



State Council on Child Abuse and Neglect (SCCAN)

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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 686:

CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF LIMITATIONS (The Child Victims Act of 2023)

****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)

DATE: February 21, 2023

SCCAN strongly supports SB 686, Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations. This bill has five key components: (1) Eliminating the statute of limitations for child sexual abuse; (2) Repealing the so-called “statute of repose”; (3) Establishing a permanent lookback window to allow victims previously barred by the statute of limitations to file suit; (4) Allowing both public and private entities to be sued; and (5) Eliminate the notice of claims deadlines for public entities in child sexual abuse cases.

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 more than 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.⁷

Some opponents of SB 686 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-cla>

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 686, 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 right,ⁱⁱⁱ 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 686 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)



Senate Bill 686 / House Bill 1
Senate Judicial Proceedings Committee/House Judiciary Committee
Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations
(The Child Victims Act of 2023)
**** SUPPORT ****

February 21, 2023

Dear Committee Members:

We know the statistics that 1 in 5 girls and 1 in 13 boys will experience child sexual abuse before reaching adulthood. We have learned through research that the adverse experiences we face in childhood (ACEs) change the structure and function of our brains and have lasting individual and societal 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 all of us. According to the CDC, the economic burden of child sexual abuse is over \$9 billion annually. Endorsed by a broad coalition of support and buoyed by the strong national trend on this issue, we are writing to ask for your support for HB01 The Child Victims Act of 2023.

Across the country, state legislators are recognizing that change needs to happen. Since 2002, 50% (27 jurisdictions) of U.S. jurisdictions have passed revival legislation. Seventeen states, D.C., and Congress have eliminated civil statutes of limitation for child sexual abuse. In September 2022, Congress passed the bipartisan "Eliminating Limits to Justice for Child Sex Abuse Victims Act of 2022." Changes in these laws have given adult survivors of child sexual abuse another pathway to healing and justice. Most importantly, SOL reform, especially revival legislation, protects children now by exposing hidden predators and those that conceal them.

The Child Victims Act of 2023 would:

1. Eliminate the statute of limitations for child sexual abuse.
2. Repeal the so-called "statute of repose".
3. Create a permanent window for older claims.
4. Allow both public and private entities to be sued.
5. Eliminate the notice of claims deadlines for public entities in child sexual abuse cases.
6. The legislation will have some limitations on liability to a single claimant for injuries arising from a single incident or occurrence:
 - a. for retroactive claims (the statute of limitations has already run):
 - i. for private entities:
 1. \$1.5 million cap on non-economic damages
 2. no cap on economic damages
 - ii. for public entities:

- 1. \$850,000 cap for damages
- b. for prospective claims (the statute of limitations has not run):
 - i. for private entities
 - 1. no caps on either economic or non-economic claims
 - ii. for public entities
 - 1. \$850,000 cap for damages

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 where windows are opened, hidden predators are exposed. In Minnesota, under their 3-year lookback window, 125 predators were identified, In California, under their 1-year lookback window, 300 predators were identified. For our neighbors in Delaware, the lookback window uncovered Dr. Earl Bradley, the most active, previously undisclosed predator to date, who as a pediatrician had 1,000 victims.

Collectively, we are saying enough is enough. Those who sexually abuse children, and the institutions that protect abusers, must be held accountable. Survivors deserve access to justice. Maryland can and must do better. We urge you to support the passage of The Child Victims Act of 2023 in the Maryland General Assembly this year.



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MARYLAND
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Maryland Children's Alliance, Inc.



PROTECTING CHILDREN, PROVIDING SUPPORT, PROMOTING CHANGE



**BOYS & GIRLS CLUBS
OF HARFORD & CECIL COUNTIES**



CITI Ministries
Celibacy Is The Issue



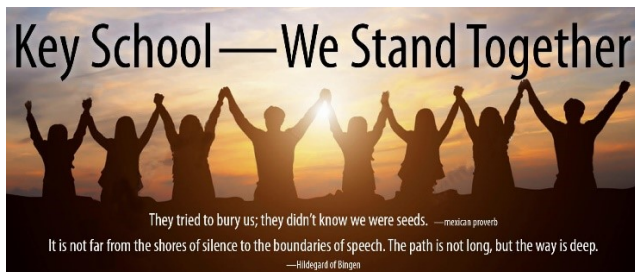
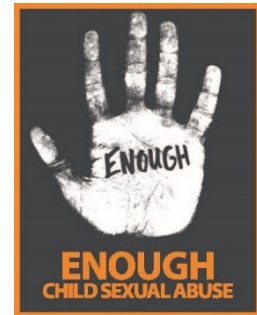
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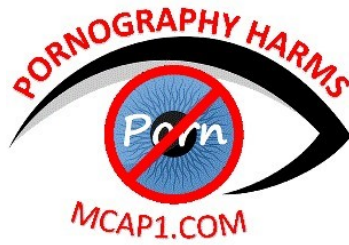
The Family Tree

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ASHLAR GOVERNMENT RELATIONS












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THE CHILD VICTIMS ACT OF 2023 (HB1/SB686)

Will Maryland protect its children or protect its predators?

GOALS OF THE CHILD VICTIMS ACT (HB1/SB686)

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

WHAT WILL THE CHILD VICTIMS ACT (HB1/SB686) DO?

- Eliminate the civil statute of limitations for child sex abuse.
- Repeal the so-called "statute-of-repose."
- Create a permanent window for older claims.
- Allow both public and private entities to be sued.
- Eliminate the notice of claims deadlines for public entities in child sexual abuse cases.
- The legislation will have some limitations on liability to a single claimant for injuries arising from a single incident or occurrence:
 - For retroactive claims (the statute of limitations has already run):
 - For private entities:
 - \$1.5 million cap on non-economic damages
 - No cap on economic damages
 - For public entities:
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 - For prospective claims (the statute of limitations has not run):
 - For private entities:
 - No caps on either economic or non-economic claims
 - For public entities:
 - \$850,000 cap for damages

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

A: A "statute of repose" gives constitutionally protected property rights to a defendant. It is intended to be used in product liability cases to limit the length of time that the builder or inventor may be held responsible for problems or defects. It was never intended to protect wrongdoing by sexual predators and those that protect them from prosecution or discovery. In 2017 There was no discussion or debate of the constitutional implications of the "statute of repose" in committee or on the floor of either chamber. Neither the Fiscal and Policy Note, nor the Revised Fiscal and Policy Note, make any notice of the pivotal constitutional implications to this law. Neither the constitutionality of a lookback window nor a "statute of repose" in child sexual abuse cases has been decided by the Maryland courts. Constitutionality should be determined by the courts.

The Child Victims Act (HB1/SB686) removes the "statute of repose" language making it clear to the courts, the public, and survivors that the Maryland General Assembly did not intend to vest constitutionally protected property rights in child sexual predators nor the individuals and organizations that hid predators from discovery and prosecution.

How will the permanent window impact institutions that provide education and social services to low-income individuals and communities?

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

THE CHILD VICTIMS ACT OF 2023 (HB1/SB686)

FACT: There is a national shift towards exposing hidden predators through civil SOL lookback windows.

In 2019, Washington D.C.:

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

In 2019, New Jersey:

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

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

In Delaware:

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

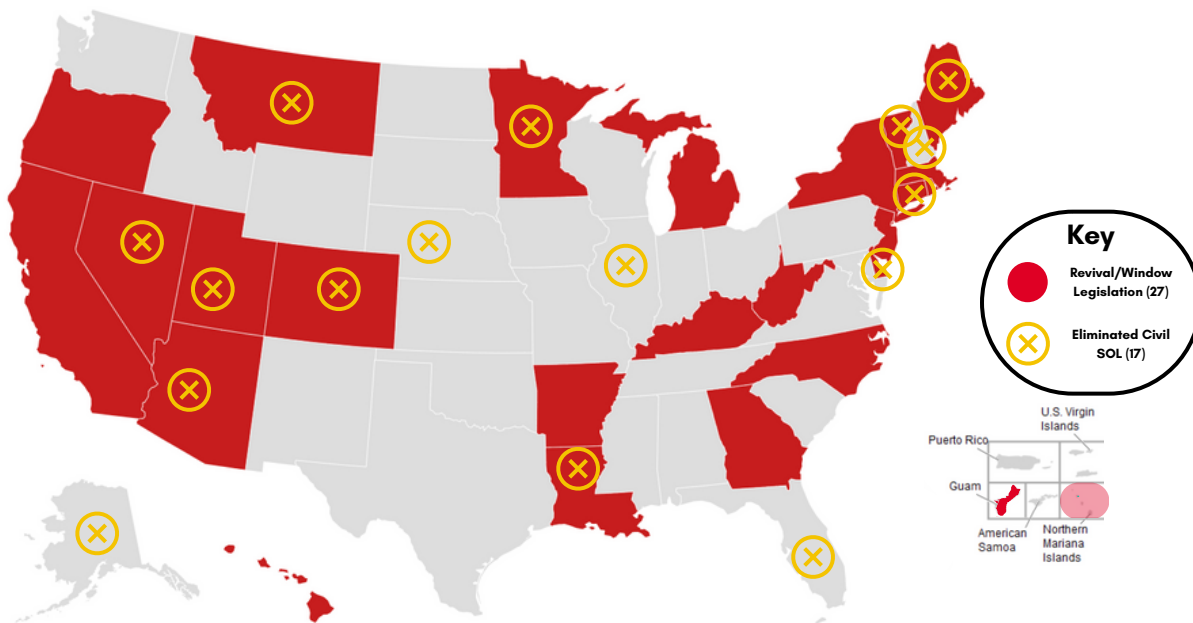
In Minnesota:

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

In California:

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

SOL Legislation for CSA in the United States - 2022



Is there a need for further civil SOL reform?

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

How will this bill help Maryland prosper?

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

Impact of Child Sexual Abuse

Wendy G. Lane, MD, MPH

Chair, SCCAN

Co-Chair, Child Maltreatment &
Foster Care Committee - MDAAP

American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN™

Maryland Chapter



Outline

- . How common is Child Sexual Abuse?**
- . Physiologic effects**
- . Health effects**
- . What prevents children from disclosing?**

How Common is Child Sexual Abuse?

New Victims - 2020

United States

- 57,963 children
- 1.1 case / 1000 US children
- 8% of all US maltreatment

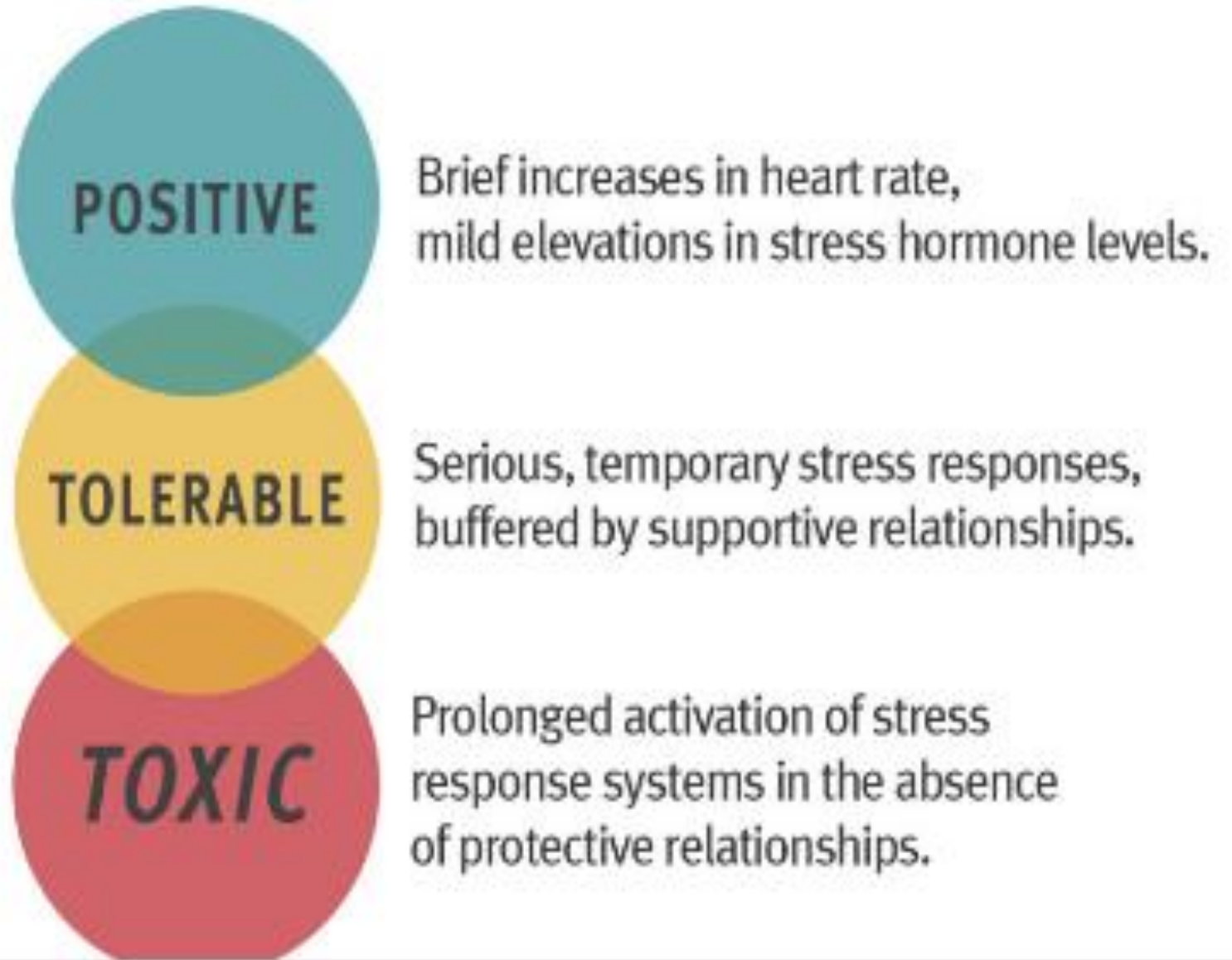
Maryland

- 2,059 children
- 1.5 cases / 1000 MD children
- 26.5% of all MD maltreatment

Lifetime Risk

19% of women; 9% of men abused as children

Toxic Stress



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- <http://developingchild.harvard.edu/science/key-concepts/toxic-stress/>

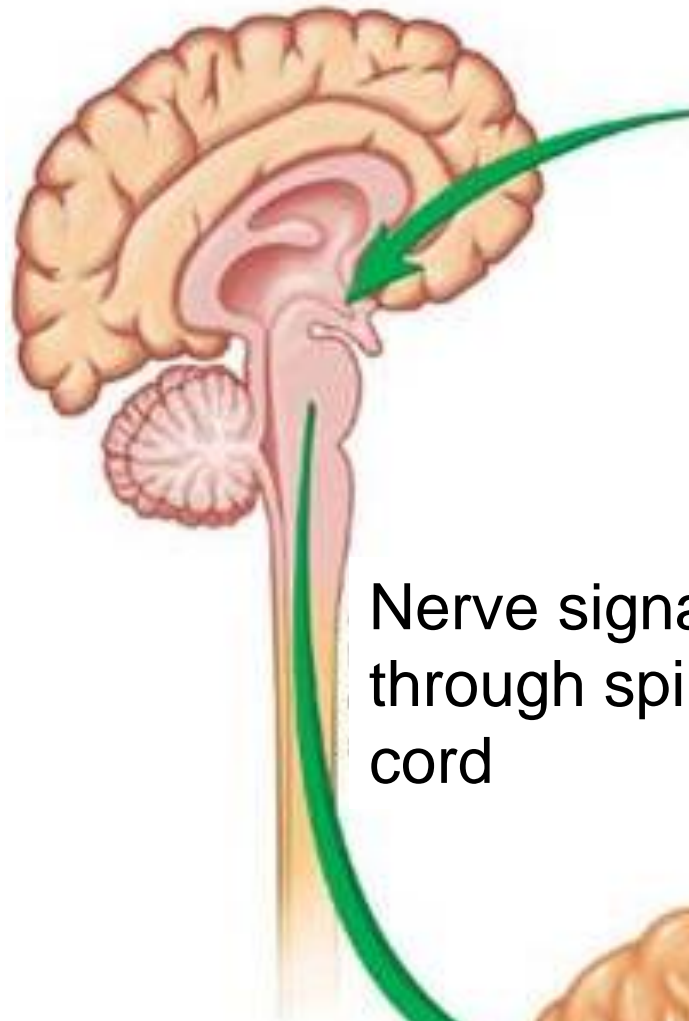
Biologic Response to Stress



- **Activation of physiologic stress-response systems**
- **Hypothalamic-Pituitary-Adrenocortical (HPA)**
- **Sympathetic-Adrenal-Medullary (SAM)**
- **Prolonged or repeated activation →**
 - **Physical disorders**
 - **Psychiatric/psychological disorders**

Sympathetic – Adrenal – Medullary System

Stress



Nerve signals
through spinal
cord

Adrenal
medulla

Epinephrine
Norepinephrine



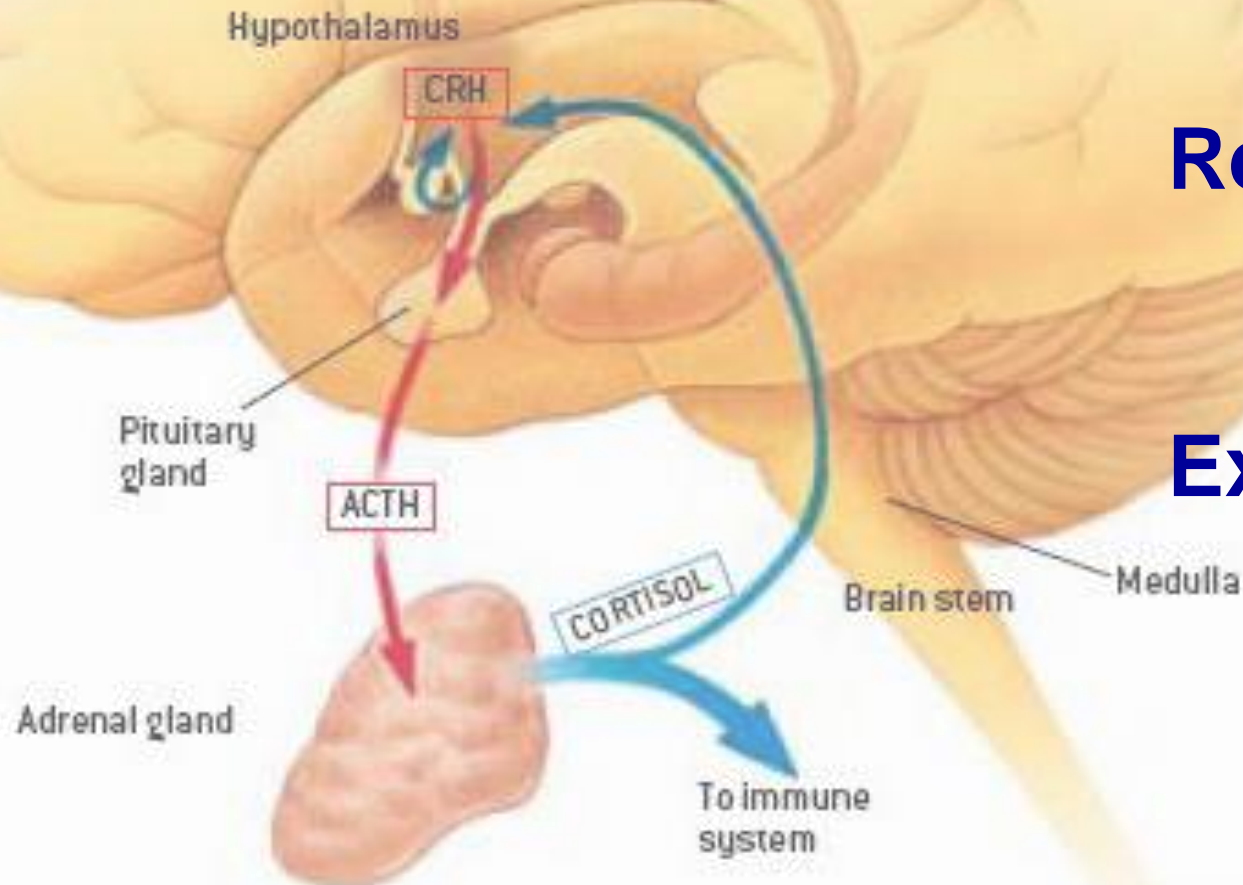
STRESS RESPONSE SYSTEM

HPA Axis

Alarm Stage – Increased
Hormone secretion

Resistance – adaptation
High, stable output

Exhaustion - overwhelmed



Sexual Abuse and Overall Health

- Association between sexual abuse and:
 - Poorer overall health
 - Increased chronic disease
 - Greater functional limitation
- Association persists even after controlling for depression (Golding, et al, 1997)

Sexual Abuse and Mental Health

3.5X ↑ risk for mental health disorder

Increased risk for:

- Depression
- Anxiety
- Bipolar
- Psychosis
- OCD
- Suicidal ideation

Hogg, European Archives of Psychiatry & Clinical Neuroscience, 2022;
Ferguson, Child Abuse & Neglect 2013

Sexual Abuse & Substance Use Disorder



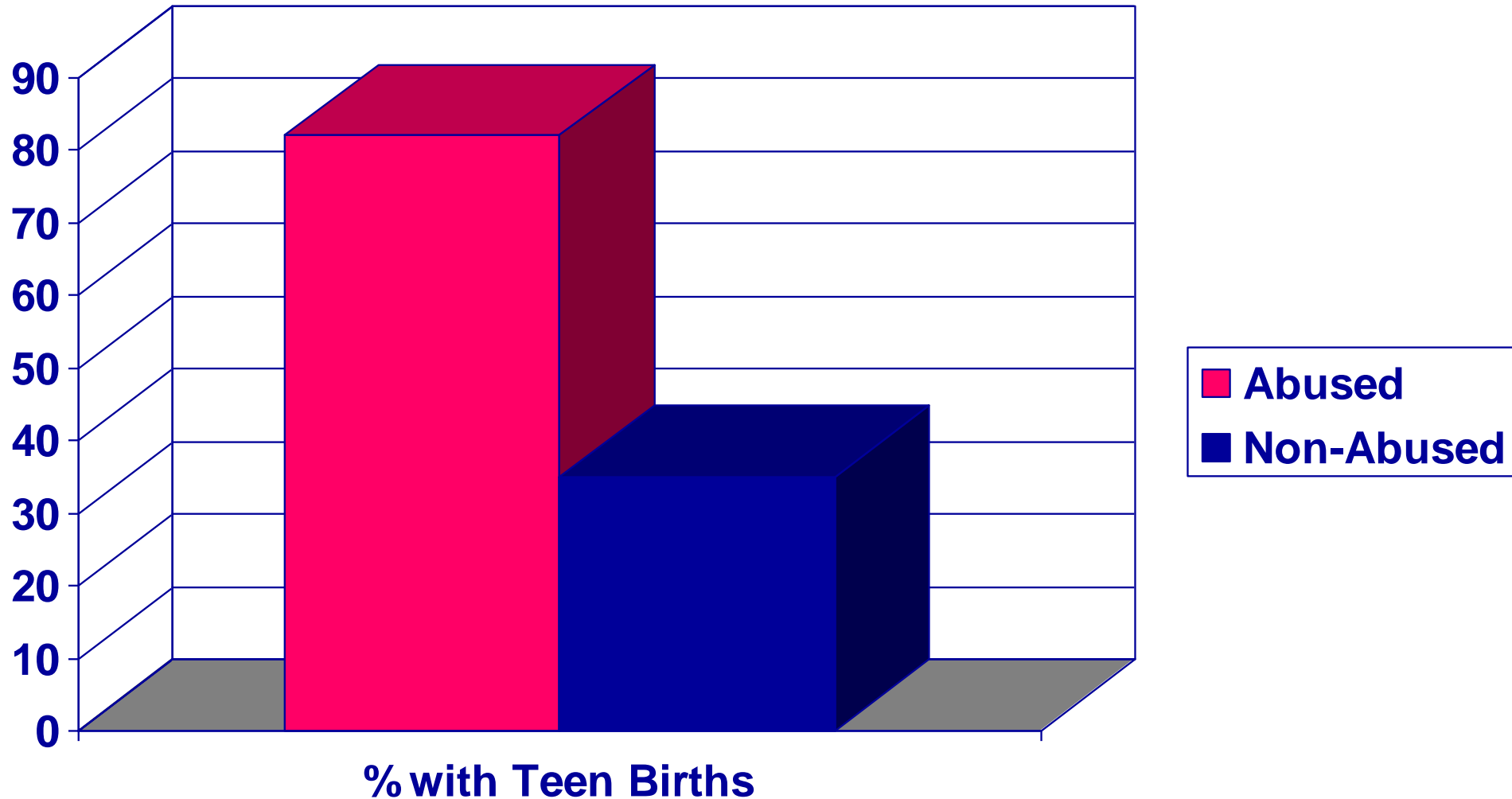
- 1.73x increased risk of substance abuse
- Increased risk for:
 - Poly-substance abuse in teen girls
 - Opioid misuse during pregnancy
 - Alcohol misuse among MSM

Sexual Abuse and Eating Disorders –

Odds of Disorder compared to those with no CSA

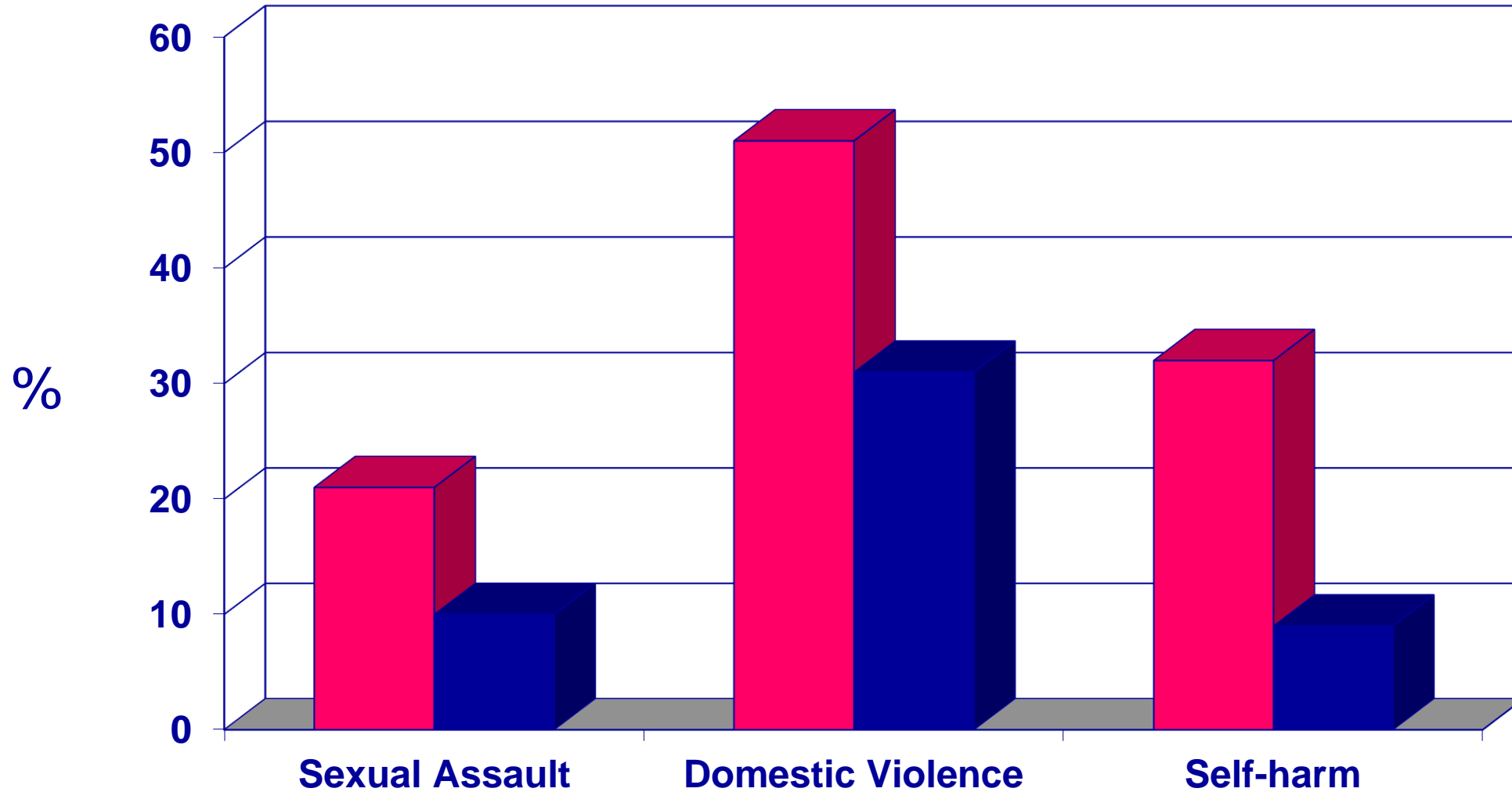
# of CSA Reports	Binge Eating	Purging	Overconcern re: weight
1	1.9	1.7	1.2
≥2	3.0	4.4	1.7

Sexual Abuse and Teen Pregnancy



Noll, et al J Consulting Clin Psychol 2003.

Revictimization



■ Abused **■ Non-Abused**

Sexual Abuse and Healthcare Costs

Higher healthcare costs

More doctor visits

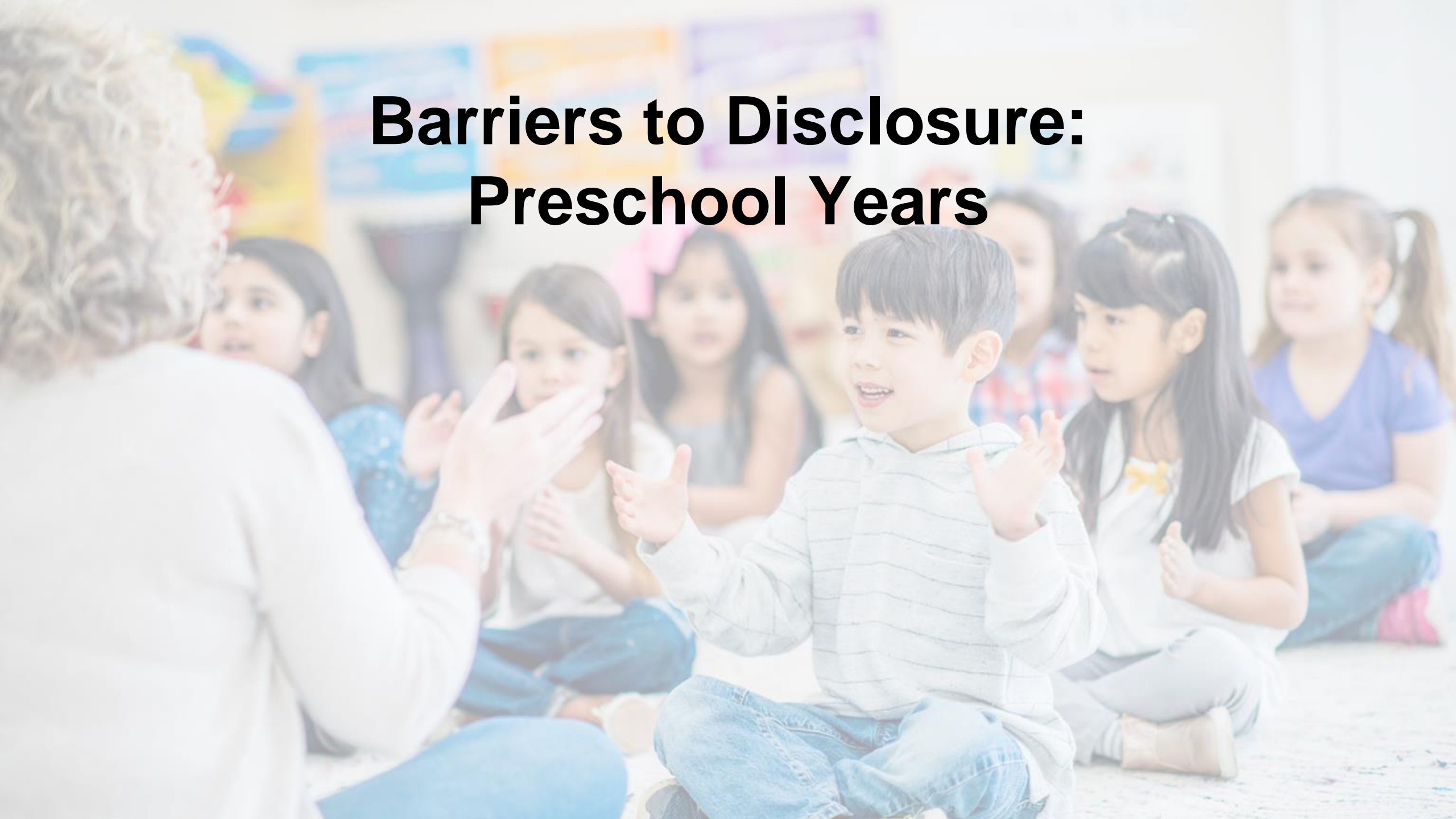
More surgery

More hospitalizations

Barriers to Disclosure: Toddlers



Barriers to Disclosure: Preschool Years





Barriers to Disclosure: School Age Children

Barriers to Disclosure: Teens



A blurred background of a medical office desk. In the foreground, there is a clipboard with a pen, a stethoscope, and some papers. The text is overlaid on this background.

Thank you!

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