

**2023 SENATE JUDICIARY**

**SB 2282**

# 2023 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Peace Garden Room, State Capitol

SB 2282  
01/30/2023

A bill relating to limitations on civil actions alleging sexual assault, sexual abuse, gross sexual imposition, or childhood sexual abuse; and to provide an expiration date.
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11:05 AM Chairman Larson opened the meeting.

Present are Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Braunberger and Paulson.

## **Discussion Topics:**

- Incident reporting timelines
- Victims
- Perpetrators
- Lawsuits
- Victim remedies

11:04 AM Senator Estenson introduced the bill.

11:05 AM Jaci Hall, Executive Director, North Dakota Association for Justice, testified in favor of the bill and provided written testimony #17819.

11:19 AM Senator Dwyer who was going to introduce the bill was late to arrive and spoke at this time and provided written testimony #17830, 17829.

11:19 AM Jaci Hall returned to the podium to answer questions from the committee, she also spoke about a possible amendment

11:30 AM A. Rebsom testified in favor of the bill and provided written testimony #17435.

11:37 AM Sydney Dollinger testified in favor of the bill.

11:41 AM Stewart Stenberg, retired Sargent, Dickson Police Department, testified in favor of the bill and provided written testimony #17431.

11:49 AM Harriet Rebsom testified in favor of the bill and provided written testimony #17512

12:00 PM Seth O'Neill, CAWS of North Dakota testified in favor of the bill and provided written testimony #17547.

12:01 PM Paula Rebson spoke in favor of the bill and provided written testimony #17704.

12:05 PM Christina Sambor, attorney, spoke in favor of the bill.

12:06 AM Kathryn Robb, Executive Director, Child USAAdvocacy, testified in favor of the bill on online via TEAMS and provided written testimony #17826.

**Additional written testimony:**

Lee Rebsom provided written testimony #17513.

Julie Lawhead provided written testimony #17591.

Pauline Schneider provided written testimony # 17601.

Sydney Dollinger provided written testimony #18096.

12:16 PM Chairman Larson closed the public hearing.

12:16 PM Chairman Larson closed the meeting.

*Rick Schuchard, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Peace Garden Room, State Capitol

SB 2282  
1/30/2023

A bill relating to limitations on civil actions alleging sexual assault, sexual abuse, gross sexual imposition, or childhood sexual abuse; and to provide an expiration date.
---

3:31 PM Chairman Larson opened the meeting.

Chairman Larson and Senators Sickler, Estenson, Luick, Myrdal, Braunberger and Paulson are present.

**Discussion Topics:**

- Incident reporting timelines
- Victims
- Perpetrators
- Lawsuits
- Victim remedies

3:31 PM Chairman Larson continued testimony on the public hearing.

3:31 PM Cary Silverman, American Tort Reform Association, testified by TEAMS opposed to the bill and provided written testimony #17584.

3:43 PM Chairman Larson closed the public hearing.

3:43 PM Chairman Larson closed the meeting.

*Rick Schuchard, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Peace Garden Room, State Capitol

SB 2282  
2/15/2023

Relating to limitations on civil actions alleging sexual assault, sexual abuse, gross sexual imposition, or childhood sexual abuse; and to provide an expiration date.
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10:04 PM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Estensen, Sickler, Paulson and Braunberger are present.

### Discussion Topics:

- Committee action

10:04 AM Senator Sickler spoke on the bill and provided written testimony #20872, 20873.

10:12 AM Senator Myrdal moves to adopt amendment LC 23.0456.01003. Motion seconded by Senator Paulson.

10:12 AM Roll call vote is taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

10:31 AM Senator Luick moves to adopt amendment "retroactivity clause". Seconded by Senator Myrdal.

10:31 AM Roll call vote is taken.

<b>Senators</b>	<b>Vote</b>
Senator Diane Larson	N
Senator Bob Paulson	N
Senator Jonathan Sickler	N
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	N

Motion fails 3-4-0.

10:35 AM Senator Myrdal moves to Do Pass the bill as amended LC 23.0456.01003. Motion is seconded by Senator Luick.

10:35 AM Roll call vote is taken.

<b>Senators</b>	<b>Vote</b>
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

Senator Sickler will carry the bill.

This bill does not affect workforce safety.

10:36 AM Chairman Larson closed the meeting.

*Rick Schuchard, Committee Clerk*

February 13, 2023

BR  
183  
2-15-23

PROPOSED AMENDMENTS TO SENATE BILL NO. 2282

Page 1, line 1, after "to" insert "create and enact a new section to chapter 28-01 of the North Dakota Century Code, relating to the limitation on claims for sexual assault; and to"

Page 1, line 1, remove the second "and"

Page 1, line 1, after "28-01-25.1" insert ", and 32-12.1-10, and subsection 1 of section 32-12.2-04"

Page 1, line 3, remove "; and to provide an expiration"

Page 1, line 4, replace "date" with ", and the notice requirement for claims against the state"

Page 1, line 9, remove "1."

Page 1, line 9, overstrike "The" and insert immediately thereafter "Except as provided in section 4 of this Act, the"

Page 1, line 11, remove the overstrike over "4."

Page 1, line 11, remove "a."

Page 1, line 12, remove the overstrike over "2."

Page 1, line 12, remove "b."

Page 1, line 13, remove the overstrike over "3."

Page 1, line 13, remove "c."

Page 1, line 19, remove the overstrike over "4."

Page 1, line 19, remove "d."

Page 2, line 3, remove the overstrike over "5."

Page 2, line 3, remove "e."

Page 2, remove lines 7 through 10

Page 2, line 20, remove "If on August 1, 2023, a claim for relief that resulted from sexual assault, sexual abuse,"

Page 2, remove lines 21 and 22

Page 2, line 23, replace "commenced before August 1, 2025" with "Notwithstanding subsections 1 and 2, an action for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be commenced:"

a. Within nine years after the date the act occurred; or

b. Within twenty-one years after the date the act occurred, if the act occurred when the plaintiff was under eighteen years of age.

4. If the plaintiff was under fifteen years of age when a claim for relief resulting from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 occurred, the applicable twenty-one year period of limitation does not begin to run until the plaintiff has reached fifteen years of age"

OR  
273  
2-15-23

Page 2, line 28, overstrike "ten" and insert immediately thereafter "twenty-one"

Page 2, line 28, overstrike "plaintiff knew or reasonably"

Page 2, line 29, overstrike "should have known that a"

Page 2, line 29, overstrike "exists"

Page 2, line 30, after "abuse" insert "accrued"

Page 3, line 1, remove "If on August 1, 2023, a claim for relief that resulted from childhood sexual abuse is"

Page 3, remove line 2

Page 3, line 3, replace "revived under this subsection must be commenced before August 1, 2025" with "If the plaintiff was under fifteen years of age when the act resulting in a potential claim for childhood sexual abuse occurred, the applicable twenty-one year period of limitation does not begin to run until the plaintiff has reached fifteen years of age"

Page 3, after line 9, insert:

"**SECTION 4.** A new section to chapter 28-01 of the North Dakota Century Code is created and enacted as follows:

**Limitation on claims for sexual assault.**

A claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be commenced within nine years after the date of the act.

**SECTION 5. AMENDMENT.** Section 32-12.1-10 of the North Dakota Century Code is amended and reenacted as follows:

**32-12.1-10. Statute of limitations.**

An

1. Except as otherwise provided in this section, an action brought under this chapter must be commenced within three years after the claim for relief has accrued.
2. An action under this chapter for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be commenced:
  - a. Within nine years after the date the act occurred; or



- b. Within twenty-one years after the date the act occurred, if the act occurred when the plaintiff was under eighteen years of age.
3. If the plaintiff was under fifteen years of age when a claim for relief resulting from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 occurred, the applicable twenty-one year period of limitation does not begin to run until the plaintiff has reached fifteen years of age.

DR  
373  
2-15-23

**SECTION 6. AMENDMENT.** Subsection 1 of section 32-12.2-04 of the North Dakota Century Code is amended and reenacted as follows:

1. a. A person bringing a claim against the state or a state employee for an injury shall present to the director of the office of management and budget within one hundred eighty days after the alleged injury is discovered or reasonably should have been discovered a written notice stating the time, place, and circumstances of the injury, the names of any state employees known to be involved, and the amount of compensation or other relief demanded.
- b. The time for giving the notice does not include the time during which a person injured is incapacitated by the injury from giving the notice. If the claim is one for death, the notice may be presented by the personal representative, surviving spouse, or next of kin within one year after the alleged injury resulting in the death.
- c. The time for giving the notice is waived for a claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20."

Page 3, remove lines 10 and 11

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2282: Judiciary Committee (Sen. Larson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2282 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 28-01 of the North Dakota Century Code, relating to the limitation on claims for sexual assault; and to"

Page 1, line 1, remove the second "and"

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Page 2, line 28, overstrike "plaintiff knew or reasonably"

Page 2, line 29, overstrike "should have known that a"

Page 2, line 29, overstrike "exists"

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  - a. Within nine years after the date the act occurred; or
  - b. Within twenty-one years after the date the act occurred, if the act occurred when the plaintiff was under eighteen years of age.

3. If the plaintiff was under fifteen years of age when a claim for relief resulting from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 occurred, the applicable twenty-one year period of limitation does not begin to run until the plaintiff has reached fifteen years of age.

**SECTION 6. AMENDMENT.** Subsection 1 of section 32-12.2-04 of the North Dakota Century Code is amended and reenacted as follows:

1.
  - a. A person bringing a claim against the state or a state employee for an injury shall present to the director of the office of management and budget within one hundred eighty days after the alleged injury is discovered or reasonably should have been discovered a written notice stating the time, place, and circumstances of the injury, the names of any state employees known to be involved, and the amount of compensation or other relief demanded.
  - b. The time for giving the notice does not include the time during which a person injured is incapacitated by the injury from giving the notice. If the claim is one for death, the notice may be presented by the personal representative, surviving spouse, or next of kin within one year after the alleged injury resulting in the death.
  - c. The time for giving the notice is waived for a claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20."

Page 3, remove lines 10 and 11

Renumber accordingly

**2023 HOUSE JUDICIARY**

**SB 2282**

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Room JW327B, State Capitol

SB 2282  
3/21/2023

Relating to limitations on civil actions alleging sexual assault, sexual abuse, gross sexual imposition, or childhood sexual abuse, and the notice requirement for claims against the state

9:00 AM Chairman Klemin opened the hearing. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, and Rep. Vetter.

## **Discussion Topics:**

- Increase in child sexual abuse.
- State backlog on rape kits.
- Civil remedy.
- Hospital.
- Justice.
- Senate amendments.

Susan Dollinger: Testimony #26078

Sydney Dollinger: Testimony #26075

A. Rebsom: Testimony #26042

Steward Stenberg, Dickinson, ND: Testimony #26013

Harriette Rebsom: Testimony #26009

Jaci Hall, Executive Director, ND Association for Justice: Testimony #26041

Paula Rebsom: Testimony #26036

## **Additional written testimony:**

Marci Hamilton, Founder & CEO, Child USA, Child USA Advocacy. Testimony #25951

Lee Rebsom: Testimony #26010

Amanda Eppler: Testimony #26047

Nancy Brannan: Testimony #26051

House Judiciary Committee

SB 2282

March 21, 2023

Page 2

Pauline Schneider: Testimony #26011

Julie Lawhead Olheiser: Testimony #26014

Jim Hope, Ass't State's Attorney, Stark County: Testimony #26027

The hearing closed at 10:38 AM

Delores Shimek, Committee Clerk

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Room JW327B, State Capitol

SB 2282  
3/29/2023

Relating to limitations on civil actions alleging sexual assault, sexual abuse, gross sexual imposition, or childhood sexual abuse, and the notice requirement for claims against the state
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11:14 AM Chairman Klemin opened the meeting. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, and Rep. Vetter. Absent: Rep. Bahl

## Discussion Topics:

- Statute of limitations.
- Supreme Court rule.
- Civil law extension.

Chairman Klemin: Testimony #26994

Rep. Schneider declared a conflict of interest. Said she is on the Board with Friendship Incorporated connected with CHI where A. Rebsom was sexually assaulted.

Rep. Shannon Roers Jones moved to allow Rep. Schneider the right to vote;  
Seconded by Rep. Henderson

Voice vote carried.

Rep. Schneider moved to amend Sec. 2 page 1 lines 9-12 to insert a look back issue.  
Seconded by Rep. Cory

Representatives	Vote
Representative Lawrence R. Klemin	N
Representative Karen Karls	N
Representative Landon Bahl	A
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	N

Roll call vote: 9 Yes 3 No 1 Absent; Motion carried.



Rep. VanWinkle moved a Do Pass as Amended;  
Seconded by Rep. Schneider

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	N
Representative Karen Karls	N
Representative Landon Bahl	A
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	N
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	N

Roll call vote: 8 Yes 4 No 1 Absent; Motion carried.  
Carrier: Rep. Henderson

The meeting closed at 12:05 AM.

Delores Shimek, Committee Clerk

Reconsidered 4/3/23

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Room JW327B, State Capitol

SB 2282  
4/3/2023

Relating to limitations on civil actions alleging sexual assault, sexual abuse, gross sexual imposition, or childhood sexual abuse, and the notice requirement for claims against the state
---

10:14 AM Chairman Klemin opened the meeting. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, and Rep. Vetter.

### Discussion Topics:

- Reconsideration
- Amendments

Rep. VanWinkle moved to reconsider;  
Seconded by Rep. Rios

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	Y
Representative Karen Karls	N
Representative Landon Bahl	Y
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	N
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Roll call vote: 11 Yes 2 No 0 Absent Motion Carried.

Rep. Vetter moved to reconsider and remove verbal amendment: Sec. 2 page 1 lines 9-12 to include a look back issue.

Seconded by Vice Chairman Karls

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	Y
Representative Claire Cory	N
Representative Donna Henderson	Y
Representative SuAnn Olson	N
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	N
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Roll call vote: 10 Yes 3 No 0 Absent; motion carried.

Rep. VanWinkle moved to further amend Section 7. Retroactive Application. This Act applies to claims for relief with clear and convincing evidence occurring before August 1, 2014.

Seconded by Rep. Henderson

Motion Withdrawn.

Jaclyn Hall, Executive Director, ND Association for Justice: Testimony #27233

Rep. VanWinkle moved to amend Section 7. Retroactive Application. This act applies retroactively to claims for relief with clear and convincing evidence occurring after August 1, 2014.

Seconded by Rep. Henderson

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	N
Representative Karen Karls	N
Representative Landon Bahl	Y
Representative Cole Christensen	N
Representative Claire Cory	N
Representative Donna Henderson	N
Representative SuAnn Olson	N
Representative Nico Rios	N
Representative Shannon Roers Jones	N
Representative Bernie Satrom	N
Representative Mary Schneider	N
Representative Lori VanWinkle	N
Representative Steve Vetter	Y

Roll call vote: 2 Yes No 11 0 Absent Motion failed

Recessed the meeting at 10:48 AM

Reopened the meeting at 11:03 AM

Rep. Vetter moved a Do Pass;  
Seconded by Rep. Karls

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	N
Representative Claire Cory	N
Representative Donna Henderson	N
Representative SuAnn Olson	N
Representative Nico Rios	N
Representative Shannon Roers Jones	N
Representative Bernie Satrom	N
Representative Mary Schneider	N
Representative Lori VanWinkle	N
Representative Steve Vetter	Y

Roll call vote 4 Yes 9 No 0 Absent Motion failed

Recessed 11:22 AM

Reopened at 11:38 AM

Rep. Christensen moved amendment. Testimony #27235;  
Seconded by Rep. Henderson

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	N
Representative Karen Karls	N
Representative Landon Bahl	A
Representative Cole Christensen	Y
Representative Claire Cory	N
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	A
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	N

Roll call vote: 7 Yes 4 No 2 Absent; Motion carried.

Rep. Henderson moved a Do Pass as Amended;  
Seconded by Rep. Schneider

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	N
Representative Karen Karls	N
Representative Landon Bahl	A
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	A
Representative Bernie Satrom	N
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	N

Roll call vote: 7 Yes 4 No 2 Absent; Motion carried.

Carrier: Rep. Schneider

The meeting closed at 11:47 AM

DeLores Shimek, Committee Clerk

April 3, 2023

JA  
4-3-23

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2282

Page 3, after line 17 insert "1."

Page 3, after line 20, insert:

- "2. If on August 1, 2023, a claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 is barred because of the time limitation under this section, that claim is revived. A claim revived under this subsection must be commenced before August 1, 2025, and proven by clear and convincing evidence."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2282, as engrossed: Judiciary Committee (Rep. Klemin, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2282 was placed on the Sixth order on the calendar.

Page 3, after line 17 insert "1."

Page 3, after line 20, insert:

"2. If on August 1, 2023, a claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 is barred because of the time limitation under this section, that claim is revived. A claim revived under this subsection must be commenced before August 1, 2025, and proven by clear and convincing evidence."

Renumber accordingly

**TESTIMONY**

**SB 2282**



Good afternoon Chairman Larson and members of the Judiciary Committee. Thank you for the opportunity to appear before you today and provide my testimony.

My name is Stewart Stenberg and I am a resident of Dickinson, North Dakota and have been for the past forty-six years. I retired in 2010 after a rewarding thirty three year law enforcement career in Stark County and the City of Dickinson. My last twelve years with the city was spent serving as the Assistant Chief of Police. Prior to my position as Assistant Chief, I served approximately seven years in the Criminal Investigations Division as the Division's Sargent.

On 12/21/1994, I received a call at my office from a female who identified herself as A [REDACTED] R [REDACTED]. A [REDACTED] informed me that she wished to speak to me regarding a sexual assault that had taken place when she was a patient at our local medical facility on 08/15/93.

A [REDACTED] and I agreed upon a time and date to meet at my office (12/27/94) and discuss the matter at length and in greater detail. Having concluded my interview with A [REDACTED], I found her to be sincere, credible and truthful regarding the facts surrounding her complaint. As well as gathering and documenting evidence from A [REDACTED] in this case, we also addressed the nature of her illness for which she was being treated for during her stay at our local medical facility. A [REDACTED] has addressed this with you by way of her statement she has presented today.

A [REDACTED] and I discussed a second sexual assault case that occurred on or about 11/05/94 regarding a fourteen year old victim which occurred at the same medical facility months earlier. The similarities and facts between the sexual assault of the fourteen year old victim and that of A [REDACTED]'s were nearly identical in nature. I had personally investigated the case of the fourteen year old victim in November of 1984 as well. The male nurse (suspect) who was employed by our local medical facility was charged criminally and pled guilty, receiving a three year prison sentence and legally designated as a registered sex offender as provided under state law.

Having concluded my criminal investigation into A [REDACTED]'s complaint, I referred the case to Assistant Stark County States Attorney Jim Hope, seeking a criminal complaint in this matter. With an overwhelming amount of evidence collected and a positive identification of the assailant in this case, I sought a criminal complaint against Michael Strode RN, for sexual assault.

Upon meeting with Mr. Hope, we thoroughly discussed A [REDACTED]'s well-being regarding her prior, and current, mental health history. Mr. Hope and myself thought it was imperative to allow A [REDACTED] to continue with her prescribed treatment program and we would temporarily suspend the issuance of a criminal complaint. A [REDACTED] was doing her very best to remove herself from the "dark space" that was trapped within her and for which she was receiving treatment.

It was absolutely paramount that we allowed her the necessary time to continue her treatment and regain her health. It would have been remiss of us to place her into a courtroom setting with a judge, jury and the assailant in this case facing her in open court. As well, many of us know the emotional and mental effect of an experienced defense lawyer trying to create doubt, question the victim's credibility, and certainly question the victim's mental health at the time of this incident/violation. This was not the proper time in A [REDACTED]'s life to move forward with a prosecution.

In short, we had an extremely brave and courageous young lady come forward, in the name of justice, and reported a frightful sexual assault that took place during extremely dark and troubling times in her life. Over the years, A [REDACTED] has been made to live with these horrible memories to this very day. Unfortunately, the statute of limitations, both criminally and civilly, ran out in this case and we were not able to bring this case before the court and A [REDACTED] was not able to seek any civil remedies.

This is indeed a unique case that continues to cry for justice.....either civilly or criminally.

This is a case where we had a truthful and reliable victim, we undoubtedly had identified the suspect, we had the motive, and we had the necessary evidence

that would have undoubtedly led to a conviction, but.....unfortunately we ran out of time as a result of the expiration of the statute of limitations.

If you have any questions I would certainly be happy to address them. Thank you for your time in this matter.

Dear Chairman Larson and members of the Committee, thank you for this opportunity to speak today. My name is A [REDACTED] R [REDACTED]. In my senior year of high school, I became extremely suicidal and had severe PTSD from a rape at the age of ten. As a result, my parents decided the mental health unit at a hospital in Dickinson, ND was the safest place for me. While on a home visit from the mental health unit, I overdosed on caffeine pills and was taken to the Intensive Care Unit in that same hospital.

Early that evening, I was introduced to the overnight male nurse in charge. He asked me if I had a boyfriend to which I responded no. He asked me if I was a virgin to which I responded yes other than my rape. He then stated, "you mean a pretty girl like yourself has never had sex before?" I felt uncomfortable with his questions and wondered how they pertained to my caffeine overdose, but he was the nurse in charge, so I responded.

At exactly 2 am, I awoke to the male nurse's hand inside my underwear. He told me they needed to take my underwear off. I started crying and told him to please stop and that he was hurting me. He then left the room and a female nurse who heard my yelling entered to check. Terrified, I did not tell her what happened, but I asked her to please stay with me until I fell asleep and not let the male nurse enter my room again. When another nurse came to bring me back to the mental health unit, I trusted her, so I told her what happened. In a raised voice, she stated she can't believe I would accuse a well-respected nurse of such a horrific act and that I just had a bad dream. The hospital informed my parents there were allegations of a sexual assault. My parents believed me, but thought the hospital had done a thorough investigation and found no evidence.

Approximately one year later, I read the front page of the Dickinson Press which stated, "Dickinson nurse pleads innocent." I turned to my mom and said this is the nurse that hurt me, and I want to help this girl. My mom and I met with Stewart Stenberg, the former lead detective of the case. I remember he was nice and gave me this teddy bear. When Stewart asked what time I remember being sexually assaulted, he informed me that was the exact time the 14 year old victim was sexually assaulted on a different floor than the male nurse even supervised.

Stewart completed an investigation on my case and the female nurse who came into my room to check after she heard my yelling and comforted me was interviewed. It was determined that her story corroborated mine and the male nurse lied in his nursing notes to cover up my sexual assault. At the time I came forth to the hospital with allegations, that female nurse, who was the only other nurse on duty that night, had not been interviewed. For nearly 29 years, I have carried the blame for the sexual assault on that 14-year-old girl. I felt if I had not been a psychiatric patient at the time maybe I would have been more believable resulting in a more thorough investigation where the hospital would have interviewed that female nurse on duty. This is a copy of my police report.

Stewart told my mom and I that the 14-year-old girl and her family were going after the hospital for civil damages and encouraged us to join suit. It was during this time that I had another mental setback as a result of my PTSD and said I cannot continue. It was not that my case was any less provable or injurious than the other victim, but due to my PTSD I was only able to provide a supporting statement. As a result, the male nurse was charged with gross sexual imposition, sentenced to three years in prison, and got his nursing license revoked.

My parents still owe approximately \$67,000 on this hospital bill from the mental health unit. And they have been paying \$50 each month for the past 29 years. My parents were proud of me for what I could do-provide a supporting statement to help that 14-year-old girl and her family receive justice and take a molester out of a hospital setting.

At the age of 18, I was put on full disability. I could still easily be living on disability feeling sorry for myself for what happened to me. Instead, at the age of 23 when I got my first full time job with benefits, I quit disability completely. For most of my life, I have only wanted to be a survivor of what happened to me. Now that I am stronger, I want healing and justice is an integral part of that process.

I started EMDR therapy for my PTSD. Each therapy session costs me approximately \$40 each week or \$160 a month out of pocket. EMDR requires sleep for your body and mind to effectively process trauma. As a result of the sexual assault from the nurse at the hospital, I still have extreme difficulty sleeping past 2 am. This sexual assault with the nurse at the hospital has caused delays in my therapy for the trauma I originally struggled with-a rape at age ten.

Representative Austen Schauer stated since that statute of limitations was extended that in the entire history of North Dakota only two cases have had enough evidence to be heard in court. Allowing a two-year window does not make it easier for victims. You still have to prove your case in a court of law. I am not just a woman standing before you today with a sad story about a sexual assault at a hospital that happened 29 years ago. I am a woman standing before you today with my police report documenting a sexual assault at a hospital that happened 29 years ago. I and my family deserve to be the third case in North Dakota history to be heard in court. Thank you. Questions?

Dear Chairman Larson and Committee Members,

January 27, 2023

My name is Harriette Rebsom, I am the mother of A [REDACTED] R [REDACTED], who was sexually assaulted at the age of 18 while in the Intensive Care Unit of our hospital. She was not able to seek justice due to her mental health as a direct result of this abuse and then again because of the statues of limitations in place.

Sexual abuse destroys these victim's lives, 33% contemplate suicide and 13% attempt suicide. Those assaulted before age 16 are at an even greater risk with attempts occurring 3-4 times more than those after age 16. Our daughter who had been previously raped at the age of ten was one of those statistics. As a result of her sexual abuse, she had two serious suicide attempts before the age of 18. Can you even imagine our daughters state of mind at those times? At age 17 our daughter unsuccessfully attempted to die by suicide. We admitted her to the Mental Health Unit of the hospital. She was so distraught she could not walk so my husband carried her. It took many weeks for them to find out she had been sexually abused and even longer until she was able to hint at who it was. When a 10-year-old is sexually assaulted and the abuser tells them if you say anything "I will kill your family," they believe. They still believe-even at age 17!

While on suicide precautions at the Mental Health Unit, through a series of unfortunate events she came very close to dying after taking a full bottle of someone's heart pills. We were told by one of the doctor's "She could have died, she should have died, I have no reasonable explanation for why she is still alive or what just happened in there....., but she will be OK."

Her PTSD was severe. The worst they had ever seen is what we were told. Eventually she was able to get weekend passes to come home. One weekend she overdosed on caffeine pills and was taken to the Intensive Care Unit of the hospital. The next morning, I was met by the head Social Worker of the Mental Health Unit. She told me A [REDACTED] had made some serious allegations against the male nurse that night, and that it was most likely a "bad dream." I thought to myself she is 'mandated' by law to investigate and

report. It will be taken care of. As time passed, I never heard anything back. All I could assume was they had not found anything to substantiate her allegations. I believed A [REDACTED] but what more could we do?

Over one year later that same male nurse sexually assaulted a 14-year-old girl in the hospital. This time he was being charged. My daughter saw it in the paper and said "that's who assaulted me." She wanted to help but because of her mental health was too fearful to face him in court. She was able to provide the detective with her affidavit that was later used in court. Upon his investigation he said the male nurses charting did not indicate any wrongdoing, I thought why would he incriminate himself? He interviewed the female nurse on duty that night. Her testimony confirmed A [REDACTED]'s story! That is when I realized the Hospital had never reported this to authorities and the only "investigating" they had done was talk to that male nurse. Why was this never reported to authorities? Why didn't anyone from the hospital interview that female nurse? It would have been that simple. They had blatantly ignored the law.

A [REDACTED] was told she too could take him to court, but because of her mental health she was not strong enough. We were not going to force her. Her mental wellbeing was more important to us than money at that time. For years our family has carried anger and sadness that the hospital never investigated A [REDACTED]'s sexual assault thoroughly, that the staff never believed her, and that they told her to never talk about this again. We were told by the social workers he would never do such a thing-he was a good family man and highly respected. Everything seemed so surreal.

Our hospital bill was around \$90,000. Insurance paid a onetime \$10,000. Eventually our bill went to a collection agency-they wanted more. Because of all the injustices our daughter received by the neglect of the hospital I refused to pay the hundreds of dollars asked. \$50/month was all we could afford at the time. The agency asked for a financial report, maybe they could get the bill reduced. I spent weeks gathering all this information. I included in the letter the entire story of our daughter's sexual assault, noting nothing had been investigated and that they did not believe her. I hand delivered the letter. Several months later they wanted another statement, saying they had lost the letter! I was devastated! I



told them “No!, you have it, you find it.” We never did get a reduced bill. We have been making those payments for 29 years. Recently we spoke to another attorney who also advised us to continue with the payments, otherwise it could ruin our credit rating and they could take us to court. Last Fall I finally got the courage to call the collections agency to see what we still owed-it was over \$67,000. He said our file had a note to not contact us. Interesting? Had they found my letter? I am asking for justice for our daughter and our family and anyone else in our situation. We have the proof of a sexual crime, proof of wrongdoing by the hospital and yet our daughter cannot get justice because the statute of limitations clock has run out.

Sexual predators get their moment of gratification while the victims are left to deal with a lifetime of trauma from being sexually abused. The victim has to spend their money on counseling while the perpetrator gets to go on with their life as if nothing happened. If our daughter were to need a new car, she would have to stop counseling to make her payments. The victim didn't choose to be sexually assaulted, yet they have to live with this emotional and financial burden for the rest of their lives. The possibility of civil justice is the only justice our family and others have left in this long journey.

I ask for a DO PASS recommendation for SB 2282

Thank you for your time.

Dear Chairman Larson and members of the Committee. My name is Lee Rebsom. I am here to voice support for SB 2282. When our daughter A [REDACTED] was 17 we committed her into the mental health unit in Dickinson because she was exhibiting suicidal tendencies. A [REDACTED] revealed during therapy sessions that she had been raped by a student teacher when she was 10 years of age. My wife and I were totally unaware of the sexual assault inflicted upon our daughter. Who could even imagine something like that! She was again sexually assaulted by a male nurse at the hospital. When A [REDACTED] reported the sexual assault, we were told by staff at the hospital it was probably a dream. We were proud of her for reporting the assault and assumed that the hospital had done a thorough investigation of the allegation. We believed A [REDACTED] but again assumed the hospital had not found enough evidence to pursue the male nurse. A year later A [REDACTED] discovered that a 14 year old girl had been assaulted by the same male nurse who had assaulted her and the nurse was pleading innocent to the charges. A [REDACTED] wanted to help her. My wife and A [REDACTED] decided to call the police and request an investigation into her sexual assault committed by the same male nurse against her. "Somebody had to believe her." When the investigation was completed the evidence was indisputable and we were invited to join in the lawsuit with the 14 year old girls family. It was a very tough decision but we decided too not join in the lawsuit against the hospital. A [REDACTED] would not have withstood the pressure of having to testify in court. "Our main focus was keeping her alive." We have been making payments on the hospital bill for 29 years and are reminded every month of the hospital's incompetence and disregard for our daughter. We had entrusted the hospital with our daughter's care, well being and safety and they wouldn't even investigate a serious allegation against one of their staff. Criminal justice for the traumatic events incurred by our daughter are unattainable. The system allows sexual predators to evade justice while the victims are subjected to a lifetime of anguish because of the sexual assault. Civil Justice is all that could be pursued if this bill is passed. A [REDACTED] has been suffering from PTSD for the majority of her life and our hope is that any kind of justice will give her some relief. I urge you to support this bill – it's not true justice but it is all we have left. Thank you. Lee Rebsom (retired) Dickinson, ND



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**Senate Bill No. 2282**  
**Senate Judiciary Committee**  
**Testimony Presented by Seth O'Neill, JD, MSW**  
**Email: soneill@cawsnorthdakota.org**  
**January 30, 2023**

Chairwoman Larson and members of the Committee, my name is Seth O'Neill and I am representing CAWS North Dakota in support of SB2282. CAWS North Dakota is the statewide coalition of the domestic violence and sexual assault programs in North Dakota.

Nationwide, one in four women and one in nine men report being sexual assaulted during their lifetime.<sup>1</sup> In North Dakota, the 2020 U.S. Census estimated a population of 779,094 individuals with 48.6% female and 51.4% male.<sup>2</sup> Using the national statistic of sexual assault, this would equate to 94,659 women and 44,450 men in North Dakota being sexually assaulted during their lifetime. For these survivors, the average lifetime cost of sexual assault is \$122,461.<sup>3</sup>

SB2282 would allow these survivors to seek some form of justice through civil actions against their offenders. Allowing a temporary period for sexual assault victims who would otherwise be barred by statute of limitations to litigate their claims is a positive step for victims in North Dakota. Sexual assault survivors deserve an opportunity to attempt to hold their offender accountable.

We encourage the committee to give SB2282 a do pass recommendation. I appreciate your time and I am happy to answer any questions you may have. Thank you.

<sup>1</sup> See [National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Sexual Violence.](#)

<sup>2</sup> See [U.S. Census Bureau Quick Facts North Dakota.](#)

<sup>3</sup> See [Lifetime Economic Burden of Rape Among U.S. Adults.](#)

**S.B. 2282**  
**REVIVING TIME-BARRED CIVIL CLAIMS**

**TESTIMONY OF CARY SILVERMAN**  
**ON BEHALF OF THE**  
**AMERICAN TORT REFORM ASSOCIATION**

**BEFORE THE NORTH DAKOTA**  
**SENATE JUDICIARY COMMITTEE**

**JANUARY 30, 2023**

On behalf of the American Tort Reform Association (ATRA), thank you for the opportunity to express our concerns regarding S.B. 2282, which would revive time-barred civil claims.

I am a partner in the Public Policy Group of Shook, Hardy & Bacon L.L.P.'s Washington, D.C. office. I have written extensively on liability law and civil justice issues. I received my law degree and a Master of Public Administration from George Washington University, where I serve as an adjunct law professor. I have testified across the country on bills similar to S.B. 2282. I serve as co-counsel to ATRA, a broad-based coalition of businesses, municipalities, associations, and professional firms that have pooled their resources to promote fairness, balance, and predictability in civil litigation.

Sexual abuse against a child is intolerable and should be punished through both criminal prosecution and civil claims. I commend the Committee for considering steps to protect children and help survivors of abuse. My testimony today focuses on general principles underlying statutes of limitations, as well as the reasons why retroactive changes to these laws, and particularly reviving time-barred claims, are often viewed as unsound policy by legislatures and unconstitutional by courts.

Changes to any statute of limitations should be examined objectively based on core principles. ATRA believes that for statutes of limitations to serve their purpose of encouraging prompt and accurate resolution of lawsuits and to provide the predictability and certainty for which they are intended, they must be, at minimum: (1) finite; and (2) any changes must be prospective. ATRA is concerned that the two-year reviver window contained in S.B. 2282 strays from these principles and sets a troubling precedent for other types of civil cases.

**Statutes of Limitations: An Overview**

Why do we have statutes of limitations? By encouraging claims to be filed promptly, statutes of limitations help judges and juries decide cases based on the best evidence available. They allow court to evaluate liability (in negligence cases, what a person or organization should have done to fulfill its duty of care) when witnesses can testify, when records and other evidence is available, and when memories are fresh. As the U.S. Supreme Court has recognized, "the search for truth may be seriously impaired

by the loss of evidence, whether by death or disappearance of witnesses, fading memories, disappearance of documents, or otherwise.”<sup>1</sup>

Tort law, by its very nature, often deals with horrible situations that have a dramatic impact on a person’s life and the lives of others. No matter how tragic or appalling the conduct, or serious injury, North Dakota law requires a plaintiff to file a lawsuit within a certain time. For example, in North Dakota:

- When a person is seriously injured due to a drunk driver, he or she must file a civil lawsuit within six years, which is the general period that applies to personal injury claims.<sup>2</sup>
- A lawsuit alleging that a parent or child died because of someone’s careless or reckless conduct must be filed within two years of the person’s death.<sup>3</sup>
- Lawsuits alleging harm due to a doctor’s lack of due care must be filed within two years of the injury or discovery of the injury, but not more than six years from when treatment occurred.<sup>4</sup>

What these examples show is that the length of a statute of limitations is not typically based on the severity of the injury or the heinousness of the conduct at issue. The length of time to file a claim typically reflects the nature of the evidence. Claims involving hard evidence such as written contracts or land tend to have longer statutes of limitations. Cases involving standards of care and that rely on witness testimony to determine what was done or not done tend to have shorter periods to file a claim.

In addition to helping courts and juries reach accurate decisions, and safeguarding due process, statutes of limitations also allow businesses and nonprofit organizations to accurately gauge their potential liability and make financial, insurance coverage, and document retention decisions accordingly.

North Dakota’s statutes of limitations reflect a legislative judgment that a two to six-year period typically provides claimants with adequate time to pursue a claim while giving defendants a fair opportunity to contest complaints made against them. In addition, North Dakota law recognizes that when the injury is to a child, he or she must have additional time to bring a claim. When a child is harmed, the clock generally does not begin until he or she becomes an adult (age 18).<sup>5</sup>

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<sup>1</sup> *United States v. Kubrick*, 444 U.S. 111, 117 (1979).

<sup>2</sup> N.D. Cent. Code § 28-01-16(5).

<sup>3</sup> N.D. Cent. Code § 28-01-18(4).

<sup>4</sup> N.D. Cent. Code § 28-01-18(3), (4).

<sup>5</sup> *See, e.g.*, N.D. Cent. Code § 28-01-25.

## **North Dakota's Current Statute of Limitations for Lawsuits Alleging Injuries Resulting from Childhood Sexual Abuse**

North Dakota has twice extended its statute of limitation for civil actions alleging injuries resulting from childhood sexual abuse. Before 2011, the general statute of limitations for personal injury claims applied, providing six years of turning 18 to file a claim. That year, the legislature enacted a statute of limitations specifically for childhood sexual abuse claims that provided survivors with significantly more time to file a claim. Rather than provide a hard number of years to file a claim from the abuse or turning 18, the legislature enacted a law that allows individuals to file lawsuits within seven years of discovery of the abuse and the resulting injury.<sup>6</sup> In 2015, the legislature further extended that law to provide ten years rather than seven years of knowing of the abuse to file a claim.<sup>7</sup> Those periods applied prospectively and did not open the door to claims alleging conduct that occurred decades ago.

### **The Proposed Legislation**

S.B. 2282 does not alter the ten-year discovery period that has been in place since 2015. Rather, the bill proposes opening a two-year “window” during which any past statute of limitations is cast aside and expired claims seeking damages from sexual assault, sexual abuse, or gross sexual imposition can be filed. As drafted, the bill appears to apply not only to allegations of sexual abuse involving children, but also adults. These claims, whether they arose in 2009 or 1949, are “revived.” To my knowledge, North Dakota has never taken such an extraordinary approach for any type of civil claim.

It is critical to recognize that S.B. 2282 does not distinguish between lawsuits filed against perpetrators and organizations. In addition to private entities, the bill specifically revives claims against public schools, though it does not appear to apply equally to those who allege that other public entities, such as a public recreational program, social service agency, or law enforcement, are responsible for abuse.

S.B. 2282 would allow claims against organizations based purely on negligence, meaning that a lawsuit only needs to assert that an organization should have taken additional steps to detect, avoid, or stop abuse many years ago, or should have had better practices for hiring or supervising employees or volunteers. These lawsuits do *not* need to show that an organization knew of the abuse and allowed, enabled, or concealed it. In many cases, the perpetrator will be dead. The lawsuits will claim that an organization failed to take adequate steps in the 1940, 1950s, or 1960s to protect the safety of the victim.

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<sup>6</sup> S.L. 2011, ch. 231, § 1 (eff. Aug. 1, 2011) (codified at N.D. Cent. Code § 28-01-25.1).

<sup>7</sup> S.L. 2015, ch. 234 (eff. Aug. 1, 2015) (S.B. 2331) (amending N.D. Cent. Code § 28-01-25.1).

## **Retroactively Discarding a Statute of Limitations is Particularly Problematic for Businesses and Nonprofit Organizations**

The retroactivity of the legislation is particularly concerning. At least when a statute of limitations is extended prospectively, organizations can make rational and appropriate decisions to reduce their liability exposure and to be prepared if some day they are sued. If a business or nonprofit organization knows that North Dakota has eliminated its statute of limitations for a particular claim going forward it can:

- Adopt a record retention policy that keeps employment or other relevant records forever than then discard them after a certain number of years.
- Meticulously document steps it takes in the area in which it is subject to that liability exposure, such as how it made hiring, disciplinary, and termination decisions, received and responded to report of misconduct, any training it required employees or volunteers to undertake, and how it met the best practices at the time.
- Understanding the extraordinary liability exposure in a particular area, a person or organization can decide simply to not go into that line of business – not to offer a service or a product – because the risks are just too high. Or they may enter that line of business, but do so only if they are able to purchase substantial additional insurance to provide some security from that risk.
- In a similar vein, when a statute of limitations is extended prospectively, a business that is considering acquiring another business can do due diligence to investigate whether the company it is considering acquiring ever operated in an area subject to such extraordinary liability exposure and go back as far as the statute of limitations allows.

When a legislature eliminates a statute of limitations retroactively, however, a person or organization does not have these choices. Consider, for example:

- An organization, such as a YMCA, is sued for abuse that an employee allegedly committed fifty years earlier when the perpetrator died one year before the lawsuit was filed, any employment records were discarded after seven years, and the few staff members of that time who are still alive have little memory of either of them.
- A dentist or doctor who took over the family medical practice is served with revived lawsuit alleging that his father or grandfather abused a patient. This may have occurred even before the current owner of the practice was born or went to medical school.
- A small business that provided exercise or sports programs to elementary schools is sued because an employee, who worked at the organization for just a few months, is accused of abuse thirty years earlier. The person who

founded, owned, and managed the business at that time has long retired and moved away and the current owners have no knowledge of what occurred.

Reviving time-barred claims during a “window” is also likely to result in a sudden surge of unexpected litigation. Even if an organization has the records, witnesses, institutional knowledge available to defend itself, it will be challenging to respond to the litigation when it faces multiple cases at the same time.

### **Reviving Time-Barred Claims Sets a Troubling Precedent**

Discarding a statute of limitations and reviving-time barred claims, even temporarily, sets a troubling precedent. Over time, there will be many sympathetic plaintiffs, important causes, and unpopular industries and defendants. There are also other past injustices that have not been remedied. Allowing revival of time-barred claims here will inevitably lead to future calls to permit claims asserting injuries based on conduct that occurred decades ago to proceed in North Dakota’s courts.

ATRA has already observed several such attempts in other states. For example, efforts are underway in states that have revived time-barred childhood sexual abuse claims to expand these provisions. Legislation recently took effect in New York that revives claims brought by those who allege injuries from sexual abuse as adults.<sup>8</sup> California enacted similar legislation reviving claims against entities alleging damages from sexual assault experienced as adults, adding related employment claims.<sup>9</sup> Vermont almost immediately expanded its 2019 childhood sexual abuse claims-revival law to apply to *physical* abuse claims.<sup>10</sup> Now, Vermont is considering legislation that would further extend this reviver to “emotional abuse” claims.<sup>11</sup>

Plaintiffs’ lawyers and advocacy groups will also seek to revive other types of tort claims. For example, legislation proposed in Maine would have retroactively expanded the statute of limitations for product liability claims from six to fifteen years.<sup>12</sup> Oregon considered a bill that would have revived time-barred asbestos claims during a two-year window.<sup>13</sup> Last October, New York revived claims by water suppliers alleging injuries related to an “emerging contaminant.”<sup>14</sup>

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<sup>8</sup> S. 66 (N.Y. 2022).

<sup>9</sup> A.B. 2777 (Cal. 2022). As introduced, the California legislation would have broadly revived claims seeking to recover damages for “inappropriate conduct, communication, or activity of a sexual nature.” A.B. 2777 (Cal., introduced Feb. 18, 2022).

<sup>10</sup> See S. 99 (Vt. 2021).

<sup>11</sup> H. 8 (Vt., introduced Jan. 5, 2023).

<sup>12</sup> LD 250 (Maine 2019) (reported “ought not to pass”).

<sup>13</sup> S.B. 623 (Or. 2011) (died in committee).

<sup>14</sup> S. 8763A (N.Y. 2022).



States have also considered proposals to retroactively allow lawsuits alleging novel theories of liability. Bills have attempted to allow claims addressing social and political causes by applying today's moral values to conduct that occurred long ago. For example, legislation has been introduced to revive lawsuits alleging that businesses are responsible for climate change<sup>15</sup> or to address human rights abuses of the past.<sup>16</sup>

ATRA's concern is that opening the door here sets a precedent that will be used in other areas. If the legislature is willing to discard statutes of limitations, individuals and businesses in North Dakota will face a risk of indefinite liability for any type of claim. As discussed earlier, taking this approach makes the civil justice system unpredictable, unreliable, and unfair.

### **Most States Have Not Taken the Extreme Approach Proposed in S.B. 2282**

Over the past two decades or so, state legislatures have considered hundreds of bills to lengthen the statute of limitations for civil claims alleging injuries from childhood sexual abuse. Most legislatures have, like North Dakota, responded by prospectively increasing the statute of limitations, even if a bill started out with a more extreme approach. They have retained finite limits and decided not to revive time barred claims. Here are some recent examples:

- Alabama, one of the few states that had no special statute of limitations for childhood sexual abuse claims, prospectively established a statute of limitation for childhood sexual abuse requiring claims to be filed by age 25.<sup>17</sup>
- Tennessee prospectively changed its law from requiring an action to be filed within 3 years of discovery to 15 years of turning 18 (age 33) or 3 years of discovery of the abuse.<sup>18</sup>
- Texas prospectively extended the statute of limitations from 15 years to 30 years of majority (age 48).<sup>19</sup>

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<sup>15</sup> See S.B. 1161 (Cal. 2016) (proposing to revive actions under the state's unfair competition law alleging that businesses deceived, confused, or misled the public on the risks of climate change or financially supported activities that did so) (reported favorably from committee, but died without floor vote).

<sup>16</sup> See A.B. 15 (Cal., as amended Mar. 26, 2015) (proposing a ten-year statute of limitations for torts involving certain human rights abuses that would have applied retroactively to revive time-barred claims for events that occurred up to 115 years earlier) (claims-revival provision removed and legislation made prospective before enactment).

<sup>17</sup> S.B. 11 (Ala. 2019) (to be codified at Ala. Code Ann. § 6-2-8(b)).

<sup>18</sup> H.B. 565 (Tenn. 2019).

<sup>19</sup> H.B. 3809 (Tex. 2019).

By our count, 24 states and the District of Columbia have revived childhood sexual abuse claims in some form since California did so in 2002. It is important for the Committee to recognize, however, that very few of these states adopted the broad, open ended type of reviver contained in S.B. 2282. Most other states placed significant constraints the claims that they revived.

Some states limited revivers to the perpetrator of the abuse, recognizing the problems with evaluating negligence after decades have passed. By contrast, intentional tort claims involve crimes with the simple question of whether the defendant committed the abuse or not.

- Massachusetts extended its statute of limitations from 3 years of becoming an adult (the general period for personal injury claims) to 35 years of age 18 or 7 years of discovery of the injury in 2014. The new period applied retroactively to revive time-barred claims against perpetrators only.<sup>20</sup> Massachusetts also has a low cap on damages in civil claims against charitable organizations.
- Georgia extended its statute of limitation to age 23 or 2 years of discovery and enacted a 2-year window reviving time-barred claims against perpetrators only in 2015.<sup>21</sup>
- Rhode Island extended its statute of limitations for childhood sexual abuse cases from 7 years to 35 years of turning 18, and provided a 7-year period to bring a claim from when a victim discovers or reasonably should have discovered the injury caused by the abuse. Before enacting this law, the General Assembly removed a 3-year window that would have permitted time-barred claims. Instead, the enacted legislation applies the extended period retroactively for claims brought against perpetrators only and explicitly does not revive time-barred claims against entities.<sup>22</sup>

Other states have required revived claims against an entity to show the entity had actual knowledge or committed criminal misconduct.

- In 2009, Oregon extended its statute of limitation to permit claims until age 40 against perpetrators or claims alleging that an entity knowingly allowed,

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<sup>20</sup> Mass. Act ch. 145, § 8 (2014) (codified at Mass. Gen. Laws ch. 260, § 4C, 4C 1/2). The Massachusetts law's 35-year period for filing a claim is "limited to all claims arising out of or based upon acts alleged to have caused an injury or condition to a minor which first occurred after the effective date of this act" and did not revive time-barred claims. The Massachusetts law's seven-year discovery period, however, applied retroactively.

<sup>21</sup> Ga. Code Ann. § 9-3-33.1(d)(1) ("The revival of claim...shall not apply to [a]ny claim against an entity.").

<sup>22</sup> S.B. 315 Sub. A (R.I. 2019).

permitted, or encouraged child abuse, and applied that new period retroactively.

- Utah adopted a statute of limitation that allows claims to be filed within 35 years of turning 18 and enacted a 3-year window for claims against perpetrators and those who would be criminally responsible in 2016.<sup>23</sup> As discussed early, the Utah Supreme Court found that reviver unconstitutional in 2020.
- Michigan prospectively extended its statute of limitations to age 28 or 3 years of discovery, and adopted a 90-day reviver window tailored for victims of a convicted criminal, Dr. Larry Nasser in 2018.<sup>24</sup>
- Arizona extended its statute of limitations to 12 years of age 18 in 2019. It adopted a window that is about 1 1/2 years long that revives claims only where there is clear and convincing evidence that an entity knew an employee or volunteer engaged in sexual abuse.<sup>25</sup>
- West Virginia adopted a statute of limitations of 18 years of becoming an adult or four years of discovery of the abuse, for claims against perpetrators, in 2020. For claims against entities, it adopted an 18-year period (age 36) without the potential to expand that period for later discovery of the injury. It revived claims against perpetrators or a person or entity that aided, abetted, or concealed the abuse.<sup>26</sup>

Three states did not revive claims alleging bare negligence, but required evidence of gross negligence to support a time-barred claim. These states include Delaware (2007), Hawaii (2012-2020), and Vermont.<sup>27</sup>

In addition, several states revived only those claims falling within a new or extended, but finite, statute of limitations by applying the new period retroactively. These states include Connecticut, Kentucky, Montana, Nevada, Oregon, and West

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<sup>23</sup> Utah Code Ann. § 78B-2-308(7) (reviving a civil action against an individual who “(a) intentionally perpetrated the sexual abuse;” or “(b) would be criminally responsible for the sexual abuse”).

<sup>24</sup> Mich. Public Act 183 (S.B. 872) (signed June 12, 2018) (amending Mich. Comp. Laws § 600.5805 and adding § 600.5851b). The Michigan law revived claims filed by an individual who, while a minor, was a victim of criminal sexual conduct after December 31, 1996 when the person alleged to have committed the criminal sexual conduct was convicted of criminal sexual conduct and that defendant was (a) in a position of authority over the victim as the victim’s physician and used that authority to coerce the victim to submit, or (b) engaged in purported medical treatment or examination of the victim in a manner that is, or for purposes that are, medically recognized as unethical or unacceptable.

<sup>25</sup> H.B. 2466 (Ariz. 2019).

<sup>26</sup> H.B. 4559 (2020) (amending W. Va. Code Ann. § 55-2-15).

<sup>27</sup> Del. Code tit. 10, § 8145(b); Haw. Rev. Stat. § 657-1.8(b); Vt. Stat. Ann. tit. 12, § 522.

Virginia, as well as the District of Columbia. They did not revive claims going back indefinitely.

Finally, Colorado's 2021 law retroactively authorized a cause of action involving conduct that occurred after 1960 and capped damages in otherwise time-barred negligence claims against organizations and public entities.<sup>28</sup>

In sum, while you may hear that many states have revived time-barred childhood sexual claims, relatively few states, such as California, New York, New Jersey, and Minnesota have broadly done so. When you look more closely at what other states actually did, about two thirds of those 24 states included significant constraints on what claims are revived that are not found in S.B. 2282.

### **Questionable Constitutionality**

In addition to the public policy reasons that support maintaining finite statutes of limitations and not making changes retroactively, states have also avoided reviving time-barred claims due to constitutional concerns.

As several state supreme courts have observed, “The weight of American authority holds that the [statute of limitations] bar does create a vested right in the defense” that does not allow the legislature to revive a time-barred claim.<sup>29</sup> States reach this result through applying due process safeguards, a remedies clause, a specific state constitutional provision prohibiting retroactive legislation, or another state constitutional provision. These cases generally recognize that a legislature cannot take away vested rights. It is a principle that is equally important to plaintiffs and defendants. These courts generally find that the legislature cannot retroactively shorten a statute of limitations and take away an accrued claim (such as by reducing a three-year period to one year, when a plaintiff is two years from accrual of the claim). Nor can it

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<sup>28</sup> S.B. 88 (Colo. 2021) (codified at Colo. Rev. Stat. § 13-20-1201 et seq.) (generally limiting damages to \$350,000 against public entities and \$500,000 against private entities).

<sup>29</sup> *Johnson v. Garlock, Inc.*, 682 So.2d 25, 27-28 (Ala. 1996); see also *Johnson v. Lilly*, 823 S.W.2d 883, 885 (Ark. 1992) (“[W]e have long taken the view, along with a majority of the other states, that the legislature cannot expand a statute of limitation so as to revive a cause of action already barred.”); *Frideres v. Schiltz*, 540 N.W.2d 261, 266-67 (Iowa 1995) (“[I]n the majority of jurisdictions, the right to set up the bar of the statute of limitations, after the statute of limitations had run, as a defense to a cause of action, has been held to be a vested right which cannot be taken away by statute, regardless of the nature of the cause of action.”); *Dobson v. Quinn Freight Lines, Inc.*, 415 A.2d 814, 816-17 (Me. 1980) (“The authorities from other jurisdictions are generally in accord with our conclusion” that running of the statute of limitations creates a vested right); *Doe v. Roman Catholic Diocese*, 862 S.W.2d 338, 341-42 (Mo. 1993) (recognizing constitutional prohibition of legislative revival of a time-barred claim “appears to be the majority view among jurisdictions with constitutional provisions”); *State of Minnesota ex rel. Hove v. Doese*, 501 N.W.2d 366, 369-71 (S.D. 1993) (“Most state courts addressing the issue of the retroactivity of statutes have held that legislation which attempts to revive claims which have been previously time-barred impermissibly interferes with vested rights of the defendant, and this violates due process.”).

extend a statute of limitations after the claim has expired. Courts have applied these constitutional principles to not allow revival of time-barred claims in a wide range of cases—negligence claims, product liability actions, asbestos claims, and workers’ compensation claims, among others.

A minority of states find that reviving time-barred claims is permissible or appear likely to reach that result. These states generally follow the approach taken under the U.S. Constitution, which contains an “Ex Post Facto” clause that prohibits retroactive *criminal* laws,<sup>30</sup> including retroactive revival of time-barred criminal prosecutions,<sup>31</sup> but does not provide a similar prohibition against retroactive laws affecting *civil* claims.<sup>32</sup> For that reason, under federal constitutional law, there is no vested right in a statute of limitations defense that prohibits reviving an otherwise time-barred claim.<sup>33</sup> The U.S. Supreme Court has recognized, however, that state constitutions can provide greater safeguards than the U.S. Constitution.<sup>34</sup>

Last summer, the Utah Supreme Court was the latest to find reviver legislation (a three-year window that revived claims only against perpetrators) unconstitutional. While the court “appreciated the moral impulse and substantial public policy justifications” for the reviver, the court unanimous held that the principle that the legislature violates due process by retroactively reviving a time-barred claim is “well-rooted in our precedent,” “confirmed by the extensive historical material,” and has been repeatedly reaffirmed for “over a century.” It continued to follow the “majority approach.”<sup>35</sup>

By our count, 15 of the 24 states that have revived time-barred childhood sexual abuse claims did so between 2019 and 2021. Litigation stemming from these recent enactments is now reaching state appellate courts. ATRA is aware constitutional challenges to revivers in five states: Colorado, Louisiana, North Carolina, New York, and

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<sup>30</sup> U.S. Const. art. I, § 9, cl. 3 (“No bill of attainder or ex post facto Law shall be passed.”).

<sup>31</sup> See *Stogner v. California*, 539 U.S. 607 (2003) (holding that “a law enacted after expiration of a previously applicable limitations period violates the Ex Post Facto Clause when it is applied to revive a previously time-barred prosecution”).

<sup>32</sup> While the U.S. Supreme Court has provided Congress with more of a free hand to enact retroactive legislation, it has also expressed strong concern with this long “disfavored” approach. See *Landgraf v. USI Film Prods.*, 511 U.S. 244, 266 (1994) (“[R]etroactive statutes raise particular concerns. The Legislature’s unmatched powers allow it to sweep away settled expectations suddenly and without individualized consideration. Its responsiveness to political pressures poses a risk that it may be tempted to use retroactive legislation as a means of retribution against unpopular groups or individuals.”).

<sup>33</sup> See *Chase Securities Corp. v. Donaldson*, 325 U.S. 304, 314 (1945); *Campbell v. Holt*, 115 U.S. 620, 628 (1885).

<sup>34</sup> See *Pruneyard Shopping Center v. Robins*, 447 U.S. 74, 81 (1980).

<sup>35</sup> *Mitchell v. Roberts*, 469 P.3d 901, 903, 913 (Utah 2020).

Rhode Island. We anticipate that courts will ultimately invalidate some, if not all, of the reviver provisions in these laws.<sup>36</sup>

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In conclusion, it is important that North Dakota's civil justice system maintain the predictability and certainty of having a finite statute of limitations for any type of civil claim. Legislation that opens a window during which decades-old claims are revived sets a troubling precedent, allowing decades-old claims where witnesses, records, and other evidence upon which judges and juries can evaluate liability are no longer available. North Dakota's statute of limitations, in providing ten-years to bring a claim from discovery of the abuse, is more open ended than many states, but if the Committee feels that more time is needed, there are alternatives that would provide survivors of sexual abuse with more time to sue without violating core principles of the civil justice system. Thank you again for the opportunity to testify today and considering ATRA's concerns as you address this difficult and important issue.

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<sup>36</sup> *Lousteau v. Congregation of Holy Cross Southern Province, Inc.*, No. 22-30407 (5th Cir.) (considering appeal of ruling finding Louisiana's reviver unconstitutional); *Doe v. Society of the Roman Catholic Church of the Diocese of Lafayette*, No. 2022-CC-00829, 347 So.3d 148 (Mem) (La. Oct. 4, 2022) (remanding to Court of Appeals with instruction to consider whether reviving a time-barred claim would "unconstitutionally impair relator's vested right in the defense of liberative prescription"); *PB-36 Doe v. Niagara Falls City Sch. Dist.*, CA 21-01223 (N.Y. App. Div., 4th Dep't) (briefing complete); *McKinney v. Goins*, No. 109PA22 (N.C.) (considering appeal of ruling finding reviver unconstitutional); *Houllahan v. Gelineau*, SU-2021-0032-A, SU-2021-0033-A, SU-2021-0041-A (R.I.) (oral argument scheduled for Feb. 1, 2023, in case in which trial court did not reach constitutional issue).

This statement is in support of the legislation regarding Disabling mental condition of the victims of sex crimes. This legislation has the power to give a voice to the ones who have been silenced. My friend A [REDACTED] R [REDACTED] is one of these people who was silenced by her condition. A [REDACTED] has poured her heart and soul into this legislation in hopes that one day it will help future victims like her. A [REDACTED] chose to step up and help a fellow victim soon after her attack. Now she is stepping up and offering that same help to anyone who has suffered the same way she has by being an essential proponent of this bill. Every day we have the power of choice. This isn't a clear black and white statement when a person suffers from a disabling mental condition. I'm not going to pretend I understand the ramifications of everything that happens to a victim. But I do know that he or she has the right to fight back when they are physically, emotionally, and spiritually able to do so. Think of all the souls who could take action and begin to heal when you pass this bill. They cannot change their past, but you can help change their future.

SB 2282

I am in support of extending the statute of limitations for victims of sex crimes. I have witnessed the trauma and PTSD, my best friend endured, from being raped at the age of 10 years old. She was also molested by a nurse (while seeking help), seven years later. My best friend's name is A█████ R█████, who is also speaking out regarding this bill.

I remember how spunky and self-confident A█████ was, prior to the age of 10 years old. I used to play softball with A█████ and she was a rockstar player and full of life. I'm not sure exactly why she stood out in my mind, but I was drawn to her energy.

Fast forward several years later, A█████ transferred to the same Catholic school as me. Soon, I realized that something had changed. That same spunky girl that I once knew, had grown into a quiet and meek teenager. I wasn't sure what had happened, and frankly I didn't think too much about it at the time. Both A█████ and I felt like outsiders at our school, and it didn't take long before she became my best friend. She was someone that I felt comfortable with. It was us against the world!

During our senior year in high school, I noticed that A█████ had begun to struggle more and more. She was depressed, and often spoke about death. I remember A█████ made clouds out of cardboard and cotton, that she hung them from her bedroom ceiling. A█████ used to talk about how she wanted to be in the clouds with her grandma. I didn't ask many questions, nor did I talk about this with others. I thought it was normal because I, too, had suicidal thoughts every day. Unfortunately, it had all become too much for A█████ and she was eventually admitted to the hospital. When this happened, I felt like my world was crashing down. A█████ was my best friend and one of the very few people that I hung out. Now what was I to do? I was sad and a little angry, but most of all I missed my best friend.

Over the next few months, that A█████ finally told me about the rape that happened when she was 10 years old. I was shocked, as this was someone that we both knew and interacted with. What should I do when I see him? He was a person of authority and someone that I had respected. I decided to act normal. I pretended that I didn't know what a scumbag he really was.

I later learned that a nurse had molested A█████ while she was seeking help at the hospital. The same thing happened to a 14-year-old girl, and A█████ voluntarily provided her own written testimony. A█████'s testimony helped the young girl win her case against that nurse and the hospital. I once asked A█████a why she didn't also press charges against the nurse. I remember the look in A█████'s eyes as she said quietly lowered her head and said that she couldn't do it. At that moment, I knew that it would have been too much for A█████. She still had so much healing to do first.

Throughout the years, I saw A█████ go up and down in her recovery. I always felt saddened watching her struggle, but relieved that she didn't turn to drugs or alcohol. A█████ admitted that she still continues to have sleepless nights or feels uncomfortable unless she's in an open area with a light and/or the tv on.

What people need to realize is there is no time limit for trauma and its victims. It is a life sentence. The current statute of limitations, for a victim to be well enough to stand trial, just isn't fair. Imagine if this same thing happened to your child, your sibling, or your best friend. Wouldn't you want them to receive compassion to allow them time to recovery? These victims deserve the same right to seek out justice when (or if) they become ready.



January 29, 2023

Dear Chairman Larson and Members of the Committee,

My name is Paula Rebsom and I was born and raised in Dickinson, North Dakota but currently reside in Seattle, Washington. I flew home this week in order to be here to support my family that has suffered from collective trauma for nearly 30 years as a result of my sister, A [REDACTED] R [REDACTED]'s multiple sexual assaults. I am also here to stand for and support the countless other survivors of sexual assaults and their families who have been blocked from seeking justice due to this state's current statute of limitations law.

You have heard the story of how my sister was raped at the age of 10 and told her family would be killed if she told anyone, how she became suicidal and was admitted to the mental health unit at our local hospital where she was once again sexually assaulted while trying to process the trauma of her prior assault. What you haven't heard is that my sister has not waited 29 years in order to seek justice, she has contacted multiple lawyers over the years to see if her case could be re-opened only to continually be told the SOL had run out because at the time of the assault, she had just turned 18. Each time my sister has tried to seek justice, the wounds of the past resurface as raw as they were when initially inflicted. It is mentally and physical exhausting work for her, but also for our family. We all regress in our healing each time she seeks justice, but giving up feels like we are betraying all of the work my sister has done to be where she is today and that is not an option for us.

After her last attempt to revive her case, a layer told her the only way to seek justice was to get the law changed. And so, for the past 2 years that has tirelessly been her mission. She worked with CAWS of North Dakota who connected her with Representative Austen Schauer. He listened, he believed in her cause, he assembled a team and they drafted HB 1145 which was presented to the House Judiciary Committee on January 11<sup>th</sup>, 2023. An amended version was passed by the full House on January 27<sup>th</sup>, 2023. While the amendment's that were made by the Judiciary House subcommittee

reduce the impact this bill could have had, it is a small step in the right direction and I am so proud of the work that she did for this bill's passage and grateful for everyone who helped it get through this far.

Yet for all the effort my sister has done in working towards getting the law changed, she will still not be able to benefit from it should it pass. As you move forward, I ask you to please not forget those left behind by this state's current statute of limitations law which provides more protections for assailants and institutions than it does for survivors of sexual assault. Please stop the exhaustive loop of survivors and their families needing to relive their trauma in order to get laws changed. This bill would finally give my sister, my family, and countless other survivors of sexual assault the chance we all deserve to seek justice, which is an integral and necessary part of the healing process.

My sister did not choose to be sexually assaulted. No one does. Yet from the moment the assault occurs the course of their lives and their families' lives are forever changed. The survivor's ability to seek justice is also something they do not get to choose. It is decided for them by the state's current SOL laws in which the assault occurred and whether it is something that happened in the past, present, or future. A survivor of assault also does not choose to intentionally delay or stall justice. It is a matter of survival for them and in some cases a matter of life and death.

Do not let the opposition tell you this bill can't be done. At least 9 states have enacted some form of revival window laws and many more states have bills being proposed at their current legislative sessions. You have a choice today to stand for survivors of sexual assault. You have the chance to give them a choice in their path towards justice and healing, giving them back control of a part of their life that was so unjustly taken away from them. I urge you to give SB 2282 a DO PASS recommendation

Thank you for your time,

Paula Rebsom

## SB2282 – Sexual Assault Window

Good morning, Madam Chair Larson and members of the Senate Judiciary Committee, my name is Jaci Hall and I am the Executive Director of the North Dakota Association for Justice. Today I am here to urge a DO PASS on SB2282.

Sexual abuse can happen to children and adults of any race, socioeconomic group, religion, or culture. **Every 68 seconds an American is sexually assaulted in the US. Every 9 minutes it is a child.** Women and men between the age of 12 and 34 are at the highest risk of sexual assault. If you are Native American, you are twice as likely to be sexually assaulted. A woman in college is more likely to be sexually assaulted than graduate.

ND Task Force on the Prevention of Child Sexual Abuse was established in 2017 and is tasked to identify, educate, and support groups who provide services to those who are victims of child sexual abuse.

The 2019 report showed the latest information:

1. In 2016, NDHHS responded to over 14,000 reports of child abuse and neglect.
2. In 2016, the AG reported 587 child sexual abuse victims.
3. In 2017, 774 children were referred to ND Children Advocacy Centers for Sexual Abuse allegations.
4. The ND Children's Advocacy Centers determined the lifetime cost for the sexual abuse of a female = \$282,734 and a male = \$71,691.
5. For those who were sexually abused, reported their abuse and received services the ND Children's Advocacy Center in 2017, the estimated lifetime expense is \$154,813,120. (That is for the 826 children who received services in 2017)

According to PCAND, 16% of children who are sexually abused come forward when they are children. Fewer than ½ of those will result in a conviction.

When victims come forward later in life, they are silenced due to the statute of limitations. SB2282 will give these victims a voice.

The North Dakota Legislature has not tasked this group to analyze sexual offenses for those 18 and older.

Like Senator Dwyer indicated, in 2021, the Attorney General's Office investigated 1,089 criminal sexual offenses. These offenses included sodomy, rape and rape with a foreign object, groping and commercial sex acts.

As these offenses increase, the length of time to prosecute these cases has also increased. In 2021, criminal sexual assault prosecution took 440 days to prosecute. Many prosecutors wait until the rape kit is processed and there is evidence of guilt to start the criminal prosecution. As you heard last week, North Dakota's crime lab is over 400 kits behind....some victims have waited over a year.

These delays have a detrimental impact on the current statute of limitations for civil remedy. As high-profile cases of sexual abuse and as survivors find the courage to report crimes and seek closure, statute of limitations can be a deterrent. Civil litigation can be a remedy for victims of sexual assault in several ways. Some of the ways that civil litigation can provide a remedy for victims of sexual assault include:

1. **Monetary compensation:** Victims of sexual assault can seek monetary compensation for damages such as medical expenses, lost wages, and pain and suffering.
2. **Injunctive relief:** Victims of sexual assault can seek court orders to prevent the perpetrator from continuing to engage in harmful conduct, such as restraining orders or orders requiring the perpetrator to undergo counseling or treatment.
3. **Holding wrongdoers accountable:** Civil litigation can help to hold wrongdoers accountable for their actions, which can provide a sense of justice and closure for victims.
4. **Public acknowledgment of the harm:** Civil litigation can provide an opportunity for the victim to have their story heard in court and for the wrongdoer to be publicly held accountable, which can help to validate the victim's experience and bring attention to the issue of sexual assault.
5. **Consequences for the perpetrator:** Civil litigation can also provide consequences for the perpetrator, such as fines, penalties, and even reparations that can be directed to the victim.
6. **Securing evidence for criminal proceedings:** In some cases, civil litigation can be a way to gather evidence that can be used in criminal proceedings against

the perpetrator, this can help to increase the chances of a successful criminal prosecution for other offenses.

Currently in North Dakota, these are the statute of limitations for sexual assault, abuse, and gross sexual imposition:

1. For Actions against individuals 18+: 2 years for Civil; 2 years for a misdemeanor, 3 years for a felony for Criminal (HB1145); forceable Rape is 7 years.
2. For Actions against Children in a Public School: 3 years for Civil, 21 years for Criminal.
3. For Actions against Children: 10 years for Civil; 21 years for Criminal; under 15 when a victim the SOL starts at 18 years old.
4. For Actions against Children in a state Agency: 3 years for Civil, 21 years for Criminal.

As the legislature looks at separate offenses throughout the years, the statutes of limitations have gotten skewed. **Normally, civil litigation does not commence until after the criminal complaint. This is because until the criminal complaint is completed, the defendant will plead the 5<sup>th</sup> amendment, so they do not incriminate themselves.**

SB 2282 gives the victim the opportunity to seek a civil remedy if they were unable to due to their criminal complaint taking too long, or the discovery of the abuse was outside the current statute of limitations.

Statutes of limitations can be detrimental to these cases as they place a time limit on the ability of the victim to seek legal remedy for the sexual assault. As the criminal statutes change and not the civil statutes, victims lose this ability. Today, I ask you to open the window to provide them with opportunity they have lost that was outside of their control.

**Many ask whether this window should be open to all cases, or should SB2282 not be open retroactively?**

Overall, access to the civil justice system is crucial for victims of wrongful conduct as it provides them with a means of seeking redress for harms suffered, holding wrongdoers accountable, and promoting important public policy goals.

The ex post facto clause is a provision in the United States Constitution that prohibits the federal government from passing laws that retroactively criminalize conduct, increase the punishment for a crime, or eliminate the defense of a crime. The ex post facto clause applies to criminal law and does not cover civil litigation.

In civil litigation, the statute of limitations, which is a time limit for filing a lawsuit, is not considered a retroactive law because it does not criminalize conduct or increase the punishment for a crime, but it sets a time frame for a legal action to be taken. The statute of limitations can be modified or extended by the legislature, but it doesn't affect the rights of individuals who have already been subject to the previous statute of limitations, unless they are still in the time frame of the previous statute.

### **What have other states done in the past few years to support victims?**

In recent years, many states have changed their statutes of limitations for sexual assault in response to the widespread problem of sexual abuse and the recognition that victims may not come forward to report the abuse for many years, or at all. Currently, 27 states have made changes to their laws to protect victims. In 2023, 7 states have legislation pending to make additional changes. These changes have included:

1. **Eliminating statutes of limitations for sexual assault:** Several states, such as California, have eliminated the statutes of limitations for sexual assault, which means that victims can file a lawsuit at any time, regardless of when the abuse occurred.
2. **Extending statutes of limitations:** Some states have extended the statutes of limitations for sexual assault, which means that victims have more time to file a lawsuit. For example, New York extended the statute of limitations for criminal sexual assault from five years to 20 years.
3. **Creating "lookback" windows:** Some states have created "lookback" windows, which are limited periods of time during which victims who were previously barred from filing a lawsuit due to the statute of limitations can file a lawsuit regardless of how long ago the abuse occurred. This is what SB2282 will do.
4. **Introducing a "Romeo and Juliet" clause:** Some states have included a "Romeo and Juliet" clause, which is an exception to the statute of limitations for sexual assault cases where the perpetrator and the victim are close in age.

5. **Child Victims Act:** Some states have passed the Child Victims Act, which provides for a one-year window for victims to file civil claims for child sexual abuse regardless of the statute of limitations.

These changes to statutes of limitations for sexual assault are designed to provide more time for victims to come forward and to seek legal remedy for the abuse they have suffered. The changes also reflect the recognition that victims may not be ready to come forward for many years, or at all, after the abuse occurred and that it is important to provide them with a way to seek justice.

#### **Who will be against changes to this statute of limitations?**

**Perpetrators** will not be happy to change this statute. Why? Because when perpetrators are not held accountable, they will continue to offend. Numbers of victims will continue to grow, and the state of North Dakota will continue to pay for mental health services for victims. Over 40% of perpetrators are people the victim knew or was a family member or close friend.

**Insurance Carriers:** Many organizations and institutions pay premiums to cover employee misconduct. These carriers will not be happy with these changes as they will not pay out monetary sums to victims in North Dakota.

**Organizations and Institutions who have allowed the misconduct:** In civil remedies, organizations and institutions who had knowledge of the misconduct can also be held accountable. These groups are only held accountable if they had knowledge of the sexual abuse but did not do anything to support the victim, but protect the perpetrator.

Perpetrators and institutions have benefitted from short SOLs and until recently, most states, including North Dakota, have shut down most cases. That is a major reason we knew so little about the epidemic of child sex abuse.

Holding employees accountable for their actions can serve as a deterrent for negligent behavior and can hold individuals responsible for their actions. This can also provide a sense of justice for the victim and ensure that the employee is held responsible for the harm they have caused.

Organizations can also be held liable for the actions of their employees. This is because organizations have a responsibility to ensure the safety and well-being of

their employees and those affected by their actions. Holding organizations liable can also ensure that they take steps to prevent similar incidents from occurring in the future.

In general, it is important to consider both the actions of the individual employee and the actions of the organization when determining liability. The employee's actions should be evaluated to see if they are in violation of any laws, policies, or regulations, and if the organization had proper oversight and monitoring in place. The organization's liability should be determined based on whether it failed to provide a safe working environment, failed to properly train or supervise its employees, or failed to take appropriate action when it knew or should have known about the employee's behavior.

It is also worth mentioning that in some cases, both the employee and the organization can be held liable for the harm caused, depending on the specific circumstances of the case.

Less than 4% of all sexual assaults happen within a faith-based organization. In North Dakota, a 2020 report resulted in a list of clergymen who could have sexually assaulted children within their parish. The Attorney General determined that most perpetrators had died, thus no criminal charges were filed.

**Civil claims cannot be filed against individuals who have been deceased more than 1 year.**

Overall, civil litigation has had a financial impact on the Catholic Church in other states, but it has not bankrupted the Church. The Church has made significant changes to its policies and procedures to prevent sexual abuse, and the Church continues to face ongoing litigation and public scrutiny.

In recent years, new allegations have surfaced. Some allegations have been within the last year.

**Under Chapter 50 of the North Dakota Century Code, clergy are required to report child abuse and neglect when they are not acting in a spiritual capacity.**

For entities like the Boy Scouts of America, their chapter 11 filing includes a cap on child sexual abuse claims. Once the allocated funds are gone, claims will cease.



**North Dakota statute has implemented liability caps on charitable organizations and municipalities and state agencies. These caps would come into play with any allegations against these entities.**

Victims of sexual abuse go through so many ups and downs. Their worlds are flipped upside down, but they choose to stand up and face their perpetrator. They do this to remove this individual from the streets so they cannot harm another. They are the bravest of the brave. Today, I ask you to be brave. To support victims and show them you are willing to stand up and support them.

These victims behind me deserve your support and willingness to stand with them to remove these perpetrators. By voting DO PASS on SB2282, you are showing them they matter. Statute of Limitations are set by the legislative body. I ask you today to be their voice and pass SB2282.

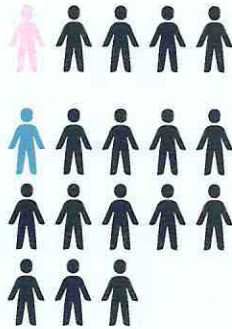
Thank you for the opportunity to speak today, I look forward to answering your questions and working with the committee to support victims of sexual assault, abuse and gross sexual imposition.

Jaci Hall  
Executive Director  
North Dakota Association for Justice

# CHILD SEX ABUSE & THE LIMITS OF THE CRIMINAL SYSTEM

About one in five girls and one in 13 boys will be sexually abused before they turn 18\*

\*Includes contact abuse only  
Source: CHILD USA



Fewer than 20% of sexual crimes are referred to prosecution and only 1/2 of those result in a conviction

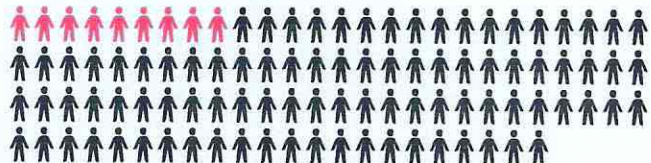
Out of 100 reported cases:  
Less than 20 go forward to prosecution



Out of these, only 18 continue to trial after review by the prosecution



Half of cases that go to trial result in a conviction or guilty plea



Source: Block & Williams, The Prosecution of Child Sexual Abuse (2019)

The criminal system keeps many from being held accountable

- Lesser included offenses and plea deals limit discovery into the actions that failed to protect children
- Institutions and organizations that knew about and perpetuated abuse do not face incarceration or penalties.
- Executives rarely face jail time.

Child sex abuse (CSA) cases are notoriously difficult to prosecute.

- Physical evidence of the assault is present in fewer than 5% of victims
- Cases rely heavily on the children's coherent statements of memories of a traumatic event
  - Children are forced to repeatedly disclose their experiences of abuse over a period of time, and they may deny, recant, and later restate that abuse did actually happen

Sources: Block & Williams, The Prosecution of Child Sexual Abuse (2019) and London, Bruck, Ceci, & Shuman (2007)

Victims who disclose later in life are effectively silenced by the criminal statute of limitations:

- The average age at the time of reporting child sex abuse is about 52 years
- Child sex abuse acts that occurred years ago may have been considered misdemeanors with a statute of limitations of one year



**TO:** Honorable Members of the Senate Judiciary Committee

**FROM:** Marci Hamilton, Founder & CEO, CHILD USA; Professor, University of Pennsylvania, and Kathryn Robb, Executive Director, CHILD USA Advocacy

**RE:** North Dakota Senate Bill 2282: An Act to amend and reenact sections 28-01-18, 28-01-22.1, and 28.02-25.1 of the North Dakota Century Code, relating to limitations on civil actions alleging sexual assault, sexual abuse, gross sexual imposition, or childhood sexual abuse; and to provide an expiration date.

**DATE:** January 30, 2023

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Dear Honorable Members of the Senate Judiciary Committee,

Thank you for allowing us to submit testimony in support of SB 2282, which will open a two-year revival window during which claims related to child sexual abuse (“CSA”) and adult sexual abuse, previously time barred, will be revived and permit recovery of damages, including against public schools that enabled abuse. This legislation will not only bring long overdue justice to survivors, but it will also greatly reduce the present danger to children in North Dakota by exposing hidden predators who are still abusing children today.

By way of introduction, Professor Marci Hamilton is a First Amendment constitutional scholar at the University of Pennsylvania who has led the national movement to reform statutes of limitations (“SOLs”) to reflect the science of delayed disclosure of childhood sexual abuse and who founded CHILD USA, a national nonprofit think tank devoted to ending child abuse and neglect. Kathryn Robb is the Executive Director of CHILD USA Advocacy, an advocacy organization dedicated to protecting children’s civil liberties and keeping children safe from abuse and neglect. Kathryn is also an outspoken survivor of child sex abuse.

**I. Research on Trauma and Delayed Disclosure Supports SOL Reform for Child Sexual Abuse**

**A. There is a Nationwide Epidemic of CSA Causing Lifelong Damage to Victims**

Currently, more than 10% of children are sexually abused, with at least one in five girls and one in thirteen boys sexually abused before they turn 18. CSA is a social problem that occurs in all social groups and institutions, including familial, religious, educational, medical, and athletic. Nearly 90% of CSA perpetrators are someone the child knows; in fact, roughly one third of CSA offenses are committed by family members.

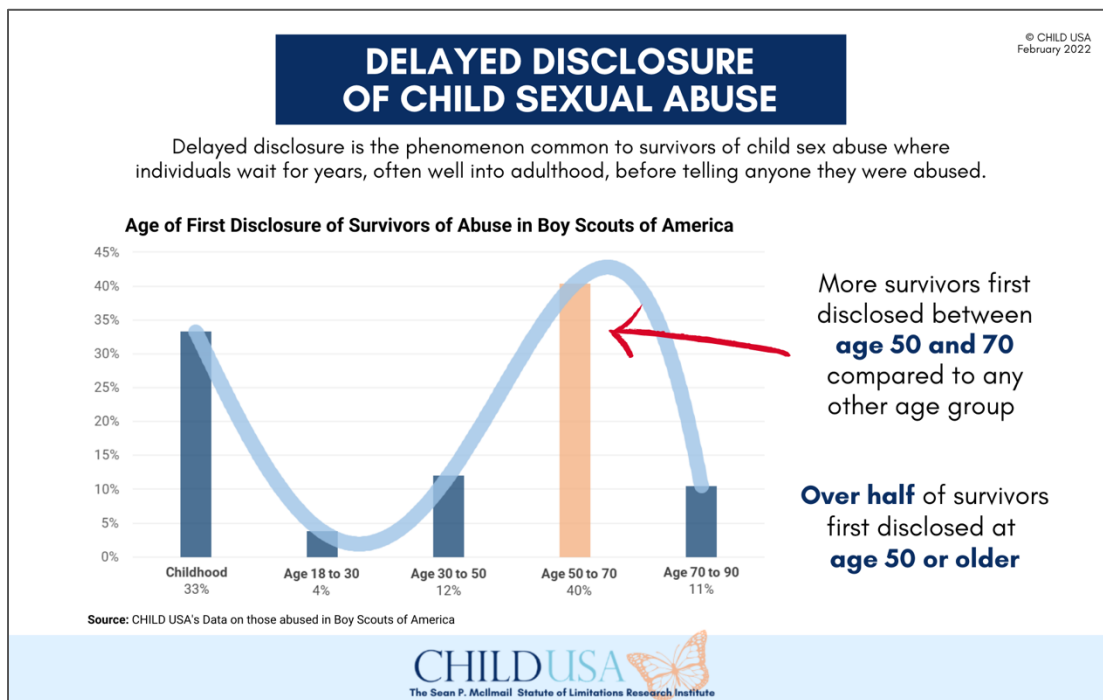
The trauma stemming from CSA is complex and individualized, and it impacts victims throughout their lifetimes:



- Childhood trauma, including CSA, can have **devastating impacts on a child’s brain**, including disrupted neurodevelopment; impaired social, emotional, and cognitive development; psychiatric and physical disease, such as post-traumatic stress disorder (PTSD); and disability.
- CSA victims suffer an **increased risk of suicide**—in one study, female CSA survivors were two to four times more likely to attempt suicide, and male CSA survivors were four to 11 times more likely to attempt suicide.
- CSA leads to an increased risk of **negative outcomes across the lifespan**, such as alcohol problems, illicit drug use, depression, marriage issues, and family problems.

### B. CSA Victims Commonly Delay Disclosure of Their Abuse for Decades

Many victims of CSA suffer in silence for decades before they talk to anyone about their traumatic experiences. As children, CSA victims often fear the negative repercussions of disclosure, such as disruptions in family stability, loss of relationships, or involvement with the authorities. Additionally, CSA survivors may struggle to disclose because of trauma and psychological barriers such as shame and self-blame, as well as social factors like gender-based stereotypes or the stigma surrounding victimization. Further, many injuries resulting from CSA do not manifest until survivors are well into adulthood. These manifestations may coincide with difficulties in functioning and a further delay in disclosure of abuse.



Moreover, disclosure of CSA to the authorities for criminal prosecution or an attorney in pursuit of civil justice is a difficult and emotionally complex process, which involves the survivor knowing

that he or she was abused, being willing to identify publicly as an abuse survivor, and deciding to act against their abuser. In light of these barriers to disclosure, it is not surprising that:

- In a study of survivors of abuse in Boy Scouts of America, **51%** of survivors disclosed their abuse for the first time at **age 50 or older**.
- **One-third** of CSA survivors **never report** their abuse to anyone.

For both children and adults, disclosure of CSA trauma is a process and not a discrete event in which a victim comes to terms with their abuse. To effectively protect children from abuse, SOL laws must reflect this reality.

## II. SOL Reform Serves the Public Good by Giving Survivors Access to Justice and Preventing Future Abuse


Historically, a wall of ignorance and secrecy has been constructed around CSA, which has been reinforced by short SOLs that kept victims out of the legal system. Short SOLs for CSA play into the hands of the perpetrators and the institutions that cover up for them; they disable victims' voices and empowerment and leave future children vulnerable to preventable sexual assault.

CHILD USA and CHILD USA Advocacy are leading the vibrant national and global movement to eliminate civil and criminal SOLs and revive expired civil claims as a systemic solution to the preventable CSA epidemic. **There are three compelling public purposes served by the child sexual abuse SOL reform movement**, which are explained in the graphic below:

## HOW STATUTE OF LIMITATIONS REFORM HELPS EVERYONE




**Identifies Hidden Child Predators and the Institutions that Endanger Children**  
to the public, shielding other children from future abuse.



**Punishes Bad Actors & Shifts the Cost of Abuse**  
from the victims and taxpayers to those who caused it.



**Prevents Further Abuse**  
by educating the public about the prevalence, signs, and impact of child sex abuse so that it can be prevented in the future.



**CHILD USA**  
The Sean P. McInnis Statute of Limitations Research Institute

© CHILD USA  
February 2022

### **A. SOL Reform Identifies Hidden Child Predators and Institutions that Endanger Children**

It is in society's best interest to have sex abuse survivors identify hidden child predators to the public—whenever the survivor is ready. The decades before public disclosure give perpetrators and institutions wide latitude to suppress the truth to the detriment of children, parents, and the public. Some predators abuse a high number of victims and continue abusing children well into their elderly years. For example, one study found that 7% of offenders sampled committed offenses against 41 to 450 children, and the highest time between offense to conviction was 36 years. SOL reform helps protect North Dakota's children by identifying sexual predators in our midst. By extending, eliminating, and reviving short restrictive SOLs, especially allowing claims for past abuse to be brought to court, hidden predators are brought into the light and are prevented from further abusing more children in North Dakota.

### **B. SOL Reform Shifts the Cost of Abuse**

CSA generates staggering costs that impact the nation's health care, education, criminal justice, and welfare systems. The estimated lifetime cost to society of child sexual abuse cases occurring in the US in 2015 is \$9.3 billion, and the average cost of non-fatal per female victim was estimated at \$282,734. Average cost estimates per victim include, in part, \$14,357 in child medical costs, \$9,882 in adult medical costs, \$223,581 in lost productivity, \$8,333 in child welfare costs, \$2,434 in costs associated with crime, and \$3,760 in special education costs. Costs associated with suicide deaths are estimated at \$20,387 for female victims.

It is unfair for the victims, their families, and North Dakota taxpayers to be the only ones who bear this burden; this bill levels the playing field by imposing liability on the ones who caused the abuse and alleviating the burdens on the victims and taxpayers. Further, if this revival window is passed, North Dakota could gain millions of dollars in revenue from Medicaid reimbursements as a result of the settlement funds and damages awards that survivors recover.

### **C. SOL Reform Prevents Further Abuse**

SOL reform also educates the public about the dangers of CSA and how to prevent it. When predators and institutions are exposed, particularly high-profile ones like Larry Nassar, Jeffrey Epstein, the Boy Scouts of America, and the Catholic Church, the media publish investigations and documentaries that enlighten the public about the insidious ways child molesters operate to sexually assault children and the institutional failures that enabled their abuse. By shedding light on the problem, parents and other guardians are better able to identify abusers and responsible institutions, while the public is empowered to recognize grooming and abusive behavior and pressure youth serving organizations to implement prevention policies to report abuse in real time. Indeed, CSA publicity creates more social awareness to help keep kids safe, while also encouraging institutions to implement accountability and safe practices.

## **III. North Dakota Should Join the National Trend Toward SOL Reform for CSA**

The SOL reform trend for states is to eliminate civil and criminal SOLs and revive expired civil claims—like Vermont, Maine, Guam and NMI have already done. In fact, two dozen states across

the U.S. and three territories have revival laws giving survivors an opportunity to file claims for decades old abuse that were blocked by short SOLs. **North Dakota's criminal and civil SOLs are among the worst in the nation.** The civil SOL for child sexual abuse claims is currently the shortest in the country, expiring after a survivor reaches age 19, with a discovery rule. Further, there are only six states that have not yet eliminated the criminal SOL for any CSA crimes, with North Dakota being one of them.

There is only one way to restore justice to survivors in North Dakota who are blocked from pursuing their claims by unfairly short SOLs: to revive their expired civil claims. The states that have revived expired civil SOLs have gained valuable information about hidden child predators and the institutions that harbored them, enabling them to better empower victims. These revival laws do not yield a high number of cases, but instead provide long-overdue justice to older victims of child sex abuse. They also address the systemic issue of institutional CSA, which occurs with alarming frequency in schools, athletic institutions, youth-serving organizations, medical facilities, and religious groups. Without institutional accountability for enabling or turning a blind eye to child sex abuse, the children these institutions serve remain at risk. SB 2282 will incentivize these organizations to implement prevention policies and take action to report abuse immediately.

CHILD USA and CHILD USA Advocacy are proud to have played a major role working with bipartisan leaders on a new federal law eliminating the SOL for over a dozen federal civil CSA claims and permitting victims to bring a lawsuit against perpetrators and institutions for compensation for their injuries. Sen. Marsha Blackburn R-Tenn., stated that “[t]he statute of limitations for sexual abuse offenses should never prohibit young survivors from getting the justice they deserve.” According to Sen. Richard Durbin, D-Ill., “the science of trauma is clear: it often takes years for victims to come forward.”

SB 2282 is in line with the trend to give older victims more time to come forward in accordance with the science of delayed disclosure of abuse.

#### **IV. Conclusion**

Once again, we commend you for supporting this legislation, which is desperately needed to validate adult survivors of CSA and protect children in North Dakota from preventable sexual abuse. For more information about statute of limitations reform, visit [childusa.org/sol/](http://childusa.org/sol/) or email [info@childusa.org](mailto:info@childusa.org). Please do not hesitate to contact us if you have questions regarding SOL reform or if we can be of assistance in any way on other child protection issues.

Sincerely,



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(781) 856-7207



23.0456.01001  
Title.

Prepared by the Legislative Council staff for  
Senator Dwyer  
January 26, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2282

Page 1, line 1, remove the second "and"

Page 1, line 1, after "28-01-25.1" insert ", and 32-12.1-10 and subsection 1 of section 32-12.2-04"

Page 1, line 3, after the second "abuse" insert "and the notice requirement of claims against the state"

Page 2, line 21, remove "in a public school"

Page 3, after line 9, insert:

**"SECTION 4. AMENDMENT.** Section 32-12.1-10 of the North Dakota Century Code is amended and reenacted as follows:

**32-12.1-10. Statute of limitations.**

1. An action brought under this chapter must be commenced within three years after the claim for relief has accrued.
2. If on August 1, 2023, a claim for relief that resulted from sexual assault, sexual abuse, or gross sexual imposition, is barred because of the time limitation under subsection 1, that claim is revived. A claim revived under this subsection must be commenced before August 1, 2025.

**SECTION 5. AMENDMENT.** Subsection 1 of section 32-12.2-04 of the North Dakota Century Code is amended and reenacted as follows:

1.
  - a. A person bringing a claim against the state or a state employee for an injury shall present to the director of the office of management and budget within one hundred eighty days after the alleged injury is discovered or reasonably should have been discovered a written notice stating the time, place, and circumstances of the injury, the names of any state employees known to be involved, and the amount of compensation or other relief demanded.
  - b. The time for giving the notice does not include the time during which a person injured is incapacitated by the injury from giving the notice. If the claim is one for death, the notice may be presented by the personal representative, surviving spouse, or next of kin within one year after the alleged injury resulting in the death.
  - c. The time for giving the notice is waived for a claim for relief that resulted from sexual assault, sexual abuse, or gross sexual imposition which is revived under subsection 3 of section 28-01-22.1."

Renumber accordingly

23.0456.01001

Sixty-eighth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2282**

Introduced by

Senators Dwyer, Estenson, Vedaa

Representatives Cory, O'Brien, Pyle

1 | A BILL for an Act to amend and reenact sections 28-01-18, 28-01-22.1, ~~and~~ 28-01-25.1, and  
2 | 32-12.1-10 and subsection 1 of section 32-12.2-04 of the North Dakota Century Code, relating  
3 | to limitations on civil actions alleging sexual assault, sexual abuse, gross sexual imposition, or  
4 | childhood sexual abuse and the notice requirement of claims against the state; and to provide  
5 | an expiration date.

6 | **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 |       **SECTION 1. AMENDMENT.** Section 28-01-18 of the North Dakota Century Code is  
8 | amended and reenacted as follows:

9 |       **28-01-18. Actions having two-year limitations.**

10 |       1. The following actions must be commenced within two years after the claim for relief  
11 |       has accrued:

12 |       1. a. An action for libel, slander, assault, battery, or false imprisonment.

13 |       2. b. An action upon a statute for a forfeiture or penalty to the state.

14 |       3. c. An action for the recovery of damages resulting from malpractice; provided,  
15 |       however, that the limitation of an action against a physician or licensed hospital  
16 |       will not be extended beyond six years of the act or omission of alleged  
17 |       malpractice by a nondiscovery thereof unless discovery was prevented by the  
18 |       fraudulent conduct of the physician or licensed hospital. This limitation is subject  
19 |       to the provisions of section 28-01-25.

20 |       4. d. An action for injuries done to the person of another, when death ensues from  
21 |       such injuries, and the claim for relief must be deemed to have accrued at the time  
22 |       of the death of the party injured; provided, however, that when death ensues as  
23 |       the result of malpractice, the claim for relief is deemed to have accrued at the  
24 |       time of the discovery of the malpractice. However, the limitation will not be

1 extended beyond six years of the act or omission of alleged malpractice by a  
2 nondiscovery thereof unless discovery was prevented by the fraudulent conduct  
3 of the physician or hospital.

4 5. e. An action for recovery of damages arising under chapter 5-01, and the claim for  
5 relief is deemed to have accrued at the time of the alleged offense. This limitation  
6 does not apply to any claim for relief existing at the time of the enactment of this  
7 subsection.

8 2. If on August 1, 2023, a claim for relief that resulted from sexual assault, sexual abuse,  
9 or gross sexual imposition, is barred because of the time limitation under this section,  
10 that claim is revived. A claim revived under this subsection must be commenced  
11 before August 1, 2025.

12 **SECTION 2. AMENDMENT.** Section 28-01-22.1 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **28-01-22.1. Actions against state - Limitation.**

15 1. When not otherwise specifically provided by law, an action against the state or its  
16 employees and officials acting within the scope of their employment or office must be  
17 commenced within three years after the claim for relief has accrued.

18 2. For purposes of this section, the claim for relief is deemed to have accrued at the time  
19 it is discovered or might have been discovered in the exercise of reasonable diligence.  
20 This may not be construed as a waiver of immunity.

21 3. If on August 1, 2023, a claim for relief that resulted from sexual assault, sexual abuse,  
22 or gross sexual imposition, ~~in a public school~~ is barred because of the time limitation  
23 under this section, that claim is revived. A claim revived under this subsection must be  
24 commenced before August 1, 2025.

25 **SECTION 3. AMENDMENT.** Section 28-01-25.1 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **28-01-25.1. Limitation on actions alleging childhood sexual abuse.**

28 1. Notwithstanding section 28-01-25, a claim for relief resulting from childhood sexual  
29 abuse must be commenced within ten years after the plaintiff knew or reasonably  
30 should have known that a potential claim exists resulting from alleged childhood  
31 sexual abuse.

1       2. If on August 1, 2023, a claim for relief that resulted from childhood sexual abuse is  
2       barred because of the time limitation under subsection 1, that claim is revived. A claim  
3       revived under this subsection must be commenced before August 1, 2025.

4       3. For purposes of this section, "childhood sexual abuse" means any act committed by  
5       the defendant against the plaintiff which occurred when the plaintiff was under  
6       eighteen years of age and which would have been a violation of chapter 12.1-20 or  
7       12.1-27.2.

8       4. In a claim for relief under this section, the plaintiff is not required to establish which act  
9       in a continuous series of sexual abuse acts by the defendant caused the injury.

10       **SECTION 4. AMENDMENT.** Section 32-12.1-10 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12       **32-12.1-10. Statute of limitations.**

13       1. An action brought under this chapter must be commenced within three years after the  
14       claim for relief has accrued.

15       2. If on August 1, 2023, a claim for relief that resulted from sexual assault, sexual abuse,  
16       or gross sexual imposition, is barred because of the time limitation under subsection 1,  
17       that claim is revived. A claim revived under this subsection must be commenced  
18       before August 1, 2025.

19       **SECTION 5. AMENDMENT.** Subsection 1 of section 32-12.2-04 of the North Dakota  
20 Century Code is amended and reenacted as follows:

21       1. a. A person bringing a claim against the state or a state employee for an injury shall  
22       present to the director of the office of management and budget within one  
23       hundred eighty days after the alleged injury is discovered or reasonably should  
24       have been discovered a written notice stating the time, place, and circumstances  
25       of the injury, the names of any state employees known to be involved, and the  
26       amount of compensation or other relief demanded.

27       b. The time for giving the notice does not include the time during which a person  
28       injured is incapacitated by the injury from giving the notice. If the claim is one for  
29       death, the notice may be presented by the personal representative, surviving  
30       spouse, or next of kin within one year after the alleged injury resulting in the  
31       death.

1            c. The time for giving the notice is waived for a claim for relief that resulted from  
2            sexual assault, sexual abuse, or gross sexual imposition which is revived under  
3            subsection 3 of section 28-01-22.1.

4            **SECTION 6. EXPIRATION DATE.** This Act is effective through July 31, 2025, and after that  
5            date is ineffective.

**Testimony Sydney Dollinger**  
**SB 2282 - Senate Judiciary Committee**  
**January 30, 2023**

Madam Chair and members of the Senate Judiciary Committee, my name is Sydney Dollinger. I am here to testify in favor of SB2282.

On September 28, 2020, at the beginning of my freshman year of college, I went to a party. I drank too much. My last memory of that night was my friends putting me safely to bed. The next morning when I woke up, I knew I had been raped. I woke up in a different room, bloody, bruised, and in terrible pain.

I didn't get the justice I deserved from the criminal system. The process took 2 ½ years to reach it's conclusion which put me outside the statute of limitations to sue civilly.

A defense attorney's job is not to prove innocent or guilty, it's to make the prosecutor do their job. It is really the prosecutor who is on trial because they have to prove beyond a reasonable doubt that a crime has been committed. When they don't do that, not guilty doesn't mean innocent. There is a huge difference.

If this bill were to pass, it would give many victims the opportunity to seek justice they may not have gotten on the criminal side. I'm sure there are people who believe civil suits are only about financial gain. I'm here today to tell you is about so much more than that.

You are probably wondering if I will sue my rapist in civil court? The answer is I don't know. Maybe. I will have to decide if bringing it all up again will be worth the toll it will take on my mental health.

Thank you for your time, Madam Chairman and members of the committee. I am happy to answer any questions.

23.0456.01003  
Title.

Prepared by the Legislative Council staff for  
Senator Sickler  
February 13, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2282

Page 1, line 1, after "to" insert "create and enact a new section to chapter 28-01 of the North Dakota Century Code, relating to the limitation on claims for sexual assault; and to"

Page 1, line 1, remove the second "and"

Page 1, line 1, after "28-01-25.1" insert ", and 32-12.1-10, and subsection 1 of section 32-12.2-04"

Page 1, line 3, remove "; and to provide an expiration"

Page 1, line 4, replace "date" with ", and the notice requirement for claims against the state"

Page 1, line 9, remove "1."

Page 1, line 9, overstrike "The" and insert immediately thereafter "Except as provided in section 4 of this Act, the"

Page 1, line 11, remove the overstrike over "~~4.~~"

Page 1, line 11, remove "a."

Page 1, line 12, remove the overstrike over "~~2.~~"

Page 1, line 12, remove "b."

Page 1, line 13, remove the overstrike over "~~3.~~"

Page 1, line 13, remove "c."

Page 1, line 19, remove the overstrike over "~~4.~~"

Page 1, line 19, remove "d."

Page 2, line 3, remove the overstrike over "~~5.~~"

Page 2, line 3, remove "e."

Page 2, remove lines 7 through 10

Page 2, line 20, remove "If on August 1, 2023, a claim for relief that resulted from sexual assault, sexual abuse."

Page 2, remove lines 21 and 22

Page 2, line 23, replace "commenced before August 1, 2025" with "Notwithstanding subsections 1 and 2, an action for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be commenced:

- a. Within nine years after the date the act occurred; or
- b. Within twenty-one years after the date the act occurred, if the act occurred when the plaintiff was under eighteen years of age.

4. If the plaintiff was under fifteen years of age when a claim for relief resulting from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 occurred, the applicable twenty-one year period of limitation does not begin to run until the plaintiff has reached fifteen years of age"

Page 2, line 28, overstrike "ten" and insert immediately thereafter "twenty-one"

Page 2, line 28, overstrike "plaintiff knew or reasonably"

Page 2, line 29, overstrike "should have known that a"

Page 2, line 29, overstrike "exists"

Page 2, line 30, after "abuse" insert "accrued"

Page 3, line 1, remove "If on August 1, 2023, a claim for relief that resulted from childhood sexual abuse is"

Page 3, remove line 2

Page 3, line 3, replace "revived under this subsection must be commenced before August 1, 2025" with "If the plaintiff was under fifteen years of age when the act resulting in a potential claim for childhood sexual abuse occurred, the applicable twenty-one year period of limitation does not begin to run until the plaintiff has reached fifteen years of age"

Page 3, after line 9, insert:

**"SECTION 4.** A new section to chapter 28-01 of the North Dakota Century Code is created and enacted as follows:

**Limitation on claims for sexual assault.**

A claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be commenced within nine years after the date of the act.

**SECTION 5. AMENDMENT.** Section 32-12.1-10 of the North Dakota Century Code is amended and reenacted as follows:

**32-12.1-10. Statute of limitations.**

An

1. Except as otherwise provided in this section, an action brought under this chapter must be commenced within three years after the claim for relief has accrued.
2. An action under this chapter for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be commenced:
  - a. Within nine years after the date the act occurred; or



- b. Within twenty-one years after the date the act occurred, if the act occurred when the plaintiff was under eighteen years of age.
- 3. If the plaintiff was under fifteen years of age when a claim for relief resulting from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 occurred, the applicable twenty-one year period of limitation does not begin to run until the plaintiff has reached fifteen years of age.

**SECTION 6. AMENDMENT.** Subsection 1 of section 32-12.2-04 of the North Dakota Century Code is amended and reenacted as follows:

- 1. a. A person bringing a claim against the state or a state employee for an injury shall present to the director of the office of management and budget within one hundred eighty days after the alleged injury is discovered or reasonably should have been discovered a written notice stating the time, place, and circumstances of the injury, the names of any state employees known to be involved, and the amount of compensation or other relief demanded.
- b. The time for giving the notice does not include the time during which a person injured is incapacitated by the injury from giving the notice. If the claim is one for death, the notice may be presented by the personal representative, surviving spouse, or next of kin within one year after the alleged injury resulting in the death.
- c. The time for giving the notice is waived for a claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20."

Page 3, remove lines 10 and 11

Renumber accordingly

23.0456.01003

Sixty-eighth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2282**

Introduced by

Senators Dwyer, Estenson, Vedaa

Representatives Cory, O'Brien, Pyle

1 A BILL for an Act to create and enact a new section to chapter 28-01 of the North Dakota  
 2 Century Code, relating to the limitation on claims for sexual assault; and to amend and reenact  
 3 sections 28-01-18, 28-01-22.1, ~~and 28-01-25.1~~, and 32-12.1-10, and subsection 1 of section  
 4 32-12.2-04 of the North Dakota Century Code, relating to limitations on civil actions alleging  
 5 sexual assault, sexual abuse, gross sexual imposition, or childhood sexual abuse; ~~and to~~  
 6 ~~provide an expiration date~~, and the notice requirement for claims against the state.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 28-01-18 of the North Dakota Century Code is  
 9 amended and reenacted as follows:

10 **28-01-18. Actions having two-year limitations.**

11 ~~1. The~~ Except as provided in section 4 of this Act, the following actions must be  
 12 commenced within two years after the claim for relief has accrued:

- 13 1. ~~a.~~ An action for libel, slander, assault, battery, or false imprisonment.
- 14 2. ~~b.~~ An action upon a statute for a forfeiture or penalty to the state.
- 15 3. ~~c.~~ An action for the recovery of damages resulting from malpractice; provided,  
 16 however, that the limitation of an action against a physician or licensed hospital  
 17 will not be extended beyond six years of the act or omission of alleged  
 18 malpractice by a nondiscovery thereof unless discovery was prevented by the  
 19 fraudulent conduct of the physician or licensed hospital. This limitation is subject  
 20 to the provisions of section 28-01-25.
- 21 4. ~~d.~~ An action for injuries done to the person of another, when death ensues from  
 22 such injuries, and the claim for relief must be deemed to have accrued at the time  
 23 of the death of the party injured; provided, however, that when death ensues as  
 24 the result of malpractice, the claim for relief is deemed to have accrued at the

1 time of the discovery of the malpractice. However, the limitation will not be  
2 extended beyond six years of the act or omission of alleged malpractice by a  
3 nondiscovery thereof unless discovery was prevented by the fraudulent conduct  
4 of the physician or hospital.

5 ~~5. e.~~ An action for recovery of damages arising under chapter 5-01, and the claim for  
6 relief is deemed to have accrued at the time of the alleged offense. This limitation  
7 does not apply to any claim for relief existing at the time of the enactment of this  
8 subsection.

9 ~~2. If on August 1, 2023, a claim for relief that resulted from sexual assault, sexual abuse,~~  
10 ~~or gross sexual imposition, is barred because of the time limitation under this section,~~  
11 ~~that claim is revived. A claim revived under this subsection must be commenced~~  
12 ~~before August 1, 2025.~~

13 **SECTION 2. AMENDMENT.** Section 28-01-22.1 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **28-01-22.1. Actions against state - Limitation.**

- 16 1. When not otherwise specifically provided by law, an action against the state or its  
17 employees and officials acting within the scope of their employment or office must be  
18 commenced within three years after the claim for relief has accrued.
- 19 2. For purposes of this section, the claim for relief is deemed to have accrued at the time  
20 it is discovered or might have been discovered in the exercise of reasonable diligence.  
21 This may not be construed as a waiver of immunity.
- 22 ~~3. If on August 1, 2023, a claim for relief that resulted from sexual assault, sexual abuse,~~  
23 ~~or gross sexual imposition, in a public school is barred because of the time limitation~~  
24 ~~under this section, that claim is revived. A claim revived under this subsection must be~~  
25 ~~commenced before August 1, 2025~~ Notwithstanding subsections 1 and 2, an action for  
26 relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any  
27 other claim based on a sexual act or sexual contact as defined in chapter 12.1-20  
28 must be commenced:
- 29 a. Within nine years after the date the act occurred; or  
30 b. Within twenty-one years after the date the act occurred, if the act occurred when  
31 the plaintiff was under eighteen years of age.

1 4. If the plaintiff was under fifteen years of age when a claim for relief resulting from  
2 sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a  
3 sexual act or sexual contact as defined in chapter 12.1-20 occurred, the applicable  
4 twenty-one year period of limitation does not begin to run until the plaintiff has reached  
5 fifteen years of age.

6 **SECTION 3. AMENDMENT.** Section 28-01-25.1 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **28-01-25.1. Limitation on actions alleging childhood sexual abuse.**

- 9 1. Notwithstanding section 28-01-25, a claim for relief resulting from childhood sexual  
10 abuse must be commenced within ~~twenty-one~~ years after the ~~plaintiff knew or~~  
11 ~~reasonably should have known that a~~ potential claim ~~exists~~ resulting from alleged  
12 childhood sexual abuse accrued.
- 13 2. ~~If on August 1, 2023, a claim for relief that resulted from childhood sexual abuse is~~  
14 ~~barred because of the time limitation under subsection 1, that claim is revived. A claim~~  
15 ~~revived under this subsection must be commenced before August 1, 2025~~If the plaintiff  
16 was under fifteen years of age when the act resulting in a potential claim for childhood  
17 sexual abuse occurred, the applicable twenty-one year period of limitation does not  
18 begin to run until the plaintiff has reached fifteen years of age.
- 19 3. For purposes of this section, "childhood sexual abuse" means any act committed by  
20 the defendant against the plaintiff which occurred when the plaintiff was under  
21 eighteen years of age and which would have been a violation of chapter 12.1-20 or  
22 12.1-27.2.
- 23 4. In a claim for relief under this section, the plaintiff is not required to establish which act  
24 in a continuous series of sexual abuse acts by the defendant caused the injury.

25 **SECTION 4.** A new section to chapter 28-01 of the North Dakota Century Code is created  
26 and enacted as follows:

27 **Limitation on claims for sexual assault.**

28 A claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or  
29 any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be  
30 commenced within nine years after the date of the act.

1       **SECTION 5. AMENDMENT.** Section 32-12.1-10 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **32-12.1-10. Statute of limitations.**

4       ~~An~~

5       1. Except as otherwise provided in this section, an action brought under this chapter  
6 must be commenced within three years after the claim for relief has accrued.

7       2. An action under this chapter for relief that resulted from sexual assault, sexual abuse,  
8 gross sexual imposition, or any other claim based on a sexual act or sexual contact as  
9 defined in chapter 12.1-20 must be commenced:

10       a. Within nine years after the date the act occurred; or

11       b. Within twenty-one years after the date the act occurred, if the act occurred when  
12 the plaintiff was under eighteen years of age.

13       3. If the plaintiff was under fifteen years of age when a claim for relief resulting from  
14 sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a  
15 sexual act or sexual contact as defined in chapter 12.1-20 occurred, the applicable  
16 twenty-one year period of limitation does not begin to run until the plaintiff has reached  
17 fifteen years of age.

18       **SECTION 6. AMENDMENT.** Subsection 1 of section 32-12.2-04 of the North Dakota  
19 Century Code is amended and reenacted as follows:

20       1. a. A person bringing a claim against the state or a state employee for an injury shall  
21 present to the director of the office of management and budget within one  
22 hundred eighty days after the alleged injury is discovered or reasonably should  
23 have been discovered a written notice stating the time, place, and circumstances  
24 of the injury, the names of any state employees known to be involved, and the  
25 amount of compensation or other relief demanded.

26       b. The time for giving the notice does not include the time during which a person  
27 injured is incapacitated by the injury from giving the notice. If the claim is one for  
28 death, the notice may be presented by the personal representative, surviving  
29 spouse, or next of kin within one year after the alleged injury resulting in the  
30 death.

1           c. The time for giving the notice is waived for a claim for relief that resulted from  
2           sexual assault, sexual abuse, gross sexual imposition, or any other claim based  
3           on a sexual act or sexual contact as defined in chapter 12.1-20.

4     ~~SECTION 7. EXPIRATION DATE. This Act is effective through July 31, 2025, and after that~~  
5     ~~date is ineffective.~~



**TO:** Honorable Members of the House Judiciary Committee

**FROM:** Marci Hamilton, Founder & CEO, CHILD USA; Professor, University of Pennsylvania, and Kathryn Robb, Executive Director, CHILD USA Advocacy

**RE:** North Dakota Senate Bill 2282: Relating to the limitation on claims for sexual assault

**DATE:** March 20, 2023

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Dear Honorable Members of the House Judiciary Committee,

Thank you for allowing us to submit testimony in support of SB 2282, which will extend the statute of limitations (“SOL”) for claims related to child sexual abuse (“CSA”) and adult sexual abuse. This legislation will not only bring long overdue justice to survivors, but it will also greatly reduce the present danger to children in North Dakota.

By way of introduction, Professor Marci Hamilton is a First Amendment constitutional scholar at the University of Pennsylvania who has led the national movement to reform statutes of limitations (“SOLs”) to reflect the science of delayed disclosure of childhood sexual abuse and who founded CHILD USA, a national nonprofit think tank devoted to ending child abuse and neglect. Kathryn Robb is the Executive Director of CHILD USA Advocacy, an advocacy organization dedicated to protecting children’s civil liberties and keeping children safe from abuse and neglect. Kathryn is also an outspoken survivor of child sex abuse.

**I. Research on Trauma and Delayed Disclosure Supports SOL Reform for Child Sexual Abuse**

**A. There is a Nationwide Epidemic of CSA Causing Lifelong Damage to Victims**

Currently, more than 10% of children are sexually abused, with at least one in five girls and one in thirteen boys sexually abused before they turn 18. CSA is a social problem that occurs in all social groups and institutions, including familial, religious, educational, medical, and athletic. Nearly 90% of CSA perpetrators are someone the child knows; in fact, roughly one third of CSA offenses are committed by family members.

The trauma stemming from CSA is complex and individualized, and it impacts victims throughout their lifetimes:

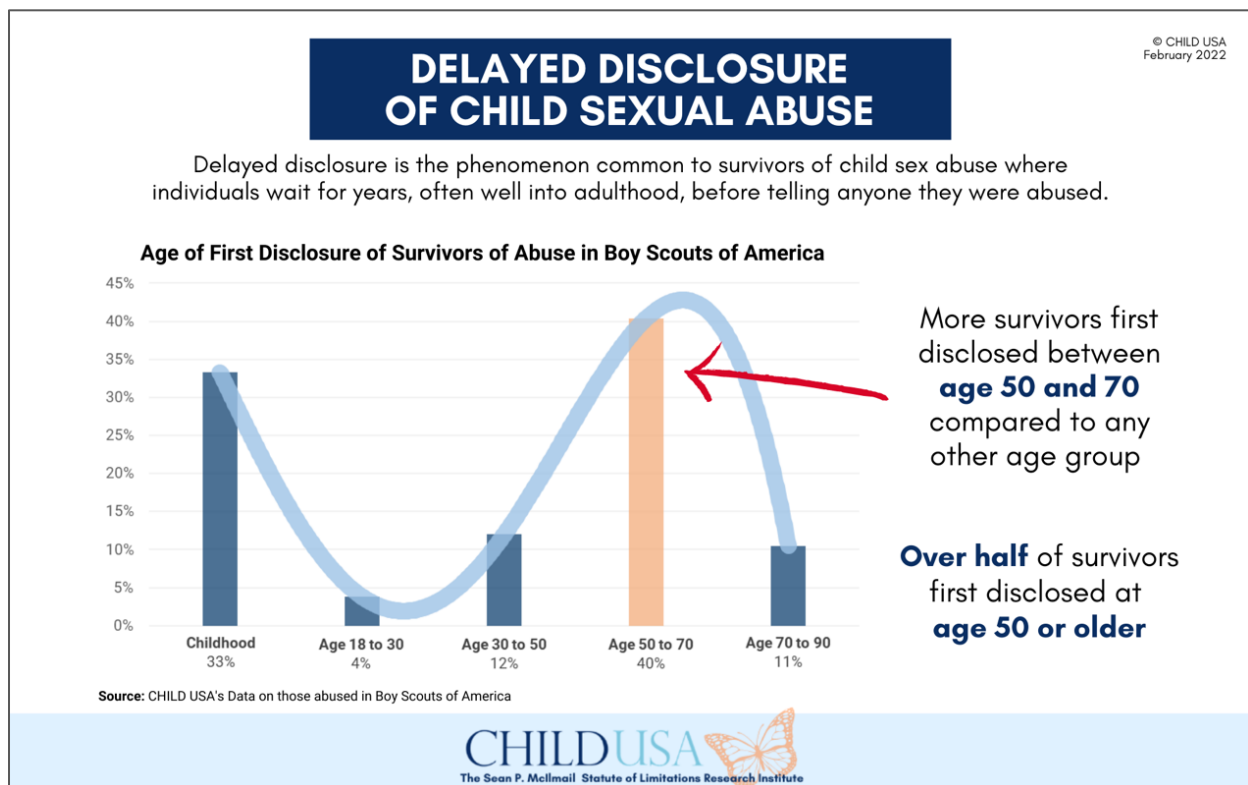
- Childhood trauma, including CSA, can have **devastating impacts on a child’s brain**, including disrupted neurodevelopment; impaired social, emotional, and cognitive development; psychiatric and physical disease, such as post-traumatic stress disorder (PTSD); and disability.



- CSA victims suffer an **increased risk of suicide**—in one study, female CSA survivors were two to four times more likely to attempt suicide, and male CSA survivors were four to 11 times more likely to attempt suicide.
- CSA leads to an increased risk of **negative outcomes across the lifespan**, such as alcohol problems, illicit drug use, depression, marriage issues, and family problems.

## B. CSA Victims Commonly Delay Disclosure of Their Abuse for Decades

Many victims of CSA suffer in silence for decades before they talk to anyone about their traumatic experiences. As children, CSA victims often fear the negative repercussions of disclosure, such as disruptions in family stability, loss of relationships, or involvement with the authorities. Additionally, CSA survivors may struggle to disclose because of trauma and psychological barriers such as shame and self-blame, as well as social factors like gender-based stereotypes or the stigma surrounding victimization. Further, many injuries resulting from CSA do not manifest until survivors are well into adulthood. These manifestations may coincide with difficulties in functioning and a further delay in disclosure of abuse.



Moreover, disclosure of CSA to the authorities for criminal prosecution or an attorney in pursuit of civil justice is a difficult and emotionally complex process, which involves the survivor knowing that he or she was abused, being willing to identify publicly as an abuse survivor, and deciding to act against their abuser. In light of these barriers to disclosure, it is not surprising that:



- In a study of survivors of abuse in Boy Scouts of America, **51%** of survivors disclosed their abuse for the first time at **age 50 or older**.
- **One-third** of CSA survivors **never report** their abuse to anyone.

For both children and adults, disclosure of CSA trauma is a process and not a discrete event in which a victim comes to terms with their abuse. To effectively protect children from abuse, SOL laws must reflect this reality.

## II. SOL Reform Serves the Public Good by Giving Survivors Access to Justice and Preventing Future Abuse

Historically, a wall of ignorance and secrecy has been constructed around CSA, which has been reinforced by short SOLs that kept victims out of the legal system. Short SOLs for CSA play into the hands of the perpetrators and the institutions that cover up for them; they disable victims' voices and empowerment and leave future children vulnerable to preventable sexual assault.

CHILD USA and CHILD USA Advocacy are leading the vibrant national and global movement to eliminate civil and criminal SOLs and revive expired civil claims as a systemic solution to the preventable CSA epidemic. **There are three compelling public purposes served by the child sexual abuse SOL reform movement**, which are explained in the graphic below:

## HOW STATUTE OF LIMITATIONS REFORM HELPS EVERYONE



**Identifies Hidden Child Predators and the Institutions that Endanger Children**  
to the public, shielding other children from future abuse.



**Punishes Bad Actors & Shifts the Cost of Abuse**  
from the victims and taxpayers to those who caused it.



**Prevents Further Abuse**  
by educating the public about the prevalence, signs, and impact of child sex abuse so that it can be prevented in the future.



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February 2022

### **A. SOL Reform Identifies Hidden Child Predators and Institutions that Endanger Children**

It is in society's best interest to have sex abuse survivors identify hidden child predators to the public—whenever the survivor is ready. The decades before public disclosure give perpetrators and institutions wide latitude to suppress the truth to the detriment of children, parents, and the public. Some predators abuse a high number of victims and continue abusing children well into their elderly years. For example, one study found that 7% of offenders sampled committed offenses against 41 to 450 children, and the highest time between offense to conviction was 36 years. SOL reform helps protect North Dakota's children by identifying sexual predators in our midst. By extending, eliminating, and reviving short restrictive SOLs, especially allowing claims for past abuse to be brought to court, hidden predators are brought into the light and are prevented from further abusing more children in North Dakota.

### **B. SOL Reform Shifts the Cost of Abuse**

CSA generates staggering costs that impact the nation's health care, education, criminal justice, and welfare systems. The estimated lifetime cost to society of child sexual abuse cases occurring in the US in 2015 is \$9.3 billion, and the average cost of non-fatal per female victim was estimated at \$282,734. Average cost estimates per victim include, in part, \$14,357 in child medical costs, \$9,882 in adult medical costs, \$223,581 in lost productivity, \$8,333 in child welfare costs, \$2,434 in costs associated with crime, and \$3,760 in special education costs. Costs associated with suicide deaths are estimated at \$20,387 for female victims.

It is unfair for the victims, their families, and North Dakota taxpayers to be the only ones who bear this burden; this bill levels the playing field by imposing liability on the ones who caused the abuse and alleviating the burdens on the victims and taxpayers.

### **C. SOL Reform Prevents Further Abuse**

SOL reform also educates the public about the dangers of CSA and how to prevent it. When predators and institutions are exposed, particularly high-profile ones like Larry Nassar, Jeffrey Epstein, the Boy Scouts of America, and the Catholic Church, the media publish investigations and documentaries that enlighten the public about the insidious ways child molesters operate to sexually assault children and the institutional failures that enabled their abuse. By shedding light on the problem, parents and other guardians are better able to identify abusers and responsible institutions, while the public is empowered to recognize grooming and abusive behavior and pressure youth serving organizations to implement prevention policies to report abuse in real time. Indeed, CSA publicity creates more social awareness to help keep kids safe, while also encouraging institutions to implement accountability and safe practices.

## **III. North Dakota Should Join the National Trend Toward SOL Reform for CSA**

The gold standard of the SOL reform movement for CSA is for states to eliminate civil and criminal SOLs and revive expired civil claims—like Vermont, Maine, Guam, and NMI have already done. It's an unfortunate truth that North Dakota is trailing behind the rest of the country due to its short criminal SOLs, which hinder the State from prosecuting child rapists, and short

civil SOLs, which brutally block survivors from seeking justice for their claims. It's a travesty that survivors of abuse are left with no legal recourse while perpetrators roam free to abuse more children in North Dakota.



**Currently, North Dakota's criminal and civil SOLs rank as the worst in the nation.** The *civil* SOL for CSA claims is the shortest in the country, expiring after a survivor reaches age 19, with a discovery rule. Further, there are only six states that have not yet eliminated the *criminal* SOL for any CSA crimes, and North Dakota is one of them. North Dakota should take swift action to rectify this injustice to survivors and children who remain at risk.

CHILD USA and CHILD USA Advocacy are proud to have played a major role working with bipartisan leaders on a new federal law eliminating the SOL for over a dozen federal civil CSA claims and permitting victims to bring a lawsuit against perpetrators and institutions for compensation for their injuries. 18 U.S.C. § 2255. “The science of trauma is clear: it often takes years for victims to come forward,” stated Senator Richard Durbin (D-Ill.), the sponsor of the bill. Co-sponsor Senator Marsha Blackburn (R-Tenn.) correctly pointed out that “[t]he statute of limitations for sexual abuse offenses should never prohibit young survivors from getting the justice they deserve.” If there is sufficient evidence to prove civil liability, the mere passage of time should never prevent survivors from accessing justice.

SB 2282 would be a small step forward for North Dakota and is in line with the national trend to give older victims more time to come forward in accordance with the delayed disclosure of abuse science.

#### IV. **Recommendation**

We recommend leaving the current ten-year discovery rule in place, on page 3, lines 2-5, for survivors who do not discover their abuse until after the SOL has already expired.

#### V. **Conclusion**

Once again, we commend you for supporting this legislation, which is desperately needed to validate adult survivors of CSA and protect children in North Dakota from preventable sexual abuse. Extending the SOL is a positive step for North Dakota's children and families. For more information about statute of limitations reform, visit [childusa.org/sol/](http://childusa.org/sol/) or email [info@childusa.org](mailto:info@childusa.org). Please do not hesitate to contact us if you have questions regarding SOL reform or if we can be of assistance in any way on other child protection issues.

Sincerely,



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Dear Chairman Klemin and House committee members,

My name is Harriette Rebsom, I am the mother of A [REDACTED] R [REDACTED], I fully support SB2282.

I am sure you are all aware of A [REDACTED]'s journey from previous testimony: raped at age 10, told no one; Attempted suicide at age 17, admitted to the MHU; Nearly successful at a second suicide attempt while in the MHU; Third suicide attempt, admitted to ICU, sexually assaulted by the male nurse on duty that night.

I understand some have concerns for not wanting to hold an institution liable for the actions of an employee they hired that many years ago that turned out to be a pedophile. They do back ground checks of which a pedophile will always come out squeaky clean, I get it! My daughter reported the sexual assault that happened to her that night to a MHU nurse the next morning! She was chastised by that nurse for saying such a horrible thing about such a wonderful person and told A [REDACTED] to never talk about it again.

A Social Worker informed me that morning that "serious allegations were made by A [REDACTED] against the male nurse during the night, saying it was most likely a" bad dream".

I clearly remember thinking the hospital would certainly have the same standards of investigating any allegation as we did at the LTC facility I worked at. For those who may say, "The hospital would now have new policies and procedures to cover this type of incident" Is untrue! They were mandated by the same standards 29 years ago, just like we were in LTC. Here lies the difference related to the guilt of the hospital. Once the hospital was informed of the allegations their level of culpability changed, they were now informed that a pedophile. "could" be working for them, they were now responsible to ensure the safety of all their patients.

(One year and two months later a 14-year-old was sexually assaulted in the same hospital by the same nurse.)

**For 28 years I believed the hospital had done their due diligence in investigating.** When we got the copy of A [REDACTED]'s chart and police record from Jim Hope about 1-1/2 years ago, it was then that I realized, nothing had been done by the hospital! Nothing had been documented, no investigating had been done-or it would have been documented. I was so angry, but once again

I thought "It's too late!" A [REDACTED]'s allegations should have triggered certain actions which the Hospital nurse and the Social Worker was **mandated** by law to do! It was about 1-1/2 years ago after obtaining copies of A [REDACTED]'s records that I found out none of that documentation existed in A [REDACTED]'s chart, maybe because no one even bothered to interview our daughter about the incident.(YUP!!!) They basically lied by the omission of documentation that anything had happened. I know this caused our daughter a lot of hurt and self-doubt, but yet she held true to her account of what Michael did to her. I try to wrap it around my head how a nurse could do this to our daughter. A [REDACTED] told him she was in the MHU because of sexual abuse. What a sick, perverted and heartless man he was to think she would be his next perfect victim. What Michael did was a crime. For the hospital to not believe her after she told them was hurtful, horrific and neglectful. I can't help but wonder if A [REDACTED]'s life and our families would have been different had the hospital believed her, acted on it, provided her with the help she needed for a second sexual assault. Instead, they belittled her into thinking she had a bad dream and forbid her from ever talking about it again which added yet another burden for her to deal with for the rest of her life. To this day she still suffers from what the hospital did to her and can be triggered by certain actions of a hospital.

Months later Detective Stenberg was able to interview the other female nurse on duty that night and was able to substantiate A [REDACTED]'s allegation. It was that easy!!!!

It's hard to imagine our 18-year-old daughter when she was in the eye of that storm. And how she was not strong enough to bring forth any type of justice in the time frame allotted her. For nearly 10 years we lived day by day, never knowing what that day would bring or if there would even be a tomorrow. I lived in constant fear. We were told her mental disability was the worst they had ever seen in terms of her trauma from sexual abuse!

I know some want to protect the institution, but this institution did NOTHING to protect our daughter or take care of her after the fact! The amount of harm they did to her by not believing her, by ignoring her allegations, belittling her into thinking she had a bad dream and forbidding her from ever talking about it again was so inhumane for a health care facility to do to someone who was already a victim! No human being should be treated this way, and this was the staff at

the MHU she had grown to trust. They too were now the abuser, it makes me so angry. This institution should not be protected by the passage of time. It took months for my daughter to tell me what happened. The hospital had also found the perfect victim to keep quiet and ignore. I remember when I drove her to see Stewart Stenberg to give her testimony, she was so scared. As we sat in the car and talked one of the things that she said to me was "Mom I don't know why all of this has happened to me already, but maybe someday I can make a difference for others." "Maybe I have a purpose to still be here on earth."

She has accomplished half of her goal by getting the Criminal statues raised to 7 years, and possibly more.

Please help her get the civil justice for all the criminal injustices she has endured. It's all she has left. Our daughter is also afraid of Michael. Those threats made to her at age 10 by her rapist still hold true and now have crossed over to a fear of Michael harming us. She panics if we go somewhere and we turn our phones on vibrate and can't get ahold of us. So, we always try to let her know where we will be. When she comes here to visit, she will only sleep on the couch. This started after the assault by Michael.

It really upsets me when I hear the comment that after so many years memories fade, witnesses are unreliable. How many rapes and sexual assaults have a witness, unless of course it was a gang rape. It's easy to say that about memories if you have never had anything this traumatic happen to you. Mundane memories fade, traumatic ones do not-it's a fact. But yet this is presented as an excuse by some to not get justice. It is personally insulting to me to hear that. For 29 years there has been no justice, no admission of guilt or harmdoing by anyone. Affected by her severe PTSD, all windows for justice were closed before she was strong enough to pursue any justice.

49 years ago my husband and I traveled to Fargo to have his hearing checked by the VA. He has severe tinnitus from the guns and explosions in Vietnam. Nothing could be done. 25 years later in an Agent Orange letter I saw that tinnitus was now covered as a disability. Because of this proof 25 years prior he was easily able to apply for disability. Shortly thereafter Lee

received his first disability check. I remember him holding it and with tears in his eyes said; "I know this is not much but to me it means the Army has finally acknowledged they hurt me", Thank you Harriette for having me do this. This admission helped my husband deal with the anger he had for what the war had done to him even though he still lives with this each and every day. In a way that disability check is a form of civil justice for the harm caused him by the war. Our daughter A [REDACTED] has her police report and investigation from 29 years ago that still shows cause. It would allow her to pursue civil justice for the harm done to her both by Michael and the hospital. Yet it seems the direction of the law wants to favor the institution and perpetrator once again denying our daughter the ability to say; "Thank you, finally after 29 years someone has admitted they hurt me." How can one fully heal if no one has ever taken responsibility for the hurt caused by their actions?

If nothing else can be done, please open up a window for extreme negligence or a window for special circumstances or an exceptional clause to meet the criteria our daughter has. The courts shouldn't be "flooded" with all these court cases some worry about! You are the lawmakers, let the judges and attorneys decide the rest. Not many victims, if any, have the burden of proof our daughter has. Give her that chance for the admission of guilt, give her that chance for civil justice so she can continue to heal and put this behind her. Show her the state of ND does care about her vs. tossing her to the side once again. Saying I'm sorry this happened to you but we decided it's more important to protect the institution and perpetrator who hurt you. How can our daughter even begin to recover from this, it will be another injury to her. I worry, as only a mother can worry of what no justice will do to her.

Please don't protect the facility, they had a chance to do what was right and failed. Failed our daughter, failed us, failed our family, failed our community. I fear that if nothing can be done for our daughter the burden will once again fall on her. Our justice will be to figure out how to forgive this sick perverted person and forgive the institution who did nothing at all to help her and actually tried to hide it.

I even visited with our Catholic Priest after last session to help me understand why it seemed



Catholic church seemed to be against most legislation that would help the sexual assault victim. He said they were not against all legislation, they just wanted it to be fair and not specifically target the Catholic Church. I don't feel this one does!

Thank you for your time. If any of you have any questions whatsoever to clarify any actions, in-actions or timelines please ask. I will do my best.

Dear Chairman Klemin and members of the Committee. My name is Lee Rebsom, I am married to Harriette Rebsom, A [REDACTED] R [REDACTED] is our daughter. Harriette and my journey raising A [REDACTED] has not been an easy one. She was raped at the age of 10 and we did not learn about it until she revealed her rape as a child during therapy in the mental health unit at our local hospital. In Dickinson. I still blame myself for not recognizing that this was more than a normal school accident. During the beginning of her senior year in high school A [REDACTED] attempted suicide at home and we admitted her into the mental health at our local hospital. It was the hardest thing that I have ever done as a parent and I still feel that pain. A [REDACTED] attempted another suicide while a patient in the mental health unit. The doctor in the ICU came out and said to us she should not be alive, it was a miracle that she survived. Later she again attempted suicide at home during a short leave from the mental health unit and was taken to the ER. During her recovery at the ICU she was sexually assaulted by a male nurse. She disclosed the incident to MHU staff who informed us the next morning about A [REDACTED]'s allegations. The hospital staff were adamant that this did not happen and told her and us, she must have dreamed it. We did however believe her and assumed the hospital had not found enough hard evidence against the male nurse to justify notifying law enforcement. My wife and I were totally focused on keeping our daughter alive and did not push the issue with the hospital, we trusted them to do their job. I could go on for many more pages with our struggles trying to protect and guide A [REDACTED]. I feel blessed every day that she is with us and a part of our lives. We have tried many times during the last 29 years to secure justice for A [REDACTED] hoping that it would help give her some closure. Every effort resulted in us facing a giant roadblock created by some law that seemed to favor the abuser, not help the victim. SB 2282 would be a huge step toward helping our daughter and other victims of sexual abuse secure some form of justice and hopefully give our family and other families some closure. Thank you for your attention. I urge your support of SB 2282.

Lee Rebsom (retired) Dickinson, ND.

SB 2282

I am in support of extending the statute of limitations for victims of sex crimes. I have witnessed the trauma and PTSD, my best friend endured, from being raped at the age of 10 years old. She was also molested by a nurse (while seeking help), seven years later. My best friend's name is A█████ R█████, who is also speaking out regarding this bill.

I remember how spunky and self-confident A█████ was, prior to the age of 10 years old. I used to play softball with A█████ and she was a rockstar player and full of life. I'm not sure exactly why she stood out in my mind, but I was drawn to her energy.

Fast forward several years later, A█████ transferred to the same Catholic school as me. Soon, I realized that something had changed. That same spunky girl that I once knew, had grown into a quiet and meek teenager. I wasn't sure what had happened, and frankly I didn't think too much about it at the time. Both A█████ and I felt like outsiders at our school, and it didn't take long before she became my best friend. She was someone that I felt comfortable with. It was us against the world!

During our senior year in high school, I noticed that A█████ had begun to struggle more and more. She was depressed, and often spoke about death. I remember A█████ made clouds out of cardboard and cotton, that she hung them from her bedroom ceiling. A█████ used to talk about how she wanted to be in the clouds with her grandma. I didn't ask many questions, nor did I talk about this with others. I thought it was normal because I, too, had suicidal thoughts every day. Unfortunately, it had all become too much for A█████ and she was eventually admitted to the hospital. When this happened, I felt like my world was crashing down. A█████ was my best friend and one of the very few people that I hung out. Now what was I to do? I was sad and a little angry, but most of all I missed my best friend.

Over the next few months, that A█████ finally told me about the rape that happened when she was 10 years old. I was shocked, as this was someone that we both knew and interacted with. What should I do when I see him? He was a person of authority and someone that I had respected. I decided to act normal. I pretended that I didn't know what a scumbag he really was.

I later learned that a nurse had molested A█████ while she was seeking help at the hospital. The same thing happened to a 14-year-old girl, and A█████ voluntarily provided her own written testimony. A█████'s testimony helped the young girl win her case against that nurse and the hospital. I once asked A█████ why she didn't also press charges against the nurse. I remember the look in A█████'s eyes as she said quietly lowered her head and said that she couldn't do it. At that moment, I knew that it would have been too much for A█████. She still had so much healing to do first.

Throughout the years, I saw A█████ go up and down in her recovery. I always felt saddened watching her struggle, but relieved that she didn't turn to drugs or alcohol. A█████ admitted that she still continues to have sleepless nights or feels uncomfortable unless she's in an open area with a light and/or the tv on.

What people need to realize is there is no time limit for trauma and its victims. It is a life sentence. The current statute of limitations, for a victim to be well enough to stand trial, just isn't fair. Imagine if this same thing happened to your child, your sibling, or your best friend. Wouldn't you want them to receive compassion to allow them time to recovery? These victims deserve the same right to seek out justice when (or if) they become ready.

Good afternoon Chairman Klemin and members of the Judiciary Committee. Thank you for the opportunity to appear before you today and provide my testimony.

My name is Stewart Stenberg and I am a resident of Dickinson, North Dakota and have been for the past forty-six years. I retired in 2010 after a rewarding thirty three year law enforcement career in Stark County and the City of Dickinson. My last twelve years with the city was spent serving as the Assistant Chief of Police. Prior to my position as Assistant Chief, I served approximately seven years in the Criminal Investigations Division as the Division's Sargent.

On 12/21/1994, I received a call at my office from a female who identified herself as A [REDACTED] R [REDACTED]. A [REDACTED] informed me that she wished to speak to me regarding a sexual assault that had taken place when she was a patient at our local medical facility on 08/15/93.

A [REDACTED] and I agreed upon a time and date to meet at my office (12/27/94) and discuss the matter at length and in greater detail. Having concluded my interview with A [REDACTED], I found her to be sincere, credible and truthful regarding the facts surrounding her complaint. As well as gathering and documenting evidence from A [REDACTED] in this case, we also addressed the nature of her illness for which she was being treated for during her stay at our local medical facility. A [REDACTED]

has addressed this with you by way of her statement she has presented today.

A [REDACTED] and I discussed a second sexual assault case that occurred on or about 11/05/94 regarding a fourteen year old victim which occurred at the same medical facility months earlier. The similarities and facts between the sexual assault of the fourteen year old victim and that of A [REDACTED]'s were nearly identical in nature. I had personally investigated the case of the fourteen year old victim in November of 1984 as well. The male nurse (suspect) who was employed by our local medical facility was charged criminally and pled guilty, receiving a three year prison sentence and legally designated as a registered sex offender as provided under state law.

Having concluded my criminal investigation into A [REDACTED]'s complaint, I referred the case to Assistant Stark County States Attorney Jim Hope, seeking a criminal complaint in this matter. With an overwhelming amount of evidence collected and a positive identification of the assailant in this case, I sought a criminal complaint against Michael Strode RN, for sexual assault.

Upon meeting with Mr. Hope, we thoroughly discussed A [REDACTED]'s well-being regarding her prior, and current, mental health history. Mr. Hope and I thought it was imperative to allow A [REDACTED] to continue with her prescribed treatment

program and we would temporarily suspend the issuance of a criminal complaint. A [REDACTED] was doing her very best to remove herself from the “dark space” that was trapped within her and for which she was receiving treatment.

It was absolutely paramount that we allowed her the necessary time to continue her treatment and regain her health. It would have been remiss of us to place her into a courtroom setting with a judge, jury and the assailant in this case facing her in open court. As well, many of us know the emotional and mental effect of an experienced defense lawyer trying to create doubt, question the victim’s credibility, and certainly question the victim’s mental health at the time of this incident/violation. This was not the proper time in A [REDACTED]’s life to move forward with a prosecution.

In short, we had an extremely brave and courageous young lady come forward, in the name of justice, and reported a frightful sexual assault that took place during an extremely dark and troubling time in her life. Over the years, A [REDACTED] has been made to live with these horrible memories to this very day. Unfortunately, the statute of limitations, both criminally and civilly, ran out in this case and we were not able to bring this case before the court and A [REDACTED] was not able to seek any criminal or civil remedies.

This is indeed a unique case that continues to cry for justice.....either civilly or criminally. Justice for A [REDACTED] R [REDACTED], and other victims, who have endured similar fates lies strictly and entirely with the body of lawmakers within this building. She has been made to cope with the trauma of nightmares, anxiety, depression and PTSD which forever changed her life. And, as well, there has been the challenge of the accumulation medical bills from the hospital, counseling appointments, medications, mental health wellness appointments and so on. These debts, along with the demands for payment or payment arrangements have been a great struggle for the Rebsom family as well, and without a doubt, has caused continued stress and mental anxiety.

This is a case where we had a truthful and reliable victim, we undoubtedly had identified the suspect, we had the motive, and we had the necessary evidence and necessary witness statements that would have undoubtedly led to a conviction, but.....unfortunately we ran out of time as a result of the expiration of the statute of limitations. Our criminal investigation was and remains, an “air tight” case. The victim, the witnesses, the police and medical records along with any other investigative materials remain complete and available. As I understand, the offender in A [REDACTED]’s case freely walks the streets of our city, currently immune from any civil penalty or criminal prosecution.

In closing,, I would like to relate a note of personal history to you regarding PTSD and the personal and mental effects that one suffers as a result a traumatic event or events.

Thank you for the time allowed me to offer my testimony in support of SB2282. I would stand for any questions from the committee regarding my testimony.



This statement is in support of the legislation regarding Disabling mental condition of the victims of sex crimes.

This legislation has the power to give a voice to the ones who have been silenced.

My friend A [REDACTED] R [REDACTED] is one of these people who was silenced by her condition. A [REDACTED] has poured her heart and soul into this legislation in hopes that one day it will help future victims like her.

A [REDACTED] chose to step up and help a fellow victim soon after her attack. Now she is stepping up and offering that same help to anyone who has suffered the same way she has by being an essential proponent of this bill.

Every day we have the power of choice. This isn't a clear black and white statement when a person suffers from a disabling mental condition.

I'm not going to pretend I understand the ramifications of everything that happens to a victim. But I do know that he or she has the right to fight back when they are physically, emotionally, and spiritually able to do so.

Think of all the souls who could take action and begin to heal when you pass this bill.

They cannot change their past, but you can help change their future.

Chairman Klemin and Members of the House Judiciary Committee

SB2282

My name is Jim Hope and I am an Assistant State's Attorney for Stark County. I previously appeared before this committee relative to HB 1145 which dealt with extending the statute of limitations in which the victim was an adult and suffered a mental or emotional trauma resulting from a sexual assault of some sort. This committee took a different approach from that advocated by the bill and approved an amendment to the bill which provided for a general lengthening of the statute of limitations from three years to seven years.

SB2282, the bill currently before you, addresses similar issues, but in the context of civil actions. The original bill provided for the creation of a "window" in which civil claims that had been barred by the statute of limitations could be brought in that year window. That approach was rejected by the Senate Judiciary Committee and an approach similar to that adopted by this committee in HB 1145 was adopted. It provided for a 9 year statute of limitations for adult cases and special extended provisions for victims under the age of 18.

This committee has had presented to it sufficient testimony detailing the devastating effects of sexual assaults to amply demonstrate the necessity of providing extended periods of time to permit these victims to heal and strengthen. And both the House and Senate in their respective bills, HB1145 and SB2282, have passed legislation to extend those statutes of limitation. Both legislative bodies are to be commended for the passage of those bills.

But I would respectfully request the members of this committee to reexamine the "revival" proposal contained in the original SB 2282. I would suggest that this committee resurrect the revival language in the original bill and add to that a provision creating a 3 or 5 member review panel that could determine the merit of a proposed civil action or claim that has been barred by the current statute of limitations. This panel, which should have sitting on it at least one currently serving district judge, could screen any presented claims currently barred by the statute of limitations to see whether they are meritorious and should be permitted to be filed with appropriate district court and proceed. Such a proposal would permit cases that appear meritorious to proceed while weeding out those that would stand little chance of success.

Thank you for consideration.

March 20, 2023

Dear Chairman Klemin and Committee Members,

Thank you for allowing me to speak today regarding SB 2282. My name is Paula Rebsom and I am the sister to A [REDACTED] R [REDACTED] whom you have also heard from. I appreciate the forward progress the legislative body appears to be making this session in creating extensions for the SOL laws currently in place for both Criminal and Civil cases regarding instances of Sexual Assault. This is certainly a small step in providing survivors of sexual assault a path to seek justice on their own terms, but it is still not enough. This bill must include a revival window for survivors of sexual assault who ran out of time to seek justice for Civil Damages because of unjustly short SOLs in order for it to truly serve all of the people of North Dakota and not just those who come after it. If you seek to put limitations on a revival window, consider opening a 2-year window for victims who reported their assault, had it investigated by law enforcement, and all investigative documentation still exists which shows just cause, no matter the age of the individual or the case.

You have heard my sister's story now multiple times now throughout this legislative session. What you haven't heard is that my sister has not waited 29 years in order to seek justice, she has contacted multiple lawyers over many years to see if her case could be reopened only to continually be told the SOL had run out because at the time of the assault, she had just turned 18. Each time my sister has tried to seek justice, the wounds of the past resurface as raw as they were when initially inflicted. It is incredibly mentally and physical exhausting work for her and she regresses in her healing each time she seeks justice.

After her last attempt to revive her case, a lawyer told her the only way to seek justice was to get the law changed. And so, for the past 2 years that has tirelessly been her mission which brings us here today. Through this process she found out that her original case file from the sexual assault in the hospital still exists and she now has a copy of it. A lawyer who recently reviewed it said it shows just cause. Her statement was used nearly 30 years ago as supporting testimony to help convict the same man who sexually assaulted a 14-year-old girl in the same hospital months after my sister reported it to a nurse and was told that it was a bad dream and to never speak of it again. My sister had a solid case, she was simply not mentally healthy enough at the time to pursue her own justice, yet she did an incredibly brave and selfless act in providing her testimony to help the other girl. It is still a solid case today.

You are lawmakers. You have the power to create a law that would provide my sister the opportunity to use her police report to seek the justice she has been waiting for all these years. She deserves to heal and not carry the burden of holding onto the police report, which includes vivid details of her assault, any longer. Justice is an integral part of the healing

process. My sister deserves to live in her full light. Please do not amend this bill in such a way that my sister and other survivors of sexual assault who also have case files filled with enough evidence to pursue Civil damages are written out of it. Please stop the exhaustive loop of survivors and their families needing to relive their trauma in order to get laws changed. Adding a revival window for survivors of sexual assault that have a case file that still proves just cause, no matter how old they are, would finally give my sister, and other survivors of sexual assault the chance they all deserve to seek justice, which is an integral and necessary part of the healing process.

My sister did not choose to be sexually assaulted. No one does. Yet from the moment the assault occurs the course of their lives and their families' lives are forever changed. The survivor's ability to seek justice is also something they do not get to choose. It is decided for them by the state's current SOL laws in which the assault occurred and whether it is something that happened in the past, present, or future. A survivor of assault also does not choose to intentionally delay or stall justice either. It is a matter of survival for them and in some cases a matter of life and death, as it was with my sister. As you sit here today and listen to their stories, please also hear their cries for justice. Listen to what they are asking you for and take action on it. When survivors of sexual assault speak up, they risk a lot. We need them to know that when they speak up, they are heard. They are valued. They are cared for and justice will be made available to them. This is how you break the cycle of silence, which in turns breaks the cycle of violence. We cannot fight our enemy until we truly know it. You have a choice today to stand for survivors of sexual assault and help protect others from abuse. You have the chance to give them a choice in their path towards justice and healing, giving them back control of a part of their life that was so unjustly taken away from them.

Do not let the opposition tell you a revival window can't be done. At least 24 states and 3 territories have enacted some form of revival window laws dating back to as far as 2002, and many more states have bills being proposed at their current legislative sessions. A handful have even opened up permanent revival windows. (<https://childusa.org/2023sol/>) This can be done, it has been done, and the system did not break because of it. If you truly want to stand for and with survivors of sexual assault you will add a 2-year revival window to this bill for expired claims that have their original case file available without any restrictions on the age of the case file. I urge you to give SB 2282 a DO PASS recommendation with a 2-year revival window added to it.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paula Rebsom', with a stylized, flowing script.

Paula Rebsom



## SB2282- House Judiciary

Good morning, Chairman Klemin and members of the House Judiciary Committee, my name is Jaci Hall, and I am the Executive Director of the North Dakota Association for Justice. Today I am here to urge a DO PASS on SB2282.

Sexual abuse can happen to children and adults of any race, socioeconomic group, religion, or culture. **Every 68 seconds an American is sexually assaulted in the US. Every 9 minutes it is a child.** Women and men between the age of 12 and 34 are at the highest risk of sexual assault. If you are Native American, you are twice as likely to be sexually assaulted. A woman in college is more likely to be sexually assaulted than graduate.

ND Task Force on the Prevention of Child Sexual Abuse was established in 2017 and is tasked to identify, educate, and support groups who provide services to those who are victims of child sexual abuse.

The 2019 report showed the latest information:

1. In 2016, NDHHS responded to over 14,000 reports of child abuse and neglect.
2. In 2016, the AG reported 587 child sexual abuse victims.
3. In 2017, 774 children were referred to ND Children Advocacy Centers for Sexual Abuse allegations.
4. The ND Children's Advocacy Centers determined the lifetime cost for the sexual abuse of a female= \$282,734 and a male= \$71,691.
5. For those who were sexually abused, reported their abuse and received services the ND Children's Advocacy Center in 2017, the estimated lifetime expense is \$154,813,120. (That is for the 826 children who received services in 2017)

To put that into perspective, in 2022 ND Children's Advocacy Centers served 2,690 people and provided 44,969 services to them. These crimes are growing and today, I am asking you to support victims.

According to PCAND, 16% of children who are sexually abused come forward when they are children. Fewer than ½ of those will result in a conviction.

When victims come forward later in life, they are silenced due to the statute of limitations. S B2282 will give these victims a voice.

Like Senator Dwyer indicated, in 2021, the Attorney General's Office investigated 1,089 criminal sexual offenses. These offenses included sodomy, rape and rape with a foreign object, groping and commercial sex acts.

As these offenses increase, the length of time to prosecute these cases has also increased. In 2021, criminal sexual assault prosecution took 440 days to prosecute, many cases took longer. Many prosecutors wait until the rape kit is processed and there is evidence of guilt to start the criminal prosecution. As you heard during this session, North Dakota's crime lab is over 400 kits behind some victims have waited over a year. Delays have been happening for almost 10 years now.

These delays have a detrimental impact on the current statute of limitations for civil remedy. As high-profile cases of sexual abuse and as survivors find the courage to report crimes and seek closure, statute of limitations can be a deterrent. Civil litigation can be a remedy for victims of sexual assault in several ways. Some of the ways that civil litigation can provide a remedy for victims of sexual assault include:

1. **Monetary compensation:** Victims of sexual assault can seek monetary compensation for damages such as medical expenses, lost wages, and pain and suffering.

2. **Injunctive relief:** Victims of sexual assault can seek court orders to prevent the perpetrator from continuing to engage in harmful conduct, such as restraining orders or orders requiring the perpetrator to undergo counseling or treatment.

3. **Holding wrongdoers accountable:** Civil litigation can help to hold wrongdoers accountable for their actions, which can provide a sense of justice and closure for victims.

4. **Public acknowledgment of the harm:** Civil litigation can provide an opportunity for the victim to have their story heard in court and for the wrongdoer to be publicly held accountable, which can help to validate the victim's experience and bring attention to the issue of sexual assault.

5. **Consequences for the perpetrator:** Civil litigation can also provide consequences for the perpetrator, such as fines, penalties, and even reparations that can be directed to the victim.

6. **Securing evidence for criminal proceedings:** In some cases, civil litigation can be a way to gather evidence that can be used in criminal

proceedings against the perpetrator, this can help to increase the chances of a successful criminal prosecution for other offenses.

As the legislature looks at separate offenses throughout the years, the statutes of limitations have gotten skewed. **Normally, civil litigation does not commence until after the criminal complaint. This is because until the criminal complaint is completed, the defendant will plead the 5<sup>th</sup> amendment, so they do not incriminate themselves.**

SB 2282 gives the victim the opportunity to seek a civil remedy if they were unable to due to their criminal complaint taking too long, or the discovery of the abuse was outside the current statute of limitations.

Statutes of limitations can be detrimental to these cases as they place a time limit on the ability of the victim to seek legal remedy for the sexual assault. As the criminal statutes change and not the civil statutes, victims lose this ability. Today, I ask you to open the window to provide them with opportunity they have lost that was outside of their control.

**Many ask whether this window should be open to all cases, or should S82282 not be open retroactively?**

Overall, access to the civil justice system is crucial for victims of wrongful conduct as it provides them with a means of seeking redress for harms suffered, holding wrongdoers accountable, and promoting important public policy goals.

The ex post facto clause is a provision in the United States Constitution that prohibits the federal government from passing laws that retroactively criminalize conduct, increase the punishment for a crime, or eliminate the defense of a crime. The ex post facto clause applies to criminal law and does not cover civil litigation.

In civil litigation, the statute of limitations, which is a time limit for filing a lawsuit, is not considered a retroactive law because it does not criminalize conduct or increase the punishment for a crime, but it sets a time frame for a legal action to be taken. The statute of limitations can be modified or extended by the legislature, but it doesn't affect the rights of individuals who have already been subject to the previous statute of limitations, unless they are still in the time frame of the previous statute.

**What have other states done in the past few years to support victims?**

In recent years, many states have changed their statutes of limitations for sexual assault in response to the widespread problem of sexual abuse and the recognition that victims may not come forward to report the abuse for many years, or at all. Currently, 27 states have made changes to their laws to protect victims. In 2023, 7 states have legislation pending to make additional changes.

These changes have included:

**1. Eliminating statutes of limitations for sexual assault:** Several states, such as California, have eliminated the statutes of limitations for sexual assault, which means that victims can file a lawsuit at any time, regardless of when the abuse occurred.

**2. Extending statutes of limitations:** Some states have extended the statutes of limitations for sexual assault, which means that victims have more time to file a lawsuit. For example, New York extended the statute of limitations for criminal sexual assault from five years to 20 years.

**3. Creating "lookback" windows:** Some states have created "lookback" windows, which are limited periods of time during which victims who were previously barred from filing a lawsuit due to the statute of limitations can file a lawsuit regardless of how long ago the abuse occurred. This is what the first draft of SB2282 will do.

**4. Introducing a "Romeo and Juliet" clause:** Some states have included a "Romeo and Juliet" clause, which is an exception to the statute of limitations for sexual assault cases where the perpetrator and the victim are close in age.

**5. Child Victims Act:** Some states have passed the Child Victims Act, which provides for a one-year window for victims to file civil claims for child sexual abuse regardless of the statute of limitations.

These changes to statutes of limitations for sexual assault are designed to provide more time for victims to come forward and to seek legal remedy for the abuse they have suffered. The changes also reflect the recognition that victims may not be ready to come forward for many years, or at all, after the abuse occurred and that it is important to provide them with a way to seek justice.

Victims of sexual abuse go through so many ups and downs. Their worlds are flipped upside down, but they choose to stand up and face their perpetrator. They do this to remove this individual from the streets so they cannot harm another. They are the bravest of the brave. Today, I ask you to be brave. To support victims and show them you are willing to stand up and support them.



These victims behind me deserve your support and willingness to stand with them to remove these perpetrators. By voting DO PASS on SB2282, you are showing them they matter. Statute of Limitations are set by the legislative body. I ask you today to be their voice and pass SB2282.

The Senate made positive changes to the statutes of limitations for future victims. It did not address the victims that have been denied access to civil remedy due to delays in governmental actions, mental health, criminal proceedings, and other factors outside of their control. This does not mean these victims do not deserve the opportunity to seek civil remedy.

The current statute of limitations for civil sexual assault is 2 years for adults and either 2, 3 or 10 years for children. However, the criminal statute of limitations is 3 years for felony cases for adults and 21 years for children. This is simply wrong. Not only do these statutes need to be changed for future victims, but we also need to support past victims as well.

Just yesterday, an educator was sentenced to 30 months in prison for having sexual relations with a student. In less than three years he will be free to go about his day, but what about his victim? This student and all other victims deserve justice. **Civil litigation is not about money, or retaliation – but about stopping the next attack and saving the next victim.**

Thank you for the opportunity to speak today, I look forward to answering your questions and working with the committee to support victims of sexual assault, abuse, and gross sexual imposition.

Jaci Hall  
Executive Director  
North Dakota Association for Justice

Dear Chairman Klemin and members of the Committee, thank you for this opportunity to speak today. My name is A [REDACTED] R [REDACTED]. In grade school, I remember looking out the window watching a squirrel running around on the merry-go-round and I thought that was the coolest. Suddenly, my teacher slams her hand on the podium and states, "A [REDACTED], are you stupid? I told you to open your book to page 27!" After that, my life completely changed and I was nicknamed stupid. Suddenly the girls I used to play with during recess did not want to play with me anymore and the boys started punching me and I would frequently come home with bruises.

As a result, I became very isolated. One day I was riding my bike home from school and a school official pulled up next to me in his pick-up. He leaned over, rolled his window down and said, "Hey, do you remember me? I see you at school all the time and I think you are so nice and pretty. Can I give you a ride home?" After lots of begging I got into his pickup and he put my bike in the back. He asked if I wanted to go to Patterson Lake to talk about why the kids are being mean to me. I remember thinking wow, someone finally wants to be my friend. Shortly after we parked at a very secluded area at the lake, I remember fighting to try and leave his vehicle. At that time, I had protruding eye teeth. This school official bashed my head so hard into the passenger side of his door that my eye tooth was nearly protruding from my upper lip. Next thing I remember is being pulled out of his vehicle and dragged next to a tree where I blacked out. When I finally came to again I remember he was driving away from the lake. I was not only asked for directions so he could take me home, but also threatened.

When we arrived, my mom embraced me at the door. She had been worried sick about why I was not home yet and wondering what to do next. The school official immediately made

himself out to be the hero stating he rescued me from the boys at school and my mom thanked him. My mom questioned me profusely about what happened and whether or not I had been hurt by the school official, but because I had been threatened, I stuck with the story he told my mom. I had been wearing black pants that day and I remember seeing blood in my underwear. I immediately took off my underwear and late that night threw them away in another dumpster in our alley so my mom would not find them. It was a very horrific ordeal for any ten-year-old girl to deal with. In my senior year of high school, I found myself lost, scared, broken, and in desperate need of help. As a result, my parents put me in the mental health unit at our hospital in Dickinson, ND and this is where my story really begins. As a result of a caffeine overdose from an attempted suicide, I was transferred to the Intensive Care Unit (ICU) of our same hospital.

Early that evening, I was introduced to the overnight male nursing supervisor. He asked me if I had a boyfriend to which I responded no. He asked me if I was a virgin to which I responded yes other than my rape. After I told him I had been raped, he got a grin on his face and stated, "Geez, I am really sorry to hear that." He then stated "you mean a pretty girl like yourself has never had sex before?" I felt uncomfortable with his questions and wondered how they pertained to my caffeine overdose, but he was the nurse in charge so I responded. (Read page 6 of my police interview).

At exactly 2 am, I awoke to the nurse's hand inside my underwear. He told me they needed to take my underwear off. I started crying and told him to please stop and that he was hurting me. He then left the room and a female nurse who heard my yelling entered to check.

Due to my caffeine overdose, I finally fell asleep at 1 am. I remember when the female nurse entered my room that I felt groggy and struggled to tell her to please stay with me and not let him in my room again.

The next morning when a nurse came to bring me back to the mental health unit, I trusted her, so I told her what happened. In a raised voice, the nurse stated she cannot believe I would accuse a well-respected nurse of such a heinous crime and that I was a sick girl from the mental health unit who had a bad dream. I was given no rape test kit or drug analysis. The hospital informed my parents there were allegations of a sexual assault. My parents believed me, but thought the hospital had done a thorough investigation and found no evidence.

Approximately one year and two months later, I was sitting at my parents kitchen table and read the front page of the Dickinson Press which stated, "Dickinson nurse pleads innocent." I turned to my mom and said this is the nurse that hurt me, and I need to help this girl. My mom and I met with Stewart Stenberg, the former lead detective of the case. I remember he was nice and gave me this teddy bear (Show). When Stewart asked what time I remember being sexually assaulted, he informed me that was the exact time the 14 year old victim was sexually assaulted on a different floor than the male nurse even supervised.

Stewart completed an investigation on my case and the female nurse who came into my room to check after she heard my noises and comforted me was interviewed. It was determined that her story corroborated mine and the male nurse lied in his nursing notes to cover up my sexual assault. At the time I came forth to the hospital with allegations, that female nurse, who was the only other nurse on duty that night, had not been interviewed by the hospital. Stewart told my mom and I that the 14-year-old girl and her family were going

after the hospital for civil damages and encouraged us to join suit. It was during this time that I had another mental setback as a result of my PTSD and said I cannot continue. It was not that my case was any less provable or injurious than the other victim, but due to my PTSD I was only able to provide a supporting statement. During this time, the former male nursing supervisor had been in the newspaper a total of seven times and here are some excerpts:

In court, the former male nurse stated that he entered the 14 year old girl's room because he heard, "gigling or snoring. I couldn't tell what." At first, he used his stethoscope to check for breathing sounds, he said. He then turned her on her side, he said, so he could fondle her genital area, then turned her, "a little bit more" so he could more easily fondle her. He then positioned the girl so he could make her hand fondle him

Citing the victim's vulnerability and former male nurses violation of the public trust placed in nurses, a district judge sentenced the former nursing supervisor to serve three years in the State Penitentiary. The judge said he intends the sentence to discourage others: "They must be punished" "Anytime one imposes himself on another human being. It is a serious crime..."

On the morning he was scheduled to present himself for prison time, he stabbed himself, then drove himself to the same hospital where he used to supervise and sexually assaulted women. The newspaper article stated, "Transported by air ambulance, he was in serious condition on the surgical floor with chest injuries."

During his parole hearing, he said he won't go back into nursing because of the "opportunity for (potential) victims." He also stated he should be released early because "I don't think my family should be victimized by going through another holiday without him home.

The former nursing supervisor has never been the victim. I have been the victim for the past 29 years. I am here today speaking the most horrid truths about my life for justice so I don't have to be the victim one more day. I cannot get justice for what happened to me by the school official because there is simply not enough evidence, but there is enough evidence to hold the hospital and former nursing supervisor accountable. When I found out my police report still existed, Jim Hope, former lead prosecutor of the case and the one who never threw my police report away, recommended I take it to Jared Gietzen, an attorney in Dickinson who

was not familiar with the case for an outside perspective. Jared read my entire police report pro bono and stated it does still show cause. The former male nursing supervisor is still alive, my police report includes a photo line-up where I successfully identified the former male nursing supervisor, my interview, and an interview with the doctor on duty stating I had only ingested caffeine pills and was not under the influence of narcotics. I was scared when I first arrived at the ICU and earlier that evening and had yelled out "get me out of here" upon arrival to both the male and female nurse together. The male nurse charted I made this statement at 2 am to cover up why I was yelling and crying after he entered my room to sexually assault me. My police report also includes an interview with the female nurse who stated I made that statement much earlier in the evening to both of them together showing the male nurse lied in his nursing notes. My first two sexual experiences were a rape at the age of ten and a sexual assault at the age of eighteen. I come from a middle-income family. My parents amassed a hospital bill in 1994 that was close to \$100K to try and get me the help I desperately needed. Instead, I was sexually assaulted in my sleep. Senator Sickler stated a business with new owners, new management, and new policies should not be held accountable for something that happened years ago. I said that he was only looking at one side of the coin and when you do that it falls onto the victim. And it should never fall onto the victim. The hospital is a mandatory reporter of alleged sex crimes and the police department was never notified. Paying for weekly counseling services, medications, yoga sessions all to help me sleep from being sexually assaulted while sleeping should not be my burden to pay. I often wonder what my life would have looked like if I had received the proper help I needed when I was 18. Maybe I would have a family of my own instead of living in fear every day. The hospital and former nursing

supervisor owed me civil damages for what happened 29 years ago. What difference does it matter if I receive those damages today or I did 29 years ago? What matters is that I am finally strong enough to stand up, share my truth, and receive what was owed to me all those years ago. And the \$67K my parents still owe on this hospital bill should not be a burden they have to pay anymore either. The passage of time has not made the pain of what happened to me any better, the passage of time has not made my parents hospital bill go away, the passage of time has not made my case any less provable, but what the passage of time has done is take away my right for justice. Ultimately, I wish I never met the former nursing supervisor at the hospital, but I unfortunately did and this is the only recourse I have left-to not pay for all the help I need to function everyday as a result of the sexual assault out of my own pocket anymore. Thank you. Any questions?

Chairman Larson and members of the committee,

I am addressing you all in regards to the proposed SB 2282 legislation. I support this amendment to include a window of opportunity for victims to pursue civil damages. This amendment would provide the opportunity for financial compensation to those that were victimized and not given fair opportunity to seek justice. Please consider giving the victims that have exceeded the statute of limitations a two-year window opportunity to come forward and present their case to the court. These actions will provide another crucial part in the healing process of trauma from sexual assault.

Respectfully,

Amanda Eppler

ND born and raised, Auntie, Sister, Friend, and Care provider



Chairman Klemin and Committee Members:

Re: Senate Bill 2282

In following this particular bill, it is evident that it needs to be amended. Please consider adding the process of adding back a window for those victims who missed the time frame of the Statue of Limitations, but should get the opportunity to have their cases heard in Court.

Required in this process should be:

- \* Documented and credible evidence...
- \* An increased recognition of the trauma inflicted on the victims – children, teenagers, adults...
- \* Victims are left with deep and long-lasting trauma, sometimes lasting a lifetime...
- \* The perpetrator often gets by with a short sentence...
- \* Should the victim have to experience more 'time' than the perpetrator? This is a huge example of injustice. A [REDACTED]'s family has been paying the hospital and counseling bills for almost three decades. The offender should be the one that foots the bill. This is beyond my understanding.

A [REDACTED] went into the hospital as a result of a suicide attempt from ingesting caffeine pills and was violated by the male nurse, who was also the supervisor of staff on his assigned floor. The cost of A [REDACTED]'s so called 'care' included the time it took for the perpetrator's sexual assault. At a later date, this same male nurse, at the same Dickinson hospital, the male nurse sexually assaulted another patient, a 14 year old girl. Nurses on that floor did not document anything about the cruel act from what happened to A [REDACTED]. It's as though these hideous acts never happened. A [REDACTED] had where with all to look at the name tag the male nurse supervisor was wearing. What an ordeal this must have been, and this is only a small glimpse of what A [REDACTED] faced.

I'm sure you are aware that almost three decades later, A [REDACTED] is now able to be involved in this revision to laws and has been working hard to get the law changed both for herself and for others affected by these criminal actions. She is using her voice, quite effectively. She deserves to have as much time as it takes her to recover.

All victims need to have the time to work through this type of ordeal and NOT have it dominate their lives for over 20 years. Some people don't get it. They don't understand the wholeness of the crime against her. Let me tell you, the stripping of a person's dignity, the

sexual assault of another person is carved into the very essence of the human spirit, which was violated. Yet we are quick to want to brush over the sacredness of life and move on. A [REDACTED] has found her voice and is using it effectively. A [REDACTED] and others like her should get the time they need.

The male nurse served his time – only 3 years and is out.

Therefore, along with a more substantial penalty of prison time for the offender, a remedy for the victim must also be provided. **The VICTIMS who weren't able to meet the time frame as provided by the earlier Statue of Limitations, will be affected by the extended years if the Legislators pass those changes. Every victim should be granted a one year grace period with the implementation of this revised law.** With the support of capable State Attorneys, these victims of sexual violence would have the opportunity to have their case heard in court. A [REDACTED] deserves to be given a window in which she can look back with the revision of the new bill and receive retribution for the crime committed against her.

Respectfully submitted,

Nancy Jean & Steve Brannan and Family: Candace Brannan & Keith Jorgenson, Scott & Renita Brannan, Brent & Ellyn Brannan, Shawn & Danielle Brannan

**Testimony of Sydney Dollinger**  
**SB 2282 - House Judiciary Committee**  
**March 21, 2023**

Good morning Chairman Klemin and members of the committee. For the record my name is Sydney Dollinger, and today I will be sharing with you a very personal story in hopes you will understand how important SB2282 is.

On September 2, 2020, I became very ill with COVID-19. I spent 25 days in isolation. For twenty-five days I sat alone in a random dorm room with none of my belongings and absolutely none of my loved ones. Let me ask you this, if you spent 25 days in isolation what is the first thing you would do? Many of you probably said see your loved ones. This too is exactly what I said.

I went home to see my family and then immediately went to Fargo, ND to see my best friends. On September 26th, I was in my friend's apartment doing nothing a normal college freshman wouldn't do. I was drinking with my friends: we were laughing, telling stories, and making memories. On September 27th, I was no longer in my own clothes, I was soaking in my own blood and throbbing from well over 50 bruises and abrasions. I had been brutally raped. I had wood shavings in my hair from the table my head was smacked against, I had lacerations inside of me and deep cuts all over. I had handprint bruising around my neck and bruising from being knelt on and held down on my pelvis.

The list of injuries I sustained is long and the ones I have listed today were the least of my problems. The worst injury my rapist inflicted upon me was post-traumatic stress disorder. Now hearing the injuries that were forced upon me, what do you think the final verdict was in my case? If you're thinking guilty, you are wrong, I lost. The man that did all this to me was found not guilty.

So now you are probably thinking, well Sydney you should sue him civilly. Which is a great idea, but it took 27 months for my case to come to a resolution. The statute of limitations to sue civilly for these types or crimes is 24 months. I have gotten no justice for what has happened to me. I have no closure and no starting line for healing. I am pleading on behalf of myself and all the other women in this state like me, please pass this bill. Although you can't change what has happened to us you can help us move on from what happened. This bill will provide so much justice and closure. As a victim there's not much more you can ask for.

Please consider a do pass vote. I will gladly answer any question you may have.

**Testimony of Susan Dollinger**  
**SB 2282 - House Judiciary Committee**  
**March 21, 2023**

Good Morning Chairman Klemin and members of the House Judiciary Committee. For the record, my name is Susan Dollinger. I am here to testify in favor of SB2282. If you may recall, my daughter, Sydney and I both appeared in front of this Committee in January 2023 on HB1145.

Mr. Chairman and members of the committee, I will try to be brief this morning because this is not my story to tell. What I want to do is present to you a timeline of her case in the criminal justice system showing that the length of time it took for her criminal case to reach its conclusion.

On September 27, 2020, my daughter was forcibly raped on the campus of North Dakota State University. This case became very complicated due to crossing multiple jurisdictional lines. The assault happened in Fargo, the rape kit was collected in Bismarck, and then she made her report to the Police in Minot two days later.

It took 6 months from the date of the attack just to get to the preliminary hearing and arraignment. After that, there was delay after delay. I could stand here for an hour and tell you all the ways the criminal justice system failed her, but I did say I would be brief, so I won't do that. It took 2 years and 3 months from the date of the attack to the day we received a verdict.

By that time, the 2-year statute of limitations had passed.

Mr. Chairman and members of the committee, I stand before you and respectfully request this committee find a way to allow victims, like my daughter, access to the civil side of our court system. The delays that led to the expiration of the statute of limitations were no fault hers. Just like a backlog of testing of testing is no fault of other victims.

This Committee has already shown with HB1145 it is willing to find a way to help as many victims as possible to the best of its ability. I humbly request you find a way to do the same with SB2282.

I am happy to answer any questions you may have.

**Klemin, Lawrence R.**

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**From:** Joseph, Christopher  
**Date:** Tuesday, March 21, 2023 12:23 PM  
**To:** Klemin, Lawrence R.  
**Subject:** Senate Bill No. 2282 (sexual assault)

Good afternoon Rep. Klemin,

This email is in response to your request for a section-by-section explanation of Engrossed Senate Bill No. 2282 (2023).

**Section 1:**

The general statute of limitation on civil actions alleging sexual assault is currently two years. This is reflected on page 1, lines 12-13. Section 1 carves out an exception to the general statute of limitation. The exception is provided in Section 4 of Senate Bill No. 2282.

**Section 4:**

Section 4 of Senate Bill No. 2282 carves out an exception to the general statute of limitation on civil actions alleging sexual assault. A general claim for relief for sexual assault (also abuse or gross sexual imposition) would now be nine years from the date the assault occurred.

**Section 2:**

Civil claim against the state (or its employees and officials acting within the scope of their employment or office) must in all cases be commenced within three years after the claim for relief has accrued. Section 2 carves out an exception to the three year statute of limitation for sexual assault claims. Under section 2, a claim for sexual assault would now have nine years from the date the assault occurred or twenty-one years from the date the assault occurred if the victim was under the age of eighteen when the assault occurred. In addition, if the victim was under the age of fifteen when the assault occurred, the aforementioned twenty-one year statute of limitation would not start until the victim turns fifteen years old.

**Section 3:**

Remember, the general statute of limitation on civil actions alleging sexual assault being two years (*see section 1 of the bill*)? Well, the statute of limitation for childhood sexual abuse is an exception to the general statute of limitation. The current limitation for childhood sexual abuse is within ten years after the victim knew or reasonably should have known that a potential claim exists resulting from alleged childhood sexual abuse. Section 3 would change the ten year limitation to twenty-one years. However, if the victim was under the age of fifteen when he assault occurred, the twenty-one year limitation would not begin to run until the victim reaches the age of fifteen.

**Section 5:**

Civil actions against a political subdivision must be commenced within three years. Section 5 of Senate Bill No. 2282 carves out an exception for sexual assault claims, and makes the limitation for such claims against a political subdivision the same as the limitation proposed against the state under Section 2 of the bill.

**Section 6:**

Currently, a person that brings an action against the state (or a state employee) for an injury must provide notice of the time, place, circumstances of the injury, the names of any state employee involved, and the amount of compensation sought within 180 days of the injury. Section 6 waives this 180 notice requirement for sexual assault claims.

Hope this breakdown helps Rep. Klemin! If you need additional information or have any other questions related to this topic, please do not hesitate to contact me.

Sincerely,

Christopher S. Joseph  
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North Dakota Legislative Council  
600 East Boulevard Ave  
Bismarck, ND 58505  
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[cjoseph@ndlegis.gov](mailto:cjoseph@ndlegis.gov)

**Fwd: SB2282 amendment**

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**From:** VanWinkle, Lori lvanwinkle@ndlegis.gov

**To:** Rios, Nico nrios@ndlegis.gov

**Date:** Mon, Apr 3, 2023, 9:50 AM

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**SECTION 7. RETROACTIVE APPLICATION.** This Act applies retroactively to claims for relief with clear and convincing evidence occurring before August 1, 2014.

Jaclyn Hall

Executive Director

North Dakota Association for Justice

P – (701) 663-3916

E – [jaclyn@ndaj.org](mailto:jaclyn@ndaj.org)

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2. If on August 1, 2023, a claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 is barred because of the time limitation under this section, that claim is revived. A claim revived under this subsection must be commenced before August 1, 2025.

2. If on August 1, 2023, a claim for relief under subsection 1 is barred because of the time limitation under this section, that claim is revived. A claim revived under this subsection must be commenced before August 1, 2025.