Memory Delayed Is Justice Denied: Why North Carolina Should Amend Its Statute of Limitations for Child Sexual Abuse Cases*

In 2019, the North Carolina General Assembly unanimously voted to adopt the SAFE Child Act, aiming to modernize the state's child abuse laws. The Act extended the statute of limitations for civil child abuse claims and introduced a "Revival Window," during which previously time-barred claims of child sexual abuse could be filed. The Revival Window ran from the enactment of the SAFE Act until December 31, 2021.

As hundreds of lawsuits were initiated within the Act's Revival Window, defendants challenged its constitutionality. But on January 31, 2025, the Supreme Court of North Carolina decided McKinney v. Goins*, deeming the Act constitutional and allowing victims who filed during the Revival Window to continue seeking damages from their abusers and the institutions that enabled them. Unfortunately, the* McKinney *decision benefitted only those victims who had knowledge of their abuse, understood the abuse's impact, and felt comfortable disclosing that abuse prior to December 31, 2021.*

It has now been over six years since the SAFE Child Act was passed in North Carolina. In those six years, the medical and legal understanding of child sexual abuse has advanced dramatically. Meanwhile, the protections afforded to survivors in North Carolina remained unchanged, as the focus over the past six years has been on the debate raging in the state judiciary regarding the Act's constitutionality. This Comment prompts the citizens, media, and legislature of North Carolina to reflect on the extent of the protection offered to survivors of child sexual abuse in this state. It does so by examining the reasons that have led other states to update their child sexual abuse statutes of limitations; the justifications for maintaining strict statutes of limitations; and the specific approaches other states have adopted, including the changes that various states have made in the time since North Carolina last updated its child sexual abuse policy.

Given the rapidly evolving national legal landscape surrounding child sexual abuse, this Comment recommends that North Carolina further amend its civil statute of limitations for child sexual abuse, either by providing additional opportunities to initiate civil suits—given current medical knowledge about survivors of abuse—or by eliminating the statute of limitations for these cases altogether. Today, in the United States, the average age of first disclosure of

child sexual abuse is fifty-two. If the law remains unchanged in North Carolina, the majority of victims of child sexual abuse only have until age twenty-eight to initiate a civil claim. This does not sufficiently reflect the values of this state or its commitment to allow every North Carolinian to have their day in court.

"I am choosing to tell my story, hoping it will spur you to take action and work toward creating a law that helps victims and appropriately punishes those who abuse children. . . . I am writing this in hopes that my story will help you see what victims go through when they seek justice. . . . [W]aiting on the wheels of justice is a life sentence[, a]nd it's all because a few judges want to protect insurance companies and pedophiles, not the Constitution."

– Stuart Griffin, CSA Survivor and SAFE Child Act Plaintiff[1]

INTRODUCTION

In 2019, the North Carolina General Assembly unanimously passed the Sexual Assault Fast Reporting and Enforcement Act ("the SAFE Child Act" or "the Act"),[2] modernizing the state's laws on child sexual abuse ("CSA").[3] Three of its provisions extended the window of time during which a victim could initiate a civil suit against their past abuser.[4] Section 4.1 of the Act granted a blanket extension of the statute of limitations: "[A] plaintiff may file a civil action against a defendant for claims related to sexual abuse suffered while the plaintiff was under 18 years of age until the plaintiff attains 28 years of age."[5] It also created a new, two-year exception to the statute of limitations after an abuser's criminal conviction: "[A] plaintiff may file a civil action within two years of the date of a criminal conviction for a related felony sexual offense against a defendant for claims related to sexual abuse suffered while the plaintiff was under 18 years of age."[6] Section 4.2(b) of the Act created a "Revival Window," which prompted a years-long dispute in the state judiciary: "Effective from January 1, 2020, until December 31, 2021, this section revives

1. Stuart Griffin, *Kevin DeYoung, Harry Reeder, Christ Covenant Church, and Charlotte Christian School: Years of Denial and Obfuscation Cause Long Term Pain for a Sexual Abuse Victim*, WARTBURG WATCH (Jan. 5, 2024), https://thewartburgwatch.com/2024/01/05/kevin-deyoung-harry-reeder-christ-covenant-church-and-charlotte-christian-school-years-of-denial-and-obfuscation-cause-long-term-pain-for-a-sexual-abuse-victim/ [https://perma.cc/CB49-T2M7].

2. Ch. 245, 2019 N.C. Sess. Laws 1231 (codified in scattered sections of N.C. GEN. STAT. chs. 1, 7B, 14, 15, 115C, 116).

3. In this Comment, "child sexual abuse" or "CSA" is used as a catch-all term to include any interaction where a perpetrator or third party uses a child (an individual under the age of eighteen) for sexual stimulation. This interaction can either be between an adult and a child or between two children. This can include physical interactions with the child as well as nonphysical interactions, such as photographing the child's body or exposing the child to pornography.

4. Throughout this Comment, "victim," "survivor," and "plaintiff" are used interchangeably to refer to individuals who have experienced some form of CSA. These terms reflect the wide array of language used by legislatures, courts, and activists to refer to these individuals, depending on the context. This choice reflects the importance of not being limited to a single term in describing a multifaceted group of people who have widely varying perspectives on their experiences and preferences in terminology.

5. SAFE Child Act § 4.1 (codified at N.C. GEN. STAT. § 1-17(d)).

6. *Id.* (codified at N.C. GEN. STAT. § 1-17(e)).

any civil action for child sexual abuse otherwise time-barred under G.S. 1-52 as it existed immediately before the enactment of this act."[7]

The Revival Window allowed hundreds of victims to bring new cases in state court.[8] In November 2020, Dustin McKinney, George McKinney, and James Tate brought suit against Gary Scott Goins and the Gaston County Board of Education, initiating *McKinney v. Goins*.[9] In *McKinney*, the plaintiffs alleged that Goins, their former high school wrestling coach, sexually abused them, and that this abuse was enabled by the Board of Education's negligent supervision of its employees.[10] The Board of Education, in turn, called the Act "facially unconstitutional," and argued that the Revival Window's alterations to existing statutes of limitations violated defendants' due process rights.[11] In September 2024, the Supreme Court of North Carolina took up *McKinney*, alongside four other cases that challenged the constitutionality of the Revival Window.[12]

On January 31, 2025, the Supreme Court of North Carolina upheld the constitutionality of the Revival Window.[13] On the same day, the court also published its decisions in two companion cases to *McKinney*: *Cohane v. Home Missioners of America*[14] and *Doe 1K v. Roman Catholic Diocese*.[15] These cases marked the resolution—at least for the time being—of complex constitutional questions that have dominated public attention and conversation on the topic of CSA in North Carolina over the previous six years. Despite the success of the Revival Window, North Carolina's new statutory protections for CSA survivors remain out-of-date and inadequate, given the rapidly evolving national legal landscape and developments in scientific knowledge about CSA since the Act's enactment in 2019.[16]

This Comment examines the history and text of the SAFE Child Act and explores possible paths forward. Part I lays out the background of CSA law in North Carolina, introduces the Act, and provides an overview of the

7. *Id.* § 4.2(b) (codified at N.C. GEN. STAT. § 1-52).

8. *See* Virginia Bridges, *Will Hundreds of Child Abuse Cases Move Forward? NC Supreme Court Hears Arguments*, NEWS & OBSERVER, https://www.newsobserver.com/news/state/north-carolina/article292631159.html [https://perma.cc/39ZJ-3ZLN (staff-uploaded archive)] (last updated Feb. 3, 2025, at 14:08 ET).

9. 387 N.C. 35, 911 S.E.2d 1 (2025).

10. *Id.* at 37, 911 S.E.2d at 1; *see also* State v. Goins, 244 N.C. App. 499, 501–11, 781 S.E.2d 45, 48–54 (2015) (laying out the evidence at Goins' 2014 criminal trial).

11. McKinney v. Goins, 290 N.C. App. 403, 408, 892 S.E.2d 460, 465 (2023); *McKinney*, 387 N.C. at 38–39, 911 S.E.2d at 4–5.

12. *Calendar of Arguments for September 17–19, 2024*, SUP. CT. OF N.C. (June 28, 2024), https://appellate.nccourts.org/calendars/SC-2024-09-17.pdf [https://perma.cc/833Q-KTV8].

13. *McKinney*, 387 N.C. at 37, 911 S.E.2d at 5.

14. 387 N.C. 1, 911 S.E.2d 43 (2025).

15. 387 N.C. 12, 911 S.E.2d 38 (2025).

16. *See infra* Parts IV & V.

constitutional challenges to the Revival Window. To contextualize the problem that the Act was designed to address, Part II lays out the scope and scale of CSA, both nationally and in North Carolina. Part III turns to the justifications for statutes of limitations—both in general and as specifically applied to claims of CSA. Part IV catalogs how different states and jurisdictions have reacted to increased understandings of the long-term effects of child abuse and altered their statutes of limitations as a result. Finally, Part V explores further opportunities for reform in North Carolina, ultimately recommending that the State either adopt a discovery-rule-based exception to the statute of limitations established by the Act or else eliminate the civil statute of limitations for CSA cases altogether.

I. THE STATUS QUO IN NORTH CAROLINA

Over the past decade, the North Carolina General Assembly has modernized the state's laws on sexual abuse, child abuse, and child safety. Through the enactment of the SAFE Child Act, the state legislature sought to keep pace with evolving CSA threats, policies, and practices.[17] The Act is North Carolina's primary and most recent attempt to update the civil remedies available to victims.[18]

Civil lawsuits provide important recourse for CSA victims. While criminal prosecution may be possible beyond civil statutes of limitations,[19] the limited evidence available in such cases often makes prosecution unlikely.[20] Generally, civil statutes of limitations in North Carolina range between sixty days and twelve years.[21] The Act extended the statute of limitations for civil

17. *See, e.g.*, Act of July 8, 2024, ch. 37, 2024 N.C. Sess. Laws 37 (codified at N.C. GEN. STAT. § 14) (aiming to modernize sex crime laws to address new and emerging threats posed by artificial intelligence); Current Operations and Capital Improvements Appropriations Act of 2013, ch. 360, § 12C.7, 2013 N.C. Sess. Laws 995, 1158 (directing the North Carolina Division of Social Services to examine the current policies and procedures in place for reporting child abuse and to make recommendations for improvement).

18. This Comment focuses on civil remedies available to victims. Criminal prosecution of abusers in North Carolina can take place long after the civil statute of limitations has run. CSA in North Carolina is a felony offense. N.C. GEN. STAT. § 14-318.4(a2) ("Any parent or legal guardian of a child less than 16 years of age who commits or allows the commission of any sexual act upon the child is guilty of a Class D felony."). There are also related misdemeanor offenses. *See, e.g.*, *id.* § 14-321.1 (providing that it is a Class 1 misdemeanor for a registered sex offender to provide "baby sitting service"). North Carolina has no criminal statute of limitations for felonies. State v. Johnson, 275 N.C. 264, 271, 167 S.E.2d 274, 279 (1969). For the most part, misdemeanor charges must be brought within two years of the offense, but any offense linked to sexual battery, failure to report child abuse, or other enumerated charges must be brought within ten years of the offense. N.C. GEN. STAT. § 15-1.

19. *See supra* note 18.

20. For examples of how such evidence can be limited, see *infra* Section II.B.

21. N.C. GEN. STAT. §§ 1-46 to 1-55 (laying out statutes of limitations under North Carolina law, which range from sixty days to bring an action challenging an ordinance altering a zoning map to

CSA cases to ten years after the plaintiff reaches the age of majority.[22] Though this step was valuable, it remains insufficient. Since the Act's enactment, no additional changes have been made to the civil statutes of limitations for CSA cases, despite repeated public statements from North Carolina government officials emphasizing the importance of providing support and recourse for CSA victims in this state.[23]

A. *Legal History of Child Sexual Abuse in North Carolina*

North Carolina's history of providing legal protection to children is relatively short. The State first created a juvenile court system in 1919, entrusting it with jurisdiction over any neglected, mistreated, or abandoned child.[24] While this development indicated some awareness of the need to protect vulnerable children, it was not until the 1950s and 1960s that child abuse and neglect received nationwide recognition as a problem that states needed to address.[25]

twelve years for certain product liability actions). North Carolina also has several more subject-specific statutes of limitations; for example, the statutes provide very narrow guidance on disputes regarding real property, *see id.* § 1-35 to 1-45.1, and there is no statute of limitations at all for an action to reform, terminate, or modify a trust, *id.* § 1-56.1. Importantly, North Carolina uses the discovery rule for its civil statutes of limitations, providing that the standard three-year statute of limitations for civil suits does not begin to accrue until the damage "becomes apparent or ought reasonably to have become apparent" to the plaintiff, up to a maximum of ten years after the termination of the events giving rise to the cause of action. *Id.* § 1-52(16). Civil actions for CSA, however, are specifically exempted from these general rules and so are not currently subject to any discovery rule protections. *Id.* § 1-56(b).

22. SAFE Child Act, ch. 245, § 4.1, 2019 N.C. Sess. Laws 1231, 1234 (codified at N.C. GEN. STAT. § 1-17(d)).

23. *See, e.g.*, Press Release, Jeff Jackson, N.C. Att'y Gen., North Carolina Supreme Court Upholds the SAFE Child Act (Jan. 31, 2025), https://ncdoj.gov/north-carolina-supreme-court-upholds-the-safe-child-act/ [https://perma.cc/RB2D-XUNH] ("Today's ruling is also a continued charge to the rest of us to do everything we can to keep our children safe."); Press Release, Josh Stein, N.C. Governor, Governor Josh Stein Highlights Need for Cold Case Unit During Sexual Assault Awareness Month (Apr. 9, 2025), https://governor.nc.gov/news/press-releases/2025/04/09/governor-josh-stein-highlights-need-cold-case-unit-during-sexual-assault-awareness-month [https://perma.cc/RP4V-Y2VE] ("We must dedicate ourselves to pursuing justice for every survivor."); Will Doran, *Survivors of Domestic Violence or Child Abuse Need More State Aid, Police and Prosecutors Say*, WRAL NEWS, https://www.wral.com/story/survivors-of-domestic-violence-or-child-abuse-need-more-state-aid-police-and-prosecutors-say/21906432/ [https://perma.cc/Q6ZB-7NE9] (last updated Mar. 12, 2025, at 15:46 ET) (naming state prosecutors, elected representatives, and members of law enforcement who have spoken out on the continued need for awareness of—and investment towards—the issue of CSA in North Carolina).

24. JANET MASON, REPORTING CHILD ABUSE AND NEGLECT IN NORTH CAROLINA 9 (3d ed. 2013).

25. *Id.* The problem was thrust into the limelight by the 1962 publication of *The Battered-Child Syndrome* in the Journal of the American Medical Association, which sparked widespread conversation and debate in the medical field and among the public. Jorie Braunold, *Why 1962 Matters in the History of Clinicians' Responses to Abused and Neglected Children*, 25 AMA J. ETHICS 148, 148 (2023) (describing changes in public and legislative responses to child abuse since the publication of *The Battered-Child*

North Carolina's legal protections for abused children began with reporting laws. The State enacted its first child abuse reporting law in 1965, which merely *permitted* certain professionals—such as medical professionals and teachers—to report suspected child abuse without fear of liability.[26] Six years later, the General Assembly recognized "the growing problem of child abuse and neglect" and the role of the State in addressing it.[27] As a result, a more expansive policy took effect, which *mandated* reporting of child abuse by any individual with actual knowledge of it, regardless of profession.[28] North Carolina law regarding the reporting of child abuse has largely remained unchanged since 1971.[29]

Reporting laws, however, are no longer the only legal protections for CSA victims. In 1979, the North Carolina General Assembly introduced the state's first legal definition of an "abused juvenile."[30] Addressing CSA, this definition included any individual under the age of eighteen whose parent or caregiver committed or allowed the commission "of any sexual act upon a juvenile in violation of law."[31] Today, North Carolina's definition of CSA is much more specific: an "abused juvenile" includes any individual under the age of eighteen whose parent or caregiver committed or allowed the commission of specific

Syndrome in 1962). *See generally* C. Henry Kempe, Frederic N. Silverman, Brandt F. Steele, William Droegemueller & Henry K. Silver, *The Battered-Child Syndrome*, 181 JAMA 17 (1962), *reprinted in* 9 CHILD ABUSE & NEGLECT 143 (1985) (coining the term "battered child syndrome").

26. Act of May 11, 1965, ch. 472, § 1, 1965 N.C. Sess. Laws 533, 533 (codified as amended at N.C. GEN STAT §§ 14-318.2 to 14-318.3) (permitting any medical or educational employee who believes that a child under the age of sixteen is being abused or neglected to make a report of the suspected abuse without incurring civil or criminal liability for doing so). This initial reporting law protected the covered professionals from being subject to prosecution for violating other obligations, such as divulging information otherwise protected by physician-patient confidentiality. *Id.* This was similar to several similar laws enacted in other states around the same time. *See* Gary B. Melton, Commentary, *Mandated Reporting: A Policy Without Reason*, 29 CHILD ABUSE & NEGLECT 9, 9–10 (2005) (noting that all fifty states passed mandatory reporting laws between 1962 and 1965). *See generally* Joel M. Geiderman & Catherine A. Marco, *Mandatory and Permissive Reporting Laws: Obligations, Challenges, Moral Dilemmas, and Opportunities*, 1 JACEP OPEN 38 (2020) (examining mandatory and permissive reporting laws in various states from an ethics lens).

27. *See* An Act to Protect Children Through Reporting Cases of Child Abuse and Neglect to the County Director of Social Services, ch. 710, sec. 1, § 110-116, 1971 N.C. Sess. Laws 827, 827–29 (codified as amended at N.C. GEN. STAT. § 110-115 to 110-118) (repealed 1979). The requirements to report child abuse or neglect in this statute were subsequently moved to the Juvenile Code in 1979. An Act to Provide a Unified Juvenile Code, ch. 815, sec. 1, 1979 N.C. Sess. Laws 966, 971–74 (repealed 2024).

28. *See* An Act to Protect Children Through Reporting Cases of Child Abuse and Neglect to the County Director of Social Services, sec. 1, § 110-118(a) (current version at N.C. GEN. STAT. § 7B-301(a)).

29. *See* MASON, *supra* note 24, at 10–12.

30. An Act to Provide a Unified Juvenile Code, ch. 710, sec. 1, 1979 N.C. Sess. Laws at 966–67.

31. *Id.* sec. 1, § 7A-507(1)(c), 1979 Sess. Laws at 967. The North Carolina Juvenile Code is now codified entirely within N.C. GEN. STAT. § 7B, and the current definition of an "abused juvenile" can be found therein at N.C. GEN. STAT. § 7B-101(1).

sexual offenses as defined by the state criminal code,[32] including any form of rape, any sexual act without consent, incest, the creation of child sexual abuse images, and the promotion of prostitution.[33]

As the definition of CSA has shifted, the remedies available to victims have been adjusted accordingly. Prior to 2019, CSA claims were considered akin to any other tort claim, meaning that a minor victim only had until the age of twenty-one to seek civil damages.[34] The SAFE Child Act aimed to change that.

B. *The North Carolina SAFE Child Act*

On March 6, 2019, the SAFE Child Act was first introduced in the North Carolina General Assembly.[35] Its original title clearly summarized the multiple purposes of the legislation: "An Act to Protect Children from Sex Abuse by Improving Prosecutorial Options for Delayed Reports of Child Abuse, to Expand the Mandatory Duty of Reporting Child Abuse, and to Protect Children from Online Predators."[36] This Comment focuses on its first stated function: improving prosecutorial options for delayed reports of child abuse.

When it was introduced in the North Carolina Senate, the Act's statute of limitations provisions gave survivors until age fifty to file a civil suit against their abusers.[37] By the end of July 2019, the proposed filing period in the Act would only last until the plaintiff turned thirty-eight.[38] On October 30, 2019, the day before the final vote, an alternative structure was introduced, wherein plaintiffs could file until they reached the age of twenty-eight or—if such time

32. Not all of the state's definitions of acts of sexual violence are intuitive, so this short list of examples illustrates in more plain language what experiences can qualify a minor as an "abused juvenile" in North Carolina. As of October 1, 2025, the statute itself no longer enumerates many of these specifically but instead includes them under the definition of "a sexually violent offense," as defined in N.C. GEN. STAT. § 14-208.6. Act of June 26, 2025, ch. 16, sec. 1.1, § 7B-101, 2025 N.C. Adv. Legis. Serv. 16 (codified at N.C. GEN. STAT. § 7B-101(1)).

33. N.C. GEN. STAT. § 7B-101(1)(d).

34. McKinney v. Goins, 387 N.C. 35, 38, 911 S.E.2d 1, 5 (2025) ("[O]ur State imposed a three-year statute of limitations on most tort claims, including those filed by victims of child sexual abuse. The three-year clock began running on the victim's eighteenth birthday. Consequently, once victims turned twenty-one, the law essentially prohibited them from holding their abusers civilly liable." (citing N.C. GEN STAT. §§ 1-52, 1-17(a))).

35. S.B. 199, 2019-20 Gen. Assemb., Reg. Sess. (N.C. 2019) (filed), https://www.ncleg.gov/Sessions/2019/Bills/Senate/PDF/S199v0.pdf [https://perma.cc/SBG3-3TU2].

36. *Id.*

37. *Id.* § 7(a). Though this Comment will focus on the civil statute of limitations provisions, the original bill also included a provision to extend the criminal statute of limitations for misdemeanor "crimes of abuse" to ten years post-offense, as opposed to two years. *Id.* § 3(a). This criminal provision was amended but the ten-year statute of limitations for these misdemeanors was ultimately codified. N.C. GEN. STAT. § 15-1(b).

38. S.B. 199, 2019-20 Gen. Assemb., Reg. Sess. (N.C. 2019) (6th ed.), https://www.ncleg.gov/Sessions/2019/Bills/Senate/PDF/S199v6.pdf [https://perma.cc/SZ8Q-UK6V].

had already elapsed—within two years of a relevant criminal conviction.[39] As in the previous drafts, this structure was supplemented by a Revival Window, allowing plaintiffs to bring *any* previously time-barred claims until a specified date.[40] The North Carolina General Assembly unanimously adopted this final version of the Act, which provided a Revival Window until December 31, 2021.[41]

C. *The Constitutionality of the SAFE Child Act*

Over 250 plaintiffs have taken advantage of the Act's Revival Window to sue their abusers and enabling institutions.[42] In response, many defendants targeted the constitutionality of the Revival Window, asserting that it violated their due process rights by retroactively changing the statute of limitations for long-passed alleged offenses.[43] The Supreme Court of North Carolina heard five cases together, known collectively as the "Revival Cases," all of which addressed the constitutionality of the Revival Window and its application.[44] This Section explores the underlying facts and analyses of two such cases—*McKinney v. Goins* and *Cohane v. Home Missioners of America*—to highlight the importance of providing CSA survivors the opportunity to pursue justice under legislative openings like the SAFE Child Act.[45]

39. S.B. 199, 2019-20 Gen. Assemb., Reg. Sess. (N.C. 2019) (7th ed.), https://www.ncleg.gov/Sessions/2019/Bills/Senate/PDF/S199v7.pdf [https://perma.cc/W75U-GVHN].

40. S.B. 199, 2019-20 Gen. Assemb., Reg. Sess. (N.C. 2019) (ratified), https://www.ncleg.gov/Sessions/2019/Bills/Senate/PDF/S199v8.pdf [https://perma.cc/R2C4-FT5W]. The original filed draft of the bill used December 31, 2020, as the cutoff date, rather than December 31, 2021. S.B. 199 (ratified); S.B. 199 (filed).

41. *Senate Bill 199 / SL 2019-245*, N.C. GEN. ASSEMB., https://www.ncleg.gov/BillLookup/2019/S199 [https://perma.cc/7X4E-F6CB].

42. Allison Heitchue, *Can the General Assembly Turn Back the Hands of Time?* McKinney v. Goins *and the Constitutionality of the "Revival Provision" in North Carolina's SAFE Child Act*, 46 CAMPBELL L. REV. 221, 222 (2024) (citing Brief for Defendant-Appellees at 3 n.2, McKinney v. Goins, 290 N.C. App. 403, 892 S.E.2d 460 (2023) (No. COA22-261)) ("Over 250 cases have been filed under the Revival Provision's two-year window.").

43. *McKinney*, 290 N.C. App. at 405, 892 S.E.2d at 463 ("The majority below dismissed Plaintiffs' complaint on the rationale that the [Act]—which revived Plaintiffs' civil claims for child sexual abuse after expiration of the statute of limitations—was facially unconstitutional as violating due process rights protected by the 'Law of the Land' clause in Article I, Section 19 of the North Carolina Constitution.").

44. *See Calendar of Arguments for September 17–19, 2024*, *supra* note 12.

45. The three other Revival Cases heard alongside *McKinney* and *Cohane* were *Doe v. Roman Catholic Diocese of Charlotte*, 283 N.C. App. 177, 872 S.E.2d 810 (2022), *Doe 1K v. Roman Catholic Diocese of Charlotte*, 283 N.C. App. 171, 872 S.E.2d 815 (2022), and *Fore v. Western North Carolina Conference of the United Methodist Church*, 284 N.C. App. 16, 875 S.E.2d 32 (2022). However, the court disposed of these three cases more easily than *McKinney* and *Cohane*. These cases largely centered on procedural disputes, limiting their relevance to discussions of future amendments to CSA statutes of limitations. *See generally* Doe 1K v. Roman Cath. Diocese of Charlotte, 387 N.C. 12, 911 S.E.2d 38 (2025) (deciding both *Doe* and *Doe 1K* and clarifying that the language of the Revival Window did not revive claims that

1. The Constitutionality of a Retroactive Revival Window: *McKinney v. Goins*

Plaintiffs Dustin McKinney, George McKinney, and James Tate are former students of East Gaston High School, where they competed on the wrestling team throughout the mid-1990s and early 2000s.[46] Their coach, Gary Scott Goins, repeatedly "subjected them to sexual abuse, physical violence, and psychological harm," for which he was convicted in 2014.[47] Though the plaintiffs would have sought civil damages from Goins and his employer, the Board of Education, the existing statute of limitations barred their claim.[48] Any civil claims in the case would have expired in 2008, when the youngest plaintiff turned twenty-one.[49] With the Act's Revival Window newly allowing these claims, however, the plaintiffs sued in 2020.[50] While the superior court initially dismissed the plaintiffs' claims, the court of appeals reversed.[51] Defendants then appealed the case to the Supreme Court of North Carolina.[52]

In *McKinney*, the court rejected the defendants' contention that the North Carolina Constitution's Law of the Land Clause and Ex Post Facto Clause protect their right to a statute of limitations.[53] The Law of the Land Clause in Article I, Section 19, provides that "[n]o person shall be . . . in any manner deprived of his life, liberty, or property, but by the law of the land."[54] And the Ex Post Facto Clause in Article I, Section 16, provides that "[r]etrospective laws, punishing acts committed before the existence of such laws and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, and therefore no ex post facto law shall be enacted."[55]

Ultimately, the court found that neither clause was relevant to the constitutionality of the Revival Window.[56] The Law of the Land Clause

had already been decided by a court before the Act's passage); Fore v. W.N.C. Conf. United Methodist Church, 386 N.C. 650, 906 S.E.2d 471 (2024) (dealing with an issue of record disclosure in the context of CSA cases).

46. *McKinney*, 387 N.C. at 37, 911 S.E.2d at 5.

47. *Id.* at 37–38, 911 S.E.2d at 5.

48. *Id.* at 38, 911 S.E.2d at 5.

49. *Id.*

50. *Id.*

51. McKinney v. Goins, 290 N.C. App. 403, 408–11, 892 S.E.2d 460, 465–67 (2023).

52. *McKinney*, 387 N.C. at 41, 911 S.E.2d at 7. Pending the *McKinney* decision, many scholars predicted that the Supreme Court of North Carolina would uphold the court of appeals' decision. *See, e.g.*, Heitchue, *supra* note 42, at 235–58 ("The North Carolina Constitution . . . does not afford child abusers and their enablers the right to manipulate its clear and explicit commands to escape liability for the wrongs they commit and condone. The text is clear: the SAFE Child Act's Revival Provision is constitutional beyond *any* reasonable doubt.").

53. *McKinney*, 387 N.C. at 37, 59, 911 S.E.2d at 4–5, 18. (holding that there is "no constitutionally protected vested right in the running of a tort claim's statute of limitations").

54. N.C. CONST. art. I, § 19.

55. *Id.* art. I, § 16.

56. *McKinney*, 387 N.C. at 46–54, 911 S.E.2d at 11–15.

protects individuals from state interference with their "vested rights."[57] Yet the expectation of repose granted by a statute of limitations is not vested; it is no more than an expectation that the current law will remain the same.[58] By plain reading of the constitution, the Ex Post Facto Clause only prohibits retroactive *criminal* laws.[59] It does not bar the legislature from retroactively reviving the statute of limitations for tort claims.[60] Ultimately, the Supreme Court of North Carolina found "that text, context, and precedent did not support defendant's interpretation of the vested rights doctrine" and that the defendants had thus not introduced sufficient evidence to rebut the presumption of constitutionality afforded to the Revival Window.[61]

2. Application of the Revival Window to Institutional Defendants: *Cohane v. Home Missioners of America*

On the same day it released its *McKinney* decision, the Supreme Court of North Carolina handed down its decision in another Revival Case, *Cohane v. Home Missioners of America*.[62] In *Cohane*, Gregory Cohane alleged that he was sexually abused by Al Behm, a clergyman employed by the Home Missioners of America ("Glenmary"), and brought suit against both Behm and Glenmary.[63] According to the complaint, Al Behm began grooming Gregory when Gregory was nine years old, and their increasingly close relationship caused no concern for Gregory's parents because of Behm's role in the church.[64] As Gregory grew up and the abuse continued, credible reports of other instances of Behm's acts of CSA surfaced and came to the church's attention.[65] But rather than firing Behm or reporting the allegations to authorities, Glenmary repeatedly moved Behm to different parishes and ignored the danger he posed to their communities.[66]

57. *Id.* at 47–51, 911 S.E.2d at 11–13.

58. *Id.* at 48–51, 911 S.E.2d at 11–13 ("The running of the statute of limitations blocks the *plaintiff* from suing. It does not relieve the *defendant* of liability, nor does it create or alter *property* belonging to the defendant. Without an underlying property interest, there cannot be a violation of our vested rights doctrine.").

59. *Id.* at 52, 911 S.E.2d at 14. There is another sentence in this section of the North Carolina Constitution prohibiting retroactive tax laws which is recognized in the *McKinney* decision. *Id.*, 911 S.E.2d at 14; N.C. CONST. art. I, § 16 ("No law taxing retrospectively sales, purchases, or other acts previously done shall be enacted."). However, as this is not relevant to the CSA statute of limitations, it is omitted from this Comment's analysis.

60. *McKinney*, 387 N.C. at 53, 911 S.E.2d at 15.

61. *Id.* at 59, 911 S.E.2d at 18.

62. 387 N.C. 1, 911 S.E.2d 43 (2025).

63. *Id.* at 5, 911 S.E.2d at 46.

64. *Id.*, 911 S.E.2d at 46 (explaining that Gregory's parents approved of the relationship between their son and Behm because "they trusted Mr. Behm as a clergyman and community member").

65. *Id.* at 5–6, 911 S.E.2d at 46–47.

66. *Id.*

For Gregory Cohane, this abuse lasted through childhood and adolescence.[67] In high school, he became depressed, "likely in great part as a result of the conduct of Behm."[68] Behm also started introducing Gregory to alcohol and drugs when Gregory was only seventeen, "planting the seeds for [Gregory] to eventually become an alcoholic."[69] The abuse severely affected his life, causing mental and physical anguish and restricting his education, work, and relationship opportunities.[70]

When Gregory turned eighteen in 1981, the three-year clock on the statute of limitations began running.[71] Three years later, in 1984, Gregory was in his third year of college at Western Carolina University, where Behm was still employed as the campus Catholic clergy.[72] It was not until 2019 that Glenmary publicly admitted that Behm had been credibly accused of CSA.[73] By that point, without the Act's Revival Window, Gregory's opportunities for recourse against his abuser would have long-since expired.

When the Revival Window allowed Gregory to finally bring his claim, the institutional defendants took a different approach than those in *McKinney*. The *Cohane* defendants argued that the Act only permitted survivors to sue their abusers directly, not third-party defendants.[74] The Supreme Court of North Carolina disagreed based on a simple matter of statutory interpretation: the Act revives "any civil claims," with no specification as to a potential defendant's identity.[75] Gregory was thus well within his rights to sue both Behm and the institutions that enabled him under the Act's Revival Window. As his case goes forward, Gregory will finally have the opportunity to seek compensation for the decades-long impact of the abuse he alleges.

II. CONCEPTUALIZING CHILD SEXUAL ABUSE

Now that the question of constitutionality has been resolved, North Carolina has an opportunity to return to the underlying purpose of the SAFE Child Act. In the six years since its enactment, constitutional cases like these

67. *Id.*

68. Complaint ¶ 36, Cohane v. Home Missioners of Am., No. 21-CVS-10855, 2021 WL 8648994 (N.C. Super. Ct. Oct. 27, 2021).

69. *Id.* ¶ 42.

70. *Id.* ¶ 49 ("As a result of the conduct of Defendants . . . , Greg has suffered the effects of severe emotional distress, including depression, anxiety, feelings of worthlessness, and suicidal thoughts. He was unable to graduate from college and experienced a significant delay in entering the workforce at full capacity. He experienced difficulty in managing anger and in forming and maintaining close intimate relationships. Plaintiff required and will continue to require professional counseling and therapy.").

71. *Cohane*, 387 N.C. at 6, 911 S.E.2d at 47.

72. Complaint, *supra* note 68, ¶ 48.

73. *Id.* ¶ 50.

74. Cohane v. Home Missioners of Am., 290 N.C. App. 378, 381, 892 S.E.2d 229, 231 (2023).

75. *Cohane*, 387 N.C. at 3, 911 S.E.2d at 45.

across the country have brought much-needed nationwide focus to the scale and nature of the CSA problem in the United States. Accordingly, many states have updated their laws to reflect experts' current understanding of the problem and provide meaningful recourse to victims.[76] It is time for North Carolina to do the same.

As the medical and legal fields continue to develop their understandings of CSA, the public and the legislature must keep pace. As the Revival Cases draw public attention back to the SAFE Child Act, the time has come to re-evaluate our understanding of CSA in North Carolina.

A. *The Scale and Scope of Child Sexual Abuse*

While the Revival Cases provide representative illustrations of CSA, every instance of CSA is unique. CSA takes many forms and is shockingly prevalent.[77] Yet, due to the significant barriers that impede CSA disclosure by victims,[78] severe underreporting,[79] and lack of statistical consistency,[80] it is difficult to accurately estimate the true scale of the problem. This discrepancy makes the available data even more concerning, as it likely underestimates the true number of victims. Nationally, in 2022, there was an average of approximately one CSA case substantiated per minute.[81] Additionally,

76. Marie T. Reilly, *Retribution Against Catholic Dioceses by Revival: The Evolution and Legacy of the New York Child Victims Act*, 84 ALBANY L. REV. 735, 736 (2021); CHILD USA, REVIVAL AND WINDOW LAWS SINCE 2002, at 1, 3 (2021) [hereinafter CHILD USA, REVIVAL AND WINDOW LAWS], https://childusa.org/wp-content/uploads/2021/02/US-WindowsRevival-Laws-for-CSA.pdf [https://perma.cc/LC8P-S454].

77. CHILD SEXUAL ABUSE COMM., NAT'L CHILD TRAUMATIC STRESS NETWORK, CHILD SEXUAL ABUSE FACT SHEET 3 (2009), https://www.nctsn.org/sites/default/files/resources/child_sexual_abuse_fact_sheet_parents_teachers_caregivers.pdf [https://perma.cc/33T5-HWE3] ("[A]s many as 1 out of 4 girls and 1 out of 6 boys will experience some form of sexual abuse before the age of 18."); Gail Hornor, *Child Sexual Abuse Victimization and Parenting*, 38 J. PEDIATRIC HEALTH CARE 438, 438 (2024) ("Child sexual abuse is a problem of epidemic proportions.").

78. *See infra* Section II.B.

79. *Child Sexual Abuse Statistics*, NAT'L CTR. FOR VICTIMS OF CRIME, https://victimsofcrime.org/child-sexual-abuse-statistics/ [https://perma.cc/4V4G-6TN2] ("The prevalence of child sexual abuse is difficult to determine because it is often not reported; experts agree that the incidence is far greater than what is reported to authorities.").

80. David Finkelhor & Patricia Y. Hashima, *The Victimization of Children and Youth: A Comprehensive Overview*, *in* HANDBOOK OF YOUTH AND JUSTICE 49, 54 (2001) ("There is no single source for statistics on child victimizations.").

81. *See* CHILD.'S BUREAU, U.S. DEP'T OF HEALTH & HUM. SERVS., CHILD MALTREATMENT 2022, at 20 (2022) [hereinafter CHILD MALTREATMENT 2022], https://www.acf.hhs.gov/sites/default/files/documents/cb/cm2022.pdf [https://perma.cc/89MH-VCR5] (finding that, in 2022, "states reported 558,899 victims of [substantiated] child abuse and neglect"). There are debates about the reliability of using substantiation rates as a metric for abuse rates, given that families under investigation by social services organizations are "predominantly low income and disproportionately Black and Native American." *See* Sarah Font & Kathryn Maguire-Jack, *The Organizational Context of Substantiation in Child Protective Services Cases*, 36 J. INTERPERSONAL VIOLENCE 7414, 7415 (2022).

retrospective studies estimate that there are at least forty-two million adult CSA survivors in the United States.[82]

In North Carolina specifically, reporting rates of child abuse are increasing—likely due in part to the past deficiencies of reporting systems in the state.[83] In 2017, there were 7,392 reported cases of child abuse or neglect in North Carolina.[84] In 2022, the total number of reported cases jumped to 23,134.[85] The rate of child abuse victims reporting *sexual* abuse has also increased slightly in recent years, from 6.2% in 2018 to 8.7% in 2022.[86]

B. *Barriers to Child Sexual Abuse Disclosure*

The extensive and long-lasting effects of abuse can include serious psychological, emotional, and physical harm.[87] As demonstrated through

82. *What Are the Statistics of the Abused?*, NAT'L ASS'N OF ADULT SURVIVORS OF CHILD ABUSE, https://www.naasca.org/2012-Resources/010812-StaisticsOfChildAbuse.htm [https://perma.cc/8ETS-MFWD].

83. North Carolina has long had inconsistent and insufficient reporting systems, making it difficult to track, find, or disseminate state-specific CSA data. *See* ECONOMIST IMPACT, THE UNITED STATES OUT OF THE SHADOWS INDEX: NORTH CAROLINA (2024), https://impact.economist.com/perspectives/sites/default/files/download/ei260_-_oosi_us_state_profile_-_north_carolina.pdf [https://perma.cc/5NWC-TW5P] (ranking North Carolina's response to child sexual exploitation and abuse twenty-sixth out of the twenty-eight evaluated state responses).

84. CHILD.'S BUREAU, U.S. DEP'T OF HEALTH & HUM. SERVS., CHILD MALTREATMENT 2017, at 46–47 tbl. 3-9 (2017), https://www.acf.hhs.gov/sites/default/files/documents/cb/cm2017.pdf [https://perma.cc/K3PP-EDYA]; *see also* CHILD WELFARE LEAGUE OF AM., NORTH CAROLINA'S CHILDREN AT A GLANCE 1 (2019), https://www.cwla.org/wp-content/uploads/2019/04/North-Carolina-2019.pdf [https://perma.cc/L5HU-DYN3].

85. CHILD MALTREATMENT 2022, *supra* note 81, at 44–45 tbl. 3-8.

86. CHILD.'S BUREAU, U.S. DEP'T OF HEALTH & HUM. SERVS., CHILD WELFARE OUTCOMES REPORT DATA: NORTH CAROLINA, https://cwoutcomes.acf.hhs.gov/cwodatasite/byState/north-carolina/ [https://perma.cc/VV37-QN2X].

87. *See, e.g.*, Amresh K. Shrivastava, Sagar B. Karia, Sushma S. Sonavane & Avinash A. De Sousa, *Child Sexual Abuse and the Development of Psychiatric Disorders: A Neurobiological Trajectory of Pathogenesis*, 26 INDUS. PSYCHIATRY J. 4, 4 (2017) ("CSA and other forms of maltreatment are significantly associated with a wide range of psychiatric disorders in adulthood."); ROBERT R. REDFIELD, DEP'T OF HEALTH & HUM. SERVS., REPORT TO CONGRESS ON CHILD SEXUAL ABUSE PREVENTION 11 tbl. 1 (2019), https://publichealth.jhu.edu/sites/default/files/2023-07/fy-2019-cdc-report-to-congress-child-sexual-abuse-prevention.pdf [https://perma.cc/5PHD-FKRU] (listing the short- and long-term effects of CSA victimization on victims' physical, mental, and emotional health, as well as social, cognitive, and economic consequences); Leah Irish, Ihori Kobayashi & Douglas L. Delahanty, *Long-Term Physical Health Consequences of Childhood Sexual Abuse: A Meta-Analytic Review*, 35 J. PEDIATRIC PSYCH. 450, 457 (2010) ("CSA [is] systematically related to higher rates of subsequent physical health symptoms, including general health, [gastrointestinal], gynecologic, pain and cardiopulmonary symptoms, and obesity."); Gabriela Pérez-Fuentes, Mark Olfson, Laura Villegas, Carmen Morcillo, Shuai Wang & Carlos Blanco, *Prevalence and Correlates of Child Sexual Abuse: A National Study*, 54 COMPREHENSIVE PSYCH. 16, 22 (2013) ("Survivors of CSA fear revictimization, encounter sexual difficulties, relationship dissatisfaction, and distrust of others, which may interfere with forming and maintaining intimate relations that often characterize marriage. Disturbances in the child's attachment style may also help explain these relationship difficulties in adulthood."); Hornor, *supra* note 77, at

McKinney and *Cohane*, victims can experience psychological effects for years—even decades—after the abuse.[88] Not only does this create lasting harm, which emphasizes the importance of opportunities for recourse, but it also imposes independent barriers that can delay or prevent victims from coming forward. According to the majority of psychologists, a CSA survivor could be well into adulthood before recognizing or admitting the abuse they suffered as a child. Unfortunately, if that survivor were in North Carolina, the statute of limitations for bringing a case against their abuser would likely already have expired.

As more studies are conducted on adult CSA survivors, the psychological patterns that result from abuse come into clearer focus. One key pattern is delayed disclosure, a phenomenon common to CSA survivors whereby individuals wait for years or decades before telling anyone about the abuse they experienced as a child.[89] Most survivors do not disclose until they are well into adulthood, with the average CSA survivor first disclosing at age fifty-two.[90] This delay leads to further complications when those individuals decide that they might want to take action against their abusers.[91] It also means that

438–39; Mariam Fatehi, Sheri E. Miller, Leila Fatehi & Orion Mowbray, *A Scoping Study of Parents with a History of Childhood Sexual Abuse and a Theoretical Framework for Future Research*, 23 TRAUMA VIOLENCE, & ABUSE 1134, 1135 (2022); Carolyn A. Greene, Lauren Haisley, Cara Wallace & Julian D. Ford, *Intergenerational Effects of Childhood Maltreatment*, at 22–25, *in* 80 CLINICAL PSYCH. REV. art. 101891 (2020), https://pmc.ncbi.nlm.nih.gov/articles/PMC7476782/pdf/nihms-1616964.pdf [https://perma.cc/S5N7-KP7F (staff-uploaded, dark archive)] (describing complex links between childhood maltreatment and subsequent parenting practices). *But see* Sanne N. Wortel & Stephanie Milan, *Mother–Daughter Sexual Communication: Differences by Maternal Sexual Victimization History*, 24 CHILD MALTREATMENT 319, 319–20 (2019) (positing that CSA can positively impact parenting ability, and mothers with a history of CSA can sometimes communicate more effectively with their daughters about sexuality and develop stronger senses of their daughters' emotions, which could mitigate their daughters' sexual risk).

88. Complaint ¶¶ 22, 30, 38, McKinney v. Goins, No. 21CVS7438, 2021 WL 11717315 (N.C. Super. Ct. Dec. 20, 2021); *supra* notes 68–70 and accompanying text (describing the severe, continued effects of childhood sexual abuse on the plaintiff in *Cohane*).

89. ANDREW ORTIZ, CHILD USA, DELAYED DISCLOSURE 1 (2024), https://childusa.org/wp-content/uploads/2024/06/Delayed-Disclosure-2024.pdf [https://perma.cc/PF3B-5BGD] ("More survivors first disclosed between age 50 and 70 compared to any other age group.").

90. Rosaleen McElvaney, *Disclosure of Child Sexual Abuse: Delays, Non-Disclosure, and Partial Disclosure. What the Research Tells us and Implications for Practice*, 24 CHILD ABUSE REV. 159, 159–62 (2015) ("There is consensus in the research literature that most people who experience sexual abuse in childhood do not disclose this abuse until adulthood, and when disclosure does occur in childhood, significant delays are common."); CHILD USA, DELAYED DISCLOSURE: A FACTSHEET BASED ON CUTTING-EDGE RESEARCH ON CHILD SEX ABUSE 3 (2020) [hereinafter CHILD USA, FACTSHEET], https://archive.legmt.gov/bills/2023/Minutes/House/Exhibits/230324JUHa5.pdf [https://perma.cc/7YM8-QZQE].

91. *See infra* Section III.B.

survivors often live with the negative effects of abuse for many years without receiving necessary treatment.[92]

There are several factors that contribute to delayed disclosure. From the moment abuse begins, victims often experience transformations in their brain development and function.[93] These transformations can negatively impact a child's ability to form or recall memories.[94] They may also lead to significant difficulty in controlling emotional responses or processing and explaining lived experiences.[95] This is especially true in cases where the abuse took place over an extended period of time—as alleged in *Cohane*—or when the victim was particularly young at the time of the abuse.

Potentially the most significant factor in the psychological impact of trauma at a young age is its impact on memory. Trauma can both inhibit the formation of memories and repress existing memories.[96] Debates surrounding the validity of "repressed memories" and various methods of recovering them have raged on in the psychological and legal spheres for decades.[97] Today, approximately seventy percent of psychologists believe that it is possible for traumatic memories to be repressed.[98] In clinical psychology, the diagnosable condition known as dissociative amnesia is characterized by "[h]istories of trauma, child abuse, and victimization" and can lead to an inability to recall traumatic events or experiences.[99]

92. *See* Ramona Alaggia, Delphine Collin-Vézina & Rusan Lateef, *Facilitators and Barriers to Child Sexual Abuse (CSA) Disclosures: A Research Update (2000–2016)*, 20 TRAUMA VIOLENCE & ABUSE 260, 261 (2019) ("The longer disclosures are delayed, the longer individuals potentially live with serious negative effects and mental health problems such as depression, anxiety, trauma disorders, and addictions, without receiving necessary treatment.").

93. Dorthie Cross, Negar Fani, Abigail Powers & Bekh Bradley, *Neurobiological Development in the Context of Childhood Trauma*, 24 CLINICAL PSYCH.: SCI. & PRAC. 111, 113 (2017).

94. *Id.* at 112–13.

95. *See id.*

96. *See* Nikolai Axmacher, Anne T. A. Do Lam, Henrik Kessler & Juergen Fell, *Natural Memory Beyond the Storage Model: Repression, Trauma, and the Construction of a Personal Past*, at 2, *in* 4 FRONTIERS IN HUM. NEUROSCIENCE art. 211 (2010), https://www.frontiersin.org/journals/human-neuroscience/articles/10.3389/fnhum.2010.00211/pdf [https://perma.cc/P2EB-KFRY (staff-uploaded archive)] (illustrating the process of memory formation).

97. Henry Otgaar, Mark L. Howe, Lawrence Patihis, Harald Merckelbach, Steven Jay Lynn, Scott O. Lilienfeld & Elizabeth F. Loftus, *The Return of the Repressed: The Persistent and Problematic Claims of Long-Forgotten Trauma*, 14 PERSPS. ON PSYCH. SCI. 1072, 1072 (2019) [hereinafter Otgaar et al., *Return of the Repressed*] ("More than 20 years ago, [Frederick Crews] coined the term 'memory wars' to refer to a contentious debate regarding the existence of repressed memories, which refers to memories that become inaccessible for conscious inspection because of an active process known as repression. This debate raged throughout the 1990s.").

98. *Id.* at 1077.

99. AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 298–99 (5th ed. 2013) (listing the associated features supporting diagnoses of dissociative amnesia, a modernized term for memory repression).

These debates extend beyond the medical validity of memory repression to whether repressed memories should be admissible as evidence in a legal setting. In 1996, as the medical community was debating the legitimacy of recovered memories, legal commentators cautioned against changing laws too quickly and allowing recovered memories in court.[100] Even today, the legal field remains highly skeptical. Contrary to beliefs among clinical psychologists, faith in the reliability of repressed memories is very low among legal professionals, with only twenty-two percent of legal psychology experts surveyed opining that "repressed memories are 'reliable enough' to present as evidence in the courtroom."[101] This discrepancy is logical, as there is often more at stake in a legal proceeding than in a diagnostic or clinical setting.[102]

Social restrictions can also impose additional barriers to disclosure. Regardless of whether psychological trauma responses delay an individual's ability to recognize the abuse that they experienced, the context surrounding the abuse may still make victims reluctant to come forward. The vast majority of CSA victims are abused by someone that they know and trust.[103] With increased proximity to their abuser, child victims are less likely to disclose the abuse.[104] Justifications for diminished disclosure include children's fear of

100. Jorge L. Carro & Joseph V. Hatala, *Recovered Memories, Extended Statutes of Limitations and Discovery Exceptions in Childhood Sexual Abuse Cases: Have We Gone Too Far?*, 23 PEPP. L. REV. 1239, 1274–75 (1996).

> It is too early to tell whether [repressed memory] cases will become a mainstay of American jurisprudence or whether they will eventually fade away as remnants of another witch hunt. Signals have started to appear on the horizon, however, that forecast that the days of the 'recovered memory' and its devastating consequences are coming to an end.

Id. at 1274. Courts should exercise extreme caution with recovered memories because "it is not only unwise, but also unnecessary, to subvert the right to due process of law of many innocent people in order to protect the few alleged victims of non-existing crimes." *Id.* at 1275.

101. Otgaar et al., *Return of the Repressed*, *supra* note 97, at 1078.

102. *See* Henry Otgaar, Mark L. Howe & Lawrence Patihis, *What Science Tells Us About False and Repressed Memories*, 30 MEMORY 16, 16 (2022) ("[I]ncorrect knowledge about these memory phenomena might contribute to egregious effects in the courtroom such as false accusations of abuse.").

103. Marta Ferragut, Margarita Ortiz-Tallo & Maria J. Blanca, *Victims and Perpetrators of Child Sexual Abuse: Abusive Contact and Penetrative Experiences*, 18 INT'L J. ENV'T RSCH. & PUB. HEALTH 9593, 9594 (2021) ("Empirical evidence has shown that most perpetrators of CSA were known to the victim, either family members or family friends and neighbors."); DAVID FINKELHOR & ANNE SHATTUCK, CRIMES AGAINST CHILD. RSCH. CTR., CHARACTERISTICS OF CRIMES AGAINST JUVENILES 5 fig. 9 (2012), https://www.unh.edu/ccrc/sites/default/files/media/2022-03/characteristics-of-crimes-against-juveniles_0.pdf [https://perma.cc/FS6D-HNJN] (reporting that—of all sex offenses against juveniles—thirty-three percent of perpetrators were a family member of the victim and an additional fifty-eight percent of perpetrators were an acquaintance of the victim).

104. McElvaney, *supra* note 90, at 163–64 ("Children who are abused by a family member are less likely to disclose and more likely to delay disclosure than those abused by someone outside the family."); Alaggia et al., *supra* note 92, at 279 ("Victims of intrafamilial abuse when the offender is a parent, caregiver, significant family member, or someone in a family-like role are less likely to disclose

upsetting or disappointing their parents, fear of not being believed, fear of retaliation, or reluctance to give up activities in which they regularly interact with their abuser.[105] In *Cohane*, for example, Gregory may have been reluctant to forego his relationship with Behm because it was consistently reinforced as a positive relationship by his family and community.[106] Intrafamilial abuse presents additional difficulties, including a fear of losing contact with an abusive family member or a parental figure.[107]

This combination of psychological and sociological barriers prevents countless victims from taking action against their abusers. In some circumstances, offenders and institutions magnify these barriers to their own advantage.[108] As one North Carolinian survivor put it: "Leadership of major institutions use their trusted roles and knowingly lead victims away from the court systems until the statute of limitations has lapsed."[109] This mix of barriers creates an opportunity for dangerous offenders to avoid responsibility forever.

III. STATUTES OF LIMITATIONS

The growing understanding of delays in abuse disclosure stands in sharp contrast with the restrictive nature of so many statutes of limitations for CSA cases. Yet statutes of limitations are a long-standing reality in the American legal system.[110]

A. *Historical Bases and Rationales*

While statutes of limitations remain a constant in American law, jurists and scholars alike have questioned their purpose and importance.[111] Traditional rationales for statutes of limitations generally fall into three main categories: (1)

immediately or at all in childhood/adolescence because of obvious power differentials and dependency needs. Further, the perpetrator residing with their victim(s) increases the likelihood of no disclosure." (citations omitted)).

105. *See Why Kids Don't Tell*, EARLY OPEN OFTEN, https://www.earlyopenoften.org/get-the-facts/why-kids-dont-tell/ [https://perma.cc/M38S-XDCZ]; Lucy McGill & Rosaleen McElvaney, *Adult and Adolescent Disclosures of Child Sexual Abuse: A Comparative Analysis*, 38 J. INTERPERSONAL VIOLENCE 1163, 1165; Kamala London, Maggie Bruck, Stephen J. Ceci & Daniel W. Shuman, *Disclosure of Child Sexual Abuse*, 11 PSYCH. PUB. POL'Y & L. 194, 201 (2005).

106. Cohane v. Home Missioners of Am., 387 N.C. 1, 5, 911 S.E.2d 43, 46 (2025).

107. *See* London et al., *supra* note 105, at 195, 201.

108. *See, e.g.*, Griffin, *supra* note 1.

109. *Id.*

110. *Developments in the Law—Statutes of Limitations*, 63 HARV. L. REV. 1177, 1178–79 (1950).

111. *See* Oliver Wendell Holmes, *The Path of the Law*, 10 HARV. L. REV. 457, 476–77 (1897) ("[W]hat is the justification for depriving a man of his rights, a pure evil as far as it goes, in consequence of the lapse of time?"). *See generally* Tyler T. Ochoa & Andrew J. Wistrich, *The Puzzling Purposes of Statutes of Limitation*, 28 PAC. L.J. 453 (1997) (exploring the various proffered justifications for statutes of limitations and weighing them against opposing policy interests).

providing fairness to the defendant, (2) promoting efficiency, and (3) ensuring institutional legitimacy.[112]

The first rationale—fairness to the defendant—is the broadest of the three. It encompasses the arguments that statutes of limitations serve to provide repose for defendants, promote accuracy in factfinding, and curtail plaintiff misconduct.[113] The first argument based on this rationale lies "at the heart of the law of limitations" and contends that even claims that would be meritorious should become unavailable at some point in time "to protect a defendant's well-settled expectations that he will not be held accountable for misconduct."[114] The second and third arguments address the idea that plaintiffs and defendants should have equal opportunity to mount their cases with reliable evidence. As the United States Supreme Court has stated, statutes of limitations "promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared."[115] The Supreme Court has repeatedly expressed concern that delay before trial will undermine defendants' rights, and avoiding such unfairness is a high priority for the Court.[116] The third argument specifically addresses the concern that plaintiffs may attempt to gain an unfair advantage by unnecessarily delaying litigation, which could prejudice the defendant and make litigation more difficult.[117]

112. Suzette M. Malveaux, *Statutes of Limitations: A Policy Analysis in the Context of Reparations Litigation*, 74 GEO. WASH. L. REV. 68, 74–75 (2005).

113. *Id.* at 75. Some of the rationales included here are also used as major arguments in favor of statutes of repose, which are similar but distinct from statutes of limitations. *See* Boudreau v. Baughman, 322 N.C. 331, 340, 368 S.E.2d 849, 857 (1988). Per the Supreme Court of North Carolina, "the distinction between statutes of limitation and statutes of repose corresponds to the distinction between procedural and substantive laws." *Id.* A statute of limitations is an available affirmative defense which "makes a claim unenforceable" beyond a specified period. *Id*. By contrast, a statute of repose "establishes a time period in which suit must be brought in order for the cause of action to be recognized." *Id.* at 340–41, 368 S.E.2d at 857. This means that after the specified period, a plaintiff "literally has *no* cause of action. The harm that has been done is *damnum absque injuria*—a wrong for which the law affords no redress." *Id.* at 341, 368 S.E.2d at 857 (quoting Rosenberg v. Town of North Bergen, 293 A.2d 662, 667 (N.J. 1972)). Because the SAFE Child Act only pertains to statutes of limitations, this Comment does not further explore statutes of repose.

114. Malveaux, *supra* note 112, at 75.

115. Ord. of R.R. Telegraphers v. Ry. Express Agency, 321 U.S. 342, 348–49 (1944).

116. *See, e.g.*, United States v. Marion, 404 U.S. 307, 320 (1971) ("Inordinate delay [before] trial may impair a defendant's ability to present an effective defense."). In *Marion*, the Supreme Court also compares this rationale for statutes of limitations with the speedy trial right guaranteed by the Sixth Amendment, further emphasizing its importance. *See id.* at 321–25.

117. *See* Burnett v. N.Y. Cent. R.R., 380 U.S. 424, 428 (1965) ("[T]he courts ought to be relieved of the burden of trying stale claims when a plaintiff has slept on his rights."); *see also* Malveaux, *supra* note 112, at 80 ("The courts presume that if a plaintiff sincerely believes that his case is strong and important, he will be more likely to bring it quickly than to delay.").

The second rationale—efficiency—posits that statutes of limitations reduce costs, clear dockets, and simplify judicial decision-making by preventing litigation altogether or by facilitating quick disposal of cases.[118]

The third rationale—institutional legitimacy—suggests that statutes of limitations "assure the public that [judicial] decision making is rational" and that "courts permit claims to go forward on the basis of clear rules rather than prejudice or excessive discretion."[119] This rationale overlaps significantly with the first two in that public faith in the judiciary is stronger when people view the proceedings as fair and efficient.

While there are theoretical and ethical justifications for their use, "[s]tatutes of limitation find their justification in necessity and convenience rather than in logic. They represent expedients, rather than principles."[120] Notwithstanding the benefits they provide, they restrict wrongdoers' accountability based on an arbitrary amount of time, which often leads to widespread criticism, especially when they apply to offenses viewed as particularly immoral or reprehensible.[121]

B. *Applying Statutes of Limitations Rationales to Child Sexual Abuse*

In the narrow context of CSA cases, these rationales for statutes of limitations have unique implications for evidence reliability and ethical considerations. The primary justification for statutes of limitations as applied to CSA is promoting fairness for the defendant, largely in relation to the reliability of evidence. Generally, dependable evidence of CSA is very difficult to obtain as there is rarely any physical evidence or record of the abuse other than the victim's own recollection.[122] The testimony of the victim is therefore

118. Malveaux, *supra* note 112, at 79–80 ("[T]he legislature may . . . use procedural hurdles—such as a limitations period—to discourage such claims. A strict limitations period will have the effect of barring numerous claims and clearing the federal dockets."); *see also* Davila v. Mumford, 65 U.S. 214, 223 (1860) (noting that a function of the statute of limitations is settling matters "by lapse of time, [thereby] preventing litigation").

119. Malveaux, *supra* note 112, at 81.

120. Chase Sec. Corp. v. Donaldson, 325 U.S. 304, 314 (1945) ("[Statutes of limitation] are by definition arbitrary, and their operation does not discriminate between the just and the unjust claim, or the voidable and unavoidable delay . . . . Their shelter has never been regarded as what now is called a 'fundamental' right or what used to be called a 'natural' right of the individual.").

121. *See, e.g.*, Jill Filipovic, *No More Statutes of Limitations for Rape*, N.Y. TIMES (Dec. 31, 2015), https://www.nytimes.com/2016/01/01/opinion/no-more-statutes-of-limitations-for-rape.html [https://perma.cc/R9Z3-CJG5 (staff-uploaded, dark archive)]; Symone Shinton, *Pedophiles Don't Retire: Why the Statute of Limitations on Sex Crimes Against Children Must Be Abolished*, 92 CHI.-KENT L. REV. 317 *passim* (2017). *But see, e.g.*, Joe Patrice, *Bill Cosby and Eliminating Statutes of Limitation: A Truly Terrible Idea*, ABOVE L. (Jan. 4, 2016, at 15:46 ET), https://abovethelaw.com/2016/01/bill-cosby-and-eliminating-statutes-of-limitation-a-truly-terrible-idea/ [https://perma.cc/8WW7-CBPV].

122. *See* McGill & McElvaney, *supra* note 105, at 1164 (noting that there is rarely any physical evidence of CSA); Laura Johnson, *Litigating Nightmares: Repressed Memories of Childhood Sexual Abuse*,

paramount. Yet, even in cases where the word of the victim provides reliable evidence childhood disclosure rates are so low and the nature of the offense is so private that there are rarely witnesses who can testify to having heard the victim speak about the abuse prior to the lawsuit.[123] Even though communication records are becoming valuable sources of evidence for these cases as the world becomes increasingly digital, many current CSA cases arise out of twentieth-century abuse before such resources were available.[124]

While objections to the reliability of testimony are important safeguards against liability for nonviable claims, a key distinction must be drawn between the ability to initiate a case and the likelihood of that case moving forward through the judicial process. Specifically, changes to CSA statutes of limitations do not create changes in evidentiary standards. In considering the viability of witness testimony as evidence of CSA, the primary difference between promptly disclosed abuse cases and delayed disclosure cases is the reliability of witness memory.[125] Even in cases of promptly disclosed CSA, however, victim testimony is often deemed unreliable due to the victim's age.[126] Regardless of the reason that witness testimony may be deemed questionable, the issue of credibility ultimately goes before the finder of fact.

Another fairness-to-the-defendant rationale is that statutes of limitations encourage plaintiffs to bring their claims in a timely fashion. Yet the prominence of delayed disclosure introduces significant doubt that CSA survivors are being disingenuous or intending to manipulate the system by failing to seek legal recourse until long after the abuse.[127] The concern about manipulation, which is most applicable in instances where the plaintiff knows

51 S.C. L. REV. 939, 958 (2000) ("Because childhood sexual abuse is inherently a private act, 'photographs or records of the abuse' and an 'objective eyewitness's account' will rarely be introduced as objective, verifiable evidence. Further, 'documented medical history of childhood sexual abuse' will be extremely rare because medical evidence is rarely obtained . . . ."); London et al., *supra* note 105, at 215 ("[V]ery few children who have been sexually abused have any physical symptoms.").

123. *See supra* Section II.B; *see also* London et al., *supra* note 105, at 200–01.

124. *See* Shinton, *supra* note 121, at 349 ("[N]ow more than ever, hard evidence like text messages, letters, and emails corroborate victim's testimony.").

125. *See* Joyce W. Lacy & Craig E. L. Stark, *The Neuroscience of Memory: Implications for the Courtroom*, 14 NATURE REVS. NEUROSCIENCE 649, 652 (2013) ("[A]s people age, memory for the gist of an event may remain intact, but memory for specific details of the event degrades, and individuals are more likely to falsely incorporate similar information into their memories.").

126. Barry Nurcombe, *The Child as Witness: Competency and Credibility*, 25 J. AM. ACAD. CHILD PSYCHIATRY 473, 473 (1986) ("The law is skeptical of the capacity of children to observe and recall events accurately, to appreciate the need to tell the truth, and to resist the influence of other people.").

127. *See* Drew P. Von Bargen II, *Nittany Lions, Clergy, and Scouts, Oh My! Harmonizing the Interplay Between Memory Repression and Statutes of Limitations in Child Sexual Abuse Litigation*, 18 MICH. STATE U. J. MED. & L. 51, 82 (2014) ("When an individual merely ignores an incident or makes the conscious decision to not seek out an attorney to initiate appropriate legal action, the statute of limitations serves to protect defendants from that apathetic litigant if he or she ever decides to commence litigation after the governing period elapses. Memory repression, however, introduces a completely different circumstance where apathy and generic forgetfulness are certainly not to blame.").

all the facts and deliberately chooses to delay legal action to gain an unfair advantage, does not translate well to the context of CSA cases.

C. *Exceptions to—and Deviations from—Statutes of Limitations*

Generally, statutes of limitations begin to accrue from the moment of the offense or injury.[128] However, they are "subject to equitable tolling . . . when a litigant has pursued his rights diligently but some extraordinary circumstance prevents him from bringing a timely action."[129] Legislatures can also provide for specific circumstances when a statute of limitations must be tolled, delaying the accrual of a cause of action and thereby granting a plaintiff extra time to bring a civil claim.[130] Common means of tolling include pausing accrual based on a legal disability—commonly including minority/infancy, incarceration, or mental incapacitation[131]—and application of the discovery rule.

Disability tolling doctrines apply in various circumstances throughout the country.[132] These doctrines provide that a cause of action will not begin to accrue until a certain factual threshold is met—often the termination or lifting of a legal disability.[133] While these doctrines are largely statutory today, there is also a history of incapacity tolling at common law.[134]

Another means of tolling a statute of limitations is through the application of the discovery rule, which provides that the statutory clock can be tolled until such a time that the plaintiff discovers their injury and its causal relationship to a tortfeasor's misconduct.[135] This rule has a long history in American law and is

128. *See* Bay Area Laundry & Dry Cleaning Pension Tr. Fund v. Ferbar Corp. of Cal., Inc., 522 U.S. 192, 195 (1997) ("A limitations period ordinarily does not begin to run until the plaintiff has a 'complete and present cause of action.'" (quoting Rawlings v. Ray, 312 U.S. 96, 98 (1941))).

129. CTS Corp. v. Waldburger, 573 U.S. 1, 9 (2014) (quoting Lozano v. Montoya Alvarez, 572 U.S. 1, 10 (2014)).

130. *See* John J. Dvorske, *Limitations, Repose, and Laches*, *in* 20A STRONG'S N.C. INDEX § 137 (4th ed. 2024) ("Tolling . . . lengthens the time for commencing a civil action in appropriate circumstances . . . ."); *Statute of Limitations*, BLACK'S LAW DICTIONARY (12th ed. 2024) (defining a statute of limitations as a "law that bars claims" after a specific amount of time after a claim accrues or after "the injury occurred or was discovered").

131. Matthew G. Doré, *Statutes of Limitation and Corporate Fiduciary Claims: A Search for Middle Ground on the Rules/Standards Continuum*, 63 BROOK. L. REV. 695, 765 n.260 (1997).

132. *See* Stuart M. Speiser, Charles F. Krause & Alfred W. Gans, *Tolling or Suspension of a Statute*, *in* 1A AM. L. TORTS § 5:37 (Monique C. M. Leahy ed., 2024) (describing legislation tolling statutes of limitations based on minority, insanity, mental incapacity, or incompetence as "quite common").

133. *See* Adam Bain & Ugo Colleta, *Interpreting Federal Statutes of Limitations*, 37 CREIGHTON L. REV. 493, 504 (2004).

134. *See id.* at 516 ("The common law also traditionally recognized an equitable exception where an action cannot be brought because there was no party capable of bringing an action or because the law prohibited the bringing of an action.").

135. *See* Von Bargen II, *supra* note 127, at 64–65 ("When . . . a victim is faced with the dilemma of how he or she can maintain his or her case without running afoul of the statute of limitations, the discovery rule . . . [can] allow[] plaintiffs to circumvent rigid, unforgiving deadlines that are associated with date-of-injury accrual rules.").

largely based in the notion that concealment of a crime or harm should not benefit the wrongdoer by preventing a plaintiff from suing.[136]

IV. COMPARATIVE ANALYSIS OF STATE APPROACHES

North Carolina is not the only state that has modernized CSA laws through changes to its statute of limitations. The current range of federal and state approaches to statutes of limitations for CSA victims is broad.[137] There is a general trend toward extending or eliminating statutes of limitations for CSA cases,[138] reflecting states' policy preferences to provide greater recourse for

136. Rotkiske v. Klemm, 589 U.S. 8, 18 (2019) (Ginsberg, J., dissenting) (describing the origin of the "fraud-based discovery rule" in the United States).

137. *See generally Child Sexual Abuse: Civil Statutes of Limitations*, NAT'L CONF. OF STATE LEGISLATURES, https://www.ncsl.org/human-services/state-civil-statutes-of-limitations-in-child-sexual-abuse-cases [https://perma.cc/Q4FF-QGGQ] (last updated Nov. 29, 2023) (compiling the statutes of limitations in CSA cases for all states and territories of the United States). States without any of the above approaches for CSA cases generally either (1) apply their standard statutes of limitations to CSA cases or (2) have eliminated the statute of limitations, either for CSA cases specifically or for civil claims altogether. As most states have enacted legislation in response to research about CSA, Mississippi is now the only state with no CSA-specific statute of limitations. *See* MISS. CODE ANN. §§ 15-1-49, 15-1-59 (providing that plaintiffs have three years to file suit based on sexual abuse, which is tolled until twenty-one, the age of majority). Indiana does have a CSA-specific statute of limitations provision, but it is far less forgiving than the majority of states, requiring that victims bring suit within seven years of the abuse occurring or else within four years after ceasing to be a dependent of their abuser. IND. CODE § 34-11-2-4.

138. In the six years since the enactment of the SAFE Child Act in North Carolina, six states—California, Colorado, Maryland, New Hampshire, Nevada, and Washington—have completely eliminated their statutes of limitations for civil CSA cases, either retroactively or prospectively. Act of Oct. 10, 2023, ch. 655, § 1, 2023 Cal. Stat. 6402, 6402–03 (codified at CAL. CIV. PROC. CODE § 340.1) (providing that actions arising out of any CSA occurring on or after January 1, 2024, may be brought at any time); Act of Apr. 15, 2021, ch. 28, § 1, 2021, Colo. Sess. Laws 117, 117–18 (codified at COLO. REV. STAT. § 13-80-103.7(1)(a)–(b)) (providing that civil actions for sexual misconduct that occurs on or after January 1, 2022, can be brought at any time); Child Victims Act of 2023, ch. 6, § 1, 2023 Md. Laws 1, 1–2 (codified as amended at MD. CODE ANN., CTS. & JUD. PROC. § 5-117(b)) (providing that, as of October 1, 2023, a plaintiff may bring an action for damages arising out of sexual abuse of a minor at any time); Crime Victims' Rights Enhancement Act of 2020, ch. 24, 24:11, 2020 N.H. Laws 69, 73 (codified at N.H. REV. STAT. ANN. § 508:4-g) (providing that a plaintiff may commence a CSA action at any time); Act of June 2, 2021, ch. 288, § 1.2, 2021 Nev. Stat. 1585, 1585 (codified at NEV. REV. STAT. § 11.215(1)) (providing that a plaintiff may commence a CSA action at any time); Act of Mar. 26, 2024, ch. 254, § 1, 2024 Wash. Sess. Laws 1377, 1378 (codified at WASH. REV. CODE § 4.16.340(6)) (providing that a plaintiff may bring an action arising out of intentional CSA that occurs after June 6, 2024, at any time).

These states join the six states—Delaware, Illinois, Maine, Minnesota, Nebraska, and Vermont—which had already eliminated their statutes of limitations for civil CSA cases prior to 2019. Act of July 10, 2007, ch. 102, Vol. 2007–2008 Del. Laws 119 (codified as amended at DEL. CODE ANN. tit. 10, § 8145); Act of Jan. 1, 2014, ch. 98-0276, § 5(f), 2013 Ill. Laws 4196, 4198 (codified as amended at 735 ILL. COMP. STAT. ANN. 5/13-202.2); An Act Regarding Statute of Limitations for Sexual Misconduct with a Minor, ch. 639, 2009 Me. Laws 1344, 1344 (codified as amended at ME. REV. STAT. ANN. tit. 14, § 752-C(1)); Child Victims Act, ch. 89, § 1, 2013 Minn. Laws 728, 728–29 (codified as amended at MINN. STAT. § 541.073(2)(a)(2)); Act of May 9, 2017, Leg. Bill No. 300, § 1, 2017 Neb. Laws 618, 618

victims.[139] These changes mirror increased public awareness of CSA, and nonprofit organizations, such as CHILD USA, have supported them.[140]

In his reflection on the civil legal process, North Carolinian and CSA survivor Stuart Griffin pointed out that "[t]he statute of limitations was not created as a safe haven for pedophiles and the institutions that protect them."[141] This perspective seems to align with the recent wave of changes to civil and criminal CSA statutes of limitations across the country.[142] Though varied, states' new approaches to civil CSA statutes of limitations generally include (A) the disability approach, (B) the discovery rule approach, or (C) a hybrid approach that combines the two.[143] North Carolina's changes largely fall into the first category, though the Revival Window and the post-criminal-conviction window add nuance to the state's approach.

A. *The Disability Approach*

The disability approach encompasses those statutes of limitations which simply delay the accrual of causes of actions until a plaintiff is legally capable of bringing a claim. Many states have blanket rules that any causes of action do not begin to accrue until the plaintiff reaches the age of majority,[144] which is

(codified at NEB. REV. STAT. § 25-228); Act of May 28, 2019, Pub. L. No. 37, § 1 Vt. Acts & Resolves 301, 301 (codified as amended at VT. STAT. ANN. tit. 12, § 522).

139. *See* Bain & Colleta, *supra* note 133, at 574 ("Whenever an equitable exception is incorporated into a statute of limitations, a policy choice has been made. To some degree, the policies supporting the equitable exception are found to outweigh the policies supporting statutes of limitations generally.").

140. *Reforming Statutes of Limitations: Justice Shouldn't Expire*, OAK FOUND. (Mar. 19, 2024), https://oakfnd.org/reforming-statutes-of-limitations/ [https://perma.cc/5SG7-NC9Y] ("CHILD USA leads the SOL reform movement in the US."). CHILD USA also took part in the North Carolina Revival Cases. *E.g.*, Brief of Amicus Curiae CHILD USA in Support of Plaintiffs-Appellants Urging Reversal of the Decision Below, McKinney v. Goins, 290 N.C. App. 403, 892 S.E.2d 460 (2023) (No. COA22-261).

141. Griffin, *supra* note 1.

142. This Comment focuses only on civil statutes of limitation—given that these are the focus of the SAFE Child Act—but it is important to recognize that criminal statutes of limitations also continue to evolve with respect to CSA. In fact, the majority of states have either partially or completely eliminated criminal statutes of limitations for CSA cases. *National Overview of Statutes of Limitation (SOLs) for Child Sex Abuse*, SEAN P. MCILMAIL STATUTE OF LIMITATIONS RSCH. INST. AT CHILD USA, https://childusa.org/2024sol/ [https://perma.cc/64RS-SP3R] (last updated Dec. 19, 2024). In 2022, Congress eliminated the federal statute of limitations for CSA cases also. Eliminating Limits to Justice for Child Sex Abuse Victims Act of 2022, Pub. L. 117-176, 136 Stat. 2108. For an in-depth recommendation for states to eliminate the criminal statutes of limitations in CSA cases, see Shinton, *supra* note 121.

143. *See* S.V. v. R.V., 933 S.W.2d 1, 21 (Tex. 1996) ("Essentially, there are two generations of statutes addressing the problem of delayed accrual for childhood sexual abuse cases. The first generation simply adopted the discovery rule or extended the statute of limitations for some fixed, extended period after the minor reached majority. The second generation of statutes, including amendments to existing statutes, is more complex and gives greater weight to avoiding the danger of possibly fraudulent claims." (citing ALASKA STAT. § 09.10.140; GA. CODE ANN. § 9-3-33.1)).

144. *See* Speiser et al., *supra* note 132, § 5:37.

eighteen in most states.[145] Twelve states, however, have specifically tolled the statute of limitations for CSA cases until the plaintiff reaches a specified age beyond the age of majority, ranging from twenty-five (Alabama) to fifty-five (Pennsylvania and New York).[146]

The primary benefit of this disability approach is its easy and universal applicability. A bright-line rule based on the age of the plaintiff does not introduce some of the nuances involved in the discovery rule approach.[147] The primary drawback, however, is that there is still a specific date after which a survivor cannot pursue any legal action, even if they have not yet discovered their abuse, uncovered the connection between their injuries and the abuse, or come to terms with the possibility of publicly disclosing their abuse.[148] Given that the average CSA survivor does not report their abuse until the age of fifty-two,[149] the imposition of any specific date after which there is no available action fails to sufficiently reflect researchers' current knowledge about trauma processing and the barriers to disclosure faced by CSA survivors.

B. *The Discovery Rule Approach*

The discovery rule approach allows a lawsuit to be brought within a given amount of time after the discovery of an injury or of the causal connection between a lasting injury and the event that caused it.[150] This approach creates some flexibility for a plaintiff in circumstances where the harm they have suffered may not have been immediately evident. The discovery rule can,

145. Richard L. Wiener, Samantha M. Wiener, Rachel Haselow, Brooke McBride & Kayla Sircy, *Emotion Regulation Reduces Victim Blaming of Vulnerable Sex Trafficking Survivors*, 48 LAW & HUM. BEHAV. 281, 285 (2024) ("[A]ge of majority [is] 19 years in Nebraska and Alabama, 21 years in Mississippi, and 18 years in all other states.").

146. ALA. CODE § 6-2-8 (twenty-five in Alabama); ARIZ. REV. STAT. ANN. § 12-514 (thirty in Arizona); CONN. GEN. STAT. § 52-577d (fifty-one in Connecticut); KAN. STAT. ANN. § 60-523 (thirty-one in Kansas); KY. REV. STAT. ANN. § 413.249 (twenty-eight in Kentucky); N.Y. C.P.L.R. 208(b) (2024) (fifty-five in New York); N.D. CENT. CODE § 28-01-25.1 (thirty-six in North Dakota for offenses against minors under the age of fifteen); OKLA. STAT. ANN. tit. 12, § 95(6) (forty-five in Oklahoma for suits against the perpetrator and twenty for suits against any institutional defendants); 42 PA. CONS. STAT. § 5533(b)(2)(i) (fifty-five in Pennsylvania); TEX. CIV. PRAC. & REM. CODE ANN. §§ 16.001, 16.0045 (forty-eight in Texas); VA. CODE ANN. § 8.01-243(D) (thirty-eight in Virginia); WIS. STAT. § 893.587 (thirty-five in Wisconsin).

147. *See infra* Section III.B.

148. *See* Maxwell Kennerly, *The Unique Federal Sexual Abuse Claim in the Kevin Clash (Elmo's Voice) Lawsuit*, LITIG. & TRIAL L. BLOG (Nov. 21, 2012), https://www.litigationandtrial.com/2012/11/articles/the-law/federal-claim-sexual-abuse-kevin-clash/ [https://perma.cc/HV4T-UQDA] ("Few people turn 18 and suddenly come to terms with a traumatic event—the first few years in adulthood often isn't enough time for a victim to process what has happened, and many victims repress memories about the assaults until their 30s, sometimes even later—and thus many victims never really have a chance to prove their case in court.").

149. CHILD USA, FACTSHEET, *supra* note 90, at 3.

150. *See Discovery Rule*, MERRIAM-WEBSTER: LEGAL, https://www.merriam-webster.com/legal/discovery%20rule [https://perma.cc/N2KP-FFWB].

however, create uncertainty about when the statute of limitations should begin to run. In CSA cases, because disclosure is rare and the link between abuse and its impact can be exceptionally complex, the discovery rule can be difficult to apply.

Some states have addressed this problem by either starting the discovery clock at the moment when an adult victim first discloses their abuse to a mental health professional or otherwise directly acknowledges the link between the abuse and their current symptoms.[151] But even these adjustments to the discovery rule are insufficient. While they allow time for a survivor to acknowledge the link between their symptoms and their childhood abuse, they fail to recognize the additional time a survivor may need to become comfortable with the idea of taking legal action against their abuser.[152] Additionally, as some scholars have noted, "applying the discovery rule in childhood sexual abuse cases may prove dangerous since judges may not be able to distinguish 'between memories that are a result of suggestion and memories that are a result of a true perception or experience.'"[153]

Perhaps unsurprisingly, given the mixed strengths and weaknesses of this approach, only three states currently use a strict discovery rule approach for sexual abuse cases.[154] Instead, states have preferred to implement the discovery rule as part of a hybrid approach.

C. *The Hybrid Approach*

Recognizing the strengths and weaknesses of both approaches, many states have adopted a hybrid approach. The most common hybrid structure includes two potential deadlines to initiate legal action: an age-based deadline, as used in the disability approach, and a post-discovery deadline, which allows survivors to bring claims until the later of those two deadlines expires.[155] This is the

151. *E.g.*, N.M. STAT. ANN. § 37-1-30; ARK. CODE ANN. § 16-56-130(a).

152. In this way, the discovery rule fails to account for instances when a survivor may be aware of the abuse but reluctant to come forward due to other societal limitations. *See supra* Section II.B.

153. Johnson, *supra* note 122, at 954 (quoting Gary M. Ernsdorff & Elizabeth F. Loftus, *Let Sleeping Memories Lie? Words of Caution About Tolling the Statute of Limitations in Cases of Memory Repression*, 84 J. CRIM. L. & CRIMINOLOGY 129, 162–63 (1993)).

154. ALASKA STAT. § 09.10.140(b) (three years in Alaska); ARK. CODE ANN. § 16-56-130(a) (three years in Arkansas); IOWA CODE § 614.8A (four years in Iowa). These states do also generally toll statutes of limitations until the plaintiff reaches the age of majority—for example, if the injuries were known before the individual reaches the age of majority. Arkansas permits actions up to three years after the plaintiff turns twenty-one, ARK. CODE ANN. § 16-56-116, and Iowa permits for actions to be brought up to one year after the plaintiff turns eighteen, IOWA CODE § 614.8.

155. For examples of these variations, see *infra* note 156.

predominant approach throughout the United States, with twenty-one states and the District of Columbia using some form of a hybrid approach.[156]

Some jurisdictions using a hybrid approach have introduced additional variables into their statutes of limitations. For example, the District of Columbia uses this hybrid regime not just for CSA cases, but for any sexual abuse cases that occurred before the victim turned thirty-five.[157] Florida adds an additional caveat to protect those who remain dependent on their abusers even after reaching the age of majority.[158] Other variations include states opening up additional opportunities for suit after a defendant's criminal conviction for the abuse in question[159] or offering different approaches based on the extent of the injury suffered by the victim.[160]

156. FLA. STAT. § 95.11(8) (by age twenty-five, within four years of discovery, or within four years of leaving dependency of the abuser in Florida); GA. CODE ANN. § 9-3-33.1(b)(2)(A) (by age twenty-three or within two years of discovery in Georgia); HAW. REV. STAT. § 657-1.8(a)(2) (by age fifty or within five years of discovery in Hawai'i); IDAHO CODE § 6-1704 (by age twenty-three or within five years of discovery in Idaho); MASS. GEN. LAWS ANN. ch. 260, § 4C (by age fifty-three or within seven years of discovery in Massachusetts); MICH. COMP. LAWS § 600.5851b(1) (by age twenty-eight or within three years of discovery in Michigan); MO. ANN. STAT. § 537.046 (by age twenty-one or within three years of discovery in Missouri); MONT. CODE ANN. § 27-2-216(1) (by age twenty-seven or within three years of discovery in Montana); N.J. STAT. ANN. § 2A:14-2a (by age fifty-five or within seven years of discovery in New Jersey); N.M. STAT. ANN. § 37-1-30(A) (by age twenty-four or within three years of the victim first disclosing the injury to a medical provider in New Mexico); OHIO REV. CODE ANN. § 2305.111(C)(1) (by age thirty or within twelve years of discovery if the abuse had been fraudulently concealed from the victim in Ohio); OR. REV. STAT. § 12.117(1) (by age forty or within five years of discovery in Oregon); 9 R.I. GEN. LAWS § 9-1-51(2) (by age fifty-three or within seven years of discovery in Rhode Island); S.C. CODE ANN. § 15-3-555(A) (by age twenty-seven or within three years of discovery in South Carolina); TENN. CODE ANN. § 28-3-116(b)(2) (by age thirty-three or within three years of discovery in Tennessee); WASH. REV. CODE § 4.16.340(1) (by age twenty-one or within three years of discovery in Washington); W. VA. CODE § 55-2-15(a) (by age thirty-six or within four years of discovery in West Virginia); WYO. STAT. ANN. § 1-3-105(b) (by age twenty-six or within four years of discovery in Wyoming). In addition to the eighteen preceding states, the other three states using a hybrid approach have more varied laws. South Dakota is a unique example with an approach primarily based on the discovery rule. Plaintiffs can bring action up to three years after the offense or within three years of discovery. S.D. CODIFIED LAWS § 26-10-25. The caveat is that after the age of forty, no plaintiff can bring any civil action against someone other than the perpetrator, regardless of discovery. *Id.* Louisiana also uses a unique hybrid approach. *See infra* notes 159–60 and accompanying text. Utah allows a victim to "file a civil action against a perpetrator for intentional or negligent sexual abuse suffered as a child at any time," UTAH CODE ANN. § 78B-2-308(3)(a), but also may file against a non-perpetrator by age twenty-two or within four years of discovery, *id.* § 78B-2-308(3)(b).

157. D.C. CODE § 12-301(a)(11).

158. FLA. STAT. § 95.11(8) (providing a third option to extend the statute of limitations in addition to infancy and discovery provisions, allowing for four years after the injured party leaves the dependency of their abuser for them to file suit).

159. LA. STAT. ANN. § 9:2800.9 (allowing a plaintiff to bring a civil suit at any time against a perpetrator convicted of a crime against a child).

160. *Id.* § 9:2800.9(A)(1) (providing that any CSA claim pursuant to abuse which has resulted in permanent injury is not subject to any statute of limitations).

V. THE PATH FORWARD

It is a fundamental tenet of the North Carolina justice system that plaintiffs have a right to access the courts and seek a remedy when they have been wronged.[161] CSA survivors already face extensive barriers to justice. And current North Carolina law imposes yet another via the statute of limitations. These victims deserve the ability to seek justice. Considering North Carolina's commitment to open courts and individuals' right to remedy, North Carolina must allow victims to seek meaningful remedies and not lock them out of the courthouse based solely on the nature of the harm they endured.

In her concurring opinion in *McKinney*, Justice Anita Earls declared that the *McKinney* judgment "enable[d] Dustin Michael McKinney, George Jermey McKinney, and James Robert Tate, as well as other plaintiffs who brought revival claims under the SAFE Child Act, to have their day in court, pursuant to a lawful act of the legislature."[162] The importance of granting that ability cannot be overstated. If the law remains unchanged, that ability *will have already expired* for every North Carolinian over the age of twenty-eight.[163] North Carolina has the opportunity to rectify that injustice through proactive reform efforts.

A. *Societal Costs of Child Sexual Abuse*

Reform efforts must consider not only the impact of CSA on each individual victim, but also the significant economic and societal costs of abuse that are borne by states and taxpayers. These costs include: health care stemming from abuse and productivity losses, child welfare, increased violence and crime, special education, and suicide death.[164] In 2012, the estimated

161. *See, e.g.*, N.C. CONST. art. I, § 18 ("All courts shall be open; and every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice administered without favor, denial, or delay."); Queen City Coach Co. v. Burrell, 241 N.C. 432, 436, 85 S.E.2d 688, 692 (1955) ("It is elementary and fundamental that every person is entitled to his day in court to assert his own rights or to defend against their infringement."); Battle v. Mercer, 188 N.C. 116, 116, 123 S.E. 258, 258 (1924) ("It is the policy of our law to give every litigant full and ample opportunity to be heard.").

162. McKinney v. Goins, 387 N.C. 35, 50, 911 S.E.2d, 1, 15 (2025) (Earls, J., concurring).

163. *See* notes 40–41 and accompanying text.

164. *See, e.g.*, J. Bart Klika, Janet Rosenzweig & Melissa Merrick, *Economic Burden of Known Cases of Child Maltreatment from 2018 in Each State*, 37 CHILD & ADOLESCENT SOC. WORK J. 227, 228 (2020) ("[A]cross an individual victim's life, he or she can expect to incur costs of approximately $210,012 in healthcare, child welfare, criminal justice, special education, and productivity losses. To be clear, many of these costs, while incurred by individual victims of abuse and neglect, are passed along to tax payers in financing the systems . . . that provide support to these individuals."); Elizabeth J. Letourneau, Derek S. Brown, Xiangming Fang, Ahmed Hassan & James A. Mercy, *The Economic Burden of Child Sexual Abuse in the United States*, 79 CHILD ABUSE & NEGLECT 413, 415–17 (2018) (estimating the following costs per victim of CSA in 2015 dollars: $2,237 for child health care, $9,882 for adult medical expenses, $8,333 for child welfare, $2,434 for increased risk of violence or crime, and

national annual cost of child abuse and neglect was $80 billion, of which North Carolina bore $2.3 billion.[165] For all the child abuse and neglect cases substantiated in 2018, the lifetime economic burden may total over $5 trillion.[166]

These overall costs incorporate many estimates of CSA-related expenditures, but there are other services linked to CSA that impose significant costs on society that these figures do not reflect. CSA survivors face higher risks of mental health problems, teen pregnancy, and contraction of sexually transmitted infections.[167] These issues account for extensive public spending.[168] Mental health alone costs $282 billion annually in the United States.[169] Considering these broader societal impacts—along with the turmoil caused to individual victims—reform efforts must be tailored not only to providing justice after the fact, but also to preventing CSA in the first instance.

B. *Barriers to Child Sexual Abuse Reform*

While there would certainly be financial benefits to reducing the number of CSA cases, there is less consensus that statute of limitations reform is the appropriate means to that end. Making civil CSA cases more viable through statute of limitations expansion will undoubtedly increase both litigation and

$3,760 for special education). This study also examined productivity losses, estimated at $223,581 per individual over the course of their life, but noted that this is an economic burden that does not shift to other individuals. *Id.* at 416. Rather, it is a burden on the public by way of lost tax dollars. *Id.* Other expenses examined include suicide death costs, quality-adjusted life year costs, and costs per victim of fatal child maltreatment, but those are less pertinent to the scope and topic of this Comment. *Id.* at 417.

165. LUIS TOLEDO & BRIAN KENNEDY, BUDGET & TAX CTR., NC INVESTS LITTLE TO PREVENT CHILD ABUSE AND ULTIMATELY PAYS A HIGHER PRICE 2 (2017), https://www.ncjustice.org/wp-content/uploads/2018/12/BTC-BRIEF-Prevent-Child-Abuse-Month-April.pdf [https://perma.cc/VJ26-94GP].

166. Klika et al., *supra* note 164, at 231 tbl. 2.

167. Alaggia et al., *supra* note 92, at 261 (mental health); Shrivastava et al., *supra* note 87, at 4 (mental health); Cathy Spatz Widom & Joseph B. Kuhns, *Childhood Victimization and Subsequent Risk for Promiscuity, Prostitution, and Teenage Pregnancy: A Prospective Study*, 86 AM. J. PUB. HEALTH 1607, 1607 (teen pregnancy and sexually-transmitted diseases); *Child Sexual Abuse Statistics*, *supra* note 79 (teen pregnancy and unprotected sex).

168. *See* Jonathan Sperling, *Mental Health and the Economy—It's Costing Us Billions*, COLUMBIA BUS. SCH. (May 28, 2024), https://business.columbia.edu/insights/business-society/mental-health-costing-us-economy-billions-increasing-access-could-be [https://perma.cc/KFG9-D2E7 (staff-uploaded archive)] ("Mental health costs the US economy more than $280 billion annually."); KIDS HAVING KIDS: ECONOMIC COSTS AND SOCIAL CONSEQUENCES OF TEEN PREGNANCY 18–19 (2d ed. 2008) (laying out the costs of teen pregnancy and estimating that if all would-be teen mothers did not have children until their twenties, society would save nearly $28 billion annually); Harrell W. Chesson, Ian H. Spicknall, Adrienna Bingham, Marc Brisson, Samuel T. Eppink, Paul G. Farnham, Kristen M. Kreisel, Sagar Kumar, Jean-François Laprise, Thomas A. Peterman, Henry Roberts & Thomas L. Gift, *The Estimated Direct Lifetime Medical Costs of Sexually Transmitted Infections Acquired in the United States in 2018*, 48 SEXUALLY TRANSMITTED DISEASES 215, 215 ("Incident STIs in 2018 imposed an estimated $15.9 billion . . . in discounted, lifetime direct medical costs.").

169. *See* Sperling, *supra* note 168.

the resultant burden on the judiciary and administrative systems.[170] Additionally, as exemplified by *McKinney* and *Cohane*, institutional defendants—such as boards of education or nonprofit organizations—are common defendants in CSA cases and may also be concerned about needing to litigate more cases as defendants.[171] As such, states and municipalities may also have the same concerns.

While these concerns might be reasonable in regard to other instances of increased litigation, they are less relevant in response to CSA statute of limitations reform. Proving CSA—especially decades after the fact—is extremely difficult.[172] While expanding the statute of limitations allows for more cases to be initiated, it does not lower the burden of proof required for a plaintiff to be successful in their claim. This should alleviate some of the concerns arising from a risk of increased litigation—nonviable cases will not be drawn out. Today, defendants can raise the statute of limitations as an affirmative defense in response to the plaintiff's initial complaint.[173] If the statute of limitations is extended, dismissal at that stage in the proceedings would still be available if the plaintiff failed to state a viable claim.[174]

Conversely, an increased burden on institutional defendants might be one of the best ways to prevent future instances of CSA. As in *Cohane*, institutions play a significant role in the perpetuation of CSA. Had Glenmary reported Behm's credible abuse accusations instead of merely moving him to another location, Gregory's abuse almost certainly would have been shorter in duration—and such reporting might have protected other victims altogether.[175] While the deterrent effect of civil liability is debatable,[176] it is likely stronger with institutional defendants, who may exercise more forethought and risk aversion than individual offenders.[177] Though increased risk of liability could

170. *See supra* Section III.A.

171. *See, e.g.*, McKinney v. Goins, 387 N.C. 35, 37, 911 S.E.2d 1, 4–5 (2025); Cohane v. Home Missioners Am., 387 N.C. 1, 10, 911 S.E.2d 43, 49 (2025).

172. *See supra* note 122 and accompanying text.

173. N.C. GEN. STAT. § 1A-1, Rule 8(c); *see also Developments in the Law—Statutes of Limitations*, *supra* note 110, at 1198 (describing the pleading requirements for statutes of limitations across various states).

174. N.C. GEN. STAT. § 1A-1, Rule 12(b)(6).

175. *See Cohane*, 387 N.C. at 5, 911 S.E.2d at 46. *See generally* Timothy J. Muyano, Note, *A Not So Retro Problem: Extending Statutes of Limitations to Hold Institutions Responsible for Child Sexual Abuse Accountable Under State Constitutions*, 63 VILL. L. REV. 47 (2019) (emphasizing the importance of the civil court process in holding institutions accountable for CSA and ultimately reducing rates of institutional CSA).

176. *See, e.g.*, Travis C. Pratt & Francis T. Cullen, *Assessing Macro-Level Predictors and Theories of Crime: A Meta-Analysis*, 32 CRIME & JUST. 373, 429 ("[D]eterrence theory . . . [has] received weak empirical support across existing studies.").

177. *See generally* David Thorstad, *General-Purpose Institutional Decision-Making Heuristics: The Case of Decision-Making Under Deep Uncertainty*, 76 BRITISH J. FOR PHIL. SCI. 1037 (2025) (explaining that

impose a slight financial burden on states and municipalities, the importance of deterring institutional harboring of CSA offenders outweighs the costs.[178]

C. *Practical Impacts of Child Sexual Abuse Reform*

When weighing the costs and benefits of reform, North Carolina should consider other states as examples, including the new laws across the country that provide benefits to survivors. Pursuant to the recent wave of civil statute of limitations reform efforts, over 18,000 CSA survivors have filed suit.[179] These new opportunities for victims to address their childhood trauma have been hugely successful, with many survivors speaking out about the benefits they have experienced from finally being able to take action.[180]

Not only does statute of limitations reform benefit survivors, but increasing disclosure and civil litigation also function to combat CSA in the first place. Researchers are optimistic that increased accountability and liability will start to reduce the number of instances of CSA going forward.[181] With increased cases comes increased public discussion and awareness among parents and children, which data suggests could lead to further disclosure.[182] As children

institutions, as compared to individuals, have high cognitive abilities and can better bear deliberative costs, plan collectively rather than individually, learn rather than evolve heuristic strategies, face higher-stakes situations, and have a heightened need to explain their decisions).

178. *See* Scott Malone, *The Catholic Church Is Fighting To Block Bills that Would Extend the Statute of Limitations for Reporting Sex Abuse*, BUS. INSIDER (Sep. 10, 2015, at 02:53 ET), https://www.businessinsider.com/r-as-pope-visit-nears-us-sex-victims-say-church-remains-obstacle-to-justice-2015-9 [https://perma.cc/G35Q-4ZHE]; *see also supra* note 177 and accompanying text (examining the potentially higher impact of deterrence on institutional defendants).

179. *Reforming Statutes of Limitations: Justice Shouldn't Have an Expiration Date*, *supra* note 140 ("Since CHILD USA's founding in 2016, 123 child sexual abuse SOL bills for both civil and criminal proceedings have been enacted into law in the US. . . . So far, 18,000 survivors of child sexual abuse have achieved justice through the revival of civil SOLs.").

180. *See, e.g.*, Christy Gutowski, *Joliet Diocese Settles Priest Abuse Claims for More than $4 Million*, CHI. TRIB., https://www.chicagotribune.com/2015/04/14/joliet-diocese-settles-priest-abuse-claims-for-more-than-4-million [https://perma.cc/TT24-D9NP] (last updated May 13, 2019, at 19:33 CT) (quoting an alleged victim: "If I give that power [to disclose] to another person, I think I've done a good thing."); Malone, *supra* note 178 (describing a survivor's desire to run for elected office and expand the civil statute of limitations after realizing his experience with abuse as a child was not unique); Maci Hamilton, *Let Victims Pursue Their Abusers: New York's Outdated Civil Statute of Limitations Badly Needs Fixing*, DAILY NEWS, https://www.nydailynews.com/2015/11/09/let-victims-pursue-their-abusers-new-yorks-outdated-civil-statute-of-limitations-badly-needs-fixing [https://perma.cc/K4NK-UBVK] (last updated Apr. 9, 2018, at 06:39 ET) ("[C]hildren will never be fully protected so long as the identities of predators are secret from the public.").

181. *See* Malone, *supra* note 178 (arguing that—in instances where criminal statutes of limitations have lapsed or states decline to prosecute—civil suits can be "the only legal avenue [victims] have to seek redress" and that "naming alleged abusers in court can help stop them targeting other victims").

182. *See* Melissa A. Bright, Alexander Roehrkasse, Sarah Masten, Ashton Nauman & David Finkelhor, *Child Abuse Prevention Education Policies Increase Reports of Child Sexual Abuse*, at 7, *in* 134 CHILD ABUSE & NEGLECT art. 105932 (2022), https://www.sciencedirect.com/science/article/pii/S0145213422004665/pdfft?md5=3c2e79540b1a42ff6457c01db0167b50&pid=1-s2.0-S0145213422004665-main.pdf [https://perma.cc/PTJ2-24GX (staff-uploaded archive)].

become more aware of behaviors that are inappropriate, they may be more likely to discuss abuse with an adult they trust, hopefully preventing future instances of abuse.[183]

D. *Opportunities for Progress in North Carolina*

With its unanimous adoption of the SAFE Child Act, the North Carolina General Assembly has indicated its strong desire to create opportunities for CSA survivors to seek justice. The recent focus on the constitutionality of the Revival Window, however, has distracted the State from seeing that the protections the Act affords to victims are insufficient in light of ongoing research. As one North Carolina victim said, the Act is a "very neutered piece of legislation" that "doesn't come close to providing victims with room to process the abuse that occurred and then also to understand the abuse caused irreparable harm."[184]

While there are valid concerns with over-extending a statute of limitations,[185] there are safeguards available to address them.[186] For example, North Carolina can require corroborating evidence in cases of repressed memory, implement additional precautions at trial for the defendant, limit other forms of evidence, address memory repression in jury instructions, or increase the use of expert testimony regarding the reliability of recovered memories.[187] These types of precautions have proven effective and have been valuable tools to other state legislatures in expanding their CSA protection laws.[188]

183. *See* Signe Hjelen Stige, Jorunn E. Halvorsen & Ellen Tvedt Solberg, *Pathways to Understanding—How Adult Survivors of Child Sexual Abuse Came To Understand that They Had Been Sexually Abused*, 29 J. CHILD SEXUAL ABUSE 205, 210 (2020) (sharing survivors' experiences that disclosure often came after an increased awareness and acceptance of CSA as a "prevalent and highly harmful experience"); Alaggia et al., *supra* note 92, at 281 ("Providing information and education on topics of sexuality in general, and sexual abuse specifically, can help children and youth to disclose."); TOGETHER FOR GIRLS, WHAT WORKS TO PREVENT SEXUAL VIOLENCE AGAINST CHILDREN 43, 47 (2019) (recommending eliminating civil and criminal statutes of limitations for sexual violence against children as a "prudent" intervention); Hamilton, *supra* note 180 ("The greatest barrier to child protection is ignorance.").

184. Griffin, *supra* note 1.

185. *See supra* Section III.A.

186. *See, e.g.*, Ernsdorff & Loftus, *supra* note 153, at 166–73 (proposing various solutions to concerns about repressed memories as evidence).

187. *Id.* In considering supplementary evidence, however, the legislature must remain aware of the difficulty of obtaining such evidence in CSA cases. *See supra* Section III.B.

188. Quincy C. Miller, Alissa Anderson Call & Kalama London, *Mock Jurors' Perceptions of Child Sexual Abuse Cases: Investigating the Role of Delayed Disclosure and Relationship to the Perpetrator*, J. INTERPERSONAL VIOLENCE NP21447, NP23388–89 (2022) (explaining the circumstances in which expert testimony related to memory function and delayed disclosure may be helpful in CSA cases); *see also, e.g.*, GA. CODE ANN. § 9-3-33.1(b)(2)(B) ("When a plaintiff's civil action is filed [pursuant to the discovery rule], the court shall determine from admissible evidence in a pretrial finding when the

States have also seen statute of limitations reforms as opportunities to demonstrate support for CSA victims, which is a policy goal repeatedly voiced by North Carolina legislators. In the text of the Act itself, the legislature stated its intent to "protect children from sexual abuse" and modernize sexual assault laws.[189] In his 2019 response to the Act's enactment, then-Attorney General Josh Stein explained that the unanimous support for the law came from the common understanding that "children who were abused deserve their day in court."[190] In *McKinney*, Justice Earls also recognized the importance of the Act, describing its purpose as "not only legitimate but laudable" and noting that victims' opportunity to seek justice is a goal "so compelling that it finds express voice in our Constitution."[191] Thus, all three branches of the North Carolina state government have emphasized the importance of providing victims with their day in court. The only remaining question is the method by which the state will choose to do so.

1. Adoption of an Additional Discovery Rule Provision

The legislative history of the SAFE Child Act confirms that the discovery rule was never a possibility for the Act.[192] Originally, the Act proposed to use a pure disability approach.[193] Although the average age of adult CSA disclosure is fifty-two,[194] extension of the statute of limitations until the victim reaches age fifty was deemed excessive by the state legislature, which reduced the maximum age to twenty-eight.[195] The Revival Window—described by one survivor as "the only part of this legislation that helps victims"[196]—is not a sufficient lifeline to counteract the extensive barriers to disclosure faced by survivors.

Current and future CSA survivors deserve the same opportunities afforded to litigants under the Revival Window. Introducing a discovery provision and shifting to a hybrid approach would bring North Carolina in line with the predominant system employed among other states and would strike a

discovery of the alleged childhood sexual abuse occurred."); LA. STAT. ANN. § 9:2800.9(B) (requiring that every plaintiff twenty-one years of age or older filing a CSA action provide "certificates of merit" executed by an attorney and a mental health professional expressing their confidence that the claim is meritorious and that plaintiff had been exposed to "criminal sexual activity or physical abuse" in childhood); CAL. CIV. PROC. CODE § 340.11(f) (requiring a "certificate of merit" similar to Louisiana's).

189. SAFE Child Act, ch. 245, 2019 N.C. Sess. Laws 1231, 1231 (codified in scattered sections of N.C. GEN. STAT. chs. 1, 7B, 14, 15, 115C, 116).

190. Press Release, Josh Stein, Attorney General Josh Stein Statement on SAFE Child Act Case (Sep. 19, 2024), https://ncdoj.gov/attorney-general-josh-stein-statement-on-safe-child-act-case [https://perma.cc/L3UA-QSF2].

191. McKinney v. Goins, 387 N.C. 35, 79, 911 S.E.2d 1, 31 (2025) (Earls, J., concurring).

192. *See supra* Section I.B.

193. *Supra* notes 37–38 and accompanying text.

194. CHILD USA, FACTSHEET, *supra* note 90, at 3.

195. *See supra* note 39 and accompanying text.

196. Griffin, *supra* note 1.

delicate balance between the strengths of statutes of limitations and the state's recognition of the severity of CSA.[197]

2. Abolition of the Civil Statute of Limitations

Alternatively, North Carolina could join the growing number of states eliminating the civil statute of limitations for CSA cases altogether. New information about the heinous impacts of CSA on survivors continues to emerge.[198] Even in the few years since the Act's enactment, multiple states have expanded civil options for survivors and have spoken out about the importance of taking action against CSA.[199] With careful considerations of potential additional safeguards[200] and the knowledge that any change to the statute of limitations would not introduce a shift in evidentiary standards, North Carolina could make a strong policy statement: allowing recourse options to survivors is more important than some of the justifications put forward for maintaining arbitrary statutes of limitations. The State should take this opportunity to decide which policies it will prioritize.

CONCLUSION

CSA is an exceptionally pervasive problem which results in long-term harm to survivors and their communities. When the North Carolina General Assembly enacted the SAFE Child Act, it took a key step and joined the ranks of states modernizing their CSA statutes of limitations. However, the debate and discourse surrounding the constitutionality of the Act's Revival Window have dominated the CSA discussion in North Carolina for the past six years. Now that the Supreme Court of North Carolina has resolved that debate, the state must consider whether the Act's civil statute of limitations expansion is sufficient to provide meaningful recourse to survivors.

Research and understanding regarding CSA victims' barriers to disclosure is constantly expanding. In the six years since the SAFE Child Act's enactment, multiple states have extended the statutes of limitations for CSA actions, and three have even eliminated their statutes of limitations altogether. If North Carolina wishes to follow through on the Act's purpose and support survivors, the legislature must follow suit and take further action to reduce procedural limitations on recovery. While the Revival Window provided a valuable litigation opportunity for certain victims, those opportunities for recovery should not be available only to those who had the information, means, and ability to commence actions before 2022. Unfortunately, CSA in North

197. *See supra* note 157 and accompanying text.
198. *See supra* Part II.
199. *See, e.g.*, CHILD USA, REVIVAL AND WINDOW LAWS, *supra* note 76.
200. *See supra* notes 156 and accompanying text.

Carolina persists. Abusers should not benefit because the nature of their crime led to victims' reticence to acknowledge their abuse and seek remedies. The State should strive to protect every victim, not just those who could initiate a lawsuit before December 31, 2021.

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