RE: The Fiscal Impact of Statute of Limitations Reform for Victims of Childhood Sexual Abuse in Rhode Island

DATE: May 7, 2019

Purpose

For many decades, the state of Rhode Island has had very short child sex abuse statutes of limitations (“SOLs”), which means many of Rhode Island’s victims have been deprived of justice. Currently, in Rhode Island, there is no criminal SOL for rape, first degree sexual assault, first degree molestation sexual assault, second-degree child molestation sexual assault, and bigamy. The criminal SOL for all other child sex abuse crimes is three years from the commission of the act. The civil SOL for child sex abuse is capped at age 25 (age of majority, 18, plus 7 years), although there is a discovery rule for claims against a perpetrator, allowing victims to file a claim after discovering an injury caused by the abuse. This 25-year age cap to file a civil lawsuit, is well behind the national averages. While Rhode Island has joined the majority of states (over 80%), which have no SOL for at least some child sex abuse felonies, it is behind on the civil side. As it takes on 52 years for a victim to come forward, the limit of age 25 to file a civil lawsuit is behind the curve. See N. Spröber et al., Child Sexual Abuse in Religiously Affiliated and Secular Institutions, 3 (Mar. 27, 2014), https://www.childusa.org/search?q=BMC; CHILD USA, Average and Median Age of CSA Disclosure, (2018), www.childusa.org/law.

With so many Rhode Island victims unable to obtain justice, most of Rhode Island’s perpetrators are hidden and the victims, who are predisposed to a greater incidence of depression, PTSD, substance abuse, alcoholism, and suicide, among many other health impacts, are bearing the cost of the abuse by themselves. Because of the greater incidence of medical and psychological health problems and the negative impact on achievement and success, child sex abuse victims are disproportionately in need of medical care and other government support as compared to the general population. Historically, Rhode Island has protected institutions and perpetrators through short SOLs while the victims have been left to bear all of the costs of the abuse.

Due to the myriad of problems child sex abuse can generate, many victims land in precarious situations. As a result, they may be on Medicaid and need other state support including food and shelter assistance, addiction treatment, and job training or support. Approximately 1/3 of child sex abuse victims develop PTSD alone.

For those victims dependent on Medicaid and other state aid, taxpayers are paying for the costs of the abuse when the perpetrators and enabling institutions are protected by expired SOLs. The extension of Rhode Island’s civil SOL for victims of child sex abuse cures the injustice of SOLs.
that keep the vast majority of victims from justice, and it shifts the costs of the abuse from the victims and the taxpayers to the ones who caused it.

The purpose of this SOL reform for victims of child sex abuse, is to finally hand justice to these victims. The added benefit is that it will shift the cost of the abuse away from the victims and the taxpayers to the abuser and/or the institution that created the conditions of abuse. It will also identify hidden child sexual predators, and put more perpetrators in jail. Since compulsive pedophiles may abuse over 100 victims over a lifetime, increased identification and prosecution of molesters will result in fewer Rhode Island children sexually abused, which is a savings in human suffering and state cost.

Summary of Provisions and Statement in Support

SOL reform for victims of child sex abuse increases justice for victims of child sex abuse by reviving expired civil statutes of limitations (SOLs) for one year and extending the civil and criminal SOLs. Opening the courthouse doors has three benefits:

- SOL reform identifies previously unknown child predators to the public so children will not be abused in the future;
- It shifts the cost of abuse from the victims to the predators and those that hid them; and
- It educates the public about the prevalence and harm from child sex abuse so that families and the legal system can protect victims more effectively.

Medicaid Savings. As explained above, victims are often on Medicaid. While approximately 20% of Rhode Islanders receive Medicaid or CHIP\(^1\), it is likely that sex abuse survivors disproportionately receive support due to the crippling effect of the trauma. In the settlements that are reached in these cases, a “Medicaid lien” is placed on the settlement funds for the payments applied to health problems generated by the abuse.

Without SOL reform, the Medicaid funds cannot be reimbursed. With these reforms, Medicaid and the taxpayers are reimbursed.

The costs of sex abuse are staggering. It is widely agreed that 20-25% of children are sexually abused by the age of 18. Scholarly studies have concluded that the average cost of child maltreatment is approximately $830,928.00 per victim. M. Merricka, et. al, Unpacking the Impact of Adverse Childhood Experiences on Adult Mental Health, Child Abuse Negl. (2017). It is unfair for the victims and taxpayers to be the only ones who bear the burden; SOL reform for victims of child sex abuse levels the playing field by imposing liability on the ones who caused the abuse and alleviating the burdens on the victims and taxpayers.

\(^1\) Approximately one in six Rhode Island adults between the ages of 19 and 64 are enrolled in Medicaid.
Enactment of the “window” portion of this bill alone will lead to reimbursement of Rhode Island Medicaid for at least $25,000,000.00² when Medicaid liens are paid out of settlements. In fact, the savings to the state are likely to be far greater. The number of cases that have been filed pursuant to windows have ranged from 2 to 1,175. The most recent window to close was in Minnesota, where over 1,000 victims obtained civil justice. Rhode Island’s population is roughly five times smaller than Minnesota’s, and, therefore, one could expect just over 200 victims to take advantage of the opportunity for justice.

Enactment of the extension of the civil SOL will mean that going into the future, significantly more victims will be able to come forward. Thus, they will be able to force more perpetrators and/or responsible institutions to pick up the cost of abuse, while saving the taxpayers from having to do so.

Prison Savings. Elimination of the criminal SOL will result in the arrest and conviction of more perpetrators and, therefore, decrease the number of perpetrators at large. While incarceration is expensive, the increase in this case will save the state money as compulsive pedophiles typically abuse over 100 children over the course of a lifetime. After the first few come forward, the others will not be molested by this perpetrator, and that will result in taxpayer savings. 100 victims x the average cost of abuse over a lifetime of $830,000 = $83 million savings for each compulsive pedophile arrested. It does not cost nearly that much to incarcerate a compulsive pedophile. Going forward, then, it will increase the likelihood of fewer victims and a reduction in the attendant costs.

Opioid Crisis Savings. By identifying predators, preventing sex abuse, and providing justice and the financial means for treatment, SOL reform contributes to ending the opioid crisis. Traumatic, adverse childhood experiences increase the likelihood of opioid addiction and greater struggles with such addiction. Preventing childhood trauma through justice for the victims and perpetrator identification are keys to ameliorating the crisis. There is a correlation between trauma exposure and substance abuse. According to the National Child Traumatic Stress Network, “[i]n the National Survey of Adolescents, teens who had experienced physical or sexual abuse/assault were three times more likely to report past or current substance abuse than those without a history of trauma. In surveys of adolescents receiving treatment for substance abuse, more than 70% of patients had a history of trauma exposure.”

Victims of child sex abuse have a significantly higher risk of PTSD, who in turn have a greater risk of substantive abuse. “Th[e] correlation [between trauma and substance abuse] is particularly strong for adolescents with PTSD. Studies indicate that up to 59% of young people with PTSD subsequently develop substance abuse problems.”

One of the reasons that children turn to drugs and alcohol is to engage in self-medication against their pain. SOL reform hands victims more resources to obtain the treatment they need to deal

¹ Assume that approximately 200 victims take advantage of the window and that on average they will receive $250,000 in settlement, which is below the national average of approximately $350,000. Medicaid often accounts for roughly 50% of the settlement. $200 x ($250,000/2) = $25,000,000.

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with the pain in the healthiest way, discloses the hidden predators so that there are fewer victims in the future, and replaces isolation with validation.

Summary
This bill would result in millions in reimbursement of Medicaid funds previously paid to child sex abuse victims. It would also reduce the cost to the state in the future, because more victims would be able to sue rather than being relegated solely to the state for support when the ravages of child sex abuse affect their lives in the form of depression, PTSD, substance abuse, and other problems.