

# Civil Actions & Compensation for Child Sexual Abuse Survivors

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**CHILD USA** 

THE NATIONAL THINK TANK FOR CHILD PROTECTION



***"If you don't know where  
you are going you may  
end up somewhere else."***

***— Yogi Berra***



**PA**  
**Statute of Limitations**  
**42 Pa.C.S.A. § 5533**

**Sexual Abused below age 23:**

- Time limit: Age 55 (formerly age 30)
- Must have been within the old SOL to get benefit of new SOL
- No window yet, requires constitutional amendment

**Adult sexual assault:**

- 2 years from date of assault



**NJ**

## **Statute of Limitations**

**N.J.S.A. § 2A:61B-1**

### **Sexual Abused below age 18:**

- **Time limit: Age 55 (formerly age 20) or 7 years of discovery**
- **2 year look back window (started 12/1/19)**



**NY**  
**Statute of Limitations**  
**N.Y.C.P.L.R. § 214 (G)**

**Sexual Abused below age 18:**

- Time limit: Age 55 (formerly age 23)
- 1 year look back window (started 8/14/19)
- Extended to 1/14/21 due to Covid-19



**NY**

## **Statute of Limitations - additional SOL extensions**

**CPLR Section 215:** 1 year from completion of criminal charges through dismissal, acquittal or verdict (defendant must have been charged)

**CPLR 213(c):** 5 years from date of offense if the act constitutes rape, 1st degree criminal sexual act or 1st degree aggravated sexual abuse (even if defendant not charged)

**CPLR 213(b):** 7 years from date of conviction of any crime; 10 years from date of conviction for 1<sup>st</sup> or 2<sup>nd</sup> degree rape, aggravated sexual abuse, sexual abuse or criminal sexual act



**CA**

## **Statute of Limitations**

**CAL. CIV. PROC. CODE § 340.1**

### **Sexual Abused below age 18:**

- **Time limit: Age 40 (formerly 26)**
- **3 year look back window (started 1/1/20)**
- **3 year discovery rule**

# CHILD USA'S LEGAL REPORTS



## Child Sex Abuse Statutes of Limitation Reform from 2002 to 2019

2019 Annual Report: A National Overview of the Movement to Prevent Child Sex Abuse and Empower Victims through Statutes of Limitation Reform Since 2002

May 5, 2020

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CHILD USA is the leading nonprofit think tank working to end child abuse and neglect in the United States. CHILD USA engages in high-level legal, social sciences, and medical research and analysis to derive the best public policies to end child abuse and neglect. Distinct from the many organizations engaged in direct services, CHILD USA produces evidence-based solutions and information needed by policymakers, organizations, media, and society to increase child protection and the common good. Our goal is to help millions of children at a time. For more information about CHILD USA, please visit our website at <https://www.childusa.org>



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## 2019 ANNUAL STATUTES OF LIMITATION (SOL) REPORT

### CHILD SEX ABUSE SOL REFORM FROM 2002 TO 2019

National overview of the movement to prevent child sex abuse and empower victims through statutes of limitation reform since 2002. This report includes an overview of the current and prior criminal and civil SOLs in each of the 50 states, the recent trends in SOL reform, a focus on revival windows and CHILD USA's rankings of each state's SOLs.

## STATUTES OF LIMITATION (SOL) REFORM SUMMARIES

CHILD USA leads the national SOL reform movement and tracks every SOL reform bill for child sex abuse introduced in state legislatures across the country. Our SOL Summary provides an overview of all pending bills and new laws and is updated on a weekly basis. It also highlights states that have eliminated SOLs and revived expired claims.

## 2020 SOL SUMMARY



# Preventing Child Sexual Abuse In Youth-Serving Organizations

*Guidelines for Managers & Parents*

2016

Norman D. Bates, Esq.  
Christine Army, MA

A joint publication of



## Preventing Child Sexual Abuse Within Youth-serving Organizations:

*Getting Started on Policies and Procedures*

2007



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Centers for Disease Control and Prevention





# THEORIES OF LIABILITY

# COMMON LAW & STATUTORY CLAIMS



## THEORIES OF LIABILITY

### INTENTIONAL TORTS:

- Assault & Battery
- IIED
- False Imprisonment
- Fraud
- Deceptive Trade Practices
- Defamation



## THEORIES OF LIABILITY

### NEGLIGENCE:

- NIED
- Negligent Supervision (offender or victim)
- Negligent Failure to Rescue
- Negligence Per Se/  
Evidence of Negligence



# THEORIES OF LIABILITY

# STATUTORY REMEDIES

# LITIGATION/ DISCOVERY

- **Civil vs. Criminal Standards**
- **When to File?**
- **Stay of Case**

# ALLOCATION, APPORTIONMENT & JOINT & SEVERAL LIABILITY

- **Sue the criminal?**
- **Considerations:**
  - **Allocation/  
Apportionment**
  - **Joint & Several**

# OBVIOUS DECISIONS

<b>Jurisdiction</b>	<b>General Rule</b>
<b>Pure joint &amp; several liability (10 states)</b>	<b>Doesn't make a difference whether or not you sue the perp</b>
<b>No comparison of intentional conduct to negligent conduct (≈16 states)</b>	<b>Doesn't make a difference whether or not you sue the perp</b>
<b>Pure several liability</b>	<b>Don't join the perp</b>

# **STRATEGIES WHEN CRIMINAL IS JOINED AS A DEFENDANT**

- **Know early on what the perpetrator is going to say**
- **Always name the institution as first defendant**
- **Analogies; keep focus on institution**
- **Force institution to join criminal as defendant; drop the perpetrator before trial**

# DAMAGES

- **Compensatory**
- **Treble/Statutory**
- **Attorneys' fees**
- **Punitive damages**

# SETTLEMENT & RELEASES

- **Value is a function of:**
  - **Defendants' Insurance & Assets**
  - **Egregiousness of Defendants' conduct**
- **Release considerations:**
  - **Confidentiality**
  - **Non-economic terms**
  - **Taxability**



# INSURANCE CONSIDERATIONS



**LIKE FINE WINE,  
INSURANCE POLICIES  
GET BETTER WITH AGE**



***"If you don't know where  
you are going you may  
end up somewhere else."***

***— Yogi Berra***



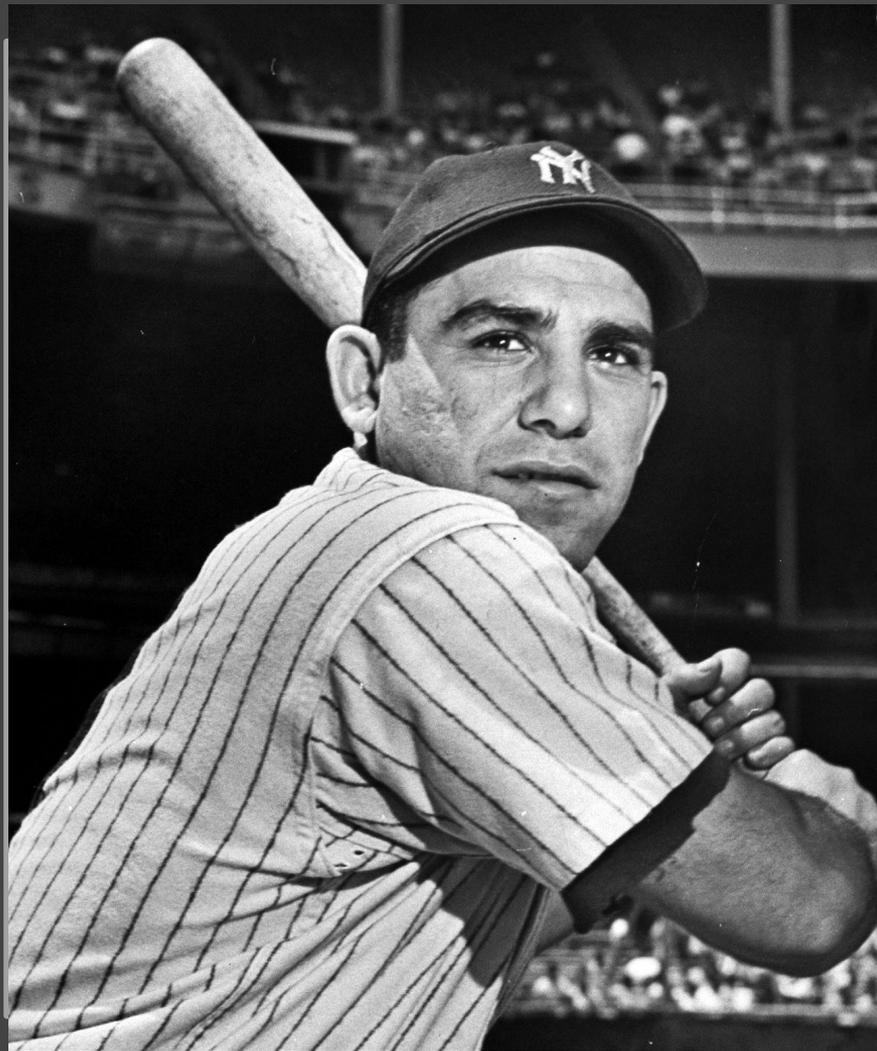
***“I really didn’t say  
everything I said.”***

***— Yogi Berra***



***“It ain’t over ’til it’s over.”***

**— Yogi Berra**



***“When you come to the  
fork in the road, take it.”***

**— Yogi Berra**

# FOUR TYPES

1

2

3

4

CIVIL  
LITIGATION

CRIMINAL  
RESTITUTION

CRIME VICTIM  
COMPENSATION

FUND  
PROGRAMS

