue court action, for those that do, it is often too late.

For those victims who do seek justice from the civil courts, an extended SOL can help shift the burden of untreated childhood trauma to the perpetrators and the institutions that hid their crimes. This modification can help expose the full extent of a predator's crimes.

In summary, an extended SOL:

- provides survivors a realistic window of time to access justice
- shifts the costs of healing to the perpetrators who caused the harm
- creates institutional accountability for intentional failure to report
- helps protect children who may still be at risk from formerly unknown abusers
- leads to improved institutional practices that keep children safe from sexual predators

While some opponents raise the specter of potential bankruptcies, it is important to note several things: 1) Mere access to the courts is not the same as prevailing in a lawsuit. Plaintiffs must still meet their burdens. 2) Bankruptcies are often strategic business decisions. They do not mean that the entity ceases operations. Of the nine dioceses that filed for bankruptcy over the last ten years, none have permanently closed. *See e.g. Reilly, Catholic Diocese in Bankruptcy, Penn State Law (updating listing of dioceses that have emerged from bankruptcies); CHILD USA.* Furthermore, many lawsuits against smaller entities, such as independent schools, have tended to lead to quiet out of court settlements, rather than drastic school closures. *See eg "Private schools, painful secrets," Boston Globe 2019 (reporting on hundreds of claims against New England private schools);* 3) Reputations of institutions not only can survive but thrive for those institutions who meet evidence of past crimes with honesty and humility.

For all of these reasons, we request a **FAVORABLE** report for SB134.

Becky Ianni SB134 written testimony.pdf

Uploaded by: Lorenz, David

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: Becky Ianni

DATE: 02/02/2021

My name is Becky Ianni. I am on the Board of Directors of The Survivors Network of Those Abused by Priests (SNAP) but most importantly I am a survivor of childhood sexual abuse. I am writing today in support of The Hidden Predators Act (HB263/SB134). I believe this legislation can make a difference that will better protect Maryland's most vulnerable citizens, its children.

I am one of the one in four women who has been sexually abused by the age of eighteen. In 1965 when I was 8 a newly ordained priest joined our parish. Father Reinecke was quiet, charming, and many Mom's thought good-looking. He gave inspiring homilies and was soon everybody's favorite priest.

Father Reinecke befriended our family. He began to spend a great deal of time at our home and in our neighborhood. He would eat dinner at our house 2 or 3 times a week. He would watch T.V. and play board games with me and my brothers. All the parents loved and trusted him. I loved and trusted him. Father Reinecke used this trust and love to sexually abuse me. He was my friend, my own personal representative of God and he betrayed me. He started fondling me and raping me with his hands around the age of 9. He abused me in my own home in and in the vestry of my church, the two places I should have felt most safe. I was so young and naïve that I did not understand what he was doing was sexual in nature I only knew it made me feel like a dirty little girl. The emotion I remember the most is being terrified. I never told anyone as a child. It was implied that if I told anyone God would be mad at me and I would go to hell. Nothing could be worse for a devout Catholic little girl. I was terrified, confused and ashamed. I had been taught that priests were called by God therefore I believed that the abuse was my fault. My terror of going to hell and being found out was so great that I went deep inside myself during the abuse so I could pretend it was not happening and I buried it deep in my mind. He took my innocence and left me terrified, guilt ridden and deeply ashamed. When I finally found the courage to tell someone and to find validation and justice the Statute of limitations had run out.

Unfortunately, my case is not unique. The impact on children and adults is devastating. Victims usually suffer life-long consequences including, poor self-esteem,

inability to trust, excessive anger, frequent addictions, eating disorders, and even reduced cognitive performance. The suicide rate among those who were sexually abused is significantly higher than that of the general population.

As I began to heal with the help of a therapist and my fellow survivors. I decided that I wanted to help other survivors who were suffering in silence and pain. I joined SNAP (survivorsnetwork.org). I am currently a leader in the Washington, DC Metropolitan area and am on the Board of Directors. I have overseen SNAP's helpline for over a decade and have answered hundreds of calls from fellow survivors. Many of those who call are in their 40's, 50's, 60's or older and have never told anyone about their abuse.

Perpetrators are very skilled at evoking secrecy and silence among their victims. For some, denial and self-delusion arouse less shame and pain than facing the events directly. For others, memories are simply repressed from consciousness. In either case, self-destructive behaviors and psychological difficulties are common until one confronts the abuse and/or the abuser. Subjugation of a child through the warped use of religious power can breed an enormous amount of personal responsibility on behalf of the victim. Harboring of irrational feelings of guilt and accountability perpetuate the silence that many victims maintain for years.

We need to create an environment that encourages victims to come forward. They need to feel they will be heard and validated. When victims speak out and expose their perpetrators children are safer. By passing The Hidden Predators Act you will be helping victims to feel heard and be validated. Most importantly you be creating a deterrent for perpetrators and those that cover up their abuse by letting them know that no matter how much time has passed they will be held accountable.

As you are deciding how to vote on this bill, I ask that you not only review all the facts that are presented but to remember the stories you will read that make those facts real. I ask you to remember this little girl and her pain and then decide what you can do to prevent another child from suffering as she did and still does as an adult. ***For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.***

My picture at the age I was abused.

Thank you,
Becky Ianni
SNAP Board Member
snapvirginia@cox.net
703-801-6044



Benjamin Lorenz SB134 written testimony.pdf

Uploaded by: Lorenz, David

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: Benjamin Lorenz

DATE: 02/02/2021

Thank you for hearing my testimony.

My name is Ben Lorenz. I am proudly a husband to Renee, father to Leah and Ezra and son to David and Judy. My reason for testifying is to bear witness on two levels, personal and professional, to the need for a change to the statute of limitations for civil suits in cases of sexual abuse of minors, notably in HB263 and SB134.

When I was 15 years old, I remember seeing on the news a wave of stories about adults, ranging in ages from late 20s into even their 60s, coming forward to share publicly that prominent figures had sexually abused them in their youth. These people had hidden away this important information from the police, from their parents, from their siblings, from their children, sometimes even from their spouses. In most cases, it was a secret they held as closely to their hearts as anything you can imagine. Each one of them, individually, suspected they were the only victims. Most expected that no one would believe them if they told someone else. For decades, in silence, they waited, unaware that dozens of others were experiencing the same torture, stemming from the same type of original trauma.

This was a national story I'm sure you all recall, but there is no need for me to specifically mention the common religious tradition from which these stories originated. That simply is not germane to the root of the problem. The root of the problem wasn't faith or religion; it was that a predator knowingly exploited the immaturity of their victims. An adult - a sick adult - is capable of manipulating the naivete of a child in a manner most of us can't even consider in order to silence their victims for years. It's such an effective tactic that young people often lock

this secret away for decades, convinced they are alone and that they were at fault.

I have witnessed this process firsthand when, months into this national wave of revelation, my parents called a family meeting where my father revealed that he himself was a victim of a predator during his high school years. At that time, it had been over 25 years since the original abuse occurred and I was a teenager, still working on understanding how different people process emotions. In spite of both of those facts, it was unmistakably clear that this man, my father, one of the most resilient people I know, was nowhere near healed from this experience.

In 2002, David had a devoted wife of 20 years, four well-adjusted children, a prolific professional career, a home in a nice middle class town and a social circle of people who loved and cared about him. If any survivor was in a position to process their trauma and heal, it was someone in this setting. And yet, after telling us of the initial abuse, my father relayed to us that, to some degree, he still believed it was his fault, that he should have done more to stop it. He said this repeatedly, prompting my mother to step into the conversation to say “No, it wasn’t and isn’t your fault.” You must understand that this man had more resources than most survivors. His slow journey towards processing his trauma cannot be attributed to any external circumstance; it is instead a reflection of the reality of abuse: Time is critical and personal.

An objection I have heard levied a lot to this legislation is that our society has learned about how painful abuse is and that the stigma attached to survivors has been diminished or extinguished. They argue that future generations will be able to process abuse more quickly;

Trauma resulting from abuse is literally brain-altering, so expecting someone to recover or to process on a fixed timeline is both unreasonable and unrealistic. I have worked in education for over a decade, as both an administrator and a teacher. In both roles, I have learned about students of mine who have been victimized by predators. In all of these cases, I did what is both legally and morally required and I shared that information with the appropriate police department, while ensuring that the student receives care from the school counsellor. But worth noting here is that the students have, in every case, objected to calling the Police. Even students who were abused years earlier were not immediately ready to make the information public. If you asked those students what another person

should do, in a nearly identical situation, they would respond that the teacher or adult should tell the Police and that the victim should not be ashamed. Their trauma has physically caused them to reserve an unjustified expectation of themselves.

To summarize my support of this bill: It would be improper to expect a human being to respond rationally and predictably to an irrational and unpredictable event. Yet, laws that provide a statute of limitations on civil suits for sexual abuse do exactly that, requiring children to heal and process on an arbitrary and immutable timeline. Please support victims of sexual abuse by removing these barricades and allow them to seek the justice they so deeply deserve on their own timeline. ***For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.***

Buddy Robson SB134 Written Testimony.pdf

Uploaded by: Lorenz, David

Position: FAV

TESTIMONY IN SUPPORT OF SB 134
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

TO: HON. William C. Smith Jr, Chair, and Members of the Senate Judicial Proceedings Committee.

FROM: Daniel F. "Buddy" Robson Jr.

January 27, 2021

Dear Senator Smith and Members of the Committee:

As you look at the attached picture I'm sure it seems innocuous enough. It's a picture of my son and me who is attending his first day of school as a 6th grade student on August 29th 2019. His birth date is January 15, 2008 and he is 11 years old in this picture. Thousands of fathers Nationwide most likely pose for same picture with their son(s) every school year but unlike the others, there's a backstory to this picture.

My son, Sean, is the EXACT SAME AGE I was when I was sexually abused by a Catholic priest by the name of Timothy P. Slevin, who at the time was assigned to St. James Church/School in Mt. Rainier, MD (Prince Georges County, MD). The pain of my abuse laid dormant in my memory for many years but has come back full force with the revelations of Theodore McCarrick and the subsequent resignation of Donald Wuerl for his part in covering up the abuse of children as revealed in the Pennsylvania Grand Jury Report. It is still too painful for me to talk about and I really thought I'd take my "secret" to my grave. I celebrated my 65th birthday in December, 2020 but it wasn't much of a celebration as I STILL live with my "secret". It's been a very hard road to have to live through the pain of my abuse again.

As a father and a parent I look at my son and I sometimes cry. Actually I cry a lot, but I also pray that he'll never know the pain of what I went through and what I am going through now. Nothing, and no one will ever be able to take back what was done to me but if I can do anything at all to prevent my son, or anyone's son/daughter from having to experience the pain of sexual abuse at the hands of a pedophile predator then my efforts today and everyday will be worth it.

For these reasons I urge a favorable committee report and passage of Senate Bill 134 without amendments.

Most sincerely,
Daniel F. "Buddy" Robson Jr.



Carolyn Surrick SB134 written testimony.pdf

Uploaded by: Lorenz, David

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: Carolyn Surrick

DATE: 01/25/2021

At thirteen, as a seventh-grade student at The Key School in Annapolis, the grooming started. I was fourteen when I was raped. When I was fourteen and pregnant, I was taken to Washington for an abortion by one of the teachers who was abusing me. I was sexually abused by two different teachers in the same year. The abuse continued until I was nineteen. My facts.

There is no doubt that the sexual abuse of children is horrific, and that specific abuse has specific consequences. It matters how old the child is when it starts. It matters how sadistic the predator is. It matters how long it lasts, and the frequency of the abuse.

No two people who have suffered these experiences are alike, but there are some predictable outcomes - obesity, drug abuse, alcoholism, depression, anxiety, and suicidality. It comes with the territory.

When you are sexually abused as a child, all sorts of things go sideways in your life because every boundary that should be in place, isn't. Many of us never marry. We don't know how to be in committed relationships. We can't open our hearts because we learned early on that it is a terribly dangerous thing to do. If we have children, we live in fear that what happened to us, will happen to them. We are addicted to sex, or we can't trust anyone enough to be intimate. The list goes on and on, and it makes sense. When a child, who is by definition naive and innocent, engages with a predator, bad things happen. Bad things happen when the predator is active, bad things happen when it's over. Due to the extremely destructive messages and a young mind, it takes years, often decades, far longer than any statute of limitations, for sexual abuse victims to fully realize what has occurred, the abuse of power, the trauma, and the damage done.

For the record, I have worked hard to become healthy. Normal. Well adjusted. I've been in therapy for thirty-six years, eight of which were psychoanalysis, four days a week on a couch. I've had acupuncture since 1987.

But I need you to think about justice for a second. The statute of limitations ran out for me when I was twenty, traumatized - and truly, at that moment, I did not recognize, and could not possibly understand, the magnitude of the damage that had been done. It was another twenty years before I started understanding, really understanding, the totality of my experiences.

Starting in 1993, I worked for decades to get Key School to understand how many teachers had abused students, how many students had been abused, the duration of the abuse, and the culture that turned a blind eye to something that was ubiquitous on campus. I was not successful. Not being heard is yet another form of degradation.

Twenty-five years after I first notified a board member about the abuse, the school finally started a formal investigation.

Today, the head of the school is a good man - now there is a fund to help survivors get therapy. And in a letter last year, the board stated that they plan on continuing this indefinitely.

What exactly does that mean? I can tell you what it doesn't mean. It doesn't mean that in five years, the next board will make the same decision. And they have said clearly, that they will not pay for therapy retroactively. Here's the thing: they know that they don't have to. Their legal team told them that they have nothing to worry about because this bill will never pass. They won't have to go to court, they will never be held accountable.

Schools and churches are institutions. At any given moment, they are doing a cost/benefit analysis. Right now, they are helping survivors because the world is watching. In five years, they won't have to.

You are here to bear witness to these people who are telling you that terrible things happened, and the institutions knew. They knew what was going on and they did nothing. And now we, the victims, are asking you to do something. To do the right thing, and pass this legislation. Allow us to seek justice. We've been waiting for a really long time. ***For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.***

Thank you.

Carolyn Surrick
1730 Crownsville Road Annapolis, MD 21401

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Citi Ministries_Hidden Predators Act letter.pdf

Uploaded by: Lorenz, David

Position: FAV

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*Home of Society of
Christ's Priesthood*

TESTIMONY IN SUPPORT OF SB 134:

CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF LIMITATIONS ****SUPPORT****

TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate Judicial Proceedings Committee

FROM: CITI Ministries

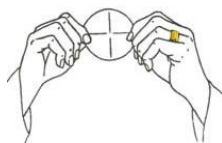
DATE: 02/02/2021

To Whom It May Concern,

CITI Ministries Inc. is a non-profit organization providing ministerial services to the disenfranchised or underserved in our communities. CITI Ministries strongly supports advocates for children and vulnerable adults who have been sexually abused. We endorse legislation providing protection and justice for victims. CITI Ministries supports The Hidden Predators Act which will be brought before the House and Senate in the 2021 legislative session. **For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.**

Signed,

Mallory Zolyan-Schmitt, President/Executive Director



Celibacy Is The Issue

David Lorenz SB134 written testimony.pdf

Uploaded by: Lorenz, David

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: David Lorenz

DATE: January 2021

My name is David Lorenz and I was sexually abused by a priest, my mentor and friend, at the age of 16. It was a difficult time for me and I almost drowned in my anguish. I managed to pull myself together and I became reasonably successful. But I had a secret that I told to no one and it had a profound effect on my life and how badly I handled some critical situations. I fully expected to take my secret to the grave but at the age of 32, events transpired that forced me to admit to family and friends what had happened to me. That is when my healing began. For most survivors, it is a much later age if they can do it at all. Details of my abuse and recovery can be found in past testimony and I do not have the time to repeat it today. I am also the Maryland director for SNAP – Survivor’s Network of those Abused by Priests.

I have been testifying on behalf of changing SOL legislation for more than a dozen years with little to show for it because we have been opposed by one organization – the Roman Catholic Church. Even though only about 4% of abuse cases involve the Catholic Church, they have felt it necessary to lock 24 out of every 25 survivors out of an ability to seek justice. We know from the Pennsylvania grand jury, the Boston and Manchester attorney’s general reports and a dozen or so other reports from around the country that the Church has conspired to cover up these crimes. Not to mention reports from Australia, Ireland, Poland and a few other countries. The behavior is the same. Hide the crime and move the perpetrator where he can prey on a new crop of victims. And they knew it. They covered it up until the SOL ran out.

The Church will tell you that they reach out to victims and ‘do everything they can to help victims. But what they don’t tell you is that they still conspire to hide abusive priests (note the headlines about Buffalo NY 1/10/2021) and they mold laws to protect themselves so they cannot be held responsible for the actions they took to protect perpetrators. The most egregious act came in 2017 in this very assembly when the Church snuck in a last-minute amendment to a bill purported to help victims that was introduced in the closing days of the General Assembly that made child sexual abuse a product liability by changing it to ‘statute of repose’. Even the sponsors of the bill were unaware of the change and were outraged when this change came to light. Knowing this, I don’t know how anyone can possibly believe the Church’s intentions are anything but about protecting the institution and not about helping survivors. It certainly does not fit with their statement that they will do anything they can to help survivors.

The Church also feigns that they might have to declare bankruptcy if there are too many lawsuits filed against them. If that happens, they may be restricted in performing their charitable acts. Research on the financial health of dioceses that have declared bankruptcy over the past decades due to child abuse lawsuits actually shows that following bankruptcy their financial health actually improves ... significantly. The real reason they file for bankruptcy is to hide disclosure of their actions from being revealed in a courtroom. Plain and simple.

For these reasons, I urge a favorable committee report and passage of House Bill 263 & Senate Bill 134 without amendments.

David Lorenz SB134 written testimony.pdf

Uploaded by: Lorenz, David

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: David Lorenz

DATE: January 2021

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Eileen Lorenz SB134 written testimony.pdf

Uploaded by: Lorenz, David

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: Eileen Lorenz

DATE: 02/02/2021

There's no good reason this bill shouldn't become law. If you're hesitant in any way, I don't think you're taking it personally enough. Everyone here has survivors in their lives. Some of us know who those people are and some of us don't, but they are here.

Imagine someone in your life was victimized at a young age, but stayed quiet in agonizing fear and shame. Imagine that as an adult, that person builds courage. They WANT to tell their story and confront their abuser.

Nobody here would deny a loved one that right. And that's what this bill is: the right to speak and be heard. We owe survivors the opportunity to strip the power from their perpetrators.

This bill would give survivors their right to a day in court. And nothing less than a court hearing would provide a satisfactory platform for them to speak their truth.

There is no other equivalent process. No, there's no statute of limitations on criminal cases. But, it's nearly impossible for victims to gather enough evidence from a hushed 20+ year old case to pursue criminal charges. A civil suit IS their only legal voice, and that's what this bill offers. A court hearing provides an unrivaled degree of credibility in a documented outcome. It is this type of on-record affirmation that survivors need and deserve to counteract the years of darkness that they were shamed into living alone.

You would want this freedom for your brother, your cousin, neighbor, or grandfather. You would want it for a dear friend. Please make this a reality for this community of compassionate, strong-willed survivors who have been fighting this fight for over a decade. Give them their time. Give them their voice. ***For these***

reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.

Erin Lorenz SB134 written testimony.pdf

Uploaded by: Lorenz, David

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: Erin Lorenz

DATE: 02/02/2021

It has been nearly 19 Easters since Theodore then-Cardinal McCarrick went on *Meet the Press* and assured the good people of the Archdiocese of Washington that nothing was wrong, that these cases of abuse so thoroughly reported by the Boston Globe were all in the past and that all would be well. Nearly 19 Easters since my father dredged up the trauma of his own past, which remained very much his present, to tell us, his children, that the Cardinal was quite wrong. This was to say nothing of the egregious offenses that the Cardinal himself had committed that would come to light years later.

It has been nearly 15 general assembly sessions since I first attempted to testify to this body on behalf of this bill, only to be thwarted by legislators other than yourselves whose allegiance to Catholicism's coffers meant that this bill remained buried for over a decade. In short, it has been too long. It is far past time for survivors of childhood sexual assault to have sufficient legal recourse in order to seek justice and healing for themselves.

As a teacher, I am a mandatory reporter. Every year, I learn the signs of abuse and the correct reports to file. But what I have also learned is that young people are excellent at burying that which they want no one to see. Developmentally, they are only just beginning to understand their role in the world as an individual human, and what it means to have a moral compass. The statistics we have heard today tell me that more than one in 5 of my current students has been assaulted by an adult. Out of 120 students, that's 30 kids - an entire class section's worth. I tell you now that I have no idea who they are. They are hiding it right now, because their brains cannot handle what has happened to them. And in our current situation, many of these children are sadly more at risk without their

school building as a refuge. As someone who is witness to the trauma in an adult survivor, and as a teacher who cares deeply about her students, it disturbs me to think that my students might be living in a world that will not protect them and instead protect their predators.

Since I do not know who they are, I cannot help these students directly. But I can ask on their behalf that the state of Maryland end the statute of limitations, and let them have a chance at a future. Thank you. ***For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.***

Judy Lorenz SB134 written testimony.pdf

Uploaded by: Lorenz, David

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: Judy Lorenz

DATE: 02/02/2021

My name is Judy Lorenz and I am here in favor of SB134

I am here to say ENOUGH!

I have been here too many times testifying before this committee on behalf of victims of child sex abuse and have seen too many bills stuffed into drawers, not making it ‘across the street’, or passed by the house overwhelmingly only to die in the Senate.

SOL legislation - getting sneakily transformed into a law regarding statutes of repose rather than statutes of limitations.

Extra deliberation requested in 2019...knowing the tie-breaking senator would be deployed to Afghanistan the very next day and would not be present for the crucial vote. ENOUGH!

Scores of survivors have given heart-wrenching testimony explaining the ramifications affecting them as adults after being sexually abused as children.

I have listened to testimony from experts in psychology, medical and social work fields who methodically explain why children wait so long to report the type of physical, emotional and spiritual trauma they endure only to be thrown to the side by institutional protectionists.
ENOUGH!

As a family support leader, I have heard the horrors of family members dealing with their loved one’s addictions, the staggering number of divorces, mental illnesses, inability to pay bills because of PTSD. And the most profound stories are those of suicide attempts and suicides that were unfortunately successful. ENOUGH!

My husband is a survivor. I won’t go through his story again but clearly since we have been putting ourselves through this for 16 years it might make you understand that we are compelled to act on behalf of the survivors not as fortunate as us. This experience spanning 13 years has been grueling. This year Covid-19 has made the lives of survivors even worse due to isolation, job loss and depression. How terrible is it when Covid-19 is actually a good thing to them in this particular case, only because it means the survivors may be able to testify virtually tempering the

agony of an in person face-to-face testimony? None of us want to go through our stories over and over and over. But we do because we want justice for survivors. Have you all finally had ENOUGH?

What is it going to take to make Maryland stand shoulder to shoulder with New York, New Jersey, Delaware and other states who have already passed this type of legislation?

I am grateful to Senator Hettleman for sponsoring this bill. Please pass SB134, The Hidden Predators Act. It's the right thing to do. ***For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.***

Zach Hiner_SNAP SB134 written testimony.pdf

Uploaded by: Lorenz, David

Position: FAV



TESTIMONY IN SUPPORT OF SB 134:

**CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
SUPPORT**

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

**FROM: Zach Hiner, Executive Director of SNAP, the Survivors Network of those Abused
by Priests**

DATE: 02/02/2021

My name is Zach Hiner and I am the Executive Director of SNAP, the Survivors Network of those Abused by Priests. For the past thirty years, our organization has provided support and advocacy services for victims of institutional sexual violence. We have more than 25,000 survivors in our network nationwide, including 640 from Maryland. While our organization was born out of the Catholic sex abuse crisis, we count among our network survivors from every faith tradition as well as other institutions, such as universities and clubs like the Boy Scouts.

From a personal standpoint, I am lucky to not be a survivor myself. But as an advocate who has worked with survivors and have heard their stories, I know that one of the typical things that these victims have in common is a negative history with the judicial process, largely due to barriers that have been erected by statutes of limitations laws.

What are the facts about abuse and SOL?

The facts about sexual violence are clear: sexual violence is a tremendously under reported crime, and when survivors do come forward, it is typically much later in the life. Estimates vary, but data shows that 1 out of 10 children will experience sexual violence before their 18th birthday. Of those victims, fewer than 40% will ever come forward to report their abuse. In 2019, the average age of disclosure for a survivor of child sexual abuse is 52 years old.

These statistics combine to illustrate the fact that childhood sexual abuse is a common yet, often hidden crime, as it is often difficult for survivors to disclose while the abuse is occurring or shortly thereafter, whether due to feelings of embarrassment, guilt, a belief that the abuser cares for them, or fear due to the abuser's position of trust and authority.

We also know that the effects of childhood sexual abuse are long-term and severe. Studies have shown that childhood sexual abuse has been correlated with higher levels of mental health problems, such as depression, anxiety, dissociative patterns, eating disorders and suicidal ideation, and physical health problems. In fact, adults with a history of child abuse are 30% more likely to have a serious medical condition like cancer or heart problems. Additionally, survivors of childhood sexual abuse also face personal issues as well such as joblessness, poverty, addiction issues, and difficulty forming close relationships.



These problems often come at a high cost, both to society and communities, but especially to the victims of sexual abuse. Through no fault of their own, many survivors have lived lives with pain, illnesses, and other adverse experiences that have resulted from being victimized as children. Survivors often are forced to spend money on therapy, medication, or medical care, treatments that are expensive and cost money that survivors too often do not have to spend.

By reforming the civil statute of limitations, we can begin to transfer some of the costs associated with abuse from the victim to the perpetrator and to those institutions which have shielded abusers.

To me, it makes little sense to limit access to opportunities for justice due to a debate over an arbitrary time period. Rather than control access to the courts based on when someone remembered their abuse, we believe that the courts should be open to all and any legal questions be handled within the court system on a case by case basis.

Why should we eliminate civil statutes?

At SNAP we believe that informed communities are safer communities, and for those in our network, the first goal of allowing claims to be brought forward is the public identification of perpetrators. When those who hurt children are allowed to remain hidden within the community due to statute of limitations barriers, it leaves other children at risk of abuse and the lifelong costs and adverse effects that come with that abuse.

By opening civil windows, not only are survivors provided with an opportunity to experience justice and closure, they are also able to use their experiences to better inform communities and institutions about how abuse occurs and how it is hidden.

Additionally, when civil claims are filed, they often lead to other victims coming forward and filing their own cases. Sometimes, this even leads to the identification of cases that are still within the criminal statute of limitations as happened in Pennsylvania following the release of the 2018 Grand Jury report. In this way, reforming the civil statute of limitations can lead to the criminal prosecutions that in turn lead to safer communities.

As we as a nation have learned more about sexual violence, reforming the statute of limitations to be more in line with survivors' reporting trends happened in most states around the country. Some states, such as Delaware and Hawaii, have even opened civil windows multiple times in order to give more survivors access to justice. More recently, New York, New Jersey and Vermont have passed their own reform to statute of limitations laws, joining the 38 other states that have made reforms since 2002.

In sum, reforming the statute of limitations is a move that has strong precedent and can give survivors an opportunity for their experiences to have a positive meaning for others and for the pain they have experienced to lead to new policies and procedures that will help prevent other children from being abused in the future.



But such meaning can only come when survivors are empowered to seek redress through the court system. ***For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.***

Carolyn Surrick SB134 written testimony.pdf

Uploaded by: Lorenz, Judith

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: Carolyn Surrick

DATE: 01/25/2021

At thirteen, as a seventh-grade student at The Key School in Annapolis, the grooming started. I was fourteen when I was raped. When I was fourteen and pregnant, I was taken to Washington for an abortion by one of the teachers who was abusing me. I was sexually abused by two different teachers in the same year. The abuse continued until I was nineteen. My facts.

There is no doubt that the sexual abuse of children is horrific, and that specific abuse has specific consequences. It matters how old the child is when it starts. It matters how sadistic the predator is. It matters how long it lasts, and the frequency of the abuse.

No two people who have suffered these experiences are alike, but there are some predictable outcomes - obesity, drug abuse, alcoholism, depression, anxiety, and suicidality. It comes with the territory.

When you are sexually abused as a child, all sorts of things go sideways in your life because every boundary that should be in place, isn't. Many of us never marry. We don't know how to be in committed relationships. We can't open our hearts because we learned early on that it is a terribly dangerous thing to do. If we have children, we live in fear that what happened to us, will happen to them. We are addicted to sex, or we can't trust anyone enough to be intimate. The list goes on and on, and it makes sense. When a child, who is by definition naive and innocent, engages with a predator, bad things happen. Bad things happen when the predator is active, bad things happen when it's over. Due to the extremely destructive messages and a young mind, it takes years, often decades, far longer than any statute of limitations, for sexual abuse victims to fully realize what has occurred, the abuse of power, the trauma, and the damage done.

For the record, I have worked hard to become healthy. Normal. Well adjusted. I've been in therapy for thirty-six years, eight of which were psychoanalysis, four days a week on a couch. I've had acupuncture since 1987.

But I need you to think about justice for a second. The statute of limitations ran out for me when I was twenty, traumatized - and truly, at that moment, I did not recognize, and could not possibly understand, the magnitude of the damage that had been done. It was another twenty years before I started understanding, really understanding, the totality of my experiences.

Starting in 1993, I worked for decades to get Key School to understand how many teachers had abused students, how many students had been abused, the duration of the abuse, and the culture that turned a blind eye to something that was ubiquitous on campus. I was not successful. Not being heard is yet another form of degradation.

Twenty-five years after I first notified a board member about the abuse, the school finally started a formal investigation.

Today, the head of the school is a good man - now there is a fund to help survivors get therapy. And in a letter last year, the board stated that they plan on continuing this indefinitely.

What exactly does that mean? I can tell you what it doesn't mean. It doesn't mean that in five years, the next board will make the same decision. And they have said clearly, that they will not pay for therapy retroactively. Here's the thing: they know that they don't have to. Their legal team told them that they have nothing to worry about because this bill will never pass. They won't have to go to court, they will never be held accountable.

Schools and churches are institutions. At any given moment, they are doing a cost/benefit analysis. Right now, they are helping survivors because the world is watching. In five years, they won't have to.

You are here to bear witness to these people who are telling you that terrible things happened, and the institutions knew. They knew what was going on and they did nothing. And now we, the victims, are asking you to do something. To do the right thing, and pass this legislation. Allow us to seek justice. We've been waiting for a really long time. ***For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.***

Thank you.

Carolyn Surrick
1730 Crownsville Road Annapolis, MD 21401

443.822.3382 gambaville@mac.com

CRBC SB134 Written Testimony.pdf

Uploaded by: Lorenz, Judith

Position: FAV



Senate Judicial Proceedings Committee
SB134: Civil Actions-Child Sexual Abuse-Definitions and Statutes of Limitations
Hidden Predator Act
Support
February 2, 2021

The Citizens Review Board for Children (CRBC) is a federally mandated citizen review panel consisting of over 150 Governor appointed volunteers representing the 23 counties and Baltimore City. CRBC is charged with examining the policies, practices and procedures of Maryland's child protective services and making recommendations for systemic improvement. CRBC promotes safety and well-being for children and envisions the protection of all children from abuse and neglect; children only being placed in out-of-home placement when necessary; providing families with the help that they need to stay intact.

CRBC supports SB134: Hidden Predator Act because it would allow victims of sexual abuse to have justice, expose hidden predators and protect others from future abuse. This bill removes exemptions that protect individuals and organizations instead of survivors of sexual abuse.

Nationally, there is increasingly more effort on exposing hidden predators through civil statute of limitations and lookback windows. Approximately 1/3 of the states have passed legislation since 2018 extending the civil statute of limitations and allowing for a lookback period for child sex abuse. This includes the introduction of this legislation in Maryland in 2020.

The statute of limitations in Maryland for childhood sexual abuse ends more than 10 years after the average age a victim of childhood sexual abuse discloses which is well into adulthood. This bill would educate the public, increase awareness of the prevalence of childhood sexual abuse so that families and legal systems could prevent future sexual abuse. The effects of Adverse Childhood Experiences (ACES) and trauma from childhood sexual abuse are poor long term mental and physical health, educational and employment outcomes that is costly to individuals and the State.

For these reasons we urge a favorable committee report on SB134: Hidden Predator Act. Thank you.

David Lorenz SB134 written testimony.pdf

Uploaded by: Lorenz, Judith

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: David Lorenz

DATE: January 2021

My name is David Lorenz and I was sexually abused by a priest, my mentor and friend, at the age of 16. It was a difficult time for me and I almost drowned in my anguish. I managed to pull myself together and I became reasonably successful. But I had a secret that I told to no one and it had a profound effect on my life and how badly I handled some critical situations. I fully expected to take my secret to the grave but at the age of 32, events transpired that forced me to admit to family and friends what had happened to me. That is when my healing began. For most survivors, it is a much later age if they can do it at all. Details of my abuse and recovery can be found in past testimony and I do not have the time to repeat it today. I am also the Maryland director for SNAP – Survivor’s Network of those Abused by Priests.

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For these reasons, I urge a favorable committee report and passage of House Bill 263 & Senate Bill 134 without amendments.

David Schappelle SB 134 WrittenTestimony.pdf

Uploaded by: Lorenz, Judith

Position: FAV

TESTIMONY IN SUPPORT OF THE HIDDEN PREDATORS ACT – SB 134
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF LIMITATIONS
****SUPPORT****

TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate Judicial Proceedings Committee

FROM: David Samuel Schappelle

DATE: 01/20/2021

My name is David Samuel Schappelle, and I currently live in Ellicott City, MD with my wife of 18 years, and our five children. This year, 2021, our two sons will be 15 and 13, and our daughters will be 11, 9 and 4. My family attends mass every Sunday at St. Louis in Clarksville, but I have stopped going because I have a difficult time at church nowadays. My wife is still active in our parish and we believe God is greater than the actions of the Catholic church. My oldest two boys were even altar servers before the COVID-19 pandemic, which is one reason for why my memories started coming back when my boys were around ages 9-11.

I can testify that repressed memory is very real and very tragic. I'm 43 years old, and in April of 2019 I began to recall the sexual and physical abuse that happened to me when I was age 9 in 1986 by priests working through St. Rose of Lima in Gaithersburg, MD. I would like to support anyone else who have repressed memories of child abuse, or who remember but are afraid to come forward and be heard. I would like to testify in support of The Hidden Predators Act, which will help myself and countless others.

My memory recollection process has been excruciating, painful, and debilitating at times. The memories still become clearer and clearer as the months (now years) pass since I first recalled my abuse in April 2019. My memories will flash at any time of the day or night (mostly at night and I can't sleep). Part of my therapy has been to write all my memories into a journal, which is now full of awful memories from a childhood of lost innocence.

The thought of suicide is a constant fear and threat in my head. It is only because of the tremendous love and support of my family that I am still here today, as well as thanks to my therapist who I started seeing when I recalled my abuse in 2019. I suffer from chronic PTSD, depression, anxiety, and I have anger management issues. The intense therapy and counseling that I have been receiving since April 2019 has cost us out-of-pocket close to \$40,000!

My primary abuser was Wayland Brown (formerly Father Brown – he was excommunicated), who pled guilty and was convicted in 2018 to child sexual abuse and the rape of two boys between 1987-1988 in Savannah, Georgia. In fact, the only reason

that they could sentence him was because some of the crimes occurred in South Carolina, which has no statute of limitations to bar prosecution.

Mr. Brown sexually abused me numerous times during the fall of 1986 when my family had just moved to Gaithersburg, MD and started attending mass and CCD/religious education through St. Rose of Lima. Since my memory recollection, I've come to learn that in 1986 Mr. Brown was receiving treatment at St. Luke's Institute in Silver Spring, MD. He was sent there by the Archdiocese of Savannah, GA for outpatient "rehabilitation" related to prior sexual abuse allegations in Georgia. He was allowed to volunteer in my CCD classes and attend church events at St. Rose of Lima. While he was playful and charismatic with a friendly smile on the outside, he was horrible and sinister and dark on the inside. He used God as a way to prey on me, and other children. Our church community, especially the CCD teacher and organizer, had blind faith in this man because he was a priest and he abused that privilege.

Mr. Brown taught me "special" ways to pray, a perverted way to receive communion, and how I could speak to God directly by putting my mouth on his penis. I was 9 years old and was being sexually abused by an ordained Catholic priest. He even introduced me to another priest who together they sexually abused me in a car. The other man who abused me in that car, I believe, is still in ministry in Massachusetts.

One time at a church picnic for kids, Mr. Brown took me alone into a house on church grounds, and led me to a room and showed me a handgun. He made it clear that he had the gun so that he could be sure that I "won't tell anyone about what was about to happen." Then he showed me how to put a condom on him, and then he raped me. I blacked out from the excruciating pain. When I awoke, he said the Hail Mary prayer to me and told me to say it with him. I could barely get a word out of my mouth. Later that same day, he asked me to leave with him to go to Georgia. That he had to leave soon. I said "No", my family just moved here, and I can't go with you. It sickens me to think about what happened next to other boys in Georgia and South Carolina.

After a time of transition at St. Rose, a new priest, Father Duggan, was assigned to our parish and I told him about what had happened. Father Duggan replied saying that those priests were no longer around, and that some priests have different ways, and that he would keep me safe. I was never abused again sexually, but my mental abuse continued when nothing happened, and my brain went into survival mode. For whatever reason, and however my brain worked, in order to function as a normal adolescent, teenager, and adult, my brain suppressed the trauma that I experienced.

Sexual abuse (no matter when it happened) is an attack on the survivor's body, mind, and soul. Sexual abuse done by religious figures is an attack on everyone's faith. Remembering and reliving the horrible events of my abuse have had a catastrophic effect on my life and family. My wounds are still very fresh, as if I was abused and raped in 2019 when the memories started coming back to me. I am choosing to be a survivor, though, and I am starting to heal, but part of a survivor's healing process is to hold the responsible parties accountable for their bad practices and poor judgment. We

deserve this opportunity to be heard in court. My memories of the tragic events that happened to me are very real.

I urge a favorable committee report and passage of The Hidden Predators Act without amendments.

Episocopal Diocese of MD SB134 Written Testimony.p

Uploaded by: Lorenz, Judith

Position: FAV



THE EPISCOPAL DIOCESE OF MARYLAND

Support

SB134 Civil Actions - Child Sexual Abuse - Definition and Statute of Limitations

Senate Judicial Proceedings Committee

Testimony presented by Rev. Kathy Shahinian

Episcopal Diocese of Maryland

2/02/2021

Chairman William Smith, Jr. and members of the Senate Judicial Proceedings Committee, the Episcopal Diocese of Maryland strongly supports SB134 – Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations.

Someone that victimizes a child should not be able to hide behind time. SB134 is about doing the right thing for those individuals traumatized through sexual abuse in the state of Maryland. If a person who was sexually assaulted as a child grows into adulthood and takes too long to report his or her abuse, the abuser escapes civil prosecution. The perpetrator is free to keep stalking, grooming and abusing children.

The Episcopal Diocese of MD is committed to recognizing and reporting abuse and neglect as part of the Safeguarding God's Children program. This program is designed to help people recognize, report, and, perhaps most importantly, prevent abuse and neglect of our children and youth. The Diocese supports behaviors and practices that allow members, and participants, in the life of congregations and other Episcopal institutions in the Diocese to fully demonstrate love and compassion for children and youth in sincere and genuine relationships. We recognize that relationships are the foundation of Christian ministry, and that community is central to the life of the church. The Diocese is committed to providing safe places for children, and youth, to grow in their life in Christ. The arguments to support SB134 are as follows:

As of 2019, 45 states have enacted laws addressing the statute of limitations to recover damages (Civil) stemming from child abuse;

In Maryland, there is no statute of limitations on prosecuting felony sexual offenses. (Criminal)

According to CHILDUSA, a non-profit think tank based at the University of Pennsylvania, there are currently 11 states considering bills to eliminate the civil statute of limitations.

CHILDUSA also reports that "most child victims disclose (if at all) at an average age of 52 years of age, and 1 in 4 girls and 1 in 6 boys in the U.S. are sexually abused."

SB134 supports a victim's access to the courthouse, irrespective of when the crime was committed. The current law, as written, defends and protects predators. Abolishing the statute of limitations for sex crimes against children will not solve the problem of child sexual abuse overnight in our country, but it will arm society with the vehicle to protect our children. Society's need to identify and apprehend child sex offenders does not expire with time, and neither should a victim's access to justice.

We urge a favorable report and passage of SB134 without amendments.

Gloria Larkin - SB134 written testimony.pdf

Uploaded by: Lorenz, Judith

Position: FAV

**TESTIMONY IN SUPPORT OF SB0134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF LIMITATIONS
SUPPORT**

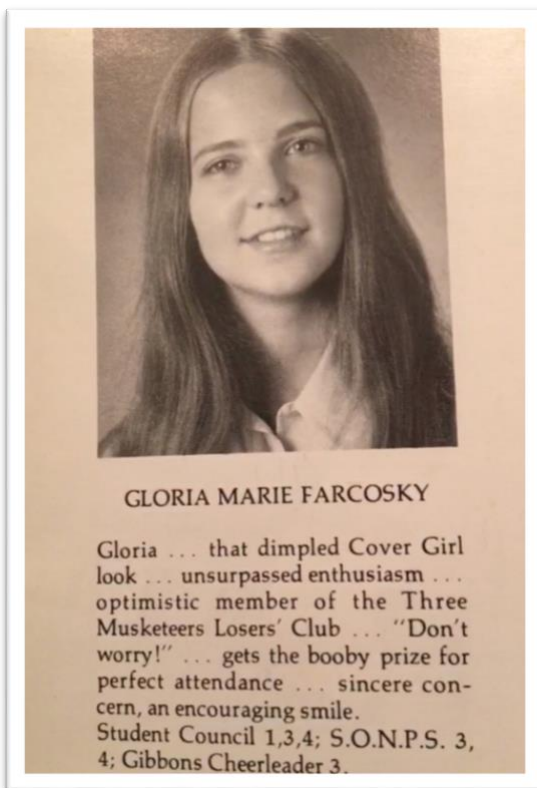
TO: Hon. Chairman William C. Smith, Jr, Hon. Vice Chair Jeff Waldstreicher, Senate Judiciary Processing Committee

FROM: Gloria Larkin, Survivor

DATE: January 2, 2021

I am Gloria Larkin, resident of Howard County, Maryland for over 40 years. I am imploring you to eliminate the statute of limitation on reporting the heinous crime of child sexual abuse. When a child is abused whether once or repeatedly, it is impossible for her to know that the abuse is illegal and that she should report it. She is a child, dependent upon adults to protect and care for her. Often it is exactly those adults who are the abusers. In fact her entire childhood is destroyed because she has no one to confide in, to trust, to report to.

That child only knows she has been harmed, and often the only way to survive is to pretend she is OK, to create a survival mentality, even if the abuse continues for a long period of time. With no one to trust, no safe place, no understanding of law and her own rights, she is truly voiceless.



Medical science has proven that the human brain survives extraordinary trauma by shielding the person from the memory of abuse, at least initially. However, post-traumatic stress disorder is often the result.

For those that experience sexual abuse as a child, they become experts at survival, only focusing on the now and future, seeming to thrive, but when in reality, the past sexual abuse becomes a cancer that causes personal misery and dysfunction.

Some victims cannot exist with the pain, they kill themselves. Others struggle in every aspect of their life, turn to alcohol, to drugs, to risky behavior to mask the pain of childhood sexual abuse. Until the day when it is no longer possible to hide the abuse, when it is necessary to, as an adult, to acknowledge the root cause of the pain and name the abuse, name the abuser, living or dead.

And finally, realize, that it was not our fault, it was 100% the fault and responsibility of the abuser.

I know this because I am a survivor. The crime committed against me was the emotional, psychological and sexual abuse by my trusted counselors and protectors, Fr Maskell and Fr Magnus and a police officer, while I was a student at the Catholic Archbishop Keough High School, in the Archdiocese of Baltimore, Maryland, from the Fall of 1970 into Spring 1972, when I graduated.

Now is the time for you to act responsibly to protect all children from today forward by eliminating the unreasonable statute of limitations previously purchased by the lobbying efforts of the catholic church. And to add a five year "look back" window to allow all existing survivors to have their voice heard no matter how long ago the abuse occurred or what individual or organization was involved. For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.

Gloria (Farcosky) Larkin
6044 Old Lawyers Hill Rd
Elkridge MD 21075
410-262-5010

Jean Hargadon Wehner SB134 Written Testimony.pdf

Uploaded by: Lorenz, Judith

Position: FAV

TESTIMONY IN SUPPORT OF SB 0134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS

SUPPORT

TO: Hon. Chairman William C. Smith, Jr, Hon. Vice Chair Jeff Waldstreicher, Senate
Judiciary Proceedings Committee

FROM: Jean Hargadon Wehner

DATE: January 5, 2021

I would like to thank Delegate Smith and the committee for inviting me.

My name is Jean Hargadon Wehner. I am an advocate for all victims of childhood sexual abuse, myself included.

I first experienced sexual abuse, between the ages of 3 and 12, by a maternal uncle. After I started at Archbishop Keough High school, I was ‘picked up’ out of a confessional, then sexually abused and raped between the years of 1967 & 1971, by the school chaplain, Father Joseph Maskell, Father Neil Magnus and others. Accomplices to these crimes are the institutions that not only betrayed their trusting faith communities by allowing their children to be left in harm’s way, but also colluded with the abusers then covered up the truth. The trauma I endured during those years was so great, that in order to survive, I had to sever from that young victim and bury her deep within my subconscious.

In Spring of 1992, at 38 (the age of the current statute of limitations), I felt as if a 14-year-old girl sat down next to me and said, “I have something to tell you.” I then began “throwing up memories”, which plunged me into ongoing extensive therapy. These repressed memories that continue to surface and be worked on to this day, may be triggered by a photo, a smell or a place. These disgustingly detailed images and thoughts do not present themselves in a chronological fashion. As the memory unfolds, I feel on multiple levels, that I am going through that horrible experience for the first time. And then the real work begins...

Later that year I had a number of meetings with Catholic church representatives. At two of those meetings, I gave formal statements pertaining to the abuse. Following the first one, Joseph Maskell, who was in his 50s, (far from a feeble old man) was removed from his parish and sent for evaluation.

In 1994 I agreed to file a civil suit against Joseph Maskell, the Archdiocese of Baltimore and The School Sisters of Notre Dame with Teresa Lancaster. I was Jane Doe – she was Jane Roe. I said yes, not to bankrupt the Catholic church, but because Maskell was returned to work as a pastor to a neighboring parish. I was upset that he was around kids, and the thought that he was in the area and knew that I had told the “secret”

terrified me. I had visions of Father Joseph Maskell shooting me with the gun he threatened me with at Keough. *

**Maskell sat across from me at a table and slowly took bullets out of a revolver. He then put the gun to my temple and pulled the trigger. He said, 'If my father ever found out about my whoring around he'd do the same thing, but leave the bullets in the gun.'

Another reason was that the statute of limitations in 1971, which we were bound by, stated we had to report abuse within 3 years of it ending. I couldn't imagine I was expected to report something I didn't remember. Since my memories of abuse at Keough began in 1992 I believed I was still in the permissible time frame.

We lost the case in 1995 due to the court's decision that repressed memories were not scientifically proven, keeping the statute of limitations intact. As victims we need to know that perpetrators will be held accountable, whenever they are found out. If not, their threats that "no one will believe us" or people will say "we're liars", are reinforced. The court's decision undermined mine, and many others' health progress for years. It sent us back into hiding! Because the science behind the *effect's trauma has on the brain* has grown, and repressed memories have become accepted, I think having a statute of limitations imposed on victims of childhood sexual abuse is not fair to the victims, while it benefits the perpetrators and their enablers.

For these reasons, I urge a favorable committee report and passage of Senate Bill 0134 without amendments.

Sincerely,

Jean Hargadon Wehner

Jena Cochrane SB134 written testimony.pdf

Uploaded by: Lorenz, Judith

Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: Jena Cochrane

DATE: 02/02/2021

“I’m a 49 years old incest survivor who was thrown-out by my Mom when I was 13 years old. My great sin was speaking out against my stepfather who I sent to prison after he raped me in 1984. I still pay the price for not keeping quiet to this day. The price for voicing my truth is I never get to go home for Christmas and Thanksgiving ever again. My family still blames me for tearing the family apart. Other victims and survivors don’t speak out because they don’t want this same fate.”—Jenipher Jenice Kollar

I am 49 years old and I want you to know that the invisible scars of child sexual assault never go away. I have paid a very- **very** high price with my family for speaking out. I have forfeited the right to be in that family. Most victims know they will have blowback from coming forward; that is why they don’t until later in life--if at all. But when they do, they deserve to be heard. SB134 & HB263 helps victims with this.

I was 12 years old when I was first sexually assaulted by my step-farther. **This is sobering, because it is the same age my daughter was last year.** Being molested and raped happened after my stepfather found out that I got my period. For the entire year, Steve (My stepfather who I loved and adored) molested me and ultimately raped me while my mother was pregnant with my brother Stevie.

I am writing this testimony for my daughter. Because she deserves to live in a world where there is no statute-of-limitation for child sexual assault. There should be someway to hold perpetrators accountable for their crime even if its civilly.

I look at my daughter and I see everything I lost. I see her innocents and her love for life. My stepfather Steve Dwyer took all of that from me when he slipped

downstairs in the middle of the night to kiss me with his breath stinking of beer and fondled my breast. The problem with child sexual assault is that there are no visible scars, and no one wants these stories to be true. But trust me the scars are there forever. My brother who was in the same room when I was being molested just went through shock therapy last year trying to forget what happened in that basement—he is not the same and his sanity is fragile. We all suffer when we keep the secrets of predators like this.

The reason I told people so early about my sexual assault (and had my day in court) was because of domestic violence. My stepfather was also beating my mother. In fact, He beat her so bad on Christmas Eve 1985 that the police responding to the call said she was the worst battered women they had ever seen. Steve Dwyer broke both of her arms and shattered her jaw. This was my catalyst for coming forward. I wanted to protect her. If this had not happened, I never would have told at such an early age and had my day in court.

Even so, I am still paying the exceedingly high price for speaking out. My mother still does not believe me to this day—even though I sent my stepfather to prison—and he was convicted.

She still thinks he was an innocent man or wants to keep that illusion for the sake of the family. It's because of my mother that my family is still fractured. My Mom wants to maintain the status quo. She wants to pretend that her husband never took my virginity. She *was* and *still is* my stepfather's biggest supporter.

Today, my Mom wants to only have a relationship with me if "we" agree to be silent and never talk about the past and embrace a prettier version of it. She has gotten everyone around her to agree to this. To this day, my younger sister Jessie does not know what my stepfather did—although I wonder if she suspects. It is just not talked about. She is an innocent just like me. But we both deserve to live in a world where the truth is known and I can go home for Christmas and Thanksgiving too. Because the way things are. I don't get to go home. I will never get to go home and that is an extremely high price to pay for the rest of your life.

You often wonder why victims do not come forward until later in life. It is because they do not want to be me; The price is too high.

Each of the victims who have testified on SB134 & HB263 have paid a huge price to bring you their testimony. I personally sank into horrible depression after

testifying in person last year in front of the House of Representatives and my nightmares came back along with my PTSD. This threatened my marriage and the great life I have so desperately tried to create for my children. Therefore, I have chosen to testify via a written statement instead. So, I hope you will take the time to listen to my story and all those who have tried to be brave for you. We are real people. Society will not crumble if we pass HB 263 & SB134. I am sure there is a way to make things equitable—but the voices of the past should be heard. **For this reason, I urge a favorable committee report and passage of Senate Bill 134.**

Abbie Schaub SB134 Written testimony.pdf

Uploaded by: Milio, Vanessa

Position: FAV

Testimony in Support of SB0134

Civil Actions - Child Sexual Abuse - Definition and Statute of Limitations ** Support**

To: Hon. Chairman William Smith Jr., Vice Chair Jeff Waldstreicher and members of the Senate Judicial Proceedings Committee

From: Abbie Fitzgerald Schaub, with Baltimore's Archbishop Keough High School "The Keepers" Netflix documentary storytellers

Date: January 6, 2021

In 2013 I began a private effort doing historical research into the the unsolved 1969 Baltimore murder of my high school English teacher, Sister Catherine Cesnik. This evolved into the tragic story of sexual abuse of minor aged students at Archbishop Keough High School. The Emmy nominated Netflix documentary "The Keepers" tells our story. I had no understanding of the lifelong damage done by this intimate betrayal of trust. I thought it was like getting spanked - was something bad that you got over. I was very wrong about that. This betrayal of trust and intimate physical invasion creates permanent collateral damage that affects people their entire lives, and rolls over into harming relationships for generations within a family. Sexual abuse of a minor causes not just physical and mental difficulties but also takes a financial toll on those harmed. Under current Maryland SOL law, the people harmed have to bear those costs.

Trying to make sense of our Keepers story, I looked further into the institutional systems that are supposed to protect Maryland children. It was clear that our Keepers' Father A Joseph Maskell sexually abused at least scores of children over his life, likely hundreds, both boys and girls. He was sexually abusing young adolescent boys while in the seminary at St. Mary's in the early 1960s and continued to abuse both boys and girls for over three decades in Baltimore. We have multiple anecdotal reports that his abuse was reported to Keough school administrators and to the Archdiocese of Baltimore [AOB], though the AOB says they have no documents in their files to confirm this. Maryland allows criminal prosecution of felony sex offenses as long as the defendant is alive - but

Baltimore City Assistant State's Attorney Sharon May declined to charge Father Maskell in 1995, despite scores of criminal complaints and dozens of people willing to testify. Maskell fled from the US to Ireland to avoid that Baltimore civil motions hearing. The 1995 hearing ended with the civil case dismissed because of SOL age limits, allowing him to be free to abuse more youngsters in Ireland before returning to Baltimore.

There are other local hidden predators who are known but never criminally charged. There are also multiple clergy abusers from other states sent to Maryland to live, for example at a Jesuit retirement home in Baltimore and an Oblate retirement home in Childs, Maryland. Hundreds, perhaps thousands of abusers from around the US and around the world have lived at a facility in Montgomery County (St. Luke Institute) while being evaluated/treated with no notice to anyone. The abusers live protected, not on any registries, no notification of law enforcement or the community, with no legal restrictions on their contact with Maryland children.

The problem is not just with religious organizations, though that is what I am most familiar with from our story. Abuse of minors within religious settings is the minority statistically; far more children are harmed by family members, acquaintances, teachers, sport coaches, even strangers. SB0134 is not targeted at churches - rather it is a global child safety bill, aimed to protect Maryland children from hidden predators in all settings.

I most often hear objections to removing SOL age caps based on the idea that those who were harmed should come forward promptly to report the crime. This makes sense to those of us not harmed. Those who were harmed do not want to speak of it; they are embarrassed, ashamed, blame themselves and think others will blame them if they speak. Many were threatened to be silent, as our Keough survivors were. They fear retribution by the one who harmed them, and do not want their parents or families to know. A 2014 German study showed that one third of those sexually assaulted as children will never speak of it. One third do speak around the time of injury - but are often told to keep it secret or are not believed. The final third do speak later in their adult lives, with the average age of disclosure at 52 years old. People are ready to speak as older adults, some waiting until their parents have died - but the criminal judicial system will not press charges, and Maryland abuse survivors are age barred from using the civil judiciary system. The hidden predators remain in

communities - passing screening to work with children. Maryland's SOL time restrictions protect sexual abusers, allowing them to do more harm.

The Maryland Constitution's Declaration of Rights, Article 19, promises that "That every man, for any injury done to him in his person or property, ought to have remedy by the course of the Law of the Land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the Law of the Land". I believe statute of limitation laws deny those sexually abused as children from having that promised remedy for the injury. They are promised remedy "fully without any denial" - yet now in Maryland, purely because of their age, they are denied access to the civil court system.

SB0134, the Hidden Predator Act, addresses these issues:

- 1) Removes the term "statute of repose" that was inserted quietly into the 2017 law without required explanation or discussion. This is a construction based term that capped the time limit for civil lawsuits for construction defects at 20 years. They added 20 years to age of majority 18 to arrive at current cap of age 38. Building a house is entirely different than raping a child. This term has to be removed to make other SOL age cap revisions.
- 2) Abolishes SOL time caps going forward for sexual abuse of minors; that means those who are 38 or younger no longer will have age caps to file civil suits. Those 39 and older are still time barred.
- 3) Opens a defined two year window of time during which those older than 38 with allegations of sexual abuse in Maryland as a minor can file civil lawsuits. This will allow them to obtain documents that may help prove their case which they now are barred from seeing. Sixteen states and DC have passed look back windows or revival laws.
- 4) A severability amendment was added to the bill in 2020. If a portion is ruled illegal, the remainder of the bill can still become law.

I respectfully urge the Committee to issue a favorable report on SB0134 without any other amendments. Let lessons from our painful legacy allow other Maryland children to be better protected from sexual predators.

-Abbie Fitzgerald Schaub, resident of Maryland District 13.
Email abschaub@msn.com

Center for Children SB 134 Written Testimony.pdf

Uploaded by: Milio, Vanessa

Position: FAV



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SB 134

Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations (Hidden Predator Act of 2020)

**** SUPPORT ****

My name is Catherine Meyers, and I am the Executive Director of the Center for Children, and a licensed counselor with 34 years experience in the child abuse field with both victims and sex offenders. Our agency was one of the first comprehensive child abuse intervention, evaluation and treatment programs in the state, and houses a Child Advocacy Center. Why is this bill important? Why are these cases different than regular civil cases?

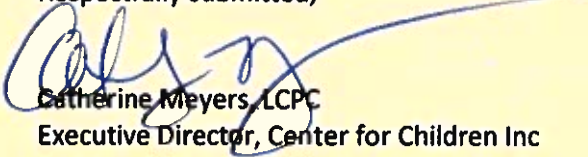
Victims don't come forward sooner for many reasons:

- Offenders groom victims to believe this is normal and nothing is wrong with it. They often don't realize that it isn't until they reach adolescence and then they often feel it is too late or that they were at fault
- Offenders groom victims to believe it is their fault. Survivors are often racked with guilt and shame
- Offenders groom the adults around victims to believe they are wonderful persons with the children's best interest at heart. This means victims who tell are many times not believed when the offender is the wonderful parish priest, the phenomenal leader of the youth group, the favored teacher, etc.
- Offenders traumatize children and then the very coping mechanisms that the child mind uses i.e. detachment, disassociation, disavowal, etc. often leads to long term behavioral and social consequences for those victims that are costly for them as adults and for us as citizens.
- Offenders pick victims who they can manipulate the easiest, the victims most likely not to be believed, the victims in their circles, the very children who find it difficult to report.
- Offenders know that the likelihood of getting caught, and the even rarer likelihood of prosecution is minimal
- Offenders work in systems where they have access to children and where either due to numbers or misplaced trust they can operate below the radar
- Offenders most often offend against children they know making it more difficult to prosecute or to seek civil remedies of which there are few for children
- Offenders don't just rape and abuse the children's bodies, they rape and abuse their souls

Child Sexual abuse cases are not product liability, or accidents. They are planned, willful behavior on the part of offenders and the systems that surround them. This bill targets the systems that surround them: those that minimize, cover up, relocate offenders, dismiss victims' reports and in some cases actually protect the offenders. It also allows victims who were not afforded justice as children to seek and receive it when they are most free of the suppressants and emotionally able to do so.

I have started every bullet with the words Sex Offenders as the responsibility needs to be placed squarely on the shoulders of where it belongs and no longer over the lifespan burdened on victims. Please support this legislation so that Maryland can join the many states that understand the lifelong impacts of this crime, whether prosecuted criminally or not.

Respectfully submitted,



Catherine Meyers, LCPC
Executive Director, Center for Children Inc

CPMC SB134 Written Testimony.pdf

Uploaded by: Milio, Vanessa

Position: FAV

THE COALITION TO PROTECT MARYLAND'S CHILDREN

Our Mission: To combine and amplify the power of organizations and citizens working together to keep children safe from abuse and neglect. We strive to secure the budgetary and public policy resources to make meaningful and measurable improvements in safety, permanence, and well-being.

Testimony before the Senate Judicial Proceedings Committee Bill #SB 134: Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations (Hidden Predator Act of 2021) SUPPORT

February 2, 2021

The Coalition to Protect Maryland's Children (CPMC) is a consortium of Maryland organizations and individuals formed in 1996 to promote meaningful child welfare reform. CPMC strongly **supports** passage of SB 134: Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations.¹

Senate Bill 134 would eliminate the statute of limitations in civil actions related to child sexual abuse. This statute of limitations had previously been extended in 2017 by House Bill 642, to 20 years from the age of majority from 7 years from the age of majority – i.e. from age 25 to age 38 years. Unfortunately, it also raised the standard of proof to sue employers from ordinary negligence to gross negligence, making it much more difficult to sue institutions for failure to protect children in their care from sexual abuse.² SB 134 bill would eliminate the statute of limitations. In addition, it would create a lookback window for those victims who have previously been barred by the statute of limitations, allowing them to file suit for a period of two years. Finally, it would remove the purported “statute of repose” language inserted into the 2017 bill, which inappropriately attempts to vest property rights in sexual predators and the institutions that protect these sexual predators from discovery and prosecution.

We know from extensive research that sexual abuse can have profound and long-lasting, even lifetime-long negative effects on children. During childhood, victims may exhibit anxiety, social withdrawal, school failure, and inappropriate sexual behavior.³ In adolescence, sexually abused teens are at increased risk for depression, self-injury, suicide attempts, eating disorders, risky sexual behavior, and teen pregnancy.⁴ Adults who experience child sexual abuse and exploitation

¹ Members in support of position include: Advocates for Children and Youth, Baltimore Child Abuse Center, Child Justice, Inc., Citizens Review Board for Children, Court Appointed Special Advocates, The Family Tree, Maryland Chapter of the American Academy of Pediatrics, Maryland Chapter of the National Association of Social Workers, Maryland Coalition Against Sexual Assault, State Council on Child Abuse and Neglect, and Board of Childcare.

² <https://www.baltimoresun.com/news/opinion/oped/bs-ed-op-1012-abuse-victims-redress-20171011-story.html>

³ Trickett PK, Noll JG, Putnam FW. The impact of sexual abuse on female development: Lessons from a multigenerational, longitudinal research study. *Development & Psychopathology*. 2011;23:453-476.

⁴ Homma Y, Wang N Saewyc E, Kishor N. The relationship between sexual abuse & risky sexual behavior among adolescent boys: A meta-analysis. *Journal of Adolescent Health*. 2012;51:18-24.

Sanci L, Coffey C, Olsson C, Reid S, Carlin JB, Patton G. Child sexual abuse & eating disorders in females. *Arch Pediatr Adolesc Med*. 2008;162:261-267.

Pallitto CC, Murillo V. Abuse as a risk factor for adolescent pregnancy in El Salvador. *J Adolescent Health*. 2008;42:580-586.

Mills R, Alati R, O'Callaghan M. Child maltreatment and adolescent mental health problems in a large birth cohort. *Child Abuse & Neglect*. 2013;37:292-302.

are more likely to have alcohol and/or drug dependence, chronic abdominal and pelvic pain, and poor overall health.⁵ Women who have been sexually abused spend more on health care costs, and are more likely to rely on welfare for income.³

Delayed disclosure in child sexual abuse is extremely common.⁶ Children commonly wait months and even years before disclosing. There are numerous reasons for this delayed disclosure. Victims will frequently cite shame, fear of social stigmatization or ridicule, and fear of not being believed. Perpetrators of sexual abuse may threaten the child or family with physical harm, or may threaten the child that she will be taken away from her family. Perpetrators often blame the child for the abuse, and the child internalizes this self-blame. Abused infants, toddlers, and other very young children may not understand that what is going on is abuse. And finally, a child may attempt disclosure to an adult who is distracted, disbelieving, or in denial, and no further action is taken. For all of these reasons, children may tell no one for decades.

As noted above, adults who were sexually abused as children are often left with long-term physical and mental health problems that can be extremely costly. Under current law, adults who were abused as children are often left with no legal remedy, and no way to make them whole. Elimination of the statute of limitations would allow adults who were sexually abused as children to seek justice for the harm that they have suffered.

In addition to helping adults who were abused as children, SB 134 very importantly also protects our current children. Abusers frequently abuse multiple children. Identification of a predator can stop his ongoing contact with children and prevent additional victimization. For example, lookback windows enabled the identification of 125 predators in Minnesota and 300 in California.

For all these reasons we urge a favorable committee report on SB 134: Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations with no amendments.

⁵ Fergusson DM, McLeod GFH, Horwood LJ. Childhood sexual abuse and adult developmental outcomes: Findings from a 30-year longitudinal study in New Zealand. *Child Abuse & Neglect*. 2013;37:664-764.

⁶ Munzer A, Fegert JM, Ganser HG, Loos S, Witt A, Goldbeck L. Please Tell! Barriers to disclosing sexual victimization and subsequent social support perceived by children and adolescents. *J Interpersonal Violence* 2016;3:355-377.

Elaine Spector Written Testimony SB134.pdf

Uploaded by: Milio, Vanessa

Position: FAV

**TESTIMONY IN SUPPORT OF SB134/HB263:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF LIMITATIONS**

****SUPPORT****

TO: Hon. William Smith Jr., Chair, and members of the Senate Judicial Proceedings Committee

FROM: Elaine Spector

DATE: January 27, 2021

I am writing this letter in support of the passage of SB134/HB263, The Hidden Predator Act of 2021. I am a partner at the law firm Harrity and Harrity, LLP, and a parent of three children who attend McDonogh School.

Recently, McDonogh disclosed abuse that happened years ago by at least one of its faculty members. Even though McDonogh School may be impacted by the legislation, I believe the benefits of this statute far outweigh the drawbacks. In particular, abuse victims who do not get the care that they need carry a lifetime of stressors that can negatively impact their long-term health and well-being. These victims are our colleagues, friends, and family. ***For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.***

Sincerely,

A handwritten signature in cursive script that reads "Elaine P. Spector".

Elaine Spector

First Star Institute SB134 Written Testimony.pdf

Uploaded by: Milio, Vanessa

Position: FAV



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Noy Davis
Vice President of Operations

TESTIMONY IN SUPPORT OF SB 134: CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF LIMITATIONS **SUPPORT**

**TO: Hon. William C. Smith, Jr. Chair, and members of the Senate Judicial
Proceedings Committee**

FROM: First Star Institute, Noy Davis, Vice President of Operations

DATE: February 2, 2021

Thank you to the Committee for allowing us to submit this testimony in support of the Hidden Predators Act.

My name is Noy Davis. I am the Vice President of Operations of First Star Institute, a national child advocacy policy organization. We evaluate and publish reports on various laws and practices that promote the welfare of abused and neglected children, including *A Child's Right to Counsel* (4th ed upcoming), and *State Secrecy and Child Deaths in the US*. First Star is committed to supporting change that will result in all children receiving the supports they need to grow up to lead happy, healthy and productive lives.

First Star supports the elimination of all civil statutes of limitations for child sexual abuse (SOL). Having an SOL protects perpetrators and systems that allow them to flourish. Removing it allows survivors to determine whether to proceed in court and opens the door to the possibility of justice and shifting the financial burden for harms to the perpetrators who caused the harms. Moreover, society's laws should be clear: child sexual abuse is wrong and time is not an automatic exoneration of responsibility for the harms caused.

Eliminating the statute of limitation is essential given the significant delay in victim disclosure. Whether for associated trauma, psychological, familial, or other reasons, **disclosure of childhood sexual abuse does not usually occur until well into adulthood**, with some estimates setting **the average age for disclosure at 52**. (SOL Fact Sheet <https://www.childusa.org/sol>)

This legislature acted on this widespread problem in 2017 and expanded civil access to the civil courts by child sexual abuse victims. Unintended language added to that legislation before passage, however, poses a risk to victims' access to the courts. While First Star believes that the unintended statute of repose language isn't viable in this context, somehow the language was inserted, and it is important for the legislature to act to address this unintended risk.

Child sexual abuse is a widespread problem, with estimates ranging from 18-20% for girls and 3 to 17% for boys. (D. Coilin-Vezina, I Daigneault, M Hebert, *Lessons learned from child sexual abuse research: prevalence, outcomes and preventive strategies*, Child and Adolescent Psychiatry and Mental Health 7:22). It is well past time for Maryland to allow the civil system to deter abusers and give victims the ability to determine whether to seek redress through the civil courts

Noy Davis,
Vice President of Operations. First Star Institute

Frank Schindler SB134 Written Testimony.pdf

Uploaded by: Milio, Vanessa

Position: FAV

TESTIMONY IN SUPPORT OF SB134:

**CIVIL ACTIONS - CHILD SEXUAL ABUSE -
DEFINITION AND STATUTE OF LIMITATIONS
SUPPORT**

TO: Hon. William C. Smith, Jr. Chair, and members of the Senate Judicial Proceedings Committee

FROM: Frank Schindler

DATE: January 24, 2021

I am 70 years old. When I was in kindergarten in the fall of 1954, at the age of 5, I was sexually abused by a priest several times a week for approximately 6 months. At that age the ability to process & understand what is going on around you is limited under any circumstances, much less in circumstances that are painful & traumatic. And this abuse is being perpetrated by an individual you are told is the representative of God on earth, must be listened to & obeyed, and can do nothing wrong. To speak out or even acknowledge the abuse is simply unthinkable. At such times neurological structures in the brain act to shield you from those memories, in part by suppressing & fragmenting them. But those protective actions themselves influence & distort your life, and there is no deadline or timetable for how the brain operates or changes.

For years I struggled with the consequences of the abuse. With the guilt & shame of being bad & the belief that I needed to be punished. That the abuse was perpetrated "for your own good". I have had to deal with depression, self-loathing and the inability to take pride or pleasure in anything I may have accomplished. These feelings led to my repeatedly questioning my right to live, doing things that ultimately caused me harm.

And when years of therapy begin to bear fruit, when you slowly begin to remember, to understand, to come out from under the guilt & shame, you are prevented from speaking your truth by the imposition of a completely arbitrary time limit. A time limit which protects & enables the abuser & allows the Catholic Church to systematically & institutionally abrogate its responsibility to the vulnerable children placed in their care. And then I am blamed for not speaking out earlier - for not doing what was not possible for me to do. Once again I am told it is my fault, just as I was told when I was 5 years old.

And when all else fails, the Catholic Church reduces the pervasive, institutionalized destruction of lives to simply the cost of doing business – "product liability". But it is actually the survivors who pay the cost.

There is no statute of limitations on the consequences of sexual abuse. 66 years later I am still struggling with those consequences. There should be no statute of limitations on the responsibility of the perpetrators & those who protect them. The defense of the statute of limitations by the Catholic Church is simply another in the long line of ways by which it refuses to accept any responsibility for the destruction of the lives of thousands of children. The Catholic Church does not act to protect & defend the abused; they act to protect & defend the abuser.

The Catholic Church alone has made this an adversarial procedure. Instead of maintaining an “us vs them” posture they could have (& even now may be able to) make this into a situation where the Church & the survivors stand together against the true “them”: the perpetrators, the abusers, the criminals.

When I was a child, I was taught that baptism in the Catholic Church placed an “indelible mark on your soul”. Indelible - no statute of limitations. Unfortunately, in my case & countless others, the marks of membership in that church are destructive & tragic. But even more unfortunately, they are indeed indelible.

I ask you to support fairness & justice for a 5 year old.

For these reasons, I urge a favorable committee report, and passage of SB134 without amendments.

MCA SB134 Written Testimony.pdf

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Position: FAV



Maryland Children's Alliance

Senate Judicial Proceedings Committee
Senate Bill 134 Civil Actions -Child Sexual Abuse-Statute of Limitations
Support January 28, 2021

On behalf of Maryland Children's Alliance and our 24 local child advocacy centers and multi-disciplinary teams working to protect over 5,000 Maryland child victims of maltreatment, I want to thank you for your passion and work to help children who have been victimized.

Maryland Children's Alliance supports Senate Bill 134- Repeal of the Child Sexual Abuse Civil Statute of Limitations (SOL). We believe in the urgent need to repeal the statute of limitations so that victims can come forward when they are ready and able.

There is no limit to how long a victim of sexual abuse is affected by their trauma. Therefore, the victim's opportunity to report and seek civil legal redress should not be limited. Maryland Children's Alliance supports this bill because we know that many children do not report sexual abuse and other maltreatment until they are well into their adult years. This repeal will allow those victims to decide when it is best for them and have confidence that the legal system will not shut them out because of a statute of limitation.

We urge the Committee to issue a favorable report on SB134. Maryland Children's Alliance is committed to ensuring that a child, anywhere in Maryland, has access to trauma-informed, evidenced-based care through a child advocacy center. Within our centers, each child and youth victim are surrounded by a circle of care through the multidisciplinary team approach used by child advocacy centers.

Maryland Children's Alliance, Inc. (MCA), is an independent, nonprofit 501(c)(3) founded in 2003 to promote the well-being of children by encouraging and supporting the development, growth and continuation of accredited child advocacy centers (CACs) throughout Maryland with continuous technical assistance, training and public awareness. Our 24-member agencies are located across the State of Maryland in urban, suburban, and rural jurisdictions serving over 5,000 children each year. Maryland Children's Alliance is a member of and operates in accordance with nationally recognized evidence-based Standards of the National Children's Alliance.

Thank you for your consideration of this written testimony in support of Senate Bill 134.

Sincerely,

Susan B. Hansell
State Chapter Director
Maryland Children's Alliance

Maryland Children's Alliance
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Mike Fitz-Patrick SB134 written testimony.pdf

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Position: FAV

TESTIMONY IN SUPPORT OF SB 134:
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF
LIMITATIONS
****SUPPORT****

**TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate
Judicial Proceedings Committee**

FROM: Michael Fitz-Patrick

DATE: 01/28/2021

I am writing today in support of SB 134 - The Hidden Predators Act. As a parent of 4 children from ages 21-11 I can't imagine any more important legislation than protecting our most vulnerable from sexual predators. As a concerned parent, whose children attend, St James Academy Monkton, Boys Latin and Notre Dame Prep I feel it is in the schools' best interest to have this legislation passed to protect our kids. Again, any institution that services the needs our children should want this legislation passed.

While this legislation has opponents (not sure why someone would not want to protect children and prosecute Child sex offenders) I believe the overwhelming amount of folks across constituencies would be in favor of this legislation. ***For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.***

Thanks for your consideration,

Mike Fitz-Patrick

NMSC_2021 Letter of Support SB134.HB263 (SENATE) N

Uploaded by: Milio, Vanessa

Position: FAV



TESTIMONY IN SUPPORT OF SB134/HB263:

CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF LIMITATIONS

****SUPPORT****

TO: Hon. William Smith Jr., Chair, and members of the Senate Judicial Proceedings Committee

FROM: Pam Piro, Chair, Board of Directors

DATE: January 19, 2021

We are joining the chorus of nonprofit organizations, survivors, advocates and community members to support the successful passage of SB134/HB263 The Hidden Predator Act of 2021.

For our organization this issue is paramount to our work. The mission of No More Stolen Childhoods is to change the public perception about childhood sexual abuse and to help those abused find fulfillment in their permanently scarred lives. You have all heard the statistics that 1 in 5 girls and 1 in 13 boys will experience sexual abuse by the time they reach their 18th birthday. It is a staggering and sobering statistic. Our organization recognizes that in addition to working to prevent future abuse from happening we also need to work to support adults who were victimized in the past.

The majority of sexual abuse cases go unreported, and as we have seen from recent news stories about sexual abuse in churches and universities, youth serving organizations and doctor's offices, abuse victims who do not get the care they need, at the time of their abuse, carry a lifetime of stressors that can negatively impact their long-term health and wellbeing.

Those long-term impacts translate into real costs, for both the victim and our communities. Researchers at Georgia State University measured the economic costs of child sexual abuse by calculating health care costs, productivity losses, child welfare costs, violence/crime costs, special education costs and suicide death costs. They estimated the total lifetime economic burden of child sexual abuse in the United States to be \$9.3 billion, based on child sexual abuse data from 2015. Research out of the National Institute for Health found that victims of child sexual abuse are twice as likely to commit suicide as those who did not experience this form of trauma. For women, who live through their childhood abuse, and do not commit suicide, the estimated lifetime cost is \$282,734.

Those adults referenced in the research are our colleagues, they are our friends and our family members. Our organization was founded by a survivor of childhood sexual abuse, Wayne Coffey, who did not disclose his abuse until his early 40's. Wayne has testified in the past to the life-changing impact childhood sexual abuse had on his life. Statistically speaking, many adult survivors do not acknowledge their childhood sexual abuse, or seek help, until they are well into

their career path, relationships and child rearing. Research tells us that the average age for an adult, who did not disclose as a child, to disclose their abuse is 52.

Our organization knows that getting adults who have been abused into counseling can be a lifeline to healing for them as individuals. It can also provide insight and healing for their spouses, children and friends. While we know that counseling provides a framework for healing for victims of childhood sexual abuse, for some seeking justice through the criminal or civil legal systems gives them the opportunity to face their abuser and to have them held accountable for their actions.

As we work together to support those in our midst who have come forward and sought help for their childhood sexual abuse, we need to be prepared to provide them every avenue to seek justice and healing. For these reasons, we urge a favorable committee report and passage of Senate Bill 134 without amendments.

Sincerely,

A handwritten signature in black ink, appearing to read "Pamela Piro". The signature is fluid and cursive, with the first name "Pamela" written in a larger, more prominent script than the last name "Piro".

Pamela Piro
Board Chair
No More Stolen Childhoods

SCCAN SB134 Written Testimony.pdf

Uploaded by: Milio, Vanessa

Position: FAV



State Council on Child Abuse and Neglect (SCCAN)

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Claudia.Remington@maryland.gov

SCCAN is an advisory body required by Maryland Family Law Article (Section 5-7A) “to make recommendations annually to the Governor and General Assembly on matters relating to the prevention, detection, prosecution, and treatment of child abuse and neglect, including policy and training needs.”

TESTIMONY IN SUPPORT OF SB 134:

CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF LIMITATIONS

****SUPPORT****

TO: Hon. William C. Smith, Jr. Chair, and members of the Senate Judicial Proceedings Committee

FROM: Wendy Lane, MD, MPH, Chair, State Council on Child Abuse & Neglect (SCCAN)

Claudia Remington, Executive Director, State Council on Child Abuse & Neglect (SCCAN)

DATE: February 2, 2021

SCCAN strongly supports SB 134, Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations. This bill has three key components: (1) Eliminating the statute of limitations for child sexual abuse; (2) Establishing a lookback window to allow victims previously barred by the statute of limitations to file suit for a period of two years; (3) Make clear to the courts, the public, and survivors that the General Assembly was unaware of the constitutional implications of the “statute of repose” included in the 2017 revision to the child sexual abuse statute of limitations, and did not intend to vest constitutionally protected property rights in child sexual predators or those individuals and organizations that hid predators from identification and prosecution.

Extensive research has established that child sexual abuse can have profound, long-lasting, and sometimes lifetime-long negative effects on children. During childhood and adolescence, victims may exhibit anxiety, social withdrawal, school failure, depression, self-injury, suicide attempts, eating disorders, risky sexual behavior, and teen pregnancy.^{1,2} Adults who experience child sexual abuse and

¹ Trickett PK, Noll JG, Putnam FW. The impact of sexual abuse on female development: Lessons from a multigenerational, longitudinal research study. *Development & Psychopathology*. 2011;23:453-476.

² Homma Y, Wang N Saewyc E, Kishor N. The relationship between sexual abuse & risky sexual behavior among adolescent boys: A meta-analysis. *Journal of Adolescent Health*. 2012;51:18-24.

Sanci L, Coffey C, Olsson C, Reid S, Carlin JB, Patton G. Child sexual abuse & eating disorders in females. *Arch Pediatr Adolesc Med*. 2008;162:261-267.

Pallitto CC, Murillo V. Abuse as a risk factor for adolescent pregnancy in El Salvador. *J Adolescent Health*. 2008;42:580-586.

Mills R, Alati R, O’Callaghan M. Child maltreatment and adolescent mental health problems in a large birth cohort. *Child Abuse & Neglect*. 2013;37:292-302.

exploitation are more likely to have alcohol and/or drug dependence, chronic abdominal and pelvic pain, and poor overall health.³ Women who have been sexually abused spend more on health care costs, and are more likely to rely on welfare for income.³

Delayed disclosure in child sexual abuse is extremely common.⁴ Children commonly wait months, years and even decades before disclosing. Victims will frequently cite shame, fear of social stigmatization or ridicule, and fear of not being believed as reasons not to tell anyone. Perpetrators of sexual abuse threaten the children and families with physical harm or threaten the child that she will be taken away from her family. Perpetrators often blame their child victims for the abuse, and children subsequently internalize this self-blame. Abused infants, toddlers, and other very young children may not understand that what is going on is abuse. Finally, a child may attempt disclosure to an adult who is distracted, disbelieving, or in denial, and no further action is taken. For all these reasons, children may tell no one for decades.

As noted above, adults who were sexually abused as children are often left with long-term physical and mental health problems that can be extremely costly. Under current law, adults who were abused as children are often left with no legal remedy, and no way to make them whole. Elimination of the statute of limitations would allow adults who were sexually abused as children to seek justice for the harm that they have suffered. Civil suits empower victims to initiate a court case to shift the costs of abuse from victim to those who caused the harm, including both predators and the institutions who hid and protected those predators.

Adding a lookback window would enable victims previously barred by the statute of limitations to also seek justice for the harm that they have suffered. In addition, it would help protect current children from being abused because ‘hidden predators’ are frequently discovered through the civil discovery process. Lookback windows in California and Minnesota identified 300 and 125 predators, respectively.⁵ Sixteen states and the District of Columbia have already passed lookback windows or revival laws, and 9 states, including Maryland have introduced windows or revival laws so far this year.⁶ Importantly, in states that have passed lookback windows, there have been no false claims reported in the courts.⁷ⁱ

Some opponents of SB 134 have raised concerns about bankrupting institutions and leaving them unable to provide needed educational and social services to low-income individuals and others. These concerns are unfounded. Institutions that have filed for bankruptcy have done so under Chapter 11, which allows the debtor to create a reorganization plan which maintains business operations and pays creditors over time.⁸ Additionally, nearly 77% of Catholic Charities of Baltimore revenue comes from governmental agencies as payment for services provided; these funds may not be used to pay victim settlements or

³ Fergusson DM, McLeod GFH, Horwood LJ. Childhood sexual abuse and adult developmental outcomes: Findings from a 30-year longitudinal study in New Zealand. *Child Abuse & Neglect*. 2013;37:664-764.

⁴ Munzer A, Fegert JM, Ganser HG, Loos S, Witt A, Goldbeck L. Please Tell! Barriers to disclosing sexual victimization and subsequent social support perceived by children and adolescents. *J Interpersonal Violence* 2016;3:355-377.

⁵ The Relative Success of Civil SOL Window and Revival Statutes_Jan 2019.pdf, <https://www.childusa.org/law?rq=RELATIVE%20SUCCESS%20OF%20CIVIL%20SOL%20>

⁶ <https://www.childusa.org/sol>

⁷ The Relative Success of Civil SOL Window and Revival Statutes_Jan 2019.pdf,

⁸ <https://www.npr.org/2020/02/18/806721827/boy-scouts-of-america-files-for-bankruptcy-as-it-faces-hundreds-of-sex-abuse-claims>

judgements. This bill would have no effect on that funding or the ability of the organization to provide those social services.⁹

Concerns have also been raised that the bill is intended to specifically target the Catholic Church. In fact, all individuals and organizations are included in the scope of the bill. The lookback window in Delaware led to suits against the Catholic church, but also the Protestant church, public and private schools, Boy Scouts of America, neighbors, family members, a judge, and a physician.¹⁰

Removal of the ‘Statute of Repose’ is an important part of SB 134, as its’ use in child sexual abuse cases is questionable. A “statute of repose” protects a defendant’s property interests in contracts, construction, product liability, and medical malpractice. Most state statutes of repose afford protection to architects, engineers, builders, contractors, and subcontractors, who were being subjected to increasing litigation for construction defects in projects that had been completed long before the suit was filed. Inclusion of the statute of repose language inappropriately vests constitutionally protected property rights in child sexual predators and those individuals and organizations that hid predators from identification and prosecution. There is absolutely no reason to give special protection to sexual predators.

In 2017, there was no clear intent by the Body to vest constitutionally protected rights in perpetrators and organizations. The Legislature’s apparent intent in 2017 was to implement a procedural remedy for child sexual abuse cases, not to create a vested right for defendants. In 2017, there was no discussion or debate of the constitutional implications of the so called “statute of repose” found in the amended version of HB642 either in committee or on the floor of the House or Senate. Neither the 2017 committee bill files, nor the hearing and floor recordings reflect any discussion of the constitutional implications of the “statute of repose.” Additionally, the Revised Fiscal and Policy Note for the amended 2017 bill makes no mention of the constitutional significance of a “statute of repose.”

In 2019, the sponsor of HB 687 (which included the same two year look back window, as the current bill) and other Members spoke on the House Floor saying that legislators had no understanding of the significance of the wording “statute of repose” (found in the uncodified section of the 2017 bill). In passing HB 687 in 2019 by a vote of 135-3 and HB 974 in 2020 unanimously, the House affirmed that there was no intent in 2017 to create a so called “statute of repose” creating constitutionally protected property rights in child sexual abuse predators. In addition, the bill sponsor and the Chair of the Senate Judicial Proceedings (JPR) Committee agreed during the 2019 JPR Committee Hearing that there was no understanding, mention, or discussion during the Committee hearings, meetings, or on the Floor of either Chamber of the “statute of repose”, including, and most significantly, its constitutional consequence.

A vested right typically refers to a present or future property interest, and a “statute of repose” protects a defendant’s property interests in contracts, construction, products liability, and medical malpractice claims. Most state statutes of repose afford protection to architects, engineers, builders, contractors, subcontractors, and designers of improvements to real property, who were subjected to increasing litigation for construction defects in projects that had been completed long before the suit was filed. The Maryland Court of Appeals has not considered a “statute of repose” or a “look back window” in the context of a child sexual abuse case and has declined to rule on the constitutionality of a time-barred

⁹ <http://www.catholiccharities-md.org/wp-content/uploads/2018/10/ACC-FS-Final.pdf>

¹⁰ <https://bartdaltonlaw.com/news/in-its-two-years-child-victims-act-brings-170-lawsuits-alleging-abuse/>

claim in this situation.ⁱⁱ Furthermore, the U.S. Supreme Court ruled that revival of a time-barred action is constitutional as long as it does not infringe on a defendant's vested rightⁱⁱⁱ, and the Maryland courts have not established that a "statute of repose" protecting a defendant from a child sexual abuse claim creates such a vested right.

Victims of child sexual abuse take years to recognize and disclose their trauma to others. Victims often develop coping mechanisms to deal with their child sexual abuse; the most common being memory repression, denial, and dissociation. As such, lifting time-barred limitations on seeking compensation for child sexual abuse may reveal hidden predators who might still be offending or organizations that are not taking adequate protective measures. Elimination of the statute of limitations and implementation of a lookback window would protect children and enable adults who were sexually abused as children to seek justice for the harm that they have suffered. It would shift the costs of abuse from victim to those who caused the harm, including both predators and the institutions who hid and protected those predators.

For these reasons, we urge a favorable committee report and passage of Senate Bill 134 without amendment.

ⁱⁱ *Doe v. Roe*, 20 A.3d 787, 799 (Md. 2011)

ⁱⁱⁱ *Chase Sec. Corp v. Donaldson*, 325 U.S. 304, 316 (1945)

SB134_FAV_Mills.pdf

Uploaded by: Mills, Patti

Position: FAV

Testimony in SUPPORT of the Hidden Predator Act SB134/HB974

My name is Patricia Stallings Mills and I was raised in Silver Spring Maryland. It was a close-knit neighborhood centered around the local Catholic Church. I attended 12 years of school in the Archdiocese of Washington and was an active member of my Church in Ellicott City after moving there in 1992. My father was an ordained Permanent Deacon in the Church and after pleading guilty, was convicted of sexual abuse, rape and incest of minors in 2008.

When I was a child I witnessed the rape and abuse of my older sister as we shared a bedroom. To a 7-year-old child this is confusing and scary. The inability to process what I saw was horrifying and caused me to assume I was crazy. I was beaten repeatedly after asking my father to explain what he did to my sister. When my father began to sexually abuse me I was petrified. So scared and intimidated by the power he had over me that I became silent. The beatings continued and so did my silence.

After my mother's death in December of 2006 my siblings and I tried to make sense of old memories that "were never to be talked about" outside of our family. My 3 siblings and I are still very close and were now adults and yet were shocked to uncover the memories that each of us had hidden for 30 plus years. Then the question that still sends me to tears. What if we were not the only victims? My father was still a very active deacon at the church up the street and still in the elementary school there almost daily. He primarily ministered to children and teens.

Panicked and unsure where to turn we called the Montgomery County Police. They executed a phone sting where my father admitted to raping my sister over 60 times and assured her that I would never speak about what I experienced as a child. MD District Attorney Donna Fenton walked us through the next few months. His arrest became newsworthy and after that our worst nightmares came true. More victims came forward including cousins and other girls from the church. They had all lived in the shame and silence of sexual abuse. As this case was president setting, they moved carefully towards the trial with kindness and dignity to my family. All I could think was, "What if I had been able to speak up as a child"? Maybe, there would not have been more victims after us if only I could have known this was not "normal" and not my "fault".

But I speak up now. Yes, long after the abuse and after my father's death while imprisoned in the Eastern Correctional Prison in 2015. Long after nightmares of my father's abuse. Long after years of addiction to relieve the guilt and pain. Long after therapy helping to realize that I am not a monster for being paralyzed by fear as a child. And long after the shame I feel every time I see someone that knew my family as "that family" who hid unspeakable secrets. So how do you put a statute of limitations on the ability of victims to seek the help they so desperately need and deserve? We were told that if the church were to provide the other victims of my father's abuse any help with counseling or other recourses that it would be "An admission that the Church was somehow at fault for allowing my father to have access to these children". This is a real sin. They deserve the right to civil action whenever they need it. When they are ready.

Please recognize that abuse bears no limitations. Piercing the innocence of a child or young adolescent produces permanent scars on a victim's spirit. The course of my life was altered. I was in my 40's when I spoke up. My sister in her 50's and other victims of my fathers' in their 20's. And there are more out there we are now aware of. Please allow our state's youngest victims of sexual abuse the time to give closure to the abuse that has gone on way too long. For all these reasons, I urge the committee to do the right thing for all our State's victims of Sexual Abuse and give SB0134/HB974 consideration.

Kathryn Robb SB 134 Written Testimony.pdf

Uploaded by: Robb, Kathryn

Position: FAV



TO: Hon. William C. Smith, Jr., Chair, and honorable members of the
Senate Judicial Proceedings Committee

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

RE: SB 134

DATE: February 2, 2021

**TESTIMONY IN SUPPORT OF SB134: CIVIL ACTIONS – CHILD SEXUAL ABUSE –
STATUTE OF LIMITATIONS**

First, I want to thank you, Chairman Smith, and thank you members for taking up Senate bill 134. This legislation is vital to the safety of the children of Maryland and to upholding basic principles of fairness and justice.

As is indicated above, my name is Kathryn Robb, I am the Executive Director of CHILD USAAdvocacy and a member of the board at Massachusetts Citizens for Children. I worked very closely with legislators when Massachusetts changed their statute of limitations law for child sexual abuse victims in 2014. Most recently, I worked closely with Governor Cuomo's office and legislative leaders to change New York's statute of limitations law. After a hard fought 12-year battle, the NY Child Victims Act was signed into law on February 14, 2019. I have also testified before many legislative bodies for SOL reform.

I am also a survivor of child sexual abuse. Although my testimony here is not about the sad story of a nine-year old girl. My testimony here is based upon my experience as a legislative advocate and lawyer, and mostly as a reasonable woman, mother, and coach who seeks justice for victims and laws that protect them.

**I. THE PLAIN LANGUAGE OF § 5-117(d) SUPPORTS THE FINDING
THAT IT IS A STATUTE OF LIMITATIONS AND NOT A STATUTE OF
REPOSE**

"The cardinal rule of statutory construction is to ascertain and effectuate the intent of the [L]egislature." SVF Riva Annapolis LLC v. Gilroy, 459 Md. 632, 639–40 (Md., 2018) (quoting Blake v. State, 395 Md. 213, 224 (2006) (quotations omitted)). "When the language of a statute is plain and clear and expresses a meaning consistent with the statute's apparent purpose, no further analysis of legislative intent is ordinarily required." Rose v. Fox Pool Corp., 335 Md. 351, 359 (Md. 1994).

The statute at issue, Maryland Courts and Judicial Proceedings § 5-117 titled "Sexual abuse of minor", provides:



(d) In no event may an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor be filed against a person or governmental entity that is not the alleged perpetrator more than 20 years after the date on which the victim reaches the age of majority.

The plain language of Section 5-117(d) indicates that an action cannot be filed for damages against a non-perpetrator person or governmental more than 20 years after the victim reaches majority, which is age 38. It imposes a limitation on the period of time that a cause of action for damages may be asserted. The trigger for the statute of limitations is when the claimant is injured or discovers the injury. By contrast, the time limit for bringing suit established by a statute of repose is triggered by a specified event always driven by some act of the Defendant, such as selling a product and placing it within the stream of commerce, or the completion of an improvement to real property. A repose period runs and can end irrespective of whether harm has occurred or has been discovered, but historically it runs by an action of the Defendant – selling a good, completing the construction. In Maryland Courts and Judicial Proceedings § 5-117 (d) the trigger event is that of the Plaintiff reaching the age of majority, not some act or event commenced by the Defendant. It is clear, that this statute is a statute of limitation.

II. § 5-117(d) WAS NEVER INTENDED BY THE LEGISLATURE TO BE A STATUTE OF REPOSE

“When the language of the statute is subject to more than one interpretation, it is ambiguous and we usually look beyond the statutory language to the statute's legislative history, prior case law, the statutory purpose, and the statutory structure as aids in ascertaining the Legislature's intent.” Rosemann v. Salsbury, Clements, Bekman, Marder & Adkins, LLC, 412 Md. 308, 315 (Md.,2010). Where the legislative intent is not clear from the plain meaning of the statute, the Court of Appeals instructed,

[O]ur endeavor is always to seek out the legislative purpose, the general aim or policy, the ends to be accomplished, the evils to be redressed by a particular enactment. In the conduct of that enterprise, we are not limited to study of the statutory language. The plain meaning rule “is not a complete, all-sufficient rule for ascertaining a legislative intention” The “meaning of the plainest language” is controlled by the context in which it appears. Thus, we are always free to look at the context within which the statutory language appears. Even when the words of a statute carry a definite meaning, we are not “precluded from consulting legislative history as part of the process of determining the legislative purpose or goal” of the law.



Rose v. Fox Pool Corp., 335 Md. 351, 359 (Md.,1994) (quoting Morris v. Prince George's County, 319 Md. 597, 573, 603-4 (1990).

- UNCODIFIED LANGUAGE CAN BE CONSIDERED: If a statute is ambiguous, the court can consider uncodified language in the bill “to shed light on the legislative intent”. McHale v. DCW Dutchship Island, LLC, 999 A.2d 969, 984, 415 Md. 145, 171 (Md.,2010). See also, Cohhn v. Maryland-National Capital Park and Planning Commission, 2017 WL 4711944, at *5 (Md.App., 2017) (“provisions of the law need not be codified in order to have legal effect”). Uncodified language has been used by courts to help determine the legislative intent and has been interpreted broadly so as not to undermine the legislative intent. See Duckett–Murray v. Encompass Insurance Company of America, 235 Md.App. 344, 365 (Md.App., 2018) (interpreting uncodified language broadly so as not to undermine the legislature’s purpose of providing recovery to the highest number of victims in action against automobile insurer for uninsured motorist benefits).
 - Doe v. Roe, 419 Md. 687, 692 (Md.,2011). Giving effect to uncodified language which “manifests the legislative intent that Chapter 360 have some retroactive application” and ruling that it applies retroactively to claims for sexual abuse of a minor that accrued but were not already time barred before the new law was in effect.
 - Cohhn v. Maryland-National Capital Park and Planning Commission, 2017 WL 4711944, at *5 (Md.App., 2017). “While SECTION 2 of Chapter 448 was not codified, we have previously acknowledged that provisions of the law need not be codified in order to have legal effect. Roe v. Doe, 193 Md. App. 558, 564–66 (2010), *aff’d*, 419 Md. 687, 709–10 (2011); see also Prince George's Cnty. v. Maringo, 151 Md. App. 662, 671 n.1 (2003) (“The parties do not dispute that this uncodified portion of the bill has the same force and effect as the codified portion.”). Here, SECTION 2 of Chapter 448 manifests the explicit legislative intent that lawful hunting and trapping are not within the ambit of CL § 10–604’s prohibitions against animal cruelty. Accordingly, the legislative intent is consistent with our interpretation of the plain language of the statute.”
- UNCODIFIED LANGUAGE IS NOT DISPOSITIVE: The uncodified Notes of SECTION 3 which refer to Section 5-117(d) as a "statute of repose" are "not dispositive" on the issue of whether the statute is actually a statute of repose or statute of limitation. 2017 Maryland Laws Ch. 656 (S.B. 505).
 - F.D.I.C. v. Arthur, 2015 WL 898065, at *5 (D.Md.,2015). Rather, Defendants argue that this Court should disregard Congress's use of the term “statute of limitations” as employed in Section 1821(d) (14) of FIRREA. *Id.* While the



legislative label affixed to a statute “is instructive, but it is not dispositive,” Waldburger, 134 S.Ct. at 2185, there is simply no basis for this Court to disregard the plain language of FIRREA.

- CTS Corp. v. Waldburger, 573 U.S. 1, 13 (2014). Indeed, § 9658 uses the term “statute of limitations” four times (not including the caption), but not the term “statute of repose.” This is instructive, but it is not dispositive.
- NO TOLLING FOR SOR - Statutes of repose are a complete bar to liability after a certain time limit and with no exception for tolling for majority, fraud or discovery of injury.
 - Carven v. Hickman, 135 Md.App. 645, 652–54 (Md.App. 2000). Generally, a "statute of repose creates a substantive right in those protected to be free from liability after a legislatively-determined period of time," which is "typically an absolute time limit beyond which liability no longer exists and is not tolled for any reason." (quoting First United Methodist Church of Hyattsville v. United States Gypsum Co., 882 F.2d 862, 866 (4th Cir.1989)).
 - Carven v. Hickman, 135 Md.App. 645, 652–54 (Md.App. 2000). Unlike a statute of limitations, a statute of repose is not triggered by the discovery rule. *Id.* at 865–66. Nor is it tolled by a defendant's fraudulent concealment of the cause of a plaintiff's injury. *Id.* at 866. Instead, it “shelter[s] legislatively designated groups from property and personal injury actions after a period of time has elapsed ... and is unrelated to when an accident or discovery of damages occurs.” See Susan C. Randall, Comment, *Due Process Challenge to Statutes of Repose*, 40 SW.L.J. 997, 998 (1986).
 - Section 5-117(d) contains explicit tolling exception for minority, tolling the expiration of the limitations period until victim reaches age of majority.
 - Anderson v. U.S., 46 A.3d 426, 442, 427 Md. 99, 125 (Md.,2012). In support of its holding that Section 5-109(a)(1) is not a statute of repose, the Court pointed out that if the General Assembly wanted it to be a statute of repose, it "was free to choose a different statutory scheme, one that did not run the limitations period from an injury or toll the period for minority or otherwise, but it chose not to do so. It chose, instead, to adopt a statute of limitations." "If the Legislature intended § 5–109(a)(1) to be an absolute time bar, it likely would not have subjected the limitations to explicit tolling for fraudulent concealment and minority.



- *CTS Corp. v. Waldburger*, 134 S.Ct. 2175, 2187–88, 573 U.S. 1, 17 (U.S.,2014). Another and altogether unambiguous textual indication that § 9658 does not pre-empt statutes of repose is that § 9658 provides for equitable tolling for “minor or incompetent plaintiff[s].” § 9658(b)(4)(B). As noted in the preceding discussion, a “critical distinction” between statutes of limitations and statutes of repose “is that a repose period is fixed and its expiration will not be delayed by estoppel or tolling.” 4 Wright, Federal Practice and Procedure § 1056, at 240. As a consequence, the inclusion of a tolling rule in § 9658 suggests that the statute's reach is limited to statutes of limitations, which traditionally have been subject to tolling. It would be odd for Congress, if it did seek to pre-empt statutes of repose, to pre-empt not just the commencement date of statutes of repose but also state law prohibiting tolling of statutes of repose—all without an express indication that § 9658 was intended to reach the latter.
- *CTS Corp. v. Waldburger*, 134 S.Ct. 2175, 2183, 573 U.S. 1, 9 (U.S. 2014). Statutes of repose, on the other hand, generally may not be tolled, even in cases of extraordinary circumstances beyond a plaintiff's control. See, e.g., *Lampf, supra*, at 363, 111 S.Ct. 2773 (“[A] period of repose [is] inconsistent with tolling”); 4 C. Wright & A. Miller, Federal Practice and Procedure § 1056, p. 240 (3d ed. 2002) (“[A] critical distinction is that a repose period is fixed and its expiration will not be delayed by estoppel or tolling”); Restatement (Second) of Torts § 899, Comment g (1977).
- NO CASES REFERRING OR INTERPRETING SECTION 5-117 AS AN SOR: Although there are no cases citing Section 5-117(d) after it had been amended in 2017, in general, previous court decisions have referred to § 5-117 as a statute of limitation, and not a statute of repose.
 - *Scarborough v. Altstatt*, 140 A.3d 497, 507, 228 Md.App. 560, 576 (Md.App.,2016) (generally referring to Section 5-117 as a statute of limitation).
- LEGISLATIVE HISTORY OF 5-117: Legislative history of Section 5-117 generally is reviewed in *Doe v. Roe*, 20 A.3d 787, 797, 419 Md. 687, 703 (Md.,2011).

III. **CONSTRUING § 5-117(d) AS A STATUTE OF REPOSE IS NOT CONSISTENT WITH PRESENT MARYLAND LAW FOR STATUTES OF REPOSE**

Statutes of limitation and statutes of repose are different in both their purpose and legal effect. A "statute of repose" is defined as a "statute barring any suit that is brought after a specified time since the defendant acted (such as by designing or manufacturing a product), even if this period ends before the plaintiff has suffered a resulting injury. Black's



Law Dictionary (10th ed. 2014). See also, Anderson v. U.S., 427 Md. 99, 117 (Md.,2012) (quoting Black's Law Dictionary). Whereas a "statute of limitation" is defined as a "law that bars claims after a specified period; specif., a statute establishing a time limit for suing in a civil case, based on the date when the claim accrued (as when the injury occurred or was discovered)." Id.

The purpose of a statute of limitation is to "encourage prompt resolution of claims, to suppress stale claims, and to avoid the problems associated with extended delays in bringing a cause of action, including missing witnesses, faded memories, and the loss of evidence." Anderson, 427 Md. at 118. In contrast, a statute of repose is designed "to provide an absolute bar to an action or to provide a grant of immunity to a class of potential defendants after a designated time period. Id. at 118. Numerous courts in other jurisdiction "have also held that statutes of repose are characterized by a trigger that starts the statutory clock running for when an action may be brought based on some event, act, or omission that is unrelated to the occurrence of the plaintiff's injury. Id. at 119. Statutes of repose and statutes of limitation are often differentiated "by whether the triggering event" that starts the limitations period "is an injury or an unrelated event". Id. at 118 (citing First United Methodist Church of Hyattsville v. U.S. Gypsum Co., 882 F.2d 862, 865 (C.A.4 (Md.) 1989)).¹ Notably, the Court of Appeals explained "the difference between a statute of limitations and statute of repose is that in the former, a cause of action has already accrued and a limitation is placed on the time an injured individual has to file a claim, and in the latter, a limitation is placed on the time in which an action may accrue should an injury occur in the future." Id. at 122 (quoting Streeter v. SSOE Systems, 732 F.Supp.2d 569, 577 n. 4 (D.Md. 2010) (classifying § 5–109 as statute of limitation because it was "invoked after an injury has already occurred and a claim accrued and sets a limit on how long a plaintiff has to seek a legal remedy for that claim" and classifying § 5–108 (a) and (b) as statute of repose because a cause of action did not accrue after a fixed period of time) (citing First United, 882 F.2d at 865–66)).

Historically, a cause of action for childhood sexual abuse, under Maryland law accrues "on the date of the wrong". Doe v. Maskell, 342 Md. 684, 689 (Md. 1996).

¹ "Numerous courts have also held that statutes of repose are characterized by a trigger that starts the statutory clock running for when an action may be brought based on some event, act, or omission that is unrelated to the occurrence of the plaintiff's injury. See McCann v. Hy-Vee, Inc., 663 F.3d 926, 931 (7th Cir.2011) ("[T]here is no tort without an injury and if the period in which a tort suit can be brought runs from the date of the tort, it is a period prescribed by a statute of limitations rather than by a statute of repose"); Hoffner v. Johnson, 660 N.W.2d 909, 913–15 (N.D.2003) (explaining that a statute of repose "begins to run from the occurrence of some event other than the event of an injury that gives rise to a cause of action and, therefore, bars a cause of action before the injury occurs"); Combs v. Int'l Ins. Co., 354 F.3d 568, 590 n. 11 (6th Cir.2004) ("A statute of limitations focuses on time measured from an injury; a statute of repose rests on the time from some initiating event unrelated to an injury."); Clark Cnty. v. Sioux Equip. Corp., 753 N.W.2d 406, 415 n. 6 (S.D.2008) (explaining that a statute of repose "begins to run from a date that is unrelated to the date of an injury")." Anderson v. U.S., 427 Md. 99, 119 (Md.,2012).



Maryland has a discovery rule, which is applicable generally in all civil actions, that provides a cause of action accrues "when plaintiff knew or should have known that actionable harm has been done to him".² *Id.* at 690. Section 5-117(d) did not create a new cause of action against non-perpetrators, but rather extended the causes of action that already existed in common law. *See Doe v. Roe*, 419 Md. 687, 706–07 (Md. 2011) (noting "no new cause of action was created" by § 5-117). In *Maskell*, a case which predates the enactment of Section 5-117, victims of childhood sexual abuse sued the perpetrator chaplain, the school, the school Sisters, the Archdiocese and the Archbishop, under common law for "battery, negligent supervision, negligent misrepresentation, intentional infliction of emotional distress, fraud, and loss of consortium." *Maskell*, 342 Md. at 688 (Md. 1996). It follows then, that a civil action for damages against perpetrators and non-perpetrators arising out of an incident of childhood sexual abuse accrues on the date plaintiff in fact knew or reasonably should have known of the wrong. *See Id.* at 690.

Section 5-117(d) provides, "[i]n no event may an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor be filed against a person or governmental entity that is not the alleged perpetrator more than 20 years after the date on which the victim reaches the age of majority." Md. Code CJP § 5-117. To determine whether this statute is a statute of limitation or a statute of repose under Maryland law, a point of analysis is whether the "triggering event" for the accrual of the limitations period "is an injury or an unrelated event". *Anderson*, 427 Md. at 119. *See also, Wood v. Valliant*, 231 Md.App. 686, 701 (Md.App., 2017). Statutes of repose establish a time limit for bringing suit that is triggered by a specific event, such as the date an "improvement to real property . . . first becomes available for its intended use". Md. Code CJP § 5-108. *See also Carven v. Hickman*, 135 Md.App. 645, 652 (Md.App. 2000) (Statute of repose "shelter[s] legislatively designated groups from property and personal injury actions after a period of time has elapsed . . . and is unrelated to when an accident or discovery of damages occurs."). Because a cause of action for sexual abuse of a minor accrues on the date of the actual abuse, the date of the wrong, the triggering event for the start of § 5-117(d)'s limitation period is the date of injury and not an unrelated event. A plaintiff may file suit against a non-perpetrator pursuant to Section 5-117(d) immediately following the incident of sexual abuse and need not wait until he or she turns 18. Therefore, reaching the age of majority cannot be the triggering event. Further, in accordance with the Court of Appeal's distinction between the two types of statutes, Section 5-117(d) is a statute of limitation because the "cause of action has already accrued and a limitation is placed on the time an injured individual has to file a claim". *Anderson*, 427 Md. at 119. Section 5-117(d) cannot be construed to be a statute of repose because it does not limit the "time in

² While the Court of Appeals has consistently ruled that Maryland's discovery rule is "applicable in all civil suits", Maryland courts have declined to find that the discovery rule tolled the statute of limitations for child sexual abuse where plaintiff alleged memory impairment. *Doe v. Maskell*, 679 A.2d 1087, 1090, 342 Md. 684, 690 (Md. 1996) (citing *Poffenberger v. Risser*, 290 Md. 631, 637 (1981)). *See also, Scarborough v. Altstatt*, 228 Md.App. 560, 568 (Md.App. 2016).



which an action may accrue should an injury occur in the future"; the statute acknowledges that the injury has already occurred. *Id.*³

IV. CONSTRUING § 5-117(d) AS A STATUTE OF REPOSE IS NOT CONSISTENT WITH THE HISTORY OF THE USE OF STATUTES OF REPOSE

In Maryland, and in many other jurisdictions, statutes of repose were enacted primarily to protect builders, contractors, architects, engineers, and developers from indefinite liability for "property damage and personal injury caused by their work". *Carven v. Hickman*, 135 Md.App. 645, 652-653 (Md.App. 2000), certiorari granted 363 Md. 661, affirmed 366 Md. 362. The statutes of repose were designed to limit the expansion of liability that resulted from "three developments: 1) the elimination of the 'privity of contract' doctrine as a defense, 2) the declining acceptability of 'the completed and excepted rule,' and 3) the application of the 'discovery rule' to state statutes of limitations." *Id.* at 652-653 (internal citations omitted). See also *SVF Riva Annapolis LLC v. Gilroy*, 459 Md. 632, 648-49 (Md. 2018) (Statutes of repose "are a response to the problems arising from the expansion of liability based on the defective and unsafe condition of an improvement to real property".) (citing *Whiting-Turner Contracting Co. v. Coupard*, 304 Md. 340, 349, 499 A.2d 178 (1985)).

In particular, legislatures were concerned about the "possibility that seemingly endless liability would deter such professionals from experimenting with new materials, designs, or procedures". *Carven*, 135 Md.App. at 652-653. As a solution, Maryland enacted what has been construed to be a statute of repose to "impose a limit on the expansion of liability for professionals involved in making improvements to real property" for the "purpose of protect[ing] builders, contractors, realtors, and landlords from suits for latent defects in design, construction, or maintenance of an improvement to real property that are brought more than twenty years after the improvement is first put to use." *Id.* at 654 (citing Md. Code CJP § 5-108).⁴ See also *First United Methodist Church of Hyattsville v. U.S. Gypsum Co.*, 882 F.2d 862, 865 (C.A.4 (Md.) 1989) (confirming § 5-108 is statute of repose); *Anderson*, 427 Md. at 121 (With § 5-108 statute of repose Maryland legislature "intended to tie the accrual of the cause of action to the date of completion of a particular property improvement because traditional tolling mechanisms expanded the liability of defendants".).

³ Further, a statute of repose can extinguish a claim before the plaintiff suffers any resulting injury, before actionable harm even occurs. See *Anderson*, 427 Md. at 117.

⁴ The first version of this statute in Maryland was Ch. 666 of the 1970 Laws of Maryland, formally codified in Article 57, § 20 of the Maryland Code, the precursor to Maryland Courts and Judicial Proceedings, § 5-108.



Aside from Section 5-108, which deals with professional liability for defective improvements to real property, Maryland has not readily construed other statutes to be statutes of repose. Courts have questioned whether a statute governing limitations for medical malpractice claims, § 5-109, is a statute of repose, but the Court of Appeals of Maryland ultimately concluded that it is a statute of limitations instead. *Anderson*, 427 Md. at 126. In differentiating § 5-109 from § 5-108, The Court of Appeals pointed out that § 5-108 explicitly provides that "no cause of action for damages accrues" and commences the running of the 20-year limitations period from the date the improvement becomes available for use. *See id.* The Court says, in contrast Section 5-109, "is triggered by the cause of action itself—the injury" and went on to explain that "without the plaintiff's injury (the cause of action), the limitations period would not commence to run." *Id.* A provision that no cause of action accrues until some specified event, other than injury, is a significant criteria of a statute of repose. The explicit statute of repose language in § 5-108 is in stark contrast to the text of Section 5-117, which provides "[i]n no event may an action for damages arising out of . . . incidents of sexual abuse that occurred while the victim was a minor be filed . . . more than 20 years after the date on which the victim reaches the age of majority." The Court held that § 5-109 is not a statute of repose because its trigger is the "injury". Md. Code CJP § 5-117(d). Like Section 5-109, the statutory language in Section 5-117 is also triggered by the sexual abuse victim's injury and therefore, similarly cannot be a statute of repose.

In conclusion, under Maryland law construing a statute as a statute of repose is improper if the date of injury and date of accrual of the cause of action are the same. Statutes of repose are rare and were specifically designed to limit potential liability where the tortious conduct could result in a future injury. Because § 5-117(d) seeks to limit liability for causes of action against non-perpetrators that have already accrued on the date of injury, it is not a statute of repose.

V. EVEN IF § 5-117(d) IS CONSTRUED AS A STATUTE OF REPOSE, THE SAME CONSTITUTIONAL TEST FOR REVIVAL OF AN EXPIRED CLAIM WOULD APPLY

A. Amending Maryland's Statutes of Limitations for Child Sexual Abuse to Include a Revival Window Is Both Constitutional and Consistent with the National Trend to Give Survivors Access to Justice

Every state permits retroactive application of laws to some degree. Many states have addressed the specific question of whether revival of SOLs is constitutional. Currently, of the jurisdictions that have considered constitutional challenges to the application of revival legislation to a cause of action, 24 states plus the District of Columbia have expressly upheld the facial constitutionality of retroactive revival of civil cases that



were previously time-barred.⁵ Legislatures across the country have adopted civil revival laws for survivors of child sex abuse to remedy the long-standing injustice of blocking their claims with unreasonably short statutes of limitations. In the majority of jurisdictions where these laws were challenged, they have been expressly upheld as constitutional.⁶ In Arizona, Michigan, Vermont, West Virginia, and D.C., child sex abuse claims were revived

⁵ **ARIZ:** *Chevron Chemical Co. v. Superior Court*, 641 P.2d 1275, 1284 (Ariz. 1982); *City of Tucson v. Clear Channel Outdoor, Inc.*, 105 P.3d 1163, 1167, 1170 (Ariz. 2005) (barred by statute, ARIZ. REV. STAT. ANN. § 12-505 (Ariz. 2010)); **CAL:** *Mudd v. McColgan*, 183 P.2d 10, 13 (Cal. 1947); *20th Century Ins. Co. v. Superior Court*, 109 Cal. Rptr. 2d 611, 632 (Cal. Ct. App. 2001), *cert. denied*, 535 U.S. 1033, 122 S. Ct. 1788 (2002); **CONN:** *Doe v. Hartford Roman Catholic Diocesan Corp.*, 317 Conn. 357, 439-40 (Conn. 2015); **DEL:** *Sheehan v. Oblates of St. Francis de Sales*, 15 A.3d 1247, 1258-60 (Del. 2011); **DC:** *Riggs Nat'l Bank v. Dist. of Columbia*, 581 A.2d 1229, 1241 (D.C. 1990); **GA:** *Canton Textile Mills, Inc. v. Lathem*, 317 S.E.2d 189, 193 (Ga. 1984); *Vaughn v. Vulcan Materials Co.*, 465 S.E.2d 661, 662 (Ga. 1996); **HAW:** *Roe v. Doe*, 581 P.2d 310, 316 (Haw. 1978); *Gov't Emps. Ins. Co. v. Hyman*, 975 P.2d 211 (Haw. 1999); **IDAHO:** *Hecla Mining Co. v. Idaho St Tax Comm'n*, 697 P.2d 1161, 1164 (Idaho 1985); *Peterson v. Peterson*, 320 P.3d 1244, 1250 (Idaho 2014); **IOWA:** *Schulte v. Wageman*, 465 N.W.2d 285, 287 (Iowa 1991); **KAN:** *Harding v. K.C. Wall Prod., Inc.*, 831 P.2d 958, 967-68 (Kan. 1992); *Ripley v. Tolbert*, 921 P.2d 1210, 1219 (Kan. 1996); **MASS:** *Sliney v. Previte*, 41 N.E.3d 732, 739-40 (Mass. 2015); *City of Boston v. Keene Corp.*, 406 Mass. 301, 312-13 (Mass. 1989); *Kienzler v. Dalkon Shield Claimants Tr.*, 426 Mass. 87, 88-89 (Mass. 1997); **MICH:** *Rookledge v. Garwood*, 65 N.W.2d 785, 790-92 (Mich. 1954); *Pryber v. Marriott Corp.*, 296 N.W.2d 597, 600-01 (Mich. Ct. App. 1980), *aff'd*, 307 N.W.2d 333 (Mich. 1981) (per curiam); **MINN:** *Gomon v. Northland Family Physicians, Ltd.*, 645 N.W.2d 413, 416 (Minn. 2002); *In re Individual 35W Bridge Litig.*, 806 N.W.2d 820, 830-31 (Minn. 2011); **MONT:** *Cosgriffe v. Cosgriffe*, 864 P.2d 776, 778 (Mont. 1993); **NJ:** *Panzino v. Continental Can Co.*, 364 A.2d 1043, 1046 (N.J. 1976); **NEW MEX:** *Bunton v. Abernathy*, 73 P.2d 810, 811-12 (N.M. 1937); *Orman v. Van Arsdell*, 78 P. 48, 48 (N.M. 1904); **NY:** *In re World Trade Ctr. Lower Manhattan Disaster Site Lit.*, 89 N.E.3d 1227, 1243 (N.Y. 2017); *Hymowitz v. Eli Lilly & Co.*, 539 N.E.2d 1069, 1079-80 (N.Y. 1989); *McCann v. Walsh Const. Co.*, 123 N.Y.S.2d 509, 514 (N.Y. 1953) *aff'd without op.* 306 N.Y. 904 (1954); *Gallewski v. Hentz & Co.*, 93 N.E.2d 620, 624-25 (N.Y. 1950); **N DAK:** *In Interest of W.M.V.*, 268 N.W.2d 781, 786 (N.D. 1978); **OR:** *McFadden v. Dryvit Systems, Inc.*, 112 P.3d 1191, 1195 (Or. 2005); *Owens v. Maass*, 918 P.2d 808, 813 (Or. 1996); **PA:** *Bible v. Dep't of Labor & Indus.*, 696 A.2d 1149, 1156 (Pa. 1997); *McDonald v. Redevelopment Auth. of Allegheny Cnty.*, 952 A.2d 713, 718 (Pa. Commw. Ct. 2008), *appeal denied*, 968 A.2d 234 (Pa. 2009); **SDAK:** *Stratmeyer v. Stratmeyer*, 567 N.W.2d 220, 223 (S.D. 1997); **VA:** *Kopalchick v. Cath. Diocese of Richmond*, 274 Va. 332, 337, 645 S.E.2d 439 (Va. 2007); **WASH:** *Lane v. Dep't of Labor & Indus.*, 151 P.2d 440, 443 (Wash. 1944); *Ballard Square Condo. Owners Ass'n v. Dynasty Constr. Co.*, 146 P.3d 914, 922 (Wash. 2006), *superseded in part by statute* WASH. REV. CODE 25.15.303, *as recognized in Chadwick Farms Owners Ass'n v. FHC, LLC*, 160 P.3d 1061, 1064 (Wash. 2007), *overruled in part by* 207 P.3d 1251 (Wash. 2009); **W VA:** *Pankovich v. SWCC*, 163 W. Va. 583, 259 S.E.2d 127, 131-32 (W. Va. 1979); *Shelby J.S. v. George L.H.*, 381 S.E.2d 269, 273 (W. Va. 1989); **WYO:** *Vigil v. Tafoya*, 600 P.2d 721, 725 (Wyo. 1979); *RM v. State*, 891 P.2d 791, 792 (Wyo. 1995).

⁶ See *Deutsch v. Masonic Homes of Cal., Inc.*, 164 Cal.App.4th 748, 752, 759, 80 Cal.Rptr.3d 368 (Cal.Ct.App.2008); *Coats v. New Haven Unified Sch. Dist.*, 46 Cal. App. 5th 415, 427 (2020); See *Hartford Roman Catholic Diocesan Corp.*, 317 Conn. at 406 (age limit); *Sheehan*, 15 A.3d at 1258-60; *Roe v. Ram*, No. CIV. 14-00027 LEK-RL, 2014 WL 4276647, at *9 (D. Haw. Aug. 29, 2014); *Shirley v. Reif*, 260 Kan. 514, 526 (1996); *Sliney*, 41 N.E.3d at 737, 739; *K.E. v. Hoffman*, 452 N.W.2d 509, 513-14 (Minn. Ct. App. 1990); *Cosgriffe*, 864 P.2d at 779; *Doe v. Silverman*, 287 Or. App. 247, 253 (2017), *review denied*, 362 Or. 389 (2018); *DeLonga v. Diocese of Sioux Falls*, 329 F. Supp. 2d 1092, 1104 (D.S.D. 2004); *Kopalchick v. Cath. Diocese of Richmond*, 274 Va. 332, 337 (2007),



without a constitutional challenge in the courts.⁷

B. The Act’s Time-limited Civil Revival Window Is Constitutional Under Both the United States Constitution and the Maryland Constitution

1. A Time-limited Civil Revival Window Is Constitutional Under the United States Constitution

The United States Supreme Court has rejected the proposition that retroactive elimination of a viable civil statute of limitations defense constitutes a denial of due process.⁸ Chase Securities Corp. v. Donaldson, 325 U.S. 304 (1945). The United States Supreme Court reaffirmed this principal in Landgraf v. USI Film Prods., 511 U.S. 244, 267, 114 S. Ct. 1483, 1498 (1994), that retroactive civil legislation is constitutional if the legislative intent is clear and the change is procedural. The Landgraf Court explained the duty of judicial deference as follows: “legislation has come to supply the dominant means of legal ordering, and circumspection has given way to greater deference to legislative judgments.” Landgraf, 511 U.S. at 272. The Court went on to observe that “the constitutional impediments to retroactive civil legislation are now modest Requiring clear intent [of retroactive application] assures that [the legislature] itself has affirmatively considered the potential unfairness of retroactive application and determined that it is an acceptable price to pay for the countervailing benefits.” Id. at 272-73.

Any presumptions against retroactivity can be readily overcome by express legislative intent. See Republic of Austria v. Altmann, 541 U.S. 677, 692-93 (2004); see also Landgraf, 511 U.S. at 267-68; Chase Sec. Corp. v. Donaldson, 325 U.S. at 311-12. The requirement of clear intent of retroactive application can be readily overcome by express legislative language. “[T]he antiretroactivity presumption is just that — a presumption, rather than a constitutional command.” Republic of Austria v. Altmann, 541 U.S. 677, 692-93 (2004) (declined to extend Hamdan v. Rumsfeld, 548 U.S. 557 (2006)); see also Landgraf, 511 U.S. at 267-68. When retroactive intent is clear, the anti-

⁷ See **ARIZ**: ARIZONA STAT. ANN. § 12–514 (2019), H.B. 2466, 54th Leg., 1st Reg. Sess. (Ariz. 2019); **DC**: D.C. CODE § 12-301 (2019); **MICH**: MICH. COMP. LAWS ANN. § 600.5851b (2018); **VT**: V.T. STAT. ANN. tit. 12, § 522 (2019); **WV**: W. VA. CODE ANN. § 55-2-15 (2020).

⁸ See Deutsch v. Masonic Homes of Cal., Inc., 164 Cal.App.4th 748, 752, 759, 80 Cal.Rptr.3d 368 (Cal.Ct.App.2008); Coats v. New Haven Unified Sch. Dist., 46 Cal. App. 5th 415, 427 (2020); See Hartford Roman Catholic Diocesan Corp., 317 Conn. at 406 (age limit); Sheehan, 15 A.3d at 1258-60; Roe v. Ram, No. CIV. 14-00027 LEK-RL, 2014 WL 4276647, at *9 (D. Haw. Aug. 29, 2014); Shirley v. Reif, 260 Kan. 514, 526 (1996); Sliney, 41 N.E.3d at 737, 739; K.E. v. Hoffman, 452 N.W.2d 509, 513-14 (Minn. Ct. App. 1990); Cosgriffe, 864 P.2d at 779; Doe v. Silverman, 287 Or. App. 247, 253 (2017), review denied, 362 Or. 389 (2018); DeLonga v. Diocese of Sioux Falls, 329 F. Supp. 2d 1092, 1104 (D.S.D. 2004); Kopalchick v. Cath. Diocese of Richmond, 274 Va. 332, 337 (2007).



retroactivity presumption is overcome.⁹

2. A Time-limited Civil Revival Window Is Constitutional Under the Maryland Constitution

i. The Revival of a Statute of Limitations Is Constitutional in Maryland with Clear Legislative Intent

The revival of a statute of limitations is constitutional in Maryland. The standard applied by Maryland courts when judging the validity of a retroactive statute differs from the Supreme Court’s standard. Allstate Ins. Co. v. Kim, 376 Md. 276, 293 (2003). Maryland asks “whether retroactive effect would impair vested rights.” Id. In Allstate, the Court of Appeals of Maryland looked at whether retroactive application of a civil tort statute violated the federal or state constitutions. See generally id. Determining that retroactive application of a statute is not per se unconstitutional, the court looked to legislative intent regarding retroactivity. Id. at 289; Waters v. Montgomery County, 337 Md. at 28. In the instant case, there is clear legislative intent to temporarily revive the expired civil statutes of limitations to provide access to justice for victims of child sex abuse.

ii. Revival of a Statute of Limitations to Provide Justice for Victims of Child Sex Abuse Is Constitutional Because it Does Not Interfere with Vested Rights

Retroactive effect of a time-limited civil revival window, providing justice for victims of child sex abuse would not impair any vested rights. Vested rights are generally regarded as property rights—or a right in which one has a property interest. To determine whether a right vests, courts will assess whether “it is actually assertable as a legal cause of action or defense or is so substantially relied upon that retroactive divestiture would be manifestly unjust.” Allstate, 376 Md. at 297. In Allstate, where the court determined that retroactive application of a civil statute did not divest the defendant of any vested right, the court explained that a vested right “must be something more than a mere expectation based upon an anticipated continuance of the existing law; it must have become a title, legal or equitable, to the present or future enjoyment of property, a demand, or a legal exemption from a demand by another.” Id. at 298. The Court “[found] no violation of any vested right enjoyed by Allstate by a retroactive application of [the statute at issue].” Id.

Many states hold that the retroactive expansion of an SOL to revive time-barred claims is in no way a violation of a defendant’s due process rights, because there is no vested right in an SOL defense as a matter of law. See, e.g., Peterson v. Peterson, 320 P.3d 1244, 1250 (Idaho 2014) (Determining that the shelter of an SOL is a matter of remedy and not a fundamental right; the lapse of an SOL does not endow citizens with vested property rights in immunity from suit . . . “Where a lapse of time has not invested a party with title



to real or personal property, a state legislature may extend a lapsed statute of limitations without violating the fourteenth amendment, regardless of whether the effect is seen as creating or reviving a barred claim.”) (internal citations omitted); Sheehan v. Oblates of St. Francis de Sales, 15 A.3d 1247, 1258-60 (Del. 2011) (“Under Delaware law, the CVA can be applied retroactively because it affects matters of procedure and remedies, not substantive or vested rights.”); Cosgriffe v. Cosgriffe, 864 P.2d 776, 779 (Mont. 1993) (explaining that due process is not violated by the retroactive application of a revival window for a perpetrator of child sexual abuse who has no vested interest in an SOL defense); Harding v. K.C. Wall Products, Inc., 250 Kan. 655, 668-69 (Kan. 1992) (“a defendant has no vested right in a statute of limitations. It is an expression of legislative public policy, is procedural, and may be applied retroactively when the legislature expressly makes it so.”); City of Boston v. Keene Corp., 406 Mass. 301, 328 (1989) (“Consequently, the running of the limitations period on [asbestos] claims does not create a vested right which cannot constitutionally be taken away by subsequent statutory revival of the barred remedy.”); Hecla Mining Co. v. Idaho State Tax Comm’n, 697 P.2d 1161, 1164 (Idaho 1985) (“The shelter of a statute of limitations has never been regarded as a fundamental right, and the lapse of a statute of limitations does not endow a citizen with a vested property right in immunity from suit.”); Chevron Chemical Co. v. Superior Court, 131 Ariz. 431, 440 (1982) (explaining that the right to raise a one year SOL defense instead of a two year defense is not a vested property right garnering Fourteenth Amendment protections, “even if the result may be increased liability on the part of the defendant.”); Pryber v. Marriott Corp., 98 Mich. App. 50, 56-57 (1980), aff’d, 411 Mich. 887 (1981) (per curiam) (“the right to defeat a claim by interposing a statute of limitations is not a vested right.”); Vigil v. Tafoya, 600 P.2d 721, 724-25 (Wyo. 1979); Roe v. Doe, 581 P.2d 310, 316 (Haw. 1978) (“The right to defeat an action by the statute of limitations has never been regarded as a fundamental or vested right. ...[W]here lapse of time has not invested a party with title to real or personal property, it does not violate due process to extend the period of limitations even after the right of action has been theretofore barred by the former statute of limitations.”); Panzino v. Continental Can Co., 71 N.J. 298, 304-305, (1976); Lane v. Dept. of Labor & Indus., 21 Wn. 2d 420, 426, 151 P.2d 440 (1944).

In Doe v. Roe, a case involving the extension of a civil statute of limitations for a claim of child sexual abuse, the court determined that the extension was a procedural and remedial statute, and thus could be given retrospective application. 419 Md. 687 (2011). The Roe court explained, “There are a number of Maryland cases which, in effect, treat ordinary statutes of limitations as dealing with procedure, but these cases involve a reduction of the time within which one asserting a claim must do so.” Roe v. Doe, 193 Md. App. 558, 573 (2010) (citing Hill v. Fitzgerald, 304 Md. 689 (1985)); see also Kelch v. Keehn, 183 Md. 140 (1944) (approving a statute reducing a plaintiff’s time to file). On appeal, the Doe court held that the extension of the child sex abuse statute of limitations “did not infringe any vested or substantial right of [the] Defendant.” 419 Md. at 687 (2011).



Explaining that there is no vested right in a limitations period, the court found no violations of a defendant's perceived right in a statute of limitations defense. The Court noted that while there appears to be "no reported case in Maryland that would mandate the unconstitutionality of [a fully] retroactive application of [the civil SOL]" Doe v. Roe, 419 Md. 687, 698 (2011). The court noted in dicta that "**it is possible**, given the actions of other states, and its own statement in Dua v. Comcast Cable of Md., Inc., 370 Md. 604 (2002)], that **the Court could conclude** that retroactive application to revive barred causes of action violates Due Process." Doe, 419 Md. at 698 (2011) (emphasis added). This 2011 statement is not in keeping with the national trend to find a retroactive procedural change in law, like temporary revival of a civil SOL to provide justice to victims of childhood sexual abuse constitutional. See, e.g., Peterson, 320 P.3d 1244 (Idaho 2014); Harding, 250 Kan. 655 (1992); Pryber, 98 Mich. App. 50 (1980); Cosgriffe, 864 P.2d 776 (Mont. 1993) (retroactive application of a revival window for a perpetrator of child sexual abuse does not violate due process); Panzino, 71 N.J. 298 (1976); Lane, 21 Wn. 2d 420 (1944); Vigil, 600 P.2d 721 (Wyo. 1979); see also Allstate, 376 Md. at 297 (finding that retroactive application of a statute did not violate Maryland law or divest the defendant of any vested rights).

The introduction of a time-limited "window," reviving the civil SOL for Maryland's child victims does not violate Maryland's Constitution. The revival of an expired, procedural, statute of limitations does not infringe any vested or substantial right. See Doe, 419 Md. at 687. There is no procedural right in a limitations defense. Further, plaintiffs' pursuing claims against their abusers under The Act must still meet all legal and other procedural safeguards. The retroactive application of an SOL merely serves, in these cases, as a practical and pragmatic device to aid the courts in the search for justice. Not only will temporary revival of the expired procedural statute of limitations not interfere with any vested rights, it will also provide much-needed closure to these victims who have been shut out of justice due to the arbitrary procedural deadline.

3. Even If A Court Were to Find that A Defendant Has a Due Process Right Attached to a Statute of Limitations, that Right Is Overcome By the State's Compelling Interest in Identifying Hidden Child Predators and Protecting Maryland's Children

The state's compelling interest in protecting Maryland's children outweighs any potential due process claim in a statute of limitations. It is long-established that a state has a compelling interest in protecting its children. See, e.g., Globe Newspaper Co. v. Superior Court, 457 U.S. 596, 607 (1982) (It is clear that a state's interest "safeguarding the physical and psychological well-being of a minor" is "compelling."); New York v. Ferber, 458 U.S. 747, 756-57 (1982) ("*First*. It is evident beyond the need for elaboration that a State's interest in 'safeguarding the physical and psychological well-being of a minor' is compelling."); Ashcroft v. Free Speech Coal., 535 U.S. 234, 263 (2002)



(O'Connor, J., concurring) ("The Court has long recognized that the Government has a compelling interest in protecting our Nation's children."). "There is also no doubt that[] '[t]he sexual abuse of a child is a most serious crime and an act repugnant to the moral instincts of a decent people.'" Packingham v. North Carolina, 137 S. Ct. 1730, 1736 (2017) (citing Ashcroft, 535 U.S. at 244). It is also established that "a legislature may pass valid laws to protect children and other victims of sexual assault from abuse. See id., at 245; accord, New York v. Ferber, 458 U.S. 747, 757 (1982)." Packingham, 137 S. Ct. at 1736 (internal citations omitted).

Maryland follows the Supreme Court in finding a compelling or significant interest in protecting children. See, e.g., In re S.K., 237 Md. App. 458, 469–70, cert. granted, 461 Md. 483 (2018) (explaining that the Supreme Court, Court of Appeals of Maryland, and the Court of Special Appeals of Maryland have all recognized the state interest in child protection). "The State unquestionably has a significant interest in protecting children." Outmezguine v. State, 335 Md. 20, 37 (1994). See also Blixt v. Blixt, 437 Mass. 649, 656 (2002) ("It cannot be disputed that the State has a compelling interest to protect children from actual or potential harm."); A.H. v. State, 949 So. 2d 234, 236 (Fla. Dist. Ct. App. 2007) (in assessing "whether the State has a compelling interest in regulating the sexual behavior of minors, this Court recognizes a compelling state interest in protecting children from sexual exploitation."); In re Dependency of I.J.S., 128 Wash. App. 108, 111 (2005) ("It is well-established that the State has a compelling interest to protect children from harm."). The compelling interest in protecting Maryland's children from sexual abuse justifies the enactment of a narrowly tailored time-limited civil revival window.

i. Window Legislation Identifies Hidden Predators, Prevents Future Abuse, and Validates the Victims

A revival window has been successfully implemented in several states⁸:

- In California, a one-year window (2003) identified over 300 previously hidden child predators.
- In Delaware, window legislation exposed prolific abuser, pediatrician Earl Bradley, who alone had abused approximately 1,000.
- In Georgia, a two-year window (2015-2017) exposed abuser, James S. Collins, leading lobbyist and former Baptist Church and YMCA youth coordinator and identified several prominent entities as causing and/or enabling decades of

⁸ For a comprehensive overview of revival windows in each state, see CHILD USA, Revival and Window Laws Since 2002, available at <https://childusa.org/wp-content/uploads/2020/11/Open-windows-2020-11.14.pdf>.



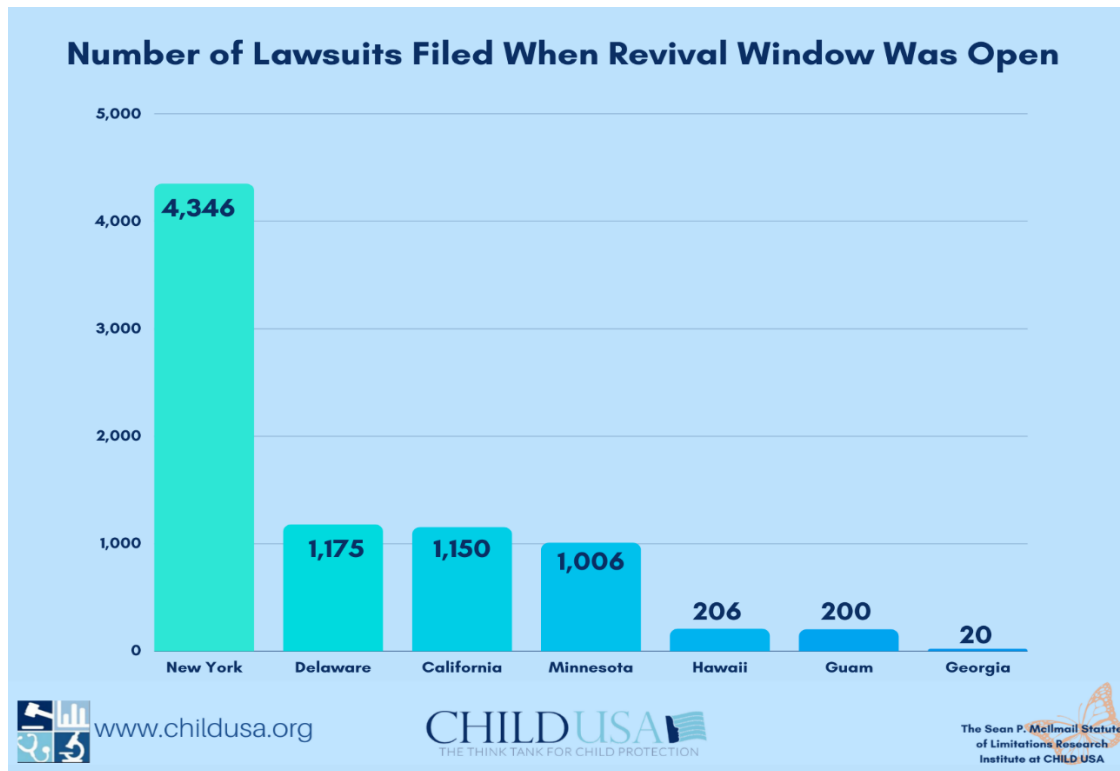
abuse.⁹

- In Hawaii, a window exposed decades of sexual abuse of young boys by the school psychiatrist at the Kamehameha school; the school had been complicit in a decades-long cover-up.¹⁰
- In Minnesota, John Clark Donahue, co-founder of the Children's Theatre Company was exposed as a serial abuser;¹¹ further, the state's three-year revival window helped to identify over 125 child predators.
- In New York, over 4,500 suits have already been filed pursuant to a two-year open window (2019-2021) including claims against institutions such as the Boy Scouts of America and the Roman Catholic Diocese.
- In response to the growing epidemic of child sexual abuse and the data from the science of traumatology the following eight (8) jurisdictions passed window or revival SOL reform legislation in 2019: Arizona, California, Montana, New York, New Jersey, North Carolina, Rhode Island, Vermont, and Washington D.C.).
- Despite significant disruptions by Covid-19 in 2020, West Virginia extended its civil SOL against perpetrators and organizations, and revived claims up to age 36, while New York extended its one-year revival window by another year.

The identification of these and other perpetrators enabled parents to prevent their child's abuse. The windows to justice also identified institutions that have engrained practices allowing this abuse. In addition to validating victims of childhood sexual abuse, these windows show the deep importance of creating institutional liability for covering up child sex abuse. Not only does this liability force institutions and organizations to show how they have endangered children (in many instances by complicity in a cover up), it also incentivizes them to alter their practices to be more child protective.

The below chart shows the relative success of revival statutes by state. The number of cases is modest overall. Notably, in all of the states that opened windows to justice, no false claims have been reported in the courts.

⁹ See CHILD USA, 2019 SOL Report available at <https://CHILD-USA-2019-Annual-SOL-Report-May-2020.pdf>



Increasing access to the civil justice system for survivors of child sexual abuse puts the public on notice about child sexual predators who would otherwise go under the radar. Arrests are only made in 29% of child sexual abuse cases, and for children under six, only 19% of sexual abuse incidents result in arrest.¹² This means that over two thirds of child sexual predators are never arrested, let alone convicted. In fact, the average predator will abuse between 50 to 150 children before he is ever arrested. A.C. SALTER, *PREDATORS: PEDOPHILES, RAPISTS, & OTHER SEX OFFENDERS* (Basic Books, 2003).

Science shows that perpetrators operate into their elderly years, continuing to move through society with unfettered access to children. When considering that perpetrators continue to abuse later in life in light of the science of delayed disclosure, science establishes a need for lengthy statutes of limitation for child sex abuse and for those with expired claims to be revived. Permitting civil lawsuits through a time-limited revival window identifies hidden predators; by showing communities who the predators, children can better be kept safe from them. This helps both individual victims and society as a whole.

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establishes a need for lengthy statutes of limitation for child sex abuse and for those with expired claims to be revived. Permitting civil lawsuits through a time-limited revival window identifies hidden predators; by showing communities who the predators, children can better be kept safe from them. This helps both individual victims and society as a whole.

A time-limited revival window is narrowly tailored to the end of protecting Maryland's children from sexual abuse and validating victims of childhood sexual abuse.

ii. *A Time-limited Civil SOL Window Will Protect Maryland's Youth and Provide Long- Awaited Justice to Victims*

A Time-limited Civil SOL Revival Window for Victims of Child Sex Abuse is the only way to provide justice for the victims of abuse in Maryland and to prevent future child sex abuse. With clear legislative intent, it is constitutional to amend Maryland's statutes of limitations for child sex abuse to include a temporary civil revival window under both Maryland and Federal Law. Such legislation is consistent with the national trend to give survivors access to justice.

CONCLUSION

The plain language of § 5-117(d) supports the finding that it is a statute of limitations and not a statute of repose. § 5-117(d) was never intended by the legislature to be a statute of repose, as is evidenced by the fact that neither the sponsor or co-sponsors were even aware of the uncodified language, in fact, it can be argued that even those opposing the present bill (House Bill 687) were unaware of this language and meaning. Construing § 5-117(d) as a statute of repose is not consistent with present Maryland Law for statutes of repose or the history of the use of statutes of repose. Statutes of repose have traditionally been used in construction cases and products liability case. Under Maryland's Statute of Repose, construction defect claims are absolutely barred after 20 years, regardless of when they were or could have been discovered. Additionally, architects, professional engineers and contractors can be held liable for building defects for just 10 years after construction. (Courts & Judicial Proceedings Code of the Annotated Code of Maryland § 5-108).

Even if section 5-117(d) is construed as a statute of repose, the same constitutional test, revival of an expired claim would apply. Amending Maryland's statutes of limitations for child sexual abuse to include a revival window is both constitutional and consistent with the national trend to give survivors access to justice. The act's time-limited revival window is constitutional under both the United States Constitution and under the Maryland's constitution. The revival of a statute of limitations is constitutional in Maryland with clear legislative intent. Revival of a statute of limitations to provide justice for victims



of child sex abuse is constitutional because it does not interfere with vested rights. Even if a court were to find that a defendant has a due process right attached to a statute of limitations, that right is overcome by the state's compelling interest in identifying hidden child predators and protecting Maryland's children. **For these reasons, I urge a favorable committee report and passage of Senate Bill 134 without amendment.**

I commend you and this committee for taking up Senate Bill 134 as it will clearly protect the children of Maryland and allow justice for so many who have suffered for far too long. Please feel free to contact me should you have any questions.

Respectfully,

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David Schappelle SB 134 WrittenTestimony.pdf

Uploaded by: Schappelle, David

Position: FAV

TESTIMONY IN SUPPORT OF THE HIDDEN PREDATORS ACT – SB 134
CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF LIMITATIONS
****SUPPORT****

TO: Hon. Chairman William C. Smith, Hon. Vice Chair Jeff Waldstreicher, Senate Judicial Proceedings Committee

FROM: David Samuel Schappelle

DATE: 01/20/2021

My name is David Samuel Schappelle, and I currently live in Ellicott City, MD with my wife of 18 years, and our five children. This year, 2021, our two sons will be 15 and 13, and our daughters will be 11, 9 and 4. My family attends mass every Sunday at St. Louis in Clarksville, but I have stopped going because I have a difficult time at church nowadays. My wife is still active in our parish and we believe God is greater than the actions of the Catholic church. My oldest two boys were even altar servers before the COVID-19 pandemic, which is one reason for why my memories started coming back when my boys were around ages 9-11.

I can testify that repressed memory is very real and very tragic. I'm 43 years old, and in April of 2019 I began to recall the sexual and physical abuse that happened to me when I was age 9 in 1986 by priests working through St. Rose of Lima in Gaithersburg, MD. I would like to support anyone else who have repressed memories of child abuse, or who remember but are afraid to come forward and be heard. I would like to testify in support of The Hidden Predators Act, which will help myself and countless others.

My memory recollection process has been excruciating, painful, and debilitating at times. The memories still become clearer and clearer as the months (now years) pass since I first recalled my abuse in April 2019. My memories will flash at any time of the day or night (mostly at night and I can't sleep). Part of my therapy has been to write all my memories into a journal, which is now full of awful memories from a childhood of lost innocence.

The thought of suicide is a constant fear and threat in my head. It is only because of the tremendous love and support of my family that I am still here today, as well as thanks to my therapist who I started seeing when I recalled my abuse in 2019. I suffer from chronic PTSD, depression, anxiety, and I have anger management issues. The intense therapy and counseling that I have been receiving since April 2019 has cost us out-of-pocket close to \$40,000!

My primary abuser was Wayland Brown (formerly Father Brown – he was excommunicated), who pled guilty and was convicted in 2018 to child sexual abuse and the rape of two boys between 1987-1988 in Savannah, Georgia. In fact, the only reason

that they could sentence him was because some of the crimes occurred in South Carolina, which has no statute of limitations to bar prosecution.

Mr. Brown sexually abused me numerous times during the fall of 1986 when my family had just moved to Gaithersburg, MD and started attending mass and CCD/religious education through St. Rose of Lima. Since my memory recollection, I've come to learn that in 1986 Mr. Brown was receiving treatment at St. Luke's Institute in Silver Spring, MD. He was sent there by the Archdiocese of Savannah, GA for outpatient "rehabilitation" related to prior sexual abuse allegations in Georgia. He was allowed to volunteer in my CCD classes and attend church events at St. Rose of Lima. While he was playful and charismatic with a friendly smile on the outside, he was horrible and sinister and dark on the inside. He used God as a way to prey on me, and other children. Our church community, especially the CCD teacher and organizer, had blind faith in this man because he was a priest and he abused that privilege.

Mr. Brown taught me "special" ways to pray, a perverted way to receive communion, and how I could speak to God directly by putting my mouth on his penis. I was 9 years old and was being sexually abused by an ordained Catholic priest. He even introduced me to another priest who together they sexually abused me in a car. The other man who abused me in that car, I believe, is still in ministry in Massachusetts.

One time at a church picnic for kids, Mr. Brown took me alone into a house on church grounds, and led me to a room and showed me a handgun. He made it clear that he had the gun so that he could be sure that I "won't tell anyone about what was about to happen." Then he showed me how to put a condom on him, and then he raped me. I blacked out from the excruciating pain. When I awoke, he said the Hail Mary prayer to me and told me to say it with him. I could barely get a word out of my mouth. Later that same day, he asked me to leave with him to go to Georgia. That he had to leave soon. I said "No", my family just moved here, and I can't go with you. It sickens me to think about what happened next to other boys in Georgia and South Carolina.

After a time of transition at St. Rose, a new priest, Father Duggan, was assigned to our parish and I told him about what had happened. Father Duggan replied saying that those priests were no longer around, and that some priests have different ways, and that he would keep me safe. I was never abused again sexually, but my mental abuse continued when nothing happened, and my brain went into survival mode. For whatever reason, and however my brain worked, in order to function as a normal adolescent, teenager, and adult, my brain suppressed the trauma that I experienced.

Sexual abuse (no matter when it happened) is an attack on the survivor's body, mind, and soul. Sexual abuse done by religious figures is an attack on everyone's faith. Remembering and reliving the horrible events of my abuse have had a catastrophic effect on my life and family. My wounds are still very fresh, as if I was abused and raped in 2019 when the memories started coming back to me. I am choosing to be a survivor, though, and I am starting to heal, but part of a survivor's healing process is to hold the responsible parties accountable for their bad practices and poor judgment. We

deserve this opportunity to be heard in court. My memories of the tragic events that happened to me are very real.

I urge a favorable committee report and passage of The Hidden Predators Act without amendments.

Carolyn Surrick SB134 Written Testimony.pdf

Uploaded by: surrick, carolyn

Position: FAV

Testimony 2021

At thirteen, as a seventh-grade student at The Key School in Annapolis, the grooming started. I was fourteen when I was raped. When I was fourteen and pregnant, I was taken to Washington for an abortion by one of the teachers who was abusing me. I was sexually abused by two different teachers in the same year. The abuse continued until I was nineteen. My facts.

There is no doubt that the sexual abuse of children is horrific, and that specific abuse has specific consequences. It matters how old the child is when it starts. It matters how sadistic the predator is. It matters how long it lasts, and the frequency of the abuse.

No two people who have suffered these experiences are alike, but there are some predictable outcomes - obesity, drug abuse, alcoholism, depression, anxiety, and suicidality. It comes with the territory.

When you are sexually abused as a child, all sorts of things go sideways in your life because every boundary that should be in place, isn't. Many of us never marry. We don't know how to be in committed relationships. We can't open our hearts because we learned early on that it is a terribly dangerous thing to do. If we have children, we live in fear that what happened to us, will happen to them. We are addicted to sex, or we can't trust anyone enough to be intimate. The list goes on and on, and it makes sense. When a child, who is by definition naive and innocent, engages with a predator, bad things happen. Bad things happen when the predator is active, bad things happen when it's over. Due to the extremely destructive messages and a young mind, it takes years, often decades, far longer than any statute of limitations, for sexual abuse victims to fully realize what has occurred, the abuse of power, the trauma, and the damage done.

For the record, I have worked hard to become healthy. Normal. Well adjusted. I've been in therapy for thirty-six years, eight of which were psychoanalysis, four days a week on a couch. I've had acupuncture since 1987.

But I need you to think about justice for a second. The statute of limitations ran out for me when I was twenty, traumatized - and truly, at that moment, I did not recognize, and could not possibly understand, the magnitude of the damage that had been done. It was another twenty years before I started understanding, really understanding, the totality of my experiences.

Starting in 1993, I worked for decades to get Key School to understand how many teachers had abused students, how many students had been abused, the duration of the abuse, and the culture that turned a blind eye to something that was ubiquitous on campus. I was not successful. Not being heard is yet another form of degradation.

Twenty-five years after I first notified a board member about the abuse, the school finally started a formal investigation.

Today, the head of the school is a good man - now there is a fund to help survivors get therapy. And in a letter last year, the board stated that they plan on continuing this indefinitely.

What exactly does that mean? I can tell you what it doesn't mean. It doesn't mean that in five years, the next board will make the same decision. And they have said clearly, that they will not pay for therapy retroactively. Here's the thing: they know that they don't have to. Their legal team told them that they have nothing to worry about because this bill will never pass. They won't have to go to court, they will never be held accountable.

Schools and churches are institutions. At any given moment, they are doing a cost/benefit analysis. Right now, they are helping survivors because the world is watching. In five years, they won't have to.

You are here to bear witness to these people who are telling you that terrible things happened, and the institutions knew. They knew what was going on and they did nothing. And now we, the victims, are asking you to do something. To do the right thing, and pass this legislation. Allow us to seek justice. We've been waiting for a really long time. Thank you.

January 25, 2021

Carolyn Surrick
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SB134 Favorable Testimony.pdf

Uploaded by: White, Rachel

Position: FAV

To: Senate Judicial Proceedings Committee

From: Rachel White, Advocates for Children and Youth

Re: Senate Bill 134: Civil Actions-Child Sexual Abuse- Definition and Statute of Limitations (Hidden Predator Act)

Date: February 2, 2021

Position: Support

Thank you for the opportunity to provide testimony on House Bill 974: The Hidden Predator Act. Advocates for Children and Youth supports this bill as it works to eliminate the civil statute of limitations for child sexual abuse survivors and creates a look back window of two years for those survivors originally barred by the current statute of limitation.

This bill helps to provide justice for victims ready to come forward, shifts the cost of abuse from the victim to those that have caused it, identifies hidden predators, educates the public about the child sexual abuse epidemic, and arms trusted adults to protect children. This bill is preventative and may act as a deterrent for future abuse.

There are claims that passing this bill will bankrupt institutions such as the Catholic Church and prevent the church from providing necessary services and supports to the most underserved communities. This is simply not the case. In fact, nearly 77% of Catholic Charities of Baltimore revenue comes from governmental agencies as payment for services provided; these funds may not be used to pay victims settlements or judgments. This bill would have no effect on the Church's ability to provide social services.

With respect to servicing the most under-resourced communities, a double-edged sword is created where victims must choose between coming forward and exposing their abuser and receiving much needed services to survive. For survivors of color, who often face additional social and cultural barriers to coming forward on their own, the lack of concerted outreach on behalf of the church means less public exposure and potentially, more opportunities for abuse to go on, undetected.

According to Brian Clites, a leading scholar on clergy sexual abuse and professor at Case Western Reserve University in Cleveland: "the church has demonstrated a pattern of funneling predator priests to economically disadvantaged communities of color, where victims have much more to lose if they report their abuse. They are less likely to know where to get help, less likely to have money for a lawyer to pursue that help and they are more vulnerable to counterattack from the church, which will hire investigators against the survivors."

Maryland must work to end the exploitation of communities of color. Survivors deserve the right to be heard and should not have to bear the costs of their recovery or have to choose between coming forward to share their abuse or receiving much needed services. Eliminating the statute of limitation and allowing for a 2-year lookback window will help to encourage victims to come forward and reap the recourse that they deserve. For the reasons stated above, we ask that you issue a favorable report on SB 134.

SB134 FAIR UNF.pdf

Uploaded by: Jones, Brenda

Position: UNF

Unfavorable Response to SB-134

Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations

Families Advocating Intelligent Registries (FAIR) seeks rational, constitutional sexual offense laws and policies for persons accused and convicted of sexual offenses. We oppose SB-134 on a number of grounds.

There are no definitions of terms.

- A.** SB-134 strikes the use of definitions of sexual abuse from Family Law 5-701 and instead drops in a list of terms with no clarifying definition at all. What is "obscene?" There are many interpretations. What would "pornographic" include? Total nudity? Suggestive poses even clothed? What does "similar activity" mean? Prostitution, incest and rape are defined elsewhere in statutes but not referenced here.
- B.** The other place where unnatural or perverted sexual practices are listed in our statutes includes homosexual behaviors which are protected by a supreme court decision, so it is unlikely we would want to define that here in the same way. As spoken in *MD Trapasso v. Lewis*, 2020 "...interpretation should be given to the statutory provisions that do not lead to absurd consequences."¹

Eliminating statutes of limitations flies in the face of solid research.

- A.** Faulty memories becomes troublesome as more time elapses between alleged actions and the time of a trial.
- B.** Witnesses, records, and any evidence that may have been initially available may be lost, making credibility more challenging for all parties involved.

Repressed memory testimony is unreliable and therefore inadmissible.

- A.** Repressed memory therapists' malpractice claims initiated by their clients or SAO criminal charges are rising. Scientific research does not support that memory can be repressed and later recovered intact.²

¹ <https://law.justia.com/cases/maryland/court-of-special-appeals/2020/2843-18.html>

² Elizabeth Loftus, Ph.D. <https://faculty.sites.uci.edu/eloftus/>

Probative value of prior acts must outweigh the danger of unfair prejudice

- A. Maryland Evidence Rule 5-609, the probative value of prior acts must outweigh the danger of unfair prejudice which is particularly high if the witness sought to be impeached is the accused.³ This is also referenced in *MD King v. State*, 2008.⁴
- B. With so many tangled memories, there is a high likelihood of unfair prejudice.

There is already a strong and clear process by which a person can accuse someone of abuse.

Although FAIR might wish it otherwise, the fact is that Maryland already has no criminal statutes of limitations for child sexual abuse. Thus there is already a strong and clear process by which a person can accuse someone of abuse **no matter how long ago**. Our current law is NOT in any way lenient towards abuse victims.

Consider for a moment what YOU would do if someone you knew twenty or more years ago suddenly filed a civil suit against you for child sexual abuse - an event you categorically deny or only dimly remember any details. What would you do? What COULD you do?

Please vote NO on SB-134.

Sincerely,



Brenda V. Jones, Executive Director
Families Advocating Intelligent Registries
Cell: 301-318-8964

³ <https://govt.westlaw.com/mdc/Document/N5C595E909CEB11DB9BCF9DAC28345A2A?transitionType=Default&contextData=%28sc.Default%29#:~:text=For%20the%20purpose%20of%20attacking,crime%20relevant%20to%20the%20witness's>

⁴ <https://caselaw.findlaw.com/md-court-of-appeals/1646108.html>

testimony.pdf

Uploaded by: Zirkin, Bobby

Position: UNF



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

February 02, 2021

**Senate Bill 134 - Civil Actions – Child Sexual Abuse –
Definition and Statute of Limitation (Hidden Predators Act 2021)**

Senate Judicial Proceedings Committee

OPPOSE

The Maryland Catholic Conference represents the public policy interests of the three dioceses serving Maryland, including the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington, which together encompass over one million Marylanders. We offer this testimony in opposition to Senate Bill 134, in its current form.

At the outset, we wish to acknowledge the tremendously painful and emotional nature of the issue of child sexual abuse, the courage of the survivors of sexual abuse who advocate for changes in the law regarding the civil statute of limitations for cases involving child sexual abuse, and our sorrow for all those who have suffered through contact with anyone involved with the Catholic Church.

It is with great reluctance that we submit this testimony in opposition to the legislation before you. We feel compelled to oppose the current version of this legislation, specifically the unconstitutional provision to open a two-year retroactive window allowing civil cases of child sexual abuse to be brought forward regardless of how long ago they are alleged to have occurred.

We have noted in connection with past legislation that eliminating the civil statute of limitations retroactively raises serious equity concerns and is particularly unnecessary in Maryland which does not have a criminal statute of limitations on child sex abuse. Maryland is one of few states that have no statute of limitations for felonies, and thus perpetrators of sexual abuse can be rooted out and victims can have their day in court at any time until the death of the perpetrator, regardless of how long ago the sexual abuse occurred.

While there is clearly no financial compensation that can ever rectify the harm done to a survivor of sexual abuse, the devastating impact that the retroactive window provision will potentially have by exposing public and private institutions - and the communities they serve - to unsubstantiated claims of abuse, cannot be ignored.

While the Catholic Church has worked to both address the past and protect the present and future, as the attached handout indicates, there are likely no words of apology; no amount of financial compensation; no assurances of current or future accountability, transparency or child protection measures that will win back the trust of many within and without the Catholic Church when it comes to the Church's past transgressions regarding childhood sexual abuse. While we recognize that our opposition to the current version of Senate Bill 134 risks the further erosion of that trust, we cannot in good conscience remain silent about the potential this legislation has to jeopardize the good works of so many who give of their time and efforts on behalf of the Catholic Church to reach out to those served by the Church's myriad social service, educational, health and spiritual ministries.

We urge you to consider this legislation in light of the considerations we have outlined here, and to give Senate Bill 134 an unfavorable report, in its current form.