

CHILD USA

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The Sean P. McIlmail Statute
of Limitations Research
Institute at CHILD USA 

SURVIVOR TOOL KIT

NEW YORK



FOR CHILD SEX ABUSE
VICTIMS CONSIDERING LEGAL
ACTION UNDER A NEW
WINDOW OR REVIVAL LAW

If you are considering filing under a window or revival law please consider the following:

- 1** Know that you are not alone.
- 2** See a therapist before consulting a lawyer, and continue seeing that therapist during the duration of the lawsuit.
- 3** Understand that the legal system is a lot of “hurry up and wait” - It is normal to be asked to produce information quickly, and then not hear from your lawyer for a while.
- 4** An attorney cannot be your attorney without your authorization.
- 5** Your attorney works for YOU and cannot settle your case without your permission prior to your approval of the monetary amount.
- 6** Don't assume that the court system understands your needs; some officials will have received trauma-informed training, some will not (1 & 2 above).
- 7** Understand that this can be a confusing time not only for you but everyone around you (2 above and encourage loved ones to do the same).
- 8** You have been empowered to file a legal action, but it will take our whole culture to end child sex abuse.
- 9** The settlement funds you receive are not blood money or dirty money, this is American justice. You deserve to be compensated for your harm.
- 10** Talk to a finance professional about how to protect your settlement and do not make any major financial decisions or purchases for at least 6 months.



Terms to Know

- **Statute of Limitation (SOL):** is a law that sets the age limit or the amount of time after a person is abused that: (1) the person can file a civil lawsuit for the abuse or (2) the government can criminally prosecute an abuser for the crime.
- **Discovery Rule:** a law that says the SOL time countdown doesn't begin until a person discovers his injuries relating to child sex abuse or that his injuries were caused by abuse.
- **Injuries Caused by Child Sex Abuse:** depression, anxiety, PTSD, inability to form secure relationships, etc.
- **Abuser:** A person who sexually abuses a child.
- **Entity:** A private organization (like a business, non-profit company or religious institution) or a public organization (like a government agency or public school).
- **Civil Lawsuit:** A survivor of child sex abuse may file a civil lawsuit against an abuser, other individual, entity or the government to recover money damages or seek other remedies for abuse related injuries.
- **Criminal Prosecution:** The state or federal government may prosecute by filing criminal charges against a person or entity for their crimes relating to child sex abuse. Punishment for criminals involves jail time and fines.
- **Windows and other Revival Laws:** Laws that allow adult survivors of child sex abuse whose civil claims had already expired to file civil lawsuits against abusers, other individuals or entities relating to their abuse for a set period of time, with a revival window (either time-limited or permanently open) or an age limit.



Remember, your State's law is specific to your State. Each window or revival law is different.

Nine New SOL Windows or Revival Laws in 2019

Adult survivors of child sex abuse now have access to justice via civil lawsuits in the following jurisdictions. Even if the SOL had already expired for their civil claims of abuse, they are now revived for a set period of time with: (1) a revival window, either time-limited or permanently open, or (2) an age limit.

Jurisdiction	Date Opens First day can file	Date Closes Last day can file	Revival Law Description
Washington D.C.	May 3, 2019	May 2, 2021	2-year window: 2-year window opened on May 3, 2019 for expired claims against abusers, other individuals and entities. Window applies to all child sex abuse survivors up to age 40 and, in some circumstances, older victims and those sexually assaulted as adults.
Montana	May 7, 2019	May 6, 2020	1-year window and revival up to age 27: 1-year window opened on May 7, 2019 for expired claims against abusers and entities. Claims are revived for survivors until age 27, even after window closes.
Arizona	May 27, 2019	Dec. 30, 2020	19-month window and revival up to age 30: 19-month revival window opened on May 27, 2019 for expired claims against abusers, other individuals, private organizations and government. Claims are revived for survivors until age 30, even after window closes.
Vermont	May 28, 2019	n/a	Permanent window: Window that is permanently open revived all expired claims against abusers, other individuals, private organizations and government.
Rhode Island	July 1, 2019	n/a	Revival up to age 53: Revived SOL up to age 53 against perpetrators only.
New York	Aug. 14, 2019	Aug. 13, 2020	1-year window: 1-year window opened on August 14, 2019 for expired claims against abusers, other individuals, private organizations and government.
New Jersey	Dec. 1, 2019	Nov. 30, 2021	2-year window and revival up to age 55: 2-year window opened on December 1, 2019 for expired claims against abusers, other individuals, private organizations and government. Window applies to child sex abuse victims and those sexually assaulted as adults. Child sex abuse claims are revived until age 55, even after window closes.
California	Jan. 1, 2020	Dec. 31, 2022	3-year window and revival up to age 40: 3-year window opened on January 1, 2020 for expired claims against abusers, other individuals, private organizations and government. Claims are revived for survivors until age 40, even after window closes.
North Carolina	Jan. 1, 2020	Dec. 31, 2021	2-year window: 2-year window opened on January 1, 2020 for expired claims against abusers, other individuals and entities.

*This is not legal advice. To determine the SOL in a particular sex abuse case, contact a lawyer in your state.



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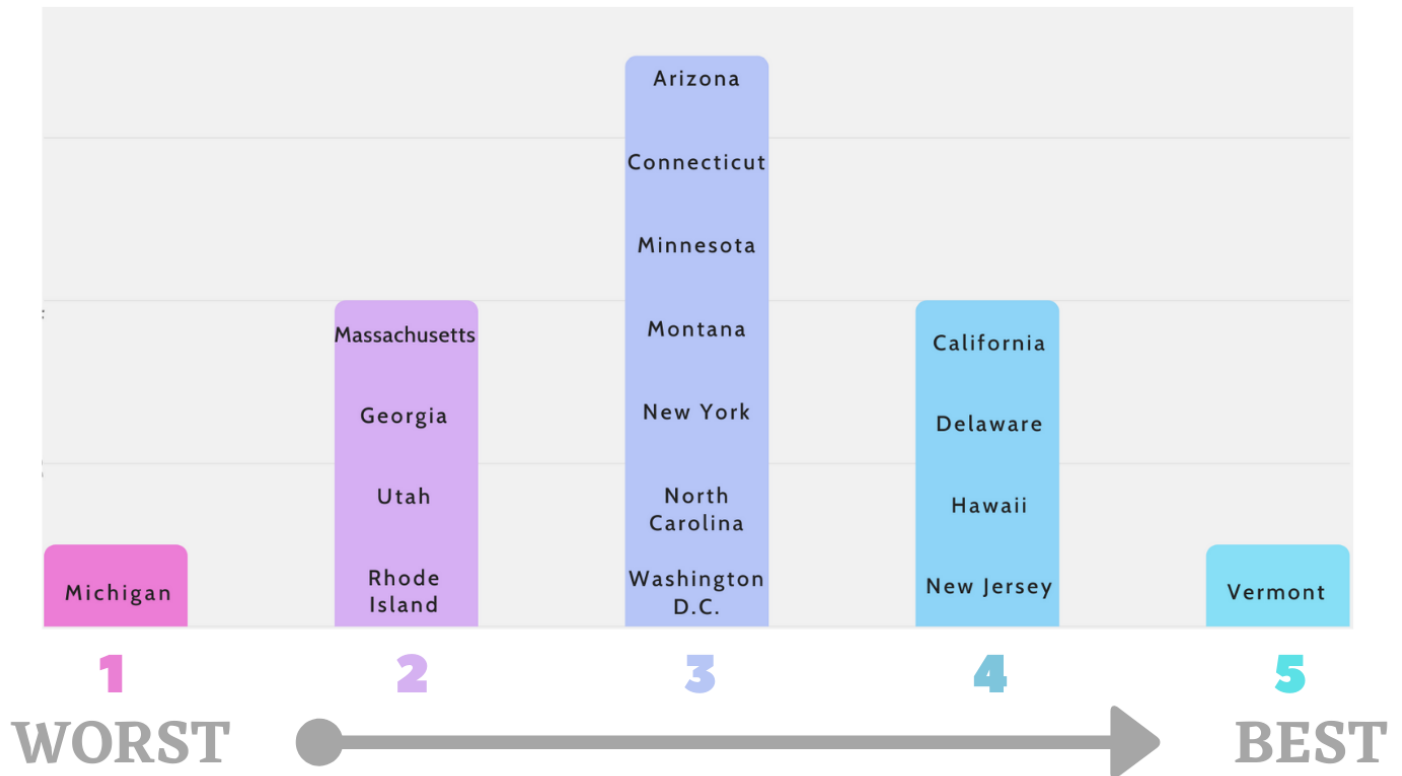
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Sixteen States and D.C. Have SOL Windows or Revival Laws Since 2002

Not all windows and revival laws are equally valuable. Here's how they rank from worst to best:



- 1** Revival window only for claims against abuser doctors
- 2** Revival window, revival up to a certain age, or revival of all claims, against abusers only
- 3** Revival window or revival up to age 30-54, for claims against abusers and entities
- 4** Revival window for 2 or more years or revival up to age 55, for claims against abusers, other individuals, private organizations and government
- 5** Permanently open revival window for all claims against abusers, other individuals, private organizations and government



What is New York's Child Victims Act (CVA)?

The NY CVA explained:

It will benefit ALL victims of child sex abuse in NY in some way:

New Civil SOL:

All children being abused now will have until age 55 to file a civil suit against an abuser, other individual, entity or the government. Adults of all ages who were abused as children will now have until age 55 to sue or can sue until August 13, 2020, depending on their current age.

New Criminal SOL:

There is no time limit for prosecution of many 1st degree felony sex abuse crimes, and the government may prosecute other felony sex abuse crimes until a survivor is at least age 28.

**THE WINDOW OPENS AUGUST 14, 2019 AND
CLOSES AUGUST 13, 2020**

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How Will New York's New SOL Law Help You?

Are you a NY survivor of child sex abuse?

You now have the right to file a civil lawsuit against an abuser, other individual, entity or the government, and criminal prosecution of the abuser may be permitted for a longer period of time. The scope of your rights depends on your current age.

If you are currently under Age 23:

Civil for under Age 21: You will benefit from the civil SOL extension and can sue an abuser, other individual, entity or the government for your abuse until you are 55 years old.

Civil for Age 21-22: You will benefit from the civil SOL extension for claims against an abuser and the revival window for claims against others. You can sue an abuser, other individual, entity or the government for your abuse during the window that is open until August 13, 2020. Even after the window closes, you can sue an abuser for your abuse until you are 55 years old.

Criminal for under Age 23: Whether the abuser may be prosecuted for your abuse will depend on the nature of the crime, date of abuse and if/when it was reported to police. The abuser can still be prosecuted for 1st degree: rape, criminal sexual act, aggravated sexual abuse, or course of sexual conduct against a child, committed on or after June 23, 2006. If any of those crimes were committed before that date, it is possible that the abuser may still be prosecuted. If your abuse was never reported to police or it was only reported within the last 5 years, you may benefit from the SOL elimination for 1st degree incest and the SOL extension for prosecution of other sex abuse felonies until you are at least 28 years old.

If you are currently Age 23 or older:

Civil for Age 23 and older: You will benefit from the 1-year revival window that is open and can sue an abuser, other individual, entity or the government for your abuse until August 13, 2020.

Criminal for Age 23 and older: The abuser can still be prosecuted for 1st degree: rape, criminal sexual act, aggravated sexual abuse, or course of sexual conduct against a child, committed on or after June 23, 2006. If any of those crimes were committed before that date, it is possible that the abuser may still be prosecuted, depending on the date of abuse and if/when it was reported to police. The abuser may no longer be prosecuted for other sex abuse crimes.

THE WINDOW OPENS AUGUST 14, 2019 AND CLOSSES AUGUST 13, 2020

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Trusted Resources

- 1** CHILD USA: www.childusa.org
- 2** CHILD USA Advocacy: www.childusadvocacy.org
- 3** To find a Child Advocacy Center near you visit: www.nationalchildrensalliance.org/
- 4** For free access to research often needed in child abuse cases visit: www.nationalcac.org
- 5** RAINN – Rape, Abuse, & Incest National Network: www.rainn.org
- 6** The National Sexual Assault Telephone Hotline: 1-800-656-HOPE (4673)
- 7** NCVIC – The National Center for Victims of Crime: victimsofcrime.org/help-for-crime-victims
- 8** The National Suicide Prevention Hotline: 1-800-273-8255
- 9** The National Center for Exploited and Missing Children: www.missingkids.org/gethelpnow
- 10** The National Human Trafficking Hotline: 1-888-373-7888