

CHILD USA: Fix Iowa's "worst in the nation" child abuse laws

January 27, 2020 Iowa Statehouse

Senator Petersen: Thanks to everyone for coming. Those of you who know me know that children's rights issues are very near and dear to my heart. And today we're going to be talking about the topic of statute of limitations on child sex abuse. Iowa is one of the worst states in the country in terms of protecting our children. We actually do a better job of protecting perpetrators!

And so, I'm very happy to have two of the nation's leading experts in how to prevent child sex abuse, and what our state can do through lawmaking and advocacy to better protect Iowa's children.

I would love to introduce Marci Hamilton, the executive director of Child USA, and Kathryn Robb who heads up Child USA Advocacy. So, thank you for being here today.

Marci Hamilton: Thank you so much for inviting us, Senator Peterson, and the Interfaith Alliance for putting together this opportunity. Let me just begin by saying Kathryn Robb and I met 13 years ago working in the State of New York to get justice for child sex abuse victims. I started in New York 16 years ago, and it took us 16 years in combined effort. 13 years to get justice for the victims in New York. So New York started a tidal wave. And we have seen massive change across the country in the last two years.

You should have this handout which talks about what happened in 2019, and what's happening in 2020. I'll get to that, I just want to make sure you had a copy before we got started.

So, the statute of limitations is a topic that is just procedural. It is not something I ever intended to focus on. I clerked for Justice Sandra Day O'Connor. I was editor in chief at the Law Review of the University of Pennsylvania Law School. I was going on to do very fancy constitutional law. And what happened is I learned, as part of doing the First Amendment defenses for child sex abuse victims in the clergy cases, that most victims can't even go to court across the United States. 20 years ago, the vast majority just weren't allowed in court because they hadn't come forward yet.

So, I started working on this issue. I thought it was such a no-brainer. I wrote a book called "Justice Denied." Really the idea of book was to write a book everybody could read in an hour. And then I would go on to do fancy constitutional law. I thought it was a no-brainer! Children being sexually abused, not getting justice. That seems to me like a nonpartisan, bipartisan, no-brainer. Let's just fix it. We didn't understand what we were doing. "Let's just fix the law."

But as I've learned, and as I've just become more stubborn about it over the years, there are forces in our society that fight child sex abuse victims. So that's really the story of statute of limitations reform. And I'm going to tell you about the facts that justify it. Why we work so hard on Child USA. And why it is so important to be working on these issues.

About a third of child sex abuse victims are victimized by direct family relatives. Kathryn Robb is a survivor of family abuse. It is the last frontier. It is the one we aren't yet truly talking about. We are

talking about the churches, the Boy Scouts, and the schools and the coaches, and the United States Olympic committee. But this is a problem that runs across the entire culture.

And so, if you don't do something now, you can be certain that the children in the state of Iowa are being abused.

Let me just quickly say that we're the only organization that tracks this issue across the 50 states. We update our data every week. And we're very fortunate to be funded by the McIlmail Family. The McIlmail family, their son was the only person in statute to prosecute a priest who has been sexually abusing children for 30 years in Philadelphia. And the stress of the legal process, and being the only one, he relapsed and died of a heroin overdose immediately before the arraignment. This priest was never prosecuted.

This is all about what how do we get justice, and whether we get justice.

A statute of limitations is just a deadline. It's just housekeeping in the courts and it's for two reasons. It's either to prosecute. Your district attorneys, Attorneys General, the FBI with the Department of Justice. Or it's about civil lawsuits. And I'm going to talk about both of those fronts in the United States right now.

It's just a fact that the criminal statute of limitations reform has been moving very quickly. At this point, 44 jurisdictions in the United States have no criminal statute of limitations. There's no limit for the victims and so what that means is in those states, the victims get to come forward when they're ready, psychologically and otherwise.

1. Criminal SOL –

Time allotted for the government to criminally charge a perpetrator.

2. Civil SOL –

Time allotted for victims to sue abusers and others responsible for the abuse.

An SOL is a legal deadline for pressing criminal charges or filing civil claims.

In Iowa, this is one of the last holdouts to have an age cap on bringing child sex abuse statutes of limitations reform.

If you don't have a statute of limitations, you find out about perpetrators you didn't know about. If you do, the secrets stay hidden, and I'll explain that.

The other possibility is statutes of limitations reform. That's for lawsuits. Why do we need lawsuits? Because it's the only way any victim ever gets discovery. That makes it possible to educate the public on abuse in institutions and abuse in families. Without the weapon of being able to go into court, the secrets are kept. And if the secrets are kept, the perpetrators just simply keep operating. That's just a fact of life.

So, the reality is, that the best science, and what we do at Child USA is put the best social science with the best legal analysis for solving society's problems for children. We know as matter of fact that age 52 is the average age for someone to come forward who was a child sexual abuse victim, 52. A third come forward as children, though they don't necessarily tell adults. A third come forward as adults. And a third never come forward.



We have this really huge amount, we have an iceberg of information about child predators in the United States. It's been these laws that have kept those secrets just locked up. And if you don't create justice for the victims, essentially what you end up with is the "Me Too" movement, and then you're laughing at the victim.


What the Me Too movement has been saying is that “you should tell your story.” It is important to tell your story. Well, it is important to tell your story for the survivors who tell their stories. But, if you tell your story, and the next thing that is said to you is “Sorry there's no justice for you. Thanks for telling us. You can go home now and go on with your life.” It's unfair. It's so unfair to do that to victims.

We're working hard to try to be able to expand actual justice for the victims, which will then shift the balance of power from perpetrators and the institutions who aid them, and shift the power to the victims so that they can help prevent abuse. It's all about protecting victims to prevent abuse of other children. It's a public policy.

Victims delay reporting because of the trauma. We know as a matter of science that trauma can result in PTSD, substance abuse, suicide ideation, and worse, a higher incidence of suicide, substance abuse. All of these problems that then turn into barriers to disclosure. The person is suffering with their own issues. The last thing they're capable of doing is going forward to others.


Reasons Children Delay Disclosing Sexual Abuse

- Trauma
- Threats of bodily harm
- Fear of not being believed
- Shame or guilt
- Lack of opportunity
- Lack of ability to communicate abuse
- Reasons for delay often involve disabilities that result from the trauma: depression, PTSD, substance abuse, and physical illness.



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So, part of that we're dealing with is a massive cost to society. Survivors being told “You ought to be silent.” “You have no right to justice.” And that just perpetuates the problems that they suffer from.

So why do we work so hard on this issue? I've been working on it for 20 years, as I said. It's for three reasons. One, this is the only tried and true means that we know to identify who the child perpetrators are in a state.

The Three Main Purposes of Child Sex Abuse SOL Reform

1. Identify hidden predators
2. Shift the cost of abuse from victims and taxpayers to the ones who caused it
3. Educate the public about child sex abuse



Here is a good example so you can understand what the dynamic is. If someone comes forward and says they were sexually abused by this adult, and they're not in court, that adult can sue them for defamation. Many times that happens. But if you're in court, you can prove up your case. And they can try to sue you for defamation but they're not going to get anywhere. If you're out of court, you're going to be silenced because of fear of a defamation lawsuit.

Who is the most recent person to file a defamation lawsuit? Well, the most recent is a priest in the Midwest. The most famous is Bill Cosby, who sued victims number 34 through 50 for defamation, and then ended up being convicted criminally and that case had to be dismissed. So what we're talking about is fundamentally empowering the victims to bring justice to help us identify who the perpetrators are.

The second reason we work on SOL reform as we call it. And SOL is intended to be in double entendre. The reason we work on this is because right now victims and their families bear the cost of the abuse. Through statutes of limitations reform, through the civil lawsuits, the victims shift the cost from their shoulders to the ones who caused it.

So, a woman in New York has, what we now call the window, she has an open opportunity right now to sue. The very first verdict come down in the state of New York. She's suing her father. She sued her father because of non-stop sexual abuse of child. Her father's a millionaire. Her father responded to the lawsuit by saying "You'll get your money when I die." The lawyers responded and said "You can't

respond to a lawsuit like that. You just defaulted. We're now going to go to trial for the damages." The jury delivered a verdict of 14 million dollars. That would have never happened for that woman but for the law saying she had the ability to go to court. He now has to share his vast wealth with the woman whose childhood he destroyed because the courts were to make him do it. He certainly wasn't going to do it before that.

But finally, the other thing that Child USA is most invested in is educating the public. The public does not understand the prevalence, the constancy of child sex abuse.

It's one in four girls. It's one in six boys. So, in the State of Iowa, 20 to 25 percent were sexually abused. So, anytime you are in a room, the odds are that there is someone in that room who was abused and has not disclosed. The odds are that there is someone in that room who was abused and is suffering, but doesn't know what to do about it. And doesn't have the power to do anything about it.

This is in many ways a revolutionary approach of leveling the playing field between those who were victimized when they couldn't protect themselves and the ones who hurt them. It's really just old-fashioned American justice. It's really not terribly complicated. It's nothing like that fancy constitutional law work I was going to do many years ago.

2019 SOL REFORM
New SOL Laws Now in Effect for Child Sex Abuse in 23 States & D.C.

Number of States	Reform Type	States
9	Extended Criminal SOL	IA, IN, ME, NY, NC, ND, PA, UT, WA
12	Eliminated Criminal SOL	CO, CT, MT, NE, NV, NY, PA, TN, UT, VT, WA, DC
15	Extended Civil SOL	AL, AZ, CA, CT, IL, MT, NJ, NY, NC, PA, RI, TN, TX, UT, DC
1	Eliminated Civil SOL	VT
9	Window or Other Revival Law	AZ, CA, MT, NJ, NY, NC, RI, VT, DC

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Last year was a banner year. 2019 was absolutely remarkable. We had never seen a year with this much activity on this front. Most years there would be one or two states that would do something. 14 or 15 states that might introduce something mediocre or not so great. Last year we had nine states extended their criminal statute of limitations including Iowa--but it was a pretty measly five years with all due respect--still pretty short. But twelve states eliminated their criminal statute of limitations last year.

Fifteen extended their civil. One state (Vermont) eliminated its civil statute of limitations and windows were enacted in 9 states.

So, what is its window? Here's the issue. For the kids being abused today right now, which they are, if you extend or eliminate the criminal and civil statutes of limitations, you're helping them. And they'll just have longer than they would have had before.

What do you do about victims whose claims have been shut down because of unfairly short statutes of limitations? And the answer is you revive their expired civil statutes of limitations, so you create an opportunity and it's state to state. Some states have given one year. That's what New York did. So from August 14, 2019, to August 14, 2020, any person who was sexually abused in that state can sue for the damage done to them.

Who have we learned about? We've learned about perpetrators on Broadway. We've learned about a Dr. Archibald in the Rockefeller University system, who was an endocrinologist for little boys, who brought them in and sexually abused almost all of them.

If you start running the numbers, what becomes amazing is the access to children to abuse them that doctors have. A doctor could have 20-25,000 patients over the course of a career. We all heard Larry Nassar, right, with USA Gymnastics. But an endocrinologist in Rockefeller University Hospital -- at least 3,000 victims so far.

And so what do you do about the fact that none of these victims had ever come forward until this law was in place? You do this in other states so you can find out who the abusing individuals are.

And here's the killer: those sexually abused children tend to be the people you trust the most. You cannot trust your instincts because they have to persuade you they're trustworthy to get the child alone. They are literally---in the words of an FBI expert Ken Lanning: "the nice guy." Overwhelmingly male and overwhelmingly someone the children know.

Only 8% are—remember "stranger-danger?" The guy in the trench coat is lurking around on a school bus stop? That's 8% of child sex abuse. The rest of it is just someone in the child's orbit. It's the coach, it's the teacher, it's the person they're getting babysitting from. So, we can't possibly trust our instincts.

Now it's not over yet. In a minute I'll talk about 2020. Here is the signing of the New York Child Victims Act.

Signing of New York Child Victims Act 2/14/19



It only took 16 years.....



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Yes, I'm on the left there looking like I can't believe it. 16 years of going to Albany, New York. I should be sainted. That should be nobody's fate! Katherine went for 13 years, and we heard this year that we may well be working work on extending that bill and we're going to go back.

This picture from New Jersey is fantastic because what this shows you is that it takes an army in your state in order to do the right thing for children.

Signing of New Jersey SOL Reform Law



5/13/19

It takes an army of survivors, families, advocates, and lawmakers!!



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In the state of New Jersey, it was 14 years. But what happened in New Jersey is they passed a very innovative bill. The New Jersey bill says that if you're a victim of sexual assault when you were a child or sexual assault when you were an adult, you get justice for two years. Everyone who's been sexually assaulted in the state of New Jersey has the capacity.

Now, the truth is not everybody comes forward, not everybody wants to, not everybody needs to - not everybody has the same level of damages. But for those who have been seriously damaged, this is a new life for them. And that's how they'll characterize it. This is their new life. All of a sudden society said it wasn't their fault.

So, New Jersey is one of the most innovative states right now. And I would have told you 12 months ago they weren't going to pass anything, so don't trust me.

The thing that everybody needs to understand is statute of limitations reform is not just about victims. It surely is. It empowers them. It shifts the cost away from them, but it's really about you. It's about your families. It's about your schools. It's about your churches. It's the only way that there's a weapon that can be used to out the truth.

**HOW
REVIVAL
LAWS
HELP
EVERYONE**

- Justice for victims when they are ready to come forward
- Identify hidden child predators
- Disclose facts of child sex abuse epidemic to public
- Arm parents to protect children
- Shift cost of abuse from victims and society to those responsible

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And so this is really about the public. It's the public's interest. It's not just individual victims who are politically disempowered.

2020 SOL REFORM



19 States Introduced SOL Reform for CSA

- 9 States** Have Bills to Open Revival Window/Law
FL, IN, IA, NY, OH, SC, VA, WI, WY
- 4 States** Have Bills to Extend Civil SOL
HI, OH, SC, WY
- 8 States** Have Bills to Eliminate Civil SOL
FL, IN, IA, KY, MO, NH, NJ, WI
- 6 States** Have Bills to Extend Criminal SOL
FL, NH, NM, OK, VA, WI
- 11 States** Have Bills to Eliminate Criminal SOL
FL, GA, HI, IN, IA, KY, MS, NH, NM, OH, OK

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I'm just flashing this up here. 2020 is already busy. It's already January. 2020 is second only to 2019 and it's only January. So we've already been in Indiana, Iowa. We're headed to other states. I grew up in Wheaton, Illinois, outside of Chicago, so I'm going back to the Midwest now apparently. So now it's just fine.

How do we rank Iowa? One of the things that we do is we rank every state for its statutes of limitations as to compared to other states.



On the civil statute of limitations right now, if it was just based on age 19 for some, you'd be the worst state in the United States all by yourself. You could even unseat Alabama, which is hard to do.

But you have what's called a four-year discovery rule, so a victim, if they discover that their abuse caused current problems, they have four years to come forward. That's rarely been used in the state. So you get it slightly, you're right in the middle of mediocre land on the civil, but it's only because you're getting credit for something that isn't really helping a whole lot of victims.

On the criminal statute of limitations, you're in the worst category. You are all the way over here with Nevada, New Hampshire, North Dakota, Ohio, Oklahoma, and Oregon. These are all states that persist in having an age cap for criminal prosecution.



So, what happens is the average age of coming forward is 52. So let's say that we have a 55-year-old go to the prosecutor and say "I was sexually abused by my coach in my boarding school." All right. The prosecutor says "Oh, in our state the limit is 33, so you only missed it by 19 years."

Then some of you may be saying "Well why wouldn't we just do for the criminal prosecution what you do for the civil? Why don't you just revive that criminal statute limitation? You get everybody to be able to prosecute." California tried that, tried both, and the United States Supreme Court said it's unconstitutional to revive a criminal statute of limitations. And so what that means is the only thing you can do for someone whose claims have expired is to pass window legislation that revives their civil claims.

But let's say the 52-year-old, the 55-year-old goes in, and they're told they're out of statute. Because when they were abused, it was the age before 55 and so they're out of luck. If they go in to the

prosecutors, and the prosecutors keep the records they need to keep, and the prosecutors see “Oh you’re the first, oh wait, there’s another one in the system.” If the prosecutors start putting the picture together, they can prosecute someone if they can find a victim in statute.

And the only way to make sure there’s going to be a victim in statute is to eliminate the criminal statute of limitations. And that’s why so many states have done it. We are now over 80 percent of the country. 90% of the country has now eliminated criminal statute limitations.



If you bring all of the criminal and civil SOL’s in the state of Iowa together, you’re better than Ohio. Ohio is really bad. We had a window in Ohio in 2005. And it was going to pass unanimously. I was in Columbus, and the next thing we were going to have a major celebration, and this was going to be a big deal.

But, at midnight the Catholic Bishops went in their robes to meet with lawmakers. And the next morning we went for the vote, they had removed the part of the bill for the victims from the past, and killed it. Nothing has happened since.

But, this year they just introduced a three-year window. So we expect to see movement in every state in the country on this because it’s just irrefutable logic. You just, whose interest is it to not know who your child predators are?

And there are 2 answers to that. It’s in the interest of the insurance industries, who ought to be the business of helping to prevent sex abuse, not silence the victims. It is the Catholic Bishops who are under orders to try to block this kind of legislation.

I'm pleased to report both are not doing as well as they used to at killing it. We're making progress.

I'm asked a lot "Why was 2019 the year where everything changed? What happened in 2018, at the end of 2018?" Well, it's three names. It's Epstein, its trafficking, right? We've learned that some of the most powerful men in our culture are engaging in child sex trafficking. It was the Larry Nassar hearings, in which the victims testified to him in public--over 150. And it was the grand jury report coming out of Pennsylvania showing that every single diocese in the state of Pennsylvania had engaged in coverup.

Church, sports, the wealthy, and trafficking. Those came together and everybody saw the need to do something.

So, often the argument against this is, "Look, they were abused a long time ago. Most of them have just gotten over it. Why do you care about doing something for the victims from the past?" And the primary reason you care is because perpetrators will often abuse into their late elderly years: 80, 90, grandfathers. Three generations, four generations. There's no age cap on this.

Giving Justice to Older Victims Protects Kids Today

-  Predators abuse into their elderly years.
-  Predators have on average 100 victims.
-  As many as 90% of predators are known to the victim.
-  The public learns how institutions endanger children by letting victims come forward at any time.
-  Predators are cunning, but usually 'nice guys' who everyone trusts.

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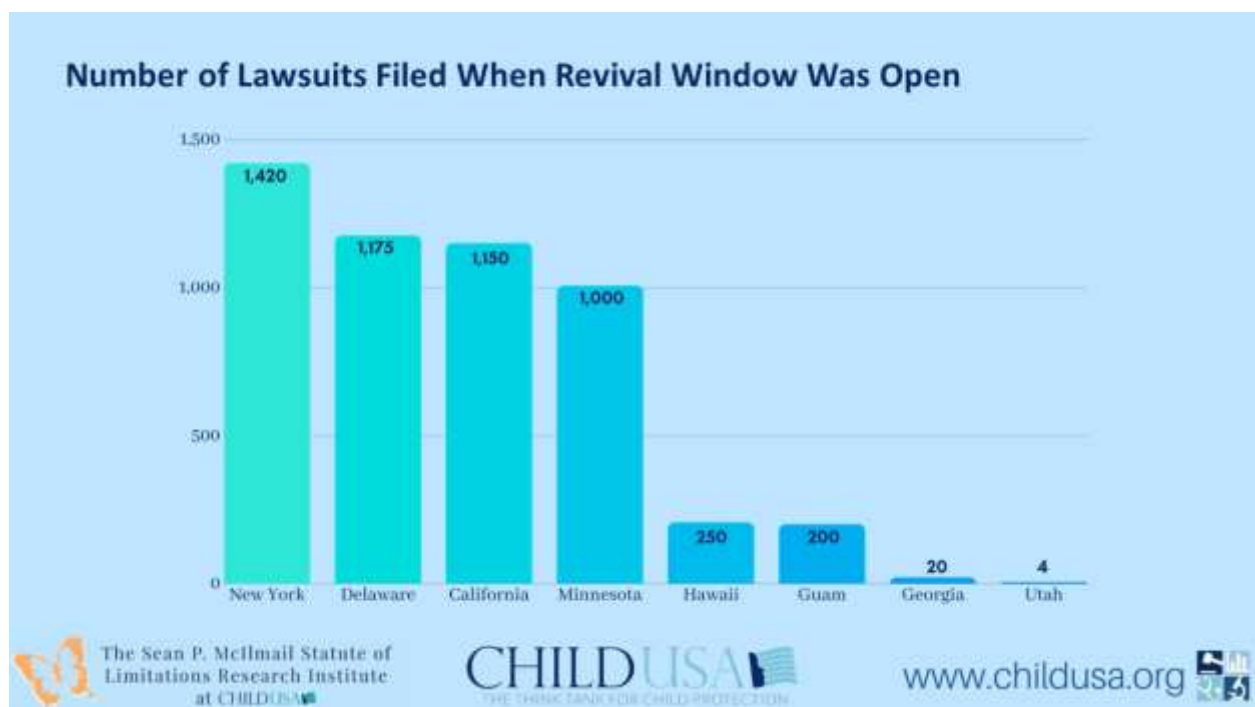
And so, if you get someone to come forward in their 50s, they may prevent abuse of another child--believe it or not. That's just statistically true. On average, per the FBI, child sexual abusers tend to have a hundred of victims over the course of their lives.

Family perpetrators rarely just traumatize one child. It's typically more than one sibling. It's typically the generations.

90% are known to the victims, as I said, over 90%, and so people have a lot of incentives to keep this secret. Your family doesn't want you to upset the applecart. Families have shut down victims, but then that perpetrator will be out there.

Once a revival window was open, which Senator Petersen's bill does have a revival window in it, you do not see an avalanche of lawsuits. Instead what you see is a modest number of lawsuits that tells a lot of information.

When California passed its bill in 2003, over the course of one year we learned about 300 predators that have not been previously identified. People learned about teachers. They learned about Explorer Scouts, which were the LAPD Scout Group. They learned about doctors. They learned about family members, and only because of the window was open.



So, this is a public benefit that we get. And as I say, it does not cripple the justice system. Far from it. It's quite something that can be handled.

And just to stay true, Iowa also has an overly short child sex trafficking statute of limitations. It's ten years from the event. And for most of those victims, the barriers to coming forward are so extraordinary, as you heard in the Epstein victims, that they too need to be included in this kind of civil justice.



Let's say that the State of Iowa does pass a bill, does help the victims from the past, passes a window. What's next? What you do next?

Because the legal system is very stressful, and one of the things that we do is that we put together toolkits for the survivors. So that they have resources. They understand they're not alone. We tailor it to the law of the states so they understand if they are even covered in that state

Tool Kit for Survivors Filing Civil Suits Under a Revival Law

Each kit covers:

- Tips for survivors
- Revival Law description for each state
- Comparison of Revival laws
- Who is eligible to file
- Trusted resources for survivors



So if you go to our website childusa.org, we have toolkits. We also have more data than you would ever want to know on statute of limitations.

Let me just say this isn't all me by a longshot. We have a staff attorney who does nothing but statute of limitations. And that's why we update our data every week. We are the only organization that updates it in less than three-year intervals. Kathryn is our advocacy head who is the person who primarily goes state-to-state working on individual bills.

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We have an entire team working on this, and we would love to see Iowa step forward from being one of the worst in the country to being one of the best.

So thank you very much on this issue.

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