

# CARDOZO

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## **SUBMITTED VIA EMAIL**

Chairman Joseph Lentol  
Assembly Committee on Codes  
New York State Assembly  
AESOB, 11<sup>th</sup> Floor  
Albany, NY 12248

RE: Public Hearing, The Statute of Limitations Applicable to  
Sexual Abuse against Minors, April 29, 2011

Dear Chairman Lentol:

I commend you and the Committee for holding this hearing on the costs to society of childhood sexual abuse. In this era of budget restraints in New York, other states, and the United States as a whole, it is very important to embrace policies that will save money. Statute of limitations reform for childhood sexual abuse is, without a question, an important step toward more responsible financial governance.

Nationally recognized experts and prosecutors at this hearing will provide the data and information that show how costly child sex abuse is to our society. My research in dealing with child sex abuse victims in numerous situations has yielded the following analysis:

The injuries a particular child sex abuse victim will suffer cover a wide swath of possibilities. Researchers in various studies have found -- specifically in men who were sexually abused as children -- that long-term adaptation will often include sexual problems, dysfunctions or compulsions, confusion and struggles over gender and sexual identity, homophobia and confusion about sexual orientation, problems with intimacy, shame, guilt and self-blame, low self-esteem and negative self images and increased anger. There is also an increased rate of substance abuse, a tendency to deny and delegitimize the traumatic experience, symptoms of Post Traumatic Stress Disorder, and increased probability of fear and depression.

Hundreds of research studies have shown conclusively that sexual abuse can alter a child's physical, emotional, cognitive and social development and impact their physical and mental health throughout his or her lifetime. A 2002 study by Elliot Nelson, M.D., et. al. reaffirmed that childhood sexual abuse has a profound negative impact throughout the victim's life. Elliot Nelson et. al., Association Between Self-reported Childhood Sexual Abuse and Adverse Psychosocial Outcomes: Results From a Twin Study, 59(2) Archives of General Psychiatry, 139, 139-45. This study examined both members of nearly two thousand same-sex twins (1159 female and 832 male). Id. at 139. Twins were used to separate the effects of childhood sexual abuse from possible negative effects of family background, such as parental alcohol related problems, fighting and conflict, physical abuse, and neglect. Id. at 143-44. The study looked at same sex twin pairs where one of the twins was sexually abused as a child and one was not. Id. at 139. The study found that a person with a history of childhood sexual abuse had an increased risk for subsequently occurring adverse outcomes of:

- Major depression,
- Suicide attempt,
- Conduct disorder,
- Alcohol and/or nicotine dependence,
- Social anxiety,
- Rape after the age of 18 years old, and
- Divorce.

Id. at 142.

Men were close to twice as likely to suffer from major depression if they were sexually abused as children, compared with those who were not abused. Ibid. Women and men who were sexually abused as children were roughly five times more likely to attempt suicide, compared to those people that were not abused. Ibid. These adverse outcomes alone make it very difficult for victims of childhood sexual abuse to discover that the sexual acts were abuse and to discover the cause of their injuries because many simply struggle to survive the onset of drug or alcohol abuse, major depression, and suicide attempts.

Often it is not until years after the sexual abuse that victims experience these negative outcomes. Clinician Mic Hunter has observed that:

Some of the effects of sexual abuse do not become apparent until the victim is an adult and a major life event, such as marriage or birth of a child, takes place. Therefore, a child who seemed unharmed by childhood abuse can develop crippling symptoms years later. . . .

Mic Hunter, Abused Boys, 59 (1991).

Right now, in New York, there are untold numbers of hidden child predators who are preying on one child after another, because the statutes of limitations have been configured to give them that opportunity. It is a fact that 1 in 4 girls and 1 in 5 boys are sexually abused. Thus, there is an iceberg of silent victims in New York who are suffering and who must shoulder the cost of therapy, addiction, and the other costs of abuse themselves.

New York pays the price of abuse in several ways. First, the state suffers from reduced productivity from victims, because they have been disabled by the abuse. To the extent that they are not made whole, they are producing less tax-generating income. The fact that New York shuts off most prosecution and civil claims before victims are ready to come forward means that most victims have no chance to achieve justice and, therefore, are more likely to suffer serious depression and illness.

Second, New York bears the cost of divorces, broken homes, and suffering children, which are a sadly prevalent fact in many survivors' lives. This creates a drag on local school districts that must provide counseling and guidance for troubled youth, the state agencies that deal with troubled families, and local authorities.

Third, the survivors' medical bills generated by the abuse, whether it is psychological or physical treatment, are likely to have to be subsidized by state and federal medical programs and funds.

**Under the current New York statute of limitations-- which halts criminal prosecution and civil cases long before most victims are ready to come forward -- those who caused the abuse or who created the conditions for the abuse are being permitted a free ride. The state and its citizens are paying for the reduction in productivity, reduced tax revenue, and the increased medical and social needs of victims and their families. At the same time, the perpetrators and the institutions that created the conditions for the abuse have been given the most effective tool -- short statutes of limitations -- to avoid footing the cost.**

**There is an answer – reforming the statutes of limitations and opening the justice system for the victims. Civil litigation for child sex abuse victims forces perpetrators and those who aided and abetted the abuse to pay for the harm they caused. Through the justice system, the cost of abuse is shifted from the taxpaying public as a whole to the people and institutions that caused the abuse and its severe effects. This is not only fair, but economically sound. Why should the state of New York be bearing so much of the cost of abuse when those who made it happen are not?**

Enacting a “window” that lifts the statute of limitations for all victims for a set period of time will go far to shift the costs of abuse from the innocent to the guilty. This is sound public policy, and works to the benefit of every New Yorker.<sup>1</sup>

I have been involved in statute of limitations reform in numerous states, as well as in Guam. As Professor Timothy Lytton has documented, civil tort claims have been the only means by which survivors of clergy abuse have been able to obtain any justice. Timothy Lytton, *Holding Bishops Accountable: How Lawsuits Helped the Catholic Church Confront Sexual Abuse* (2008). They are also the only means of shifting the high cost of abuse from the victims and taxpayers to those who, in all fairness, should be held responsible.

Resources on statutes of limitations reform for child sex abuse victims, which you may want to consult, include my book, *Justice Denied: What America Must Do to Protect Its Children* (2008), and my website, [www.sol-reform.com](http://www.sol-reform.com)

I applaud this Committee for holding this important hearing, and hope that its members will be able to join the ranks of the legislative heroes of child sex abuse victims, who have worked tirelessly for statutes of limitations reform, including New York Assemblywoman Marge Markey; former State Senator and U.S. Rep. John Burton of California; Sen. Karen Peterson and Rep. Deborah Hudson of Delaware; Sen. Benjamin Cruz of Guam; and Sen. Maile Shimabukuro of Hawaii.

Please do not hesitate to contact me regarding any of these issues, statutes of limitations reform for child sex abuse victims, or any other matter of concern to the Committee.

Sincerely,

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<sup>1</sup> Those lobbying against window legislation often complain about the cost of such legislation to them. They do not deny their negligence or recklessness endangering children – their objection is to having to pay for the harm they caused. In this era of limited public resources, their entreaties should be falling on deaf ears in Albany. No perpetrator or institution causing childhood sexual abuse deserves to have the state pick up the cost of their crimes and torts.