

Hamilton and Griffin on Rights

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[Guest Blog](#) Jun 05, 2015 | [Jordan Walsh](#)

Guest Blog: Jordan Walsh, The Children of America have Lost A True Hero: RIP Maj. Beau Biden.

Major Beau Biden, son of Vice President Joe Biden, an Iraq War veteran, and former Attorney General of the state of Delaware, will be laid to rest tomorrow. Sadly, he lost his battle with brain cancer at just forty-six years old. Yet, in his relatively short life, Beau Biden did more for child protection in this nation than arguably any other state-level politician of his era, and what's more, as much as most advocates for reform can hope to accomplish in a life twice as long.

Biden was elected as Delaware's Attorney General in 2006. During his eight year tenure, Delaware became the poster-child for state level commitment to effectuating child protection policies across the board. Despite the recent wave of nationwide progress brought on by such high-profile cases as that of Jerry Sandusky, even now in 2015, [Delaware](#) remains an apex state as to [access to justice](#) for survivors of child sexual abuse. And it remains so because of the policies and reforms that [Biden worked tirelessly](#) to put in place in Delaware as early as 2007, his first year as the state's AG.

Although Delaware was an early-adopter of the movement to eliminate criminal statutes of limitations ["SOLs"] as relates to prosecutions for child sexual abuse in 1992 ([a trend which now includes over half of the several states having eliminated barriers to prosecution for at least top-count C.S.A.-related crimes](#)), Biden's tenure as AG saw Delaware enact the nation's most child-friendly reforms to civil statutes of limitation—those governing a survivor's right to sue their abuser and contributing negligent and/or fraudulent third parties for damages.

In 2007, Delaware not only eliminated its civil SOL prospectively, it also enacted the first retroactive "civil window" of its kind as to C.S.A. survivors in the United States, allowing for revival of previously expired C.S.A.-related tort claims to be filed and brought into court. While [retroactive revival of an expired criminal cause of action](#) violates due process and the [Ex Post Facto](#) clauses of the Constitution, as any revived prosecution would represent an unconstitutional change in substantive rights and duties; revival of civil tort claims via legislative enactment is constitutional in most states, as it is considered merely a [procedural change](#). Given that throughout the nineteenth and much of the twentieth centuries, child sexual abuse was treated no more seriously than simple assault—such as a bar fight—and subject to standard criminal assault/battery and civil personal injury SOLs of often only one or two years from the act, it is important to recognize that for for many survivors of historical abuse, extension and revival of civil claims is the only recourse available. Under AG Beau Biden, [Delaware](#) was the first state to truly combine an understanding of the

serial nature of child sexual abuse with the many factors which delay and impair the ability of survivors to report (including the bystander effect), and come to the proper and necessary legislative judgments to protect children—now and in the future.

As is emblematic of any true advocate for change, Biden was not afraid to admit he had learned from mistakes, nor did he shirk from the responsibility to put the cause and those survivors helped by it above his own ambitions. As groundbreaking as the Delaware “window” was, it was not perfect, and needed to be expanded to include liability for abusive and grossly negligent medical and healthcare professionals.

This legislative oversight and need for correction was highlighted by the case of [Dr. Earl Bradley](#), one of the worst known child abusers in our nation’s history, whom AG Biden both indicted criminally and instituted civil racketeering-related claims against in 2009. Bradley was convicted of abusing over 100 children in 2011. During the prosecution, Biden utilized the full power of the state to seize Bradley’s records as well as freeze his assets, allowing for additional charges to be filed in 2011. More, [Biden decided not to run for the available U.S. Senate seat](#) from Delaware in 2010—a seat his father once held—in order to stay on as AG and see Bradley convicted himself. Biden stated it was simply more important. Bradley is now serving 14 life sentences plus an additional 164 years in prison, and his case serves as a bell-weather moment in our nation’s understanding of the so-called [bystander effect](#).

[Numerous complaints were filed against Bradley in the decade before his arrest](#); various colleagues, as well as the institution that employed him, were aware of these complaints, yet nothing was done. The knowledge that not only his colleagues, but also, police, DAs, and disciplinary officials—many of them [mandatory reporters](#)—failed to follow up on these complaints, allowing for the abuse of dozens more children due to their silence, was simply too much for AG Biden to bear. Thus, along with his dogged pursuit of Bradley, [expansion of monitoring of sex offenders statewide](#), and formation of a Task Force to discuss needed legislative change, he also began a partnership between the state of Delaware and the [Darkness to Light Foundation’s](#) “Stewards of Children” program, in order to address the rampant bystander effect problem impeding the progress of true child protection. [In Biden’s own words](#):

“Stewards of Children’ training sessions teach adults how to spot the signs of child abuse and the importance of immediately reporting the abuse to authorities. So far, nearly 14,000 Delawareans have received this training, and we will be training thousands more. Getting more adults to go through the ‘Stewards of Children’ training is the single biggest step we can take to protect more kids from abuse in Delaware. ‘Stewards of Children’ does not pull any punches; it may make you uncomfortable. But you will better understand, after receiving this training, how often child abuse occurs in our communities and how critically important it is to report child sexual abuse.”

Beau Biden realized that it is [our job as adults to work together across all sectors of society to protect children](#)—they cannot do it for themselves, nor should our justice system expect them to. This kind of integrated approach—combining public and private entities to effectuate true access to justice—is now at the forefront of the child protection effort nationwide. Beau Biden was a true pioneer, and a hero to America’s children. He will be sorely missed, and I know myself, Prof. [Marci Hamilton](#) and all of us at [SOL-Reform.com](#) hope we can continue the fight. May he rest in peace, and may his legacy of child protection flourish.

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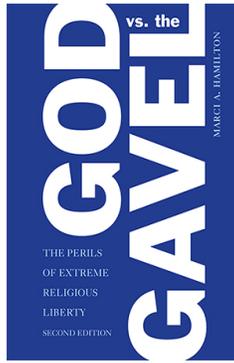
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Author Description



Jordan Walsh, J.D. is the Legal Fellow to Professor Marci A Hamilton. She is currently pursuing her L.L.M. in Comparative Legal Thought, with a thesis focus on international statutes of limitation for child sexual abuse and related policy. In her previous life, she has worked as both a political operative and campaign media consultant.

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