

# The Costs of Child Sex Abuse are Shared by the Victims and Society at Large



Child abuse costs society \$104 billion annually in direct and indirect costs.

(Prevent Child Abuse America)



Abused children are 11 times more likely to commit juvenile crime and 3 times as likely to commit crime later in life.

(National Institute for Justice)



Victims of sexual abuse are 2.5 times as likely to abuse alcohol and 3.8 times as likely to face drug addiction.

(National Institute on Drug Abuse)



Eighty percent (80%) of young adults abused as children met the diagnostic criteria for at least one psychiatric disorder.

(Child Welfare Information Gateway)



History of sexual abuse as a child is significantly associated with riskier sexual behavior and higher rates of STDs.

(Larry Brown, M.D., American Journal of Psychiatry)



One-third of those abused when they were children will abuse their own children.

(Child Welfare Information Gateway)



Later in life, those sexually abused as children have a higher risk of: depression, suicide, conduct disorder, drug and alcohol dependence, social anxiety, divorce, and sexual crimes.

(Elliot Nelson, Archives of General Psychiatry)

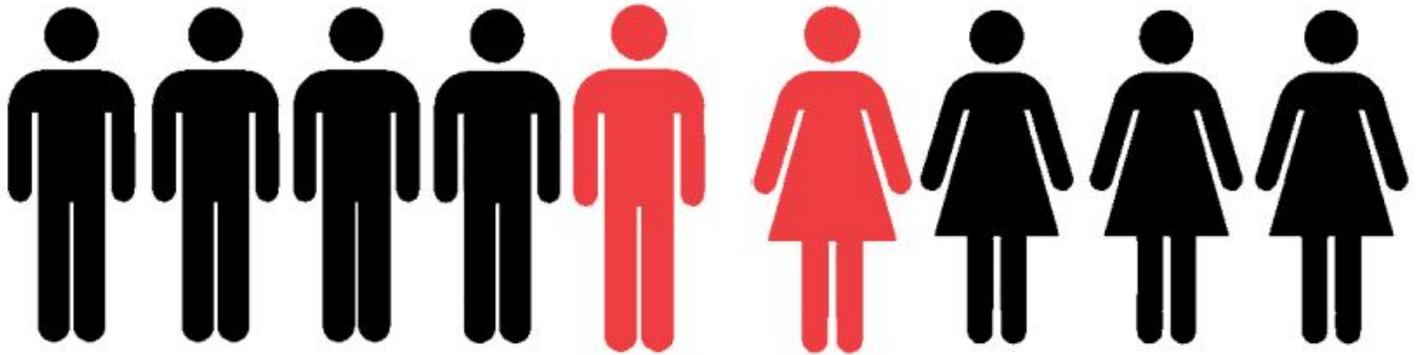
## Fight the High Cost of Child Sex Abuse

# Support the Child Victims Act

## Assembly Bill A.2872 (Markey) / Senate Bill S.63 (Hoylman)

For more information about Statute of Limitations Reform, contact Assemblywoman Markey's office at 718-651-3185 or visit [www.sol-reform.com](http://www.sol-reform.com)

# Child Sex Abuse Is More Prevalent Than We Would Like to Believe.



It is estimated that 1 in 5 men and 1 in 4 women were sexually abused as children.

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The median age for victims is 9.9 for boys and 9.6 for girls.

The U.S. Department of Health and Human Services statistics indicate that 50% of child sex abuse occurs **before the age of 7.**

“Stranger-Danger” as the major perpetrator is a myth.

**Ninety-five percent (95%)** of those abused know their abuser.

The National Institute of Mental Health has found that the typical child sex offender abuses an **average of 117 children**, most of whom are not able to report their abuse.

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**Immediate Action is Needed to Allow Victims to Come Forward, Identify Their Abuser, and Break the Cycle of Abuse.**

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# A2872A, S63A – The Child Victims Act of New York

*Amd S30.10, CP L; amd S208, add S3012-c, CPLR*

## SUMMARY OF PROVISIONS OF LEGISLATION

### PURPOSE:

- The bill amends the Civil Practice Law and Rules to allow, under certain circumstances, the revival of previously time barred civil actions which alleged conduct representing the commission of certain sexual offenses committed against a child less than eighteen years of age.

### SUMMARY OF PROVISIONS:

- All civil claims or causes of action brought by any person for physical, psychological or other injury or condition suffered as a result of conduct which would constitute a sexual offense against a child less than eighteen years of age, incest or the use of a child in a sexual performance **may be commenced at any time.**
- Every civil claim or cause of action brought by a person for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense committed against a child less than 18 years of age, incest, or the use of a child in a sexual performance, which conduct was committed against a child less than 18 years of age, which is barred as of the effective date of this section because the applicable period of limitation has expired **is hereby revived, and action thereon may be commenced on or before one year after the effective date of this section.**
- In any such action in which the plaintiff is twenty-three years of age or older, or in which plaintiff seeks to revive a time-barred action, any motion to dismiss an action, or in opposition to a motion to dismiss an affirmative defense based upon laches or material impairment in the defense or investigation of such an action must be supported by a certificate of merit from a person with knowledge of the facts. Upon such motion, it shall be a defendant's burden to demonstrate same by a preponderance of the evidence, and the court shall consider whether plaintiff acted in good faith and with due diligence in pursuing the action.

## **JUSTIFICATION:**

- The Syracuse University, Penn State University, and the Horace Mann school scandals have shown us that now more than ever we need to change how we view the statute of limitations in cases of child sexual abuse.
- Sex crimes, particularly those committed against children, are among the most heinous and deeply disturbing in our society. They are crimes that leave life-long scars, multiple victims and require an all encompassing strategy to combat. **Victims of childhood sexual abuse do not come to terms with their abuse until well into adulthood. Under current law they have no recourse. By eliminating the statute of limitations on childhood sexual abuse cases victims can bring their claims regardless of whether or not DNA evidence is available.**
- By eliminating the statute of limitations in childhood sexual abuse cases, victims of these horrific crimes will get their day in court and be able to seek the justice they have been denied.

**EFFECTIVE DATE:** Immediately.



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□ Albany Office: Room 712 Legislative Office Building, Albany, New York 12248, 518-455-4755



## news from assemblywoman **MARGARET M. MARKEY** 30<sup>TH</sup> ASSEMBLY DISTRICT

### *7 Reasons Why Passage of the Child Victims' Act of New York is Important for New York*

*One in five children in America is a victim of childhood sexual abuse, most by family or family acquaintances or other people they trust and respect. The Child Victims' Act of New York (A2872A/S63A) will provide victims of abuse greater opportunity to have their day in court and will ensure that sexual predators are identified, stopped and punished.*

**1. Current law enables predators to avoid the consequences of their crimes.** Our state law currently enables predators to avoid the consequences of their crimes. Most victims of child sexual abuse are not able to report their abuse until they are well into adulthood. Predators now have an incentive to intimidate their victims, threaten witnesses, destroy evidence and “run out the clock” on their crimes to take advantage of the very short, arbitrary and archaic statutes of limitations. This bill will stop the predators as soon as the first victims are able to come forward. Since many predators still live and work in the State of New York their neighbors and employers will learn about their history of abusing children.

**2. The New York Child Victims Act gives extra time for those who are abused to come forward.** The Child Victims' Act of New York helps protect the vulnerable, exposes predators and heals victims by completely eliminating the civil statute of limitations for victims of child sexual abuse; present law unrealistically requires that a report of abuse must be made within five years after a victim reaches the age of 18. The Child Victims Act also creates a one-year “window” of time during which older adult survivors of childhood sexual abuse can bring a civil suit against the person who abused them as well as anyone who protected or covered for the predator, even if their previous statute of limitation has already expired.

**3. This one-year “window” makes it possible to expose predators who may still be active abusers.** The U.S. Department of Justice says that only 10% of predators are ever exposed. The “window” in my bill targets the other 90%. The majority of child victims aren't able to understand or report their abuse before they are well into adulthood. By that time the statute of limitations has expired for the vast majority of victims. The window will allow many older victims to expose their perpetrator and those who enabled him or her. It will give the victims justice that has been denied. We want to correct New York law to reflect the understandings of mental health professionals and bring the law up to the mental health standards of 2016.

**4. This bill does not unfairly target agencies, institutions and organizations as liable for events that happened decades ago.** If the responsible organization did not have notice, (was not aware that the employee had previously molested a child, or had some type of information that would have raised concerns that he or she might abuse a child) the agency or organization cannot be held liable. An institution may be held liable only if they knew the predator had a history and did not take appropriate action. Even in cases where the perpetrator of abuse has died, the victims are still suffering and deserve justice. It is important that any non-profit organization, school, church or individual who knowingly hired and covered up the acts of an abuser be held accountable for its own wrongdoing.

**5. This bill will not lead to false allegations and swamp the courts.** False allegations are extremely rare. Defense lawyer Patrick Schlitz who has represented more than 500 priests accused of abuse told the New York Times that less than ten of those were 'false allegations.' That is less than 2%. In California, the nation's largest state, where a similar "window" law was enacted the statewide result was even less.

**6. This bill does not unfairly target the Catholic Church.** Catholics of today have long been paying for the past mistakes of their church leaders in mishandling cases of abuse. The legal vulnerability and financial burden upon Catholic dioceses across the country has prompted some to ask why the church of today must pay for mistakes that may have been made in the past. The truth is that faithful Catholics have been shouldering costs relating to abuse for decades, unknowingly paying for defense lawyers, public relations firms, secret settlements and insurance policies to cover abuse cases. Even despite these once-secret costs and the new settlements we read about today, there is no independent evidence that any diocese has ever actually faced an involuntary bankruptcy, despite claims to the contrary.

**7. This bill will also help abuse victims who have claims against public sector agencies.** While the statute of limitations affected by this bill most directly applies to non-public sector organizations and institutions, it will also help abuse victims who have claims against units of municipal or county government, including school districts. Current state law requires a victim to file a "notice of claim" against a public agency within 90 days of an incident and a judge to give permission for the suit to proceed. At the discretion of the court, a "late notice of claim" may also be received and approved for a period of much as a year after the 90 days, particularly when there are extenuating circumstances such as prior knowledge by the agency about the incident involved in the claim. We believe that for one-year "window" provision for old claims in this bill will give abuse victims the justification that is needed for a judge to accept their late notice of claim.

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April 5, 2016

Senate Majority Leader John Flanagan  
Room 330  
State Capitol Building  
Albany, NY 12247

Assembly Speaker Carl E. Heastie  
LOB 932  
Albany, NY 12248

Dear Majority Leader Flanagan and Speaker Heastie:

As the state's top law enforcement officer, it is my job to ensure equal justice for all New Yorkers – especially the most vulnerable among us.

No one is more vulnerable than children who have been the victims of sexual abuse. Yet, New York remains one of just four states – along with Alabama, Georgia and Mississippi – that denies victims their day in court, and allows those who prey on children to walk away unpunished. That is because our unreasonably restrictive statutes of limitations currently prevent many of these abusers from being held accountable for their actions in a court of law.

New York's prosecutors are currently barred from pursuing criminal charges for many of these heinous crimes after a victim turns 23. Our current law even prevents victims of childhood sexual abuse from pursuing civil cases after they turn 23. This is unconscionable, and must be addressed during this year's legislative session.

One-in-4 girls and 1-in-6 boys are sexually abused before the age of 18, according to research by the Centers for Disease Control and Prevention. But for many victims, the full memory of childhood abuse is often suppressed for decades – or victims are too overcome by fear and shame to report their abusers until they find the strength and support they need in adulthood. We must not allow our justice system to further victimize our fellow New Yorkers.

I have long supported extending the statutes of limitations in child sex abuse cases. As a state senator, I voted for a bill that eliminated the statute of limitations for first degree rape and other high-level felony sex offenses. I also co-sponsored legislation in the Senate that would have further extended the statutes of limitations for other sex offenses committed against a child.

The Legislature has discussed and debated this issue for years, and now it is time to act. Prosecutors must be empowered to deliver justice in these cases. And by denying child sexual abuse victims their day in court, we are denying them their right to equal justice under law.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric T. Schneiderman". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Eric T. Schneiderman

## LOBBYING TIPS

### **Prior to Albany Day:**

1. Study the materials. Know the issues and the arguments for and against.
2. Look at their website by going into the NY Senate or NY Assembly website.
3. When making appointments, try to get one with the legislator and not the aide. It may not be possible with the legislator if they are in session, in which case try for an appointment with the legislative aide.
4. Don't assume familiarity with the bill or the issue.

### **Before the meeting:**

1. Allow time to go through security. Have your photo I.D. handy. Don't bring pocket knives scissors or closed packages.
2. Be on time. Allow time between appointments to jot down notes and or get to the next appointment.
3. Designate the group leader and divide up who will make what points.
4. Designate a note taker (particularly to note what the legislator says, not what we say)

### **In the meeting itself:**

1. Introduce yourselves, your organization, where you are from – especially if you are a constituent. If you have any connection to the legislator's background, mention it briefly.
2. Group leader should lead the discussion, and let each participant speak about the issue they have agreed to articulate.
3. Give copy of the bill to the Legislator or Aide. Ask what his/her position is on the bill. Explain why you support it. It's not helpful to fight; polite discussion of views is called for; you are there to inform him/her about your position. Make the main points clearly and succinctly. In the case of this bill, the biggest objections to this bill seem to be:
  - a. The window (retroactively removing SOL or removing them at all) Note: many of these same legislators voted to remove the SOL for crimes or rapes in 2006.
  - b. The public/private issue
  - c. The memory/false memories issue, and
  - d. For Catholics influenced by the bishops, it's the bankruptcy issue. But in the end it's also, and maybe most importantly, the pressure the Catholic Church can bring to bear on votes for candidates in the district of those who support this bill.

Be very clear about your arguments on these issues going in. passion on the moral & the ethical aspect can be addressed.

4. If you have any personal story relating to the issue, tell it briefly.
5. Don't do all the talking. Give your elected official opportunity to ask opinions or state his or her opinion/position/reasons for opposition. But make sure you get your points articulated; yet, don't let the legislator use up all the time, especially if he/she opposes the bill.
6. Don't be afraid to admit you don't have an answer to a question. You can say out will find out and get back to him/her.
7. As the meeting proceeds, everyone should jot down points mentioned by the legislator that still needs to be clarified before the meeting ends. i.e. "I didn't quite understand...."
8. **IMPORTANT:** Leave with a concrete commitment from the legislator to do something..... To read the material and consider the legislation, or co-sponsor, to get one or more colleagues to co-sponsor. **Ask by when you can follow up to see if the action committed to has been done.**
9. With supportive legislators, you can ask about strategy suggestions i.e. what do you think we can do to get the bill out of the Senate Codes Committee. And what can they do to help.
10. Leave a contact name and phone number.
11. If you have a packet to leave, give it at the end because you don't want the packet to be the focus.

**After the meeting:**

1. Immediate: someone should fill out the evaluation form. Best if done with participation of several from the group and the note taker.
2. A thank you note for the meeting is recommended.
3. Follow up with the elected official re any deadline he or she committed to for a certain action.
4. Don't think of your visit as an isolated event. Other organizations will also be visiting on the same issue. And you may be visiting again, either in Albany or in the district. You are establishing a relationship.