SB 47

Joelle Casteix
18 Starfish Ct.
Newport Beach, CA 92663
(949) 322-7434

My name is Joelle Casteix. I am 38 and live in southern California. I am a victim of childhood sexual abuse and the Southwest Regional Director of SNAP, the Survivors' Network of those Abused by Priests. In that role, I have worked with hundreds of sex abuse victims, including many in the villages of western Alaksa. Most importantly, I am a mother of a 2-and-a-half-year-old son, whose beauty, light and innocence make my goal here the most important of my life.

Carolyn Jessup, wrote the book "Escape," which chronicles her flight from the FLDS compound in Colorado City. In her words: "Child sexual abuse is not about religion. It is about crime." Criminals seek environments where they will not be caught and where a child's fear, naivete, lack of education and fear of punishment and retribution will not only keep them quiet, but keep them in the dark about the crimes against them.

Unfortunately, religions like the Roman Catholic Church provide the best haven for a predator to hone his skills.

Why? Because the predator will not be punished.

I am here today because

- I am an example of why Senate Bill 47 is essential to the safety of Alaska' children TODAY.
- I can show you how similar California and Delaware laws have saved thousands of children from abuse, exposed predators across the state and the country, aided law enforcement and prosecutors in numerous states to put molesters behind bars and unearthed a cover-up that shocked and disgusted the nation.
- I can show how this law will protect thousands of Alaska's vulnerable children RIGHT NOW who will still be at risk if these predators are not been exposed, and
- how, because of a bill such as this, I was able to publicly expose my predator, expose the men and women who covered up his criminal activities, unearth thousands of pages of document about my perpetrator and at least a dozen other predators at my high school, and do my best to make sure that these men never hurt another child.

I have to be here … for the children of Alaska, my soul and for my son, I have to be here.

My Story

Allow me to briefly tell my story.

Like many of the survivors you have heard and will hear today, I was a vulnerable child. I came from an alcoholic home and suffered from severe emotional disturbances because of the home life I had to endure.

My high school and the church were my sanctuaries.

I attended Mater Dei High School, a diocesan high school in Santa Ana, California.

What my parents and I didn't know at the time was that the school was a den of sexual abuse. Eleven men at my high school, including the principal, a vice principal, two choir directors and cross country coach were credibly accused and/or sued for abuse. Documents were released for all of them.

My Perpetrator

I was molested by choir director Thomas Hodgman. The prior director had informed Hodgman of my home life, and told him that I was vulnerable. Hodgman seized the opportunity and had complete control and power over me.

He asked my parents if I could go to his house with some other kids to help him move. When I arrived, I was the only child there. He told me that he couldn't wait to have me all to himself. I had never been more than kissed by a boy before then, so when he cornered me in his bedroom and tore off my shirt, I was scared, lost and alone. When he was done, I was bruised and bloody. And I had nowhere to turn.

"If you tell anyone, I'll kill you," he told me. "No one will believe you, anyway."

I was repeatedly raped during a two-year period – from when I was 15 until I was 17 years old.

Like many survivors, I couldn't go to my parents, even when my panties were bloody and my body bruised. I couldn't go to my friends, who, after learning of the abuse said that I wanted it.

So I went to school officials.

The vice principal told me "Gee, Joelle, isn't it wonderful to be in love?" I was told to keep my secret, because most people wouldn't understand. She said that I might be sent to a psychiatric facility. Or perhaps the police would blame me and I would have to go to juvenile hall – she had seen it all and she knew. And I believed her. I was indoctrinated.

I had no idea that Hodgman was also molesting my friend, Kristin. But the administrator knew.

Right before graduation, I found out I was pregnant.

I had nowhere to go, and nowhere to turn. So, using a fake name, I walked to an abortion clinic, alone, and ended my pregnancy.

After the procedure, a nurse told me that I had a sexually transmitted disease, vaginal warts, that could lead to cervical cancer and sterility. I spent the next three months having growths burned off of my genitalia.

No one called the police and no one told my parents until I did a few years later. And when I told, the pain only increased.

I was completely alienated from my friends and family who all blamed me – a 15-year-old innocent child – for "seducing" a man in his 30s. I was told that even though I didn't even know what sex was before I met Tom Hodgman, that I was an evil person who sinned and hurt a good man because I was "loose."

I was told that I was going to hell. But what these people didn't know was that I was *already* in hell.

Like most victims of childhood sexual abuse, I suffered endlessly for the next ten years. I watched my mother kill herself with alcohol over the pain and shame of what had happened to me. I trusted no one. I suffered from bad relationships, intimacy issues, suicidal thoughts, and an overwhelming shame. I hated who I was, and it seemed that there was no solution and no way out. I only knew pain, abuse and betrayal.

One day, I made a decision – I could die and let my abuser win, or heal and be the person that I had always wanted to be.

I chose to live.

I got help, forgave and forgot my issues with my family and tried to move on. But somehow I knew that there was still something horribly wrong with a place that told kids to be quiet about sexual abuse. But I just couldn't prove it.

In 2001, a boy who had been abused by my high school principal sued the Diocese of Orange and won a $5.2 million settlement. I was enraged when I heard the news.

I couldn't believe they allowed it to happen to another child.

So I wrote a letter to my high school and offered to help. In response, an attorney for the diocese invited me to lunch. And didn't tell me she was a lawyer. Had I been more naive, who knows what she could have done to me?

She said she had no records of my allegations, and that school officials had no idea that I had been abused. She even doubted my claims.

But, she said, I could serve on the diocese lay review board. I could help the bishop and show the county that there is no other abuse in the Diocese of Orange.

I seized the opportunity. I honestly thought that I could make a difference.

During the six months I was on the committee, we did not review a single case. We were told to ignore press reports. Instead, we sat around a table and discussed how horrible the clergy abuse scandal was for priests.

They used religion and their power to impress us, shame us, and silence us. In fact, during the time I was on the board, at least 30 people came forward to report abuse. But we were never told. I had to learn from press reports.

Church "reforms" were yet another sham to ensure that victims never reported to law enforcement. And many didn't.

What a sad day it was for me to learn that the only way to get the truth was to use our landmark civil window to sue the church. I wanted them to do the right thing, but they wouldn't. Instead, it took a state law to shine a bright light on a past and present of sin, crime and corruption that would have continued were it not for brave lawmakers and the civil courts.

Again, they called me a liar … but this time in the media. They used political connections to attempt to silence and discredit me.

Fortunately, I didn't care, and the truth was on my side.

After two years of mediation, stalling, and mudslinging, 87 cases against the Diocese of Orange were settled. But the financial settlement was simply a slap on the wrist for the church. The diocese was debt free less than a year after the settlements. The true punishment and the true justice lay in the 10,000 pages of files that exposed the scope and scale of abuse across the diocese.

Not only did documents show that the church knew about abuse, but showed that church officials didn't care about kids. Or me. Or anyone but themselves. Priests, clergy, volunteers and employees were transferred, asked to resign, and quietly hidden. And the kids had to pay the price.

An entire generation of children was destroyed to protect a few men from scandal.

Dozens of men were exposed – exposed working in schools, day care centers, and volunteering with youths. They were exposed grooming their target populations, lying to parents and trying to infiltrate other organizations.

And most importantly, California's, Arizona's, Mexico's and Nevada's children are safer because we exposed the predators who were allowed to go free to abuse and rape and destroy.

The most important part: girls will now be safer from Hodgman. The church didn't care enough to protect them, but I did. And I did it through a law like SB 47.

No one can call me a liar anymore.

The Documents

But let's get back to the immediate danger here in Alaska.

In the files for my case there were quite a few interesting documents that I provide for you today.

There was the signed confession where Hodgman admits to raping me and my friend Kristin. It's also signed by the principal, who never called the police.

There is the back-dated document, signed by the vice principal and Hodgman, that says that she knew about the abuse a year earlier, and did nothing.

There is the letter, written by the principal, Fr. John Weling, to the superintendent of schools. He said he reported to child services, but my parents were never called and child services has no record.

Where is the compassion? Where is the law?

Only the truth will protect children.

SB 47 and its one-year window is that window to the truth - righ tnow, there is no other way possible to force organizations to do the right thing

We were able to expose 150 perpetrators that the church had tried to hide from public disclosure. We exposed "rings" of priest shuffling between California, Idaho, Arizona, and Nevada – all the way to Mexico.

Last year in Delaware, a similar law – a two-year window - has done the same thing. We have exposed dozens of men still working in schools, exposed a multi-state conspiracy to protect men from prosecution, and aided law enforcement in three states to help put predators behind bars.

Now, let me address the three perceived challenges in bill:

1) Opponents say that the bill will encourage false allegations

False allegations can happen. But false allegations against clergy are extremely rare. Don't take my word on it. Patrick Schiltz of Minnesota is the Catholic church's No. #1 expert in this field. For 20 years, he's defended accused priests as a lawyer. By his own count, he's handled more than 500 cases.

On August 28, 2002, he was asked by Sam Dillon of the New York Times about false allegations. Guess what he said? Of the more than 500 alleged child molesting priests Schiltz represented, he admitted, in print, that less than three were false allegations.

Don't believe me. Look it up. August 28, 2002, New York Times.

Finally, this law does not change the burden of proof. Victims will be required to meet the standards that any civil lawsuit of this type requires

2) Opponents say that the bill is unconstitutional:

But according to Marci A. Hamilton, the Paul R. Verkuil Chair in Public Law and the Benjamin N. Cardozo School of Law, the law is constitutional.

3) Opponents say that the law will force more organizations into bankruptcy.

If the only organizations declaring bankruptcy due to this law are the ones like the Jesuits and the Diocese of Fairbanks who acknowledge that they allowed scores of men to rape hundreds of children, they refused to stop it, and that they expect the state of Alaska to clean up the mess and pay for services for their victims, I think that bankruptcy reorganization is pretty close to a "free pass."

Opponents may say that the lawsuits will take money away from other services – vital services that they provide. But I ask, does that give them permission to "pass the trash" and not be held accountable for crimes they have acknowledged committing? A murderer may be the world's greatest soup kitchen director, but that doesn't mean that he doesn't have to pay his debt to society.

Now, let me tell you what this law WILL do:

1) This bill will expose predators and those who have covered up for them

In California and Delaware, we have exposed more than 150 predators. These were men and women who escaped the criminal and civil statues of limitations. Civil windows allowed victims to use the court system to name their abuser, warn communities and give younger victims the strength to come forward and report WITHIN the criminal statute.

2) This bill will help law enforcement put serial molesters behind bars

Former priests Michael Baker and Michael Wempe are two of the worst pedophiles in California. Both men escaped criminal prosecution because their victims were abused too long ago.

But because of the civil window, victims of both of these men were able to pursue their cases in civil court.

And something interesting happened – younger victims – victims who never would have had the bravery to come forward before – reported their abuse to law enforcement. They also had solid evidence that has led to the arrest of both of these men.

And now, these men and many others like them are behind bars. That never would have happened without the window.

In Delaware, law enforcement in numerous OTHER states, including Pennsylvania, South Carolina, Florida and Wisconsin, have used documents and depositions in DELAWARE'S civil window cases to investigate and prosecute predators, including Robert Yugel and Paul Daleo.

Without the civil suits, these men never would have been exposed. If their victims named them publicly – without the backing of the courts - the abusers could have sued them for slander. The media would have ignored their claims, and more kids would have been hurt and forced to suffer in silence.

3) This bill will help pay for services that before have fallen onto the lap of Alaska's taxpayers.

The state of Alaska is grappling with the aftereffects of child sexual abuse every day. I have seen the human wreckage in the Villages. You pay for police, jails, court costs, counseling, parole, probation, poverty assistance, anger management, physical abuse, substance abuse, mental health care, hospitals, foster homes, child services, life skills education, nutrition assistance, unemployment, travel to essential services, death benefits and other needs that aid entire villages of adults who were sexually abused as children. Why? Because groups such as the Jesuits, the Diocese of Fairbanks and other organizations refuse to be accountable and take responsibility for what they have done. Because they claim that they run other essential services? Why are you paying for this? Why are other victims and the state the only people will to help? What is more essential than the list I just read?

Now, at no cost to the state, those responsible can provide services and care to the people that they knowingly and willingly destroyed. Victims can help themselves.

And finally, if even one known molester – even one man who allowed a predator to rape children - is exposed – at no expense to taxpayers, isn't it worth it?

As lawmakers, it seems you have only one option:

Open the courthouse doors to sex crime victims and let them access the time-tested civil justice system to expose molesters, warn communities about the danger these men pose, get them removed from jobs in teaching and coaching and the ministry, and punish those who helped them - all with little or virtually no cost to Alaska's taxpayers.

So at the end of the day, who wins with the one-year window?

- Men and women like me - Victims who feel suicidal, who'll never get married, who'll never have children, who desperately need in-patient drug and alcohol rehab. . .they'll get what they need.
- Men and women like me - Victims who can't sleep, who obsess over where their perpetrator is now, who he's molesting now, and how they can warn unsuspecting moms and dads and neighbors about this dangerous man. . .they'll get what they need.
- Parents like me - Citizens who desperately want to know if there's a child molester in their school or church or youth group. . . they'll get what they need.
- Law enforcement officials, who know lots of sexual predators escape detection and prosecution, and whose hearts ache for victims left out in the cold - they'll see victims exposing molesters and warning parents and getting better.

Carolyn Jessop in her book "Escape" says that it took her until she was 35 to escape religious indoctrination and realize and understand that plural marriage, wife beating and a life of imprisonment was wrong, illegal and against her rights.

If it took her that long, can you imagine how long it takes a victim of childhood sexual abuse to come to terms with the pain and the shame – only to find out that they have no recourse to make sure that their predator never hurts another child?

Please, please don't let what happened to me happen to another child. But please give Alaska's children the power that the civil window gave me.

I will be leaving you with documents to help you in your decision-making. They include the documents I have referenced in my case, as well as the list of the coalition behind the Delaware civil window, including the Delaware State Attorney, Governor, the State Academy of Pediatrics, the Delaware Ecumenical Council, and a former director of the FBI. These folks believe in a TWO-year window. You should too. It simply makes sense.

I also recommend two books, including William Lobdell's Memoir, "Losing My Religion: How I lost my faith reporting on religion in America, and found peace," and Carolyn Jessop's "Escape," both of which can be found at any bookstore. William is a close friend of mine, and dedicates his book to victims of child sexual abuse, whose stories changed his life.

Child Victims Voice.com

Protect children now. Give child sexual abuse victims their day in court.

Delaware Senate Bill 29

Who supports it?

Coalition to support the Child Victim's Act (Senate Bill 29):

American Academy of Pediatrics Delaware Chapter
American Association of University Women (Coastal-Georgetown branch)
Associated Builders and Contractors [DE]
Bethel Baptist Church (Wilmington, Delaware)
Big Brothers Big Sisters of Delaware
Carl Schnee, Esq. Former U.S. Attorney
Charles F. Gallagher III, Deputy District Attorney, Philadelphia District Attorney's Office
Child, Inc.
Children & Families First
Christopher A. Coons, New Castle County Executive
Common Cause of Delaware
Concord Presbyterian Church, Wilmington, Del.
ContactLifeline, Inc.
Daybreak Counseling Services
Dee's Gift
Delaware Association for Children of Alcoholics
Delaware Coalition Against Domestic Violence
Delaware Governor Dale E. Wolf
Delaware Governor Russell W. Peterson
Delaware Governor Sherman W. Tribbitt
Delaware Nurses Association
Delaware Ecumenical Council on Children and Families
Delaware Mental Health Counselors Association
Delaware State Dental Society
Delaware State AFL-CIO
Delaware State Fraternal Order of Police
Doris Schnee, LCSW
Dr. Carol A. Tavani, neuropsychiatrist
Dr. Michael F. Whitworth
Dr. Richard Gartner, author, psychologist, past president of National Organization on Male Sexual Victimization
FixtheLaw.org
Foundation To Abolish Sex Abuse, Inc.
Fritz Ackerman, pastor, Concord Presbyterian Church
Girls Incorporated of Delaware
J. Roy Cannon, CADC, LPCMH, ACS -- Counseling Resource Associates, Inc.
Jack A. Markell, Delaware State Treasurer
Jewish Family Services
James and Susan Kallstrom, former Assistant Director of the FBI
James L. Ford III - Mayor of Lewes
James M. Walsh, PhD, LPCMH
Jesus House Prayer & Renewal Center
Joseph and Lori Ozdowy, plant manager, DaimlerChrysler Newark Assembly Plant, Newark, Del.
Joseph W. Mitchell, president, Mitchell's Inc. (Mitchell's Trains, Toys & Hobbies)
Judge Louis Freeh, former FBI Director
Lawrence M. Sullivan, Esq.
Lieutenant Governor John Carney
Limen House for Men

Limen House for Women
Marilyn Van Derbur, former Miss America, incest survivor, advocate for all victims of child sexual abuse
Martha H. Ireland, Ph.D., RN, CS, CEDS -- ADE, Inc.
Matthew P. Denn, Delaware's Insurance Commissioner
Matthias B. Donelan, M. D., associate professor of surgery, Harvard Medical School
Members of Ocean View Presbyterian Church
Michael P. Walsh, Sheriff Of New Castle County
National Eating Disorders Association
PA-C.A.R.E.S. (Pennsylvania Child Abuse Reporting and Enforcement Strategy)
Prevent Child Abuse Delaware
Prison Ministries of Delaware, Inc.
Professor Marci A. Hamilton, Constitutional law expert
Progressive Democrats for Delaware
Rabbi Sanford Dresin, president of the Rabbinical Association of Delaware
Reginald C. Irby, executive director of Limen House for Men
Rescue & Recovery International, Inc.
Rev. Jonathan Baker, senior pastor, Aldersgate United Methodist Church, Wilmington, Del.
Reverend Thomas P. Doyle, O.P., author, canon lawyer
Richard and Bernard Kenny, owners of The Kenny Family ShopRites of Delaware
Richard T. Christopher, president of Patterson-Schwartz Real Estate
Sara E. Whitworth, RN
Sexual Abuse Prevention Network
Sister Jeanne F. Cashman, OSU, executive director of Sojourners' Place
Sister Maureen Paul Turlish SNDdeN, victims' advocate
SNAP (Survivors Network of Those Abused by Priests)
SOAR, Inc. (Survivors of Abuse in Recovery, Inc.)
Sojourners' Place, Wilmington, Del.
Stop Child Predators.org
Supporting K.I.D.D.S.
Susan O'Connor, RN
The Police Athletic League of Delaware, Inc.
The Presbytery of New Castle
Ulster Project Delaware
Voice of the Faithful Affiliate of New Castle County
Voice of the Faithful Coastal Delmarva
Wayne A. Smith, former House majority leader
Women's Democratic Club of Delaware
YMCA of Delaware
YWCA Delaware

Many more to come!

Senate
Sponsors:
Senator Karen E. Peterson (SB 29 author): Voted YES, with no amendments.
Senator David B. McBride: Voted YES, with no amendments.
Co-sponsors:
Senator Liane M. Sorenson (Senate Minority Whip): Voted YES, with no amendments.
Senator David P. Sokola: Voted YES, with no amendments.
Senator George H. Bunting: Voted YES, with no amendments.
Senator Patricia M. Blevins (Senate Majority Whip): Voted YES, with no amendments.
Senator Dorinda A. "Dori" Connor: Voted YES, with no amendments.
Senator Charles L. Copeland (Senate Minority Leader): Voted YES, with no amendments.
Senator Margaret Rose Henry: Voted YES, with no amendments.
Senator Nancy W. Cook: Voted YES, with no amendments.
Senator Catherine L. Cloutier: Voted YES, with no amendments.
Senator Robert I. Marshall: Voted YES, with no amendments.
Senator Steven H. Amick: Voted YES, with no amendments.
Non-sponsors who voted for SB 29:

Senator Thurman Adams (President Pro Tempore): Voted YES, with no amendments.
Senator Anthony J. DeLuca (Senate Majority Leader): Voted YES, with no amendments.
Senator Harris B. McDowell: Voted YES, with no amendments.
Senator F. Gary Simpson: Voted YES, with no amendments.
Senator John C. Still: Voted YES, with no amendments.
Senator Robert L. Venables: Voted YES, with no amendments.

House
Main sponsors:
Representative Deborah Hudson
Representative Gregory F. Lavelle
Co-sponsors:
Representative Terry R. Spence (Speaker of the House)
Representative Robert F. Gilligan (House Minority Leader)
Representative John L. Mitchell
Representative Helene M. Keeley (House Minority Whip)
Representative Bruce C. Ennis
Representative Michael P. Mulrooney
Representative James Johnson
Representative Diana M. McWilliams
Representative Melanie George Marshall
Representative Teresa Schooley
Representative Bethany A. Hall-Long
Representative John A. Kowalko
Representative Valerie Longhurst
Representative Hazel D. Plant
Representative V. George Carey
Representative Richard C. Cathcart (House Majority Leader)
Representative Gerald W. Hocker
Representative Clifford G. "Biff" Lee (House Majority Whip)
Representative Pamela S. Maier
Representative Nick T. Manolakos
Representative Joseph E. Miro
Representative Daniel B. Short
Representative Robert J. Valihura
Representative Gerald L. Brady
Representative J. Benjamin Ewing
Representative Vincent A. Lofink

Many more to come!

Document 1

Mater Dei High School
1202 West Edinger Avenue
Santa Ana, California 92707-2191
714/754-7711

November 7, 1989

Official documentation - November 3, 1989 meeting.

Attending: Mr. Thomas Hodgman, [redacted] (1988 graduate), [redacted] (1988 graduate) and Mrs. Lucretia Dominguez

Chaired by Mrs. Lucretia Dominguez, Assistant Principal

A meeting was arranged on Friday afternoon, November 3, 1989 in my office.

Mr. Hodgman showed me an article written by Joelie Casteix in the October 18, 1989 issue of the Daily Nexus about an abortion she had in July of 1988. This was the first time Mr. Hodgman had any knowledge of her pregnancy and abortion. Concern was warranted because the father of the child was not stated but certainly reference was made to Mr. Hodgman.

[redacted] stated that this was the first time she ever discussed this matter openly and directly with Mr. Hodgman. She was aware of the dating because her friend, Joelie, had kept her informed. When asked why she waited so long to discuss this matter she said she did not know what to do. She was angry and confused.

She wanted to meet with me to find out what action the school had taken. My reply was that I did not know that there was a serious issue yet to be dealt with. The only information I had ever received was from Mr. Hodgman in June of 1988 regarding dating a student. I have never received any complaint or charge filed against Mr. Hodgman by any student, staff or parent. We simply discussed his behavior, and I was assured that it would never happen again. This article and additional information, not factual, have not come to our attention before this date.

I was aware that [redacted] were going to meet with Fr. Weling on Saturday and no attempts on Mr. Hodgman's or my part were made to prevent them from doing so.

I also told Mr. Hodgman that I was quite sure that Fr. Weling would want to meet with him to discuss this matter. Mr. Hodgman stated that he feels it would be important for Fr. Weling to hear his side of the story.

Lucretia L. Dominguez — 11-7-89
Lucretia L. Dominguez — Date

Thomas Hodgman — 11/7/89
Thomas Hodgman — Date

000087

Document 2

Mater Dei High School
1202 West Edinger Avenue
Santa Ana, California 92707-2191
714/754-7711

November 7, 1989

Official documentation - June 1988 meeting with Mr. Thomas Hodgman.

This statement is to document a meeting initiated by Mr. Tom Hodgman with me in June, 1988.

At this meeting Mr. Hodgman stated that since he decided not to resign that he would like me to know of a situation in which he was involved during the last semester of the 1987-88 school year.

Foolishly he dated a senior girl, Joelle Casteix. Her parents called him and asked him to stop dating their daughter. They also requested that he keep the matter quiet because they did not want the school to be aware of the situation. They would prefer that their daughter not be dragged into any kind of a situation at school.

Mr. Hodgman stated that he kept his promise to the Casteix family by not calling, seeing, dating or discussing the matter with anyone.

He stated he was in counseling to help him with this and other problems he was experiencing at the time. He recognized what a big mistake it was and vowed that it would never happen again.

No record of this meeting was placed in his personnel file, and it is only at the request of the Principal that it is now being documented.

Lucretia L. Dominguez — 11-7-89
Date

Thomas Hodgman — 11/7/89
Date

Document 3

Mater Dei High School
1202 West Edinger Avenue
Santa Ana, California 92707-2191
714 / 754-7711

OFFICE OF THE PRINCIPAL

REVEREND JOHN B. WELING

November 8, 1989

Official documentation - November 7, 1989 meeting with Mr. Tom Hodgman

This is to document my meeting with Mr. Tom Hodgman on Tuesday, November 7, 1989.

I met with Mr. Hodgman to discuss allegations made by four Mater Dei graduates (Class of 1988), [redacted] These former students met with me on Saturday, November 4, 1989, to share their concern about past relationships Mr. Hodgman allegedly had had with two of their classmates. The first situation involved Joelle Casteix during the semester before she graduated. [redacted] the summer after graduation. They brought a copy of an article written by Joelle Casteix published in the UCSB student newspaper, Daily Nexus, on Wednesday, October 18, 1989. This article states that Joelle not only entered into a close relationship with one of her high school teachers, but became pregnant by that relationship and subsequently decided to have an abortion.

The students stated that they knew about the sexual relationships Mr. Hodgman had with these two former students because of direct information they were given by Joelle and [redacted]

In my meeting with Mr. Hodgman, he admitted to not only dating these two students [redacted] but having sexual intercourse with them. He had not been aware of the possibility of the abortion until he read the article.

Mr. Hodgman reassured me that he had undergone extensive counseling and had taken many steps in his personal and professional life to ensure that he would never make this terrible mistake again. He swore that this sort of problem has not occurred again with any students.

Rev. John B. Weling

11/9/89
Date

Thomas Hodgman

11/9/89
Date

[redacted]

Document 4

November 20th, 1989

To: The Administrative Board
Mater Dei High School

From: Thomas M. Hodgman
Director of Choral Music, MDHS

Dear Friends:

It is with great regret that I must inform you of my resignation as director of choral music at Mater Dei High School. I have greatly enjoyed my work here, and I shall miss it tremendously.

I feel I am leaving the program in good standing and in excellent hands with my accompanist, Mr. Pro Mojica and my replacement, Mr. Tom Flannery. They are both fine musicians and are familiar with the demands and expectations of this job.

I look forward to hearing beautiful music from this program in the future. The school is to be commended for its incredible support of the choir program over the past four years, and I am confident that this enthusiasm will continue into the future.

Good luck in all that you do, and thank you for the many wonderful gifts and opportunities which you gave to me during my time here. I will miss you all very much. Thank you.

Sincerely,

Thomas M. Hodgman

51?0047

The following information should be paraphrased to the students (and, if possible, the parents) of the Mater Dei Choral Program:

--- Mr. Hodgman has resigned as director of choral music music at Mater Dei High School.

--- He has chosen to do so for personal reasons. (Rumors of physical, mental or emotional illness are incorrect and need to be discouraged).

--- Mr. Hodgman is planning to continue his Graduate Studies in the Spring of 1990.

--- Mr. Hodgman is confident that the students and parents of the Mater Dei Choral Program have the strength and ability to carry out the years' pl plans under the guidance of the new director and present accompanist.

--- Mr. Hodgman will always be with the members of the Mater Dei Choirs in their music. Music is the world which the students and Mr Hodgman shared together, and will continue to share for the rest of their lives.

--- Mr. Hodgman loves you; he misses you; and most of all, he expects you to carry on the tradition of musical excellence which you have established yourselves, over the past four years.

Good luck.

51?00043

Document 6

Mater Dei High School
1202 West Edinger Avenue
Santa Ana, California 92707-2191
714/754-7711

OFFICE OF THE PRINCIPAL

REVEREND JOHN B. WELING

November 29, 1989

Memorandum

To: Faculty and Staff

From: Rev. John B. Weling

Re: Personnel Changes

This is to inform you that Mr. Tom Hodgman has resigned from his position of Choir Director. He has chosen to do so for personal reasons. He is planning to continue his graduate studies.

In his three years at Mater Dei, Tom's enthusiasm, dedication and far-reaching talent has taken the choir program to new heights. He will be sorely missed by all of us.

Please welcome his interim replacement, Mr. Tom Flannery, who comes to us highly recommended by Tom Hodgman. Mr. Flannery has a degree in music from Chapman College. Prior to joining the Mater Dei family he worked for the Anaheim School District. He is also Music Director at St. George's Episcopal Church, Laguna Hills and Music Director at the Phoenix Club, Anaheim. He was president of the Chapman College Choral Organization for two years. Tom also speaks German fluently.

We especially appreciate Mr. Flannery's willingness to take over the program on such short notice.

JBW/r

Document 7

Mater Dei High School

1202 West Edinger Avenue
Santa Ana, California 92707-2191
714/754-7711

OFFICE OF THE PRINCIPAL

REVEREND JOHN B. WELING

CONFIDENTIAL

December 12, 1989

Sr. Celine Leydon, S.S.L.
Superintendent of Catholic Schools
Diocese of Orange
2811 East Villa Real Drive
Orange, CA 92667

Dear Sister Celine:

This is to inform you about two personnel matters we have been dealing with recently. In case you are ever contacted about these situations the enclosed information might be of assistance.

1. [redacted]

2. A past situation involving our choir director, Tom Hodgman, and one of our senior girls at the time was brought to my attention by four of our graduates. They gave me the enclosed copy of an article this student wrote in her UCSB school paper. At this time we have no evidence that she was pregnant and had an abortion. We are aware of her past history of serious emotional problems. When confronted with this alleged situation, Mr. Hodgman admitted to me that he did have a relationship with this student, prior to her graduation, which included sexual intercourse. The student was under eighteen at the time which necessitated my report to the Child Abuse Registry. Mr. Hodgman subsequently resigned and has no further association with our choir program or students.

Both cases have been handled with the advise from [redacted] office.

As you can see, there is never a dull moment at the corner of Bristol and Edinger! If you wish to discuss either of these matters further, please let me know.

Sincerely yours in Christ,

Rev. John B. Weling

JBW/r
Enclosures

cc: Most Reverend Norman McFarland
Rev. John Urell

Alaska State Legislature

Senator Hollis French

SB 47 - Statute of Limitations for Sexual Offenses

Senate Bill 47 creates a one year period in which civil action may be brought in felony sexual assault cases that have been time barred by the formerly restrictive statute of limitation laws in Alaska. During the 2001 legislative session, both the House and Senate voted unanimously to remove the statute of limitations for felony sexual offenses that were still open to prosecution at that time. For instances of felony sexual assault where the statute of limitations had expired, no recourse was given to the victims of the crime.

SB 47 allows the victims of felony sexual assault to have their day in court. Experts have found there are several reasons that a victim, especially a child, will not report sexual abuse for years after it occurred. Multiple studies have shown:

- Victims of childhood sexual assault are often extremely embarrassed by the abuse, and may not disclose the crime against them until adulthood.
- Children who are victims will often fail to report sexual abuse due to fear of the consequences; a child may also feel guilty for reporting the perpetrator or fear retaliation from his or her abuser.
- It can take years for a victim to understand the connection between the problems they are experiencing as an adult and the abuse they experienced as a child.
- Among victims of sexual assault, an inability to trust is common. This inability can prevent many victims from disclosing abuse.
- Many victims of childhood sexual abuse have repressed all memory of the abuse for years; it is often only under the guidance of professional counseling or therapy that the victim may come to realize that a crime against them took place.

SB 47 allows past victims of sexual abuse the same rights they would have under today's law - the right to file charges against their perpetrators no matter when the abuse occurred. I urge your support for this important bill that provides closure for victims of sexual assault, while holding the perpetrators for these crimes accountable.

Cited and amended in the bill:

Sec. 09.10.065. Commencement of actions for acts constituting sexual offenses.

(a) A person may bring an action at any time for conduct that would have, at the time the conduct occurred, violated provisions of any of the following offenses:

(1) felony sexual abuse of a minor;

(2) felony sexual assault; or

(3) unlawful exploitation of a minor.

(b) Unless the action is commenced within three years of the accrual of the claim for relief, a person may not bring an action for conduct that would have, at the time the conduct occurred, violated the provisions of any of the following offenses:

(1) misdemeanor sexual abuse of a minor;

(2) misdemeanor sexual assault;

(3) incest; or

(4) felony indecent exposure.

Cited in the bill:

Sec. 09.10.140. Disabilities of minority and incompetency.

(a) Except as provided under (c) of this section, if a person entitled to bring an action mentioned in this chapter is at the time the cause of action accrues either (1) under the age of majority, or (2) incompetent by reason of mental illness or mental disability, the time of a disability identified in (1) or (2) of this subsection is not a part of the time limit for the commencement of the action. Except as provided in (b) of this section, the period within which the action may be brought is not extended in any case longer than two years after the disability ceases.

(b) An action based on a claim of sexual abuse under AS 09.55.650 that is subject to AS 09.10.065 (b) may be brought more than three years after the plaintiff reaches the age of majority if it is brought under the following circumstances:

(1) if the claim asserts that the defendant committed one act of sexual abuse on the plaintiff, the plaintiff shall commence the action within three years after the plaintiff

discovered or through use of reasonable diligence should have discovered that the act caused the injury or condition;

(2) if the claim asserts that the defendant committed more than one act of sexual abuse on the plaintiff, the plaintiff shall commence the action within three years after the plaintiff discovered or through use of reasonable diligence should have discovered the effect of the injury or condition attributable to the series of acts; a claim based on an assertion of more than one act of sexual abuse is not limited to plaintiff's first discovery of the relationship between any one of those acts and the injury or condition, but may be based on plaintiff's discovery of the effect of the series of acts.

(c) In an action for personal injury of a person who was under the age of eight years at the time of the injury, the time period before the person's eighth birthday is not a part of the time limit imposed under AS 09.10.070 (a) for commencing the civil action.

Sec. 09.10.150. Death of a party before expiration of limitation period. [Repealed, Sec. 5 ch 78 SLA 1972].

Repealed or Renumbered

5 of 51 DOCUMENTS

Caution
As of: Mar 27, 2007

MICHAEL LENT, Plaintiff and Appellant, v. JOHN DOE, Defendant and Respondent.

No. C018471.

COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT

40 Cal. App. 4th 1177; 47 Cal. Rptr. 2d 389; 1995 Cal. App. LEXIS 1297; 95 Cal. Daily Op. Service 9344; 95 Daily Journal DAR 16237

December 5, 1995, Decided

PRIOR HISTORY: [***1] Superior Court of Shasta County, No. 120206, Richard A McEachen, Judge.

DISPOSITION: The judgment is reversed. The matter is remanded to the trial court with directions to overrule defendant's demurrer and reinstate plaintiff's complaint. Plaintiff is to recover costs on appeal.

SUMMARY: CALIFORNIA OFFICIAL REPORTS SUMMARY

A person who alleged that he was sexually abused by his uncle over a 3-year period beginning when he was 12 sued the uncle for personal injury and negligent infliction of emotional distress in January 1994 when he was 31 years old. Defendant demurred, arguing that the complaint on its face disclosed the action was barred by the statute of limitations. The trial court rejected plaintiff's theory of delayed discovery, sustained defendant's demurrer without leave to amend, and entered judgment of dismissal. (Superior Court of Shasta County, No. 120206, Richard A McEachen, Judge.)

The Court of Appeal reversed and remanded with directions to overrule defendant's demurrer and reinstate plaintiff's complaint. The court held that Code Civ. Proc., § 340.1 (action for childhood sexual abuse to be commenced within eight years of date plaintiff attains age of majority or within three years of date plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after age of majority was caused by sexual abuse, whichever period expires later), as amended in 1994 to apply to any action filed on or after Jan. 1, 1991, and to include any action otherwise barred by the prior period of limitations, revived plaintiff's previously time-barred action. Also, the Court of Appeal was not required to affirm the trial court's ruling upholding defendant's demurrer, even though the ruling was prior to the effective date of the statutory amendments. The court further held that the action was timely filed under Code Civ. Proc., § 340.1, since it was commenced within three years of the date plaintiff discovered or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse. Although plaintiff alleged that he had suffered actual and appreciable injury at the time of the abuse, that was not relevant, since, under Code Civ. Proc., § 340.1, subd. (a), the delayed discovery provisions of the statute relate to injuries occurring after the age of majority. Also, that plaintiff did not repress the memories of the abuse inflicted on him did not mean that he could not take advantage of the delayed discovery provisions of the statute, since nothing in the statute requires that memories of abuse be repressed as a prerequisite to a delayed discovery claim. Plaintiff adequately pleaded facts supporting delayed discovery by alleging that notwithstanding the psychological injury and illness he suffered as an adult resulting from defendant's sexual misconduct, he did not discover the connection between such illness and the acts of misconduct until he began counseling 27 months before filing the action, and by alleging numerous facts establishing the reasonableness of the delay in discovering the connection between his adult illness or injury and the childhood sexual

abuse. (Opinion by Puglia, P. J., with Nicholson and Raye, JJ., concurring.)

HEADNOTES: CALIFORNIA OFFICIAL REPORTS HEADNOTES

Classified to California Digest of Official Reports

(1) Limitation of Actions § 43--Torts--Action for Childhood Sexual Abuse--Extension of Limitations Period Until Discovery of Injury--Purpose of Statute. --The obvious goal of the amendment to Code Civ. Proc., § 340.1, which extended the limitations period for an action based on childhood sexual abuse to within eight years of the date the plaintiff attains the age of majority or within three years of the date plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse, whichever occurs later, is to allow sexual abuse victims a longer time period in which to become aware of their psychological injuries and remain eligible to bring suit against their abusers.

(2) Limitation of Actions § 12--Construction--Retroactive Effect--Revival of Time-barred Cause of Action--Power of Legislature. --The Legislature has the power to make a statute of limitations retroactive so as to revive a civil cause of action time-barred under the former statute of limitations. There is no constitutional impediment to revival in the case of a traditional common law cause of action where the Legislature makes express its intent that the law be given retrospective application. This is consistent with the niche in our civil law occupied by statutes of limitations. The principle is well established that statutorily imposed limitations on actions are technical defenses which should be strictly construed to avoid the forfeiture of a plaintiff's rights. There is a strong public policy that litigation be disposed of on the merits wherever possible.

[See 3 **Witkin,** Cal. Procedure (3d ed. 1985) Actions, § 332 et seq.]

(3) Limitation of Actions § 12--Construction--Retroactive Effect--Action Pending on Appeal at Time Statute Becomes Effective. --In an action based on childhood sexual abuse, the Court of Appeal was not required to affirm the trial court's ruling upholding defendant's demurrer on the ground that the statute of limitations had run, even though the ruling was prior to the effective date of amendments to Code Civ. Proc., § 340.1, reviving the previously time-barred action. Statutes of limitations in civil actions are procedural, not substantive, and are not subject to the general rule against statutory retroactivity. While the amendments to § 340.1 were not in effect at the time the trial court ruled on the demurrer, the amended statute applied to the proceeding in the Court of Appeal because it was pending on appeal at the time the legislative enactment became effective.

(4) Limitation of Actions § 43--Torts--Action for Childhood Sexual Abuse--Extension of Limitations Period Until Discovery of Injury--Sufficiency of Allegations to Support Delayed Discovery Claim: Lewdness, Indecency, and Obscenity § 20--Lewd Acts With Children. --An action which was based on the sexual abuse of plaintiff over a 3-year period beginning when he was 12, and which was commenced when he was 31, was timely filed under Code Civ. Proc., § 340.1, allowing such an action if commenced within three years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse. Although plaintiff alleged that he had suffered actual and appreciable injury at the time of the abuse, that was not relevant, since, under Code Civ. Proc., § 340.1, subd. (a), the delayed discovery provisions of the statute relate to injuries occurring after the age of majority. Also, that plaintiff did not repress the memories of the abuse inflicted on him did not mean that he could not take advantage of the delayed discovery provisions of the statute, since nothing in the statute requires that memories of abuse be repressed as a prerequisite to a delayed discovery claim. Plaintiff adequately pleaded facts supporting delayed discovery by alleging that notwithstanding the psychological injury and illness he suffered as an adult resulting from defendant's sexual misconduct, he did not discover the connection between such illness and the acts of misconduct until he began counseling 27 months before filing the action, and by alleging numerous facts establishing the reasonableness of the delay in discovering the connection between his adult illness or injury and the childhood sexual abuse.

[See 3 **Witkin,** Cal. Procedure (3d ed. 1985) Actions, § 422A.]

COUNSEL: Mary R. Williams for Plaintiff and Appellant.

California Women Lawyers, Dawn M. Schock and Mary Ann Soden as Amici Curiae on behalf of Plaintiff and Appellant.

Moss & Enochian, Stewart C. Altemus and Darryl L. Wagner for Defendant and Respondent.

JUDGES: Opinion by Puglia, P. J., with Nicholson and Raye, JJ., concurring.

OPINION BY: PUGLIA, P. J.

OPINION: [*1180] [**390]

PUGLIA, P. J.

I

In his complaint, plaintiff Michael Lent alleges he was sexually abused by his uncle, defendant Doe, over a three-year period beginning when plaintiff was twelve. Plaintiff filed his action in January 1994 when he was 31 years old. Defendant demurred, arguing the complaint on its face disclosed the action is barred by the statute of limitations. The trial court rejected plaintiff's theory of delayed discovery, sustained defendant's demurrer without leave to amend and entered judgment of dismissal. [***2] We shall reverse.

The period of limitations for an action based on childhood sexual abuse is set forth in Code of Civil Procedure section 340.1 (hereafter statutory references to sections of an undesignated code are to the Code of Civil Procedure). It requires an action for childhood sexual abuse to be commenced "within eight years of the date the plaintiff attains the age of majority or within three years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse, whichever period expires later." (§ 340.1, subd. (a)) These time limits were first enacted in 1990 and were made applicable to any action commenced on or after January 1, 1991. (§ 340.1, subd. (k) as enacted by Stats. 1990, ch. 1578, § 1, p. 7550.) n1

n1 The 1990 statute specified the period of limitations would expire at the end of either eight years or three years depending upon "whichever occurs later." (§ 340.1, former subd. (a).) In 1994, this phrase was changed to "whichever period expires later." (Stats. 1994, ch. 288, § 1.)

[***3]

Section 340.1 was amended in 1994, effective January 1, 1995 (hereafter the 1994 amendments). The 1994 amendments, inter alia, expressly applied [*1181] the periods of limitations in section 340.1, subdivision (a) to "*any* action otherwise barred by the period of limitations in effect prior to January 1, 1991, thereby reviving those causes of action which had lapsed or technically expired under the law existing prior to January 1, 1991." (§ 340.1, subd. (o) added by Stats. 1994, ch. 288, § 1, italics added.)

It has been held the Legislature has the power retroactively to extend the period of limitations for civil causes of action arising from childhood sexual abuse, thus reviving causes of action such as plaintiff's which theretofore were time barred under the former statute. (*Liebig v. Superior Court* (1989) 209 Cal. App. 3d 828, 831-834 [257 Cal. Rptr. 574].)

We shall conclude that plaintiff's complaint is sufficient to withstand demurrer in that it [**391] adequately alleges that plaintiff commenced his action within three years of the date he discovered or reasonably should have discovered "that psychological injury or illness occurring after the age of majority [***4] was caused by the [childhood] sexual abuse." (§ 340.1, subd. (a).)

II

Plaintiff was born in March 1962. He commenced this action in January 1994. The complaint contains two counts: personal injury, i.e., sexual molestation, and negligent infliction of emotional distress. Plaintiff alleges he was sexually abused by defendant over a three-year period beginning when plaintiff was twelve. n2 The incidents occurred during the summer months when plaintiff stayed with his uncle and aunt for extended periods of time. The acts of molestation, which continued until approximately 1975, consisted primarily of defendant fondling plaintiff's genitals, including one incident in which plaintiff ejaculated. As a result of defendant's acts, plaintiff developed feelings of "deep shame, self-blame and self-loathing[.]" Although plaintiff never repressed his memories of the abuse, he "buried [his memories] as far as he could out of [his] conscious mind. [He] used alcohol and drugs increasingly, dropped out of high school at age seventeen, became addicted to cocaine and speed, and became an angry, alienated and sometimes suicidal person."

n2 In the trial court defendant moved to enjoin plaintiff from substituting defendant's real name for the "Doe" designation contained in the complaint. In opposition, plaintiff submitted a declaration further detailing his allegations of sexual abuse. Later, both parties joined in requesting the court to take judicial notice of plaintiff's declaration in ruling on the demurrer and the court did so. (See generally, *Del E. Webb Corp.* v. *Structural Materials Co.* (1981) 123 Cal. App. 3d 593, 604 [176 Cal. Rptr. 824].) We likewise take judicial notice of plaintiff's declaration in evaluating the sufficiency of the complaint to withstand demurrer. (Evid. Code, § 459, subd. (a).)

[***5]

Plaintiff further alleges that as a result of defendant's actions, he became subject to psychological mechanisms of denial and dissociation, "which by [*1182] their natural operation reasonably and justifiably prevented plaintiff from being able to know the psychological and emotional injuries which were occurring and would in the future continue to occur and develop in him . . . . Said mechanisms naturally and reasonably prevented plaintiff from being able to discover that psychological injuries occurring in his adult life were causally connected to the sexual abuse, and from being able to discover the wrongfulness of defendant's conduct, until on or after approximately September 1, 1991," when plaintiff underwent counseling.

In sustaining the demurrer without leave to amend, the trial court ruled that delayed discovery did not apply given plaintiff's allegations suggesting he knew of the wrongfulness of defendant's conduct when it occurred and that he suffered appreciable injury at that time. The trial court concluded the limitations period expired on plaintiff's 19th birthday in March 1981.

III

Prior to 1987, the period of limitations applicable to claims of personal [***6] injury, including sexual abuse, was prescribed by section 340, subdivision (3), which provides a one-year period of limitations. (*DeRose* v. *Carswell* (1987) 196 Cal. App. 3d 1011, 1015 [242 Cal. Rptr. 368]; *Trube v. Katz* (1923) 60 Cal. App. 474, 476 [213 P. 264].) However, if the plaintiff was a minor when the one-year period would otherwise expire, the statute was tolled until the plaintiff reached the age of majority. (§ 340, subd. (3), 352; *Debbie Reynolds Prof. Rehearsal Studios* v. *Superior Court* (1994) 25 Cal. App. 4th 222, 229 [30 Cal. Rptr. 2d 514] (*Debbie Reynolds*); *David A.* v. *Superior Court* (1993) 20 Cal. App. 4th 281, 283 [24 Cal. Rptr. 2d 537].) Under section 340, subdivision (3), plaintiff's cause of action would have expired in March 1981 when he turned 19. (See *David A.* v. *Superior Court*, *supra*, 20 Cal. App. 4th at p. 283.)

In 1986, the Legislature added section 340.1, which prescribed a threeyear limitations period for sexual abuse against a child under the age of fourteen where such abuse was committed by a member of the child's household or family. (Stats. 1986, ch. 914, § 1, pp. 3165-3166.)

[**392] In 1990, [***7] section 340.1 was amended to apply to all civil causes of action arising from childhood sexual abuse--not just those involving household or family members. The 1990 amendments extended the limitations period to within eight years of the date the plaintiff attains the age of majority or within three years of the date plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse, "whichever occurs later." (Stats. [*1183] 1990, ch. 1578, § 1, p. 7550.) The 1990 amendments apply to any action commenced on or after January 1, 1991. **(1)** "The obvious goal of amended section 340.1 is to allow sexual abuse victims a longer time period in which to become aware of their psychological injuries and remain eligible to bring suit against their abusers." (*Debbie Reynolds*, *supra*, 25 Cal. App. 4th at p. 232.)

Plaintiff's action was commenced in 1994. The 1990 amendments were specifically made applicable to any action commenced on or after January 1, 1991. However, if section 340.1 as amended in 1990 were still the law, it would arguably have availed plaintiff nothing. His action might well [***8] have remained time-barred under section 340, subdivision (3) as of his 19th birthday in 1981 because it does not unambiguously appear the Legislature intended by the 1990 amendments to revive time-barred claims.

The 1994 amendments to section 340.1, effective January 1, 1995, reenacted the limitations periods set forth in the 1990 amendments, continued their appplicability to any action filed on or after January 1, 1991, and expanded that category of actions to include "any action otherwise barred by the period of limitations in effect prior to January 1, 1991," thereby reviving those causes of action which had lapsed or technically expired under the law existing prior to January 1, 1991. (§ 340.1, subd. (o).) To dispell any possible remaining uncertainty, the Legislature added subdivision (p) to section 340.1, which states: "The Legislature declares that it is the intent of the Legislature, in enacting the amendments to this section exacted at the 1994 portion of the 1993-94 Regular Session that the express language of revival added to this section by [these] amendments shall apply to any action commenced on or after January 1, 1991."

The legislative intent is clear. **(2)** The question [***9] remains whether the Legislature has the power retroactively to revive a civil cause of action time-barred under the former statute of limitations.

The federal rule has long been established. In *Campbell v. Holt* (1885) 115 U.S. 620, 627-628 [29 L. Ed. 483, 486-487, 6 S. Ct. 209], the court held the retroactive revival of time-barred claims is constitutionally permissible as long as it does not interfere with vested title to real or personal property. (See also *Chase Securities Corp.* v. *Donaldson* (1944) 325 U.S. 304, 314 [89 L. Ed. 1628, 1635-1636, 65 S. Ct. 1137] [reaffirming *Campbell* and holding that revival of a personal cause of action which does not involve the creation of title does

not offend notions of due process: "[The] shelter [of the statute of limitations] has never been regarded as . . . a 'fundamental' right . . . ."].) [*1184]

In 1985, Witkin described the state of the law in California as "unsettled." (3 Witkin, Cal. Procedure (3d ed. 1985) Actions, § 332, p. 362, and authorities cited therein; see also *Gallo v. Superior Court* (1988) 200 Cal. App. 3d 1375, 1378 [246 Cal. Rptr. 587] ["California law is unsettled regarding whether [***10] the Legislature *may* make a statute of limitations retroactive in the sense that it revives a claim which is already time-barred." (Italics in original.)].) That issue has since been addressed in *Liebig v. Superior Court*, *supra*, 209 Cal. App. 3d 828 which considered the language of revival contained in the original version of section 340.1 which was enacted in 1986 and applied only to causes of action arising from childhood sexual abuse by a household or family member. n3 The *Liebig* court found no constitutional impediment to revival in the [**393] case of a traditional common law cause of action where, as here, the Legislature makes express its intent the law be given retrospective application: "We adopt the distinction . . . between statutory and common law causes of action, and . . . hold that the Legislature has the power to expressly revive time-barred civil common law causes of action. This holding is consistent with the niche in our civil law occupied by statutes of limitations. 'The principle is . . . well established that "[s]tatutorily imposed limitations on actions are technical defenses which should be strictly construed to avoid the forfeiture of [***11] a plaintiff's rights. . . ." [Citation.] [T]here is a "strong public policy that litigation be disposed of on the merits wherever possible." ' [Citations.]" (209 Cal. App. 3d at p. 835.)

n3 Subdivision (e) of the 1986 version of section 340.1 provided that the new three-year period of limitations would apply not only to actions pending as of its effective date, January 1, 1987, but to "[a]ny action commenced on or after January 1, 1987, including any action which would be barred by application of the period of limitation applicable prior to January 1, 1987."

Defendant argues *Liebig* was wrongly decided, claiming it misconstrued earlier California decisions in which the issue of extending the statute of limitations to lapsed claims was considered. We have reviewed those decisions, as well as other authorities cited in *Liebig* and by defendant, and find the *Liebig* court's conclusions regarding the power of the Legislature to revive lapsed claims are clearly supported by the authorities cited [***12] in that decision. (See also *Nelson v. Flintkote Co.* (1985) 172 Cal. App. 3d 727, 733-734 [218 Cal. Rptr. 562].) It would serve no useful purpose to engage in a duplicative analysis. Suffice it to say defendant fails to persuade us that *Liebig* was wrongly decided and should not be followed.

(3) In a related claim, defendant argues that because the trial court ruled on the demurrer prior to the effective date of the 1994 amendments to section 340.1, the trial court's order must be affirmed. We disagree. Statutes of limitations in civil actions are procedural, not substantive (3 Witkin, Cal. [*1185] Procedure, *op. cit. supra*, § 308, p. 337; *Talei v. Pan American World Airways* (1982) 132 Cal. App. 3d 904, 909 [183 Cal. Rptr. 532]), and are not subject to the general rule against statutory retroactivity. (See *Nelson v. Flintkote Co.*, *supra*, 172 Cal. App. 3d 727, 733; *Republic Corp.* v. *Superior Court* (1984) 160 Cal. App. 3d 1253, 1257 [207 Cal. Rptr. 241].) While the 1994 amendments to section 340.1 were not in effect at the time the trial court ruled on the demurrer, the amended statute applies to this proceeding because it "was pending on appeal [***13] at the time the legislative enactment became effective." (*Woodland Hills Residents Assn., Inc. v. City Council* (1979) 23 Cal. 3d 917, 931 [154 Cal. Rptr. 503, 593 P.2d 200] and see authorities cited therein; *Nelson* v. *Flintkote Co.*, *supra*, 172 Cal. App. 3d 727, 733; *Manquero v. Turlock etc. School Dist.* (1964) 227 Cal. App. 2d 131, 135-137 [38 Cal. Rptr. 470].)

IV

(4) Defendant argues that even if the 1994 amendments to section 340.1 are applicable, this action is barred by those limitation provisions. As amended in 1994, section 340.1 allows an action to be commenced "within eight years of the date the plaintiff attains the age of majority or within three years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse, whichever period expires later." Plaintiff commenced this action when he was 31 years of age, i.e., more than 8 years after the date he attained the age of majority. (§ 340.1, subd. (a).)

Nonetheless, plaintiff's action is timely if it falls within the three-year delayed discovery provisions of section 340.1. Defendant argues [***14] there can be no claim of delayed discovery given plaintiff's allegations that he suffered actual and appreciable injury at the time of the abuse, coupled with plaintiff's admission he never repressed his memory of the events. n4 We disagree.

n4 In his declaration, plaintiff admits he never repressed his memory of the abuse, although he

does claim he buried such memories "as far as [he] could out of [his] conscious mind." Plaintiff also states that after the incident wherein he ejaculated, he suffered emotionally, and was so distraught over the incident that he left defendant's residence and hitchhiked home.

First, whether plaintiff suffered an actual or appreciable injury at the time of the abuse is not relevant to delayed discovery claims made under the *present* version of [**394] section 340.1. (See *Marsha V.* v. *Gardner* (1991) 231 Cal. App. 3d 265, 280-282 [281 Cal. Rptr. 473] (dis. opn. of Johnson, J.); cf. *DeRose v. Carswell, supra*, 196 Cal. App. 3d at pp. 1017-1019) Subdivision [***15] (a) of section 340.1 could not be more clear: the delayed discovery provisions of section 340.1 relate to injuries occurring *after the age of majority.* [*1186] (§ 340.1, subd. (a); see generally, *Delaney v. Superior Court* (1990) 50 Cal. 3d 785, 798 [268 Cal. Rptr. 753, 789 P.2d 934] [In determining the intent of the lawmakers, we look first to the words of the statute; if the language is clear and unambiguous, there is no need for construction.].)

Second, that plaintiff did not repress the memories of the abuse inflicted upon him does not mean he cannot take advantage of the delayed discovery provisions of section 340.1. Nothing in section 340.1 requires that memories of abuse be repressed as a prerequisite to a delayed discovery claim.

To the contrary, to satisfy delayed discovery plaintiff need only allege the onset of psychological injury or illness after the age of majority and that he commenced his action within three years of the time he discovered or reasonably should have discovered such psychological injury or illness was caused by the childhood sexual abuse. (§ 340.1, subd. (a).)

Plaintiff has adequately pleaded facts supporting delayed discovery. [***16] Plaintiff alleges that notwithstanding the psychological injury and illness he suffered as an adult resulting from defendant's sexual misconduct, plaintiff did not discover the connection between such illness and the acts of misconduct until he began counseling in September 1991. Moreover, plaintiff has alleged numerous facts establishing the reasonableness of the delay in discovering the connection between his adult illness or injury and the childhood sexual abuse i.e. his age and relationship to defendant at the time of the abuse, the ways in which defendant used his familial relationship of trust to manipulate plaintiff into allowing the sexual touching, and how, as a result of defendant's conduct, plaintiff internalized feelings of shame and self-blame while blocking out and dissociating from those feelings, rendering him unable to perceive the injurious nature of defendant's conduct. For purposes of withstanding demurrer, such allegations are sufficient. (See *Dujardin v. Ventura County Gen. Hosp.* (1977) 69 Cal. App. 3d 350, 356 [138 Cal. Rptr. 20].)

We are not unsympathetic to the plight of defendants who find themselves forced to defend an action years, possibly even [***17] decades, after the alleged acts of abuse are said to have occurred. The potentially devastating impact of accusations of sexual molestation cannot be minimized, particularly when coupled with the obvious difficulty in defending an action where evidence has been lost, memories have faded, and witnesses have long since disappeared. (See generally, *Prudential-LMI Com. Insurance v. Superior Court* (1990) 51 Cal. 3d 674, 684 [274 Cal. Rptr. 387, 798 P.2d 1230]; *Duty v. Abex Corp.* (1989) 214 Cal. App. 3d 742, 748-749 [263 Cal. Rptr. 13].)

It is not for this court, however, to strike the appropriate balance between the policies implemented by statutes of limitation granting repose from stale [*1187] claims, and the policies favoring a remedy for victims of childhood sexual abuse the consequences of which, due to the tender age of the victims and the lingering psychological effect of the injury, will sometimes remain unredressed unless the reality of delayed discovery of its cause is recognized. The Legislature, whose prerogative it is, has resolved these competing policy considerations through the present version of section 340.1. (See *Marsha V.* v. *Gardner, supra* [***18] , 231 Cal. App. 3d at pp. 283-284 (dis. opn. of Johnson, J.)) "[T]he Legislature [has] struck the balance in favor of allowing recovery of late-discovered causes of action in child sex abuse cases . . . ." (*Id.*, at p. 284.) In light thereof, it is the function of this court simply to apply the statute as written. (*Blakey v. Superior Court* (1984) 153 Cal. App. 3d 101, 107 [200 Cal. Rptr. 52].) n5

n5 Plaintiff's request that we take judicial notice of the legislative history surrounding the 1994 amendments to section 340.1 is denied. Because section 340.1 is clear on its face, there is no need to consider extraneous materials. (*Delaney v. Superior Court, supra*, 50 Cal. 3d at p. 798.)

[**395] The judgment is reversed. The matter is remanded to the trial court with directions to overrule defendant's demurrer and reinstate plaintiff's complaint. Plaintiff is to recover costs on appeal.

Nicholson, J., and Raye, J., concurred.

Respondent's petition for review by the Supreme Court was [***19] denied February 22, 1996.

CDVSA
Council on Domestic Violence & Sexual Assault
Safety • Prevention • Accountability

State of Alaska
Department of Public Safety
Council on Domestic Violence & Sexual Assault

Sarah Palin, Governor
Joseph A. Masters, Commissioner

March 25, 2009

Dear Senator French:

The Council on Domestic Violence and Sexual Assault thanks you for introducing SB 47: Statute of Limitation for Sexual Offenses. We fully support this legislation to permit victims of felony sexual offenses a time period in which to seek civil action against the perpetrators of these heinous crimes.

As you know, victims of sexual assault, both children and adults, often do not disclose the abuse for years because of the shame and trauma they feel. It is important that individuals who were victimized prior to the lifting of Alaska's statute of limitations on these crimes be provided an avenue to pursue truth and justice. We applaud your efforts to create a way for them to do so.

This legislation is also important to victims because the ability to have the abuse recognized and condemned is a key to healing. Many victims who have not seen their assailants held accountable by the criminal justice system and seek justice through civil legal action speak to the healing effects the process affords them. We thank you for sponsoring SB 47; for your support of those victims who want their stories told in the civil justice system; and, for providing another tool to use in holding sex offenders responsible for their crimes.

Sincerely,

Chris Ashenbrenner

Chris Ashenbrenner
Executive Director

Council on Domestic Violence & Sexual Assault
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To: Senator French, Chair of the Senate Judiciary Committee

From: Kari Robinson & Christine Pate, Directors/Attorneys, Legal Advocacy Project
Robin Bronen, Executive Director, Alaska Immigration Justice Project
Andy Harrington, Executive Director, Alaska Legal Services Corporation

Re: Opportunity to present on the state of legal services for victims of domestic violence and sexual assault in Alaska

The Network's Legal Advocacy Project (LAP), the Alaska Immigration Justice Project (AIJP) and Alaska Legal Services (ALSC) provide vital assistance to alleviate the crisis of domestic violence and sexual assault affecting too many Alaskan families. We would like to share information with the Legislature of our activities and of the continuing need for victims to have access to legal services.

As you know only too well, domestic violence and sexual assault are overwhelming problems in our state. Alaska has the highest sexual assault rates in the nation with rates twice the national average. In 2007, Alaska had the nation's seventh-highest rate of violence, according to the FBI's new Uniform Crime Report.

Legal assistance is a vital component of the protection victims need to pursue safe and healthy lives. ALSC, the state's general-purpose legal aid agency since 1966 with its focus on low-income Alaskans, has long recognized domestic violence as one of the most pressing problems in the array of legal issues faced by our state's indigent families. The LAP, since its inception in 1996, has provided victims with attorneys specializing in representation of domestic violence victims, as well as training and mentoring volunteer attorneys especially for these cases. AIJP, since its creation in 2005, has focused on provided protecting the human rights of low income immigrants and refugees, serving victims of violence, unaccompanied abused and neglected children, victims of human trafficking and persons fleeing torture in their home countries. Unfortunately, the demand for legal services for victims of domestic violence is greater than the existing resources of these three agencies.

The ability of the LAP, AIJP and ALSC are able to assist victims in crisis helps ensure a healthy future for Alaskan families by breaking the cycle of violence and creating safe custody and visitation situations. Preventing future violence and keeping families safe is a wise investment in Alaska's future.

We would appreciate the opportunity to present our work to your committees in the near future. Please contact Ms. Robinson to arrange a meeting time at your convenience.

ALASKA WOMEN'S LOBBY

AWL Mission: To defend and advance the rights and needs of Women, Children and Families in Alaska

P.O. Box 20891
Juneau, Alaska 99802-0891
www.akwomenslobby.org

Letter of Support
SB 47: Statute of Limitations for Sexual Offenses

The Alaska Women's Lobby, a statewide group defending and advancing the rights and needs of women, children and families, supports SB 47. It gives an important window of time to certain victims of felony sexual assault.

The statute of limitations for felony sexual assault was eliminated in 2001 for cases that were open at the time and for sexual assault that occurred after the passage of the bill. Unfortunately, the limitation was not lifted for those victims who were assaulted and the statute of limitations had already run. We applaud Senator French for introducing SB 47 which allows a one year period of time in which those victims may bring a civil action against the perpetrators who committed the sexual assault.

Sometimes civil actions are the only legal means to recover some measure of personal loss caused by the trauma of sexual assault and its emotional effects. The perpetrator or those responsible for an assault can be held accountable. The victim has a chance to tell her/his story and confront the perpetrator. The case can put the community on notice about the perpetrator. Having the perpetrator formally held accountable for his/her actions may provide relief to the victim and restore a sense of balance that has been missing for too long.

Creating this window of opportunity for justice and closure is the least we can do for those who continue to suffer in silence without a recourse that is available to anyone who has been assaulted since 2001. Please pass SB 47 this session.

POSITION STATEMENT IN OPPOSITION TO SB 47

The Society of Jesus, Oregon Province

Senate Bill 47 seeks to make a retroactive change to the statute of limitations for certain civil claims alleging felony sexual abuse. Sexual abuse is a serious crime which must be eradicated from our society. SB 47, however, does not assist with that goal. SB 47 does not deter or prevent sexual abuse. Instead, it seeks to create a retroactive suspension of the statute of limitations to allow lawsuits to be filed to collect monetary damages for acts that took place many decades ago on claims which have already expired under existing law.

The Society of Jesus, Oregon Province ("Province") has been dealing with claims arising out of alleged sexual abuse of minors; claims date back to the 1940s and continue through the early 1990s. The vast majority of the claims are from 30-40 years ago. Alaska law has a series of statutes of limitations which have been interpreted by our courts so as to strike a balance between insuring claimants have enough time to file a claim and protecting persons from due process concerns that arise when subjected to stale claims.

Courts (and common sense) long have recognized that adjudications become less reliable with the passage of time; both our Alaska Supreme Court and the United States Supreme Court have said so. Over time, the risk grows that evidence may be lost or that key witnesses may disappear or die. The testimony of available witnesses also becomes less reliable over time as memories fade and recollections of events are colored by intervening experiences.

What SB 47 does is create a one year period of time where no statute of limitations whatsoever would apply. If this bill were to become law, it would pose serious problems for the State of Alaska, as well as public and private organizations within the state. The problems generally are as follows:

- Retroactively suspending the statute of limitations would impair the integrity of Alaska's judicial system for dispute resolution. Retroactive suspension would allow plaintiffs to make allegations of past wrongdoing without any consideration to how long ago the alleged wrongdoing occurred. As a result, the State of Alaska, public entities (such as, schools, correctional facilities foster care programs, municipalities—any government program where adults work with minors under age 18) and non-profit entities that work with children (such as the Boy and Girl Scouts, Boys and Girls Clubs, sports and religious organizations) will be subjected to defending claims alleging misconduct many decades ago.

- SB 47 would significantly increase the risk of inaccurate adjudications or potentially fraudulent claims. Although a plaintiff making an allegation necessarily would be alive and available to testify, the passage of time makes it likely that other key witnesses and evidence would be unavailable to disprove plaintiff's allegations. Documents about supervision and attendance (or potential insurance) are regularly discarded over time. Our system of justice works only when witnesses on both sides can be heard and one party is not deprived of important evidence. Reviving decades-old claims where an important witness or party has died or is unable to testify as to the allegations is inherently unfair.

- Strong arguments exist that SB 47 is unconstitutional. Due process and other constitutional considerations weigh against, and sometimes prohibit, retroactive revival of time-barred claims.

The primary beneficiaries of SB 47 are not necessarily real victims of abuse. It is public knowledge that in the 2008 settlement the Province made with more than 100 plaintiffs in Northern Alaska, $20 million of the $50 million settlement went to two private law firms. Moreover, in testimony before the Alaska Senate Judiciary Committee in 2007, the Executive Director of a victim's advocacy group testified that the normal recovery to victims of sexual abuse is approximately 30% on every dollar.

The Alaska legislature previously modified the statute of limitations to allow claims for felony sexual abuse to be initiated at any time for any claim arising after October 1, 2001. In addition, under the current state of the law (and as the Province is well aware), access to the courts for child sexual abuse is still possible with the understanding that claimants are required to demonstrate why their claims are timely under the law as it presently exists.

While the Province has recently filed for protection under Chapter 11 of the Bankruptcy Code, the fact remains that numerous claims are outstanding and remain to be decided and ultimately handled through the legal processes available under the law. The full impact of SB 47 is being evaluated, but at this point in time, the Province believes, as it did in years past, that SB 47 does not serve the public good of state, private and public institutions, as well as religious institutions. Thus, the Province believes that SB 47 is a bill that should not be passed into law.

Prevent Child Abuse America
Chicago, Illinois

Total Estimated Cost of Child Abuse and Neglect in the United States

Ching-Tung Wang, Ph.D. and John Holton, Ph.D.

Child abuse and neglect are preventable, yet each year in the United States, close to one million children are confirmed victims of child maltreatment. An extensive body of research provides promising and best practices on what works to improve child safety and well-being outcomes and reduce the occurrence of child abuse and neglect. These efforts are essential as child abuse and neglect have pervasive and long-lasting effects on children, their families, and the society. Adverse consequences for children's development often are evident immediately, encompassing multiple domains including physical, emotional, social, and cognitive. For many children, these effects extend far beyond childhood into adolescence and adulthood, potentially compromising the lifetime productivity of maltreatment victims (Daro, 1988).

It is well documented that children who have been abused or neglected are more likely to experience adverse outcomes throughout their life span in a number of areas:

- Poor physical health (e.g., chronic fatigue, altered immune function, hypertension, sexually transmitted diseases, obesity);
- Poor emotional and mental health (e.g., depression, anxiety, eating disorders, suicidal thoughts and attempts, post-traumatic stress disorder);
- Social difficulties (e.g., insecure attachments with caregivers, which may lead to difficulties in developing trusting relationships with peers and adults later in life);
- Cognitive dysfunction (e.g., deficits in attention, abstract reasoning, language development, and problem-solving skills, which ultimately affect academic achievement and school performance);
- High-risk health behaviors (e.g., a higher number of lifetime sexual partners, younger age at first voluntary intercourse, teen pregnancy, alcohol and substance abuse); and
- Behavioral problems (e.g., aggression, juvenile delinquency, adult criminality, abusive or violent behavior) (Child Welfare Information Gateway, 2006; Goldman, Salus, Wolcott, & Kennedy, 2003; Hagele, 2005).

The costs of responding to the impact of child abuse and neglect are borne by the victims and their families but also by society. This brief updates an earlier publication documenting the nationwide costs as a result of child abuse and neglect (Fromm, 2001). Similar to the earlier document, this brief places costs in two categories: direct costs, that is,

This report was funded by The Pew Charitable Trusts

those costs associated with the immediate needs of children who are abused or neglected; and indirect costs, that is, those costs associated with the long-term and/or secondary effects of child abuse and neglect. All estimated costs are presented in 2007 dollars. Adjustments for inflation have been conducted using the price indexes for gross domestic product published by the Bureau of Economic Analysis (http://www.bea.gov).

Based on data drawn from a variety of sources, the estimated annual cost of child abuse and neglect is **$103.8 billion** in 2007 value. This figure represents a conservative estimate as a result of the methods used for the calculation. First, only children who could be classified as being abused or neglected according to the Harm Standard in the Third National Incidence Study of Child Abuse and Neglect (NIS-3) are included in the analysis. The Harm Standard requirements, compared to the Endangerment Standard requirements used in NIS-3, are more stringent (Sedlak & Broadhurst, 1996). Second, only those costs related to victims are included. We have not attempted to quantify other costs associated with abuse and neglect, such as the costs of intervention or treatment services for the perpetrators or other members of the victim's family. Third, the categories of costs included in this analysis are by no means exhaustive. As examples, a large number of child victims require medical examinations or outpatient treatment for injuries not serious enough to require hospitalization; maltreated children are at greater risk of engaging in substance abuse and require alcohol and drug treatment services; and youth with histories of child abuse and neglect may be at greater risk of engaging in risky behaviors such as unprotected sexual activities as well as greater risk of teen pregnancy. We were not able to estimate these types of costs as data are not readily available.

Although the economic costs associated with child abuse and neglect are substantial, it is essential to recognize that it is impossible to calculate the impact of the pain, suffering, and reduced quality of life that victims of child abuse and neglect experience. These "intangible losses", though difficult to quantify in monetary terms, are real and should not be overlooked. Intangible losses, in fact, may represent the largest cost component of violence against children and should be taken into account when allocating resources (Miller, 1993).

This report was funded by The Pew Charitable Trusts

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Total Annual Cost of Child Abuse and Neglect in the United States
DIRECT COSTS

Direct Costs	Estimated Annual Cost (in 2007 dollars)
Hospitalization *Rationale: 565,000 maltreated children suffered serious injuries in 1993[1]. Assume that 50% of seriously injured victims require hospitalization[2]. The average cost of treating one hospitalized victim of abuse and neglect was $19,266 in 1999[3].* *Calculation: 565,000 x 0.50 x $19,266 = $5,442,645,000*	**$6,625,959,263**
Mental Health Care System *Rationale: 25% to 50% of child maltreatment victims need some form of mental health treatment[4]. For a conservative estimate, 25% is used. Mental health care cost per victim by type of maltreatment is: physical abuse ($2,700); sexual abuse ($5,800); emotional abuse ($2,700) and educational neglect ($910)[4]. Cross referenced against NIS-3 statistics on number of each incident occurring in 1993[1].* *Calculations: Physical Abuse – 381,700 x 0.25 x $2,700 = $257,647,500; Sexual Abuse – 217,700 x 0.25 x $5,800 = $315,665,000; Emotional Abuse – 204,500 x 0.25 x $2,700 = $138,037,500; and Educational Neglect – 397,300 x 0.25 x $910 = $90,385,750; Total = $801,735,750.*	**$1,080,706,049**
Child Welfare Services System *Rationale: The Urban Institute conducted a study estimating the child welfare expenditures associated with child abuse and neglect by state and local public child welfare agencies to be $23.3 billion in 2004[5].*	**$25,361,329,051**
Law Enforcement *Rationale: The National Institute of Justice estimated the following costs of police services for each of the following interventions: physical abuse ($20); sexual abuse ($56); emotional abuse ($20) and educational neglect ($2)[4]. Cross referenced against NIS-3 statistics on number of each incident occurring in 1993[1].* *Calculations: Physical Abuse – 381,700 x $20 = $7,634,000; Sexual Abuse – 217,700 x $56 = $12,191,200; Emotional Abuse – 204,500 x $20 = $4,090,000; and Educational Neglect – 397,300 x $2 = $794,600; Total = $24,709,800*	**$33,307,770**
Total Direct Costs	***$33,101,302,133***

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Total Annual Cost of Child Abuse and Neglect in the United States
INDIRECT COSTS

Indirect Costs	Estimated Annual Cost (in 2007 dollars)
Special Education *Rationale: 1,553,800 children experienced some form of maltreatment in 1993[1]. 22% of maltreated children have learning disorders requiring special education[6]. The additional expenditure attributable to special education services for students with disabilities was $5,918 per pupil in 2000[7].* *Calculation: 1,553,800 x 0.22 x $5,918 = $2,022,985,448*	**$2,410,306,242**
Juvenile Delinquency *Rationale: 1,553,800 children experienced some form of maltreatment in 1993[1]. 27% of children who are abused or neglected become delinquents, compared to 17% of children in the general population[8], for a difference of 10%. The annual cost of caring for a juvenile offender in a residential facility was $30,450 in 1989[9].* *Calculation: 1,553,800 x 0.10 x $30,450 = $4,731,321,000*	**$7,174,814,134**
Mental Health and Health Care *Rationale: 1,553,800 children experienced some form of maltreatment in 1993[1]. 30% of maltreated children suffer chronic health problems[6]. Increased mental health and health care costs for women with a history of childhood abuse and neglect, compared to women without childhood maltreatment histories, were estimated to be $8,175,816 for a population of 163,844 women, of whom 42.8% experienced childhood abuse and neglect[10]. This is equivalent to $117 [$8,175,816 / (163,844 x 0 .428)] additional health care costs associated with child maltreatment per woman per year. Assume that the additional health care costs attributable to childhood maltreatment are similar for men who experienced maltreatment as a child.* *Calculation: 1,553,800 x 0.30 x $117 = $54,346,699*	**$67,863,457**
Adult Criminal Justice System *Rationale: The direct expenditure for operating the nation's criminal justice system (including police protection, judicial and legal services, and corrections) was $204,136,015,000 in 2005[11]. According to the National Institute of Justice, 13% of all violence can be linked to earlier child maltreatment[4].* *Calculations: $204,136,015,000 x 0.13 = $26,537,681,950*	**$27,979,811,982**
Lost Productivity to Society *Rationale: The median annual earning for a full-time worker was $33,634 in 2006[12]. Assume that only children who suffer serious injuries due to maltreatment (565,000[1]) experience losses in potential lifetime earnings and that such impairments are limited to 5% of the child's total potential earnings[2]. The average length of participation in the labor force is 39.1 years for men and 29.3 years for women[13]; the overall average 34 years is used.* *Calculation: $33,634 x 565,000 x 0.05 x 34 = $32,305,457,000*	**$33,019,919,544**
Total Indirect Costs	***$70,652,715,359***
TOTAL COST	$ 103,754,017,492

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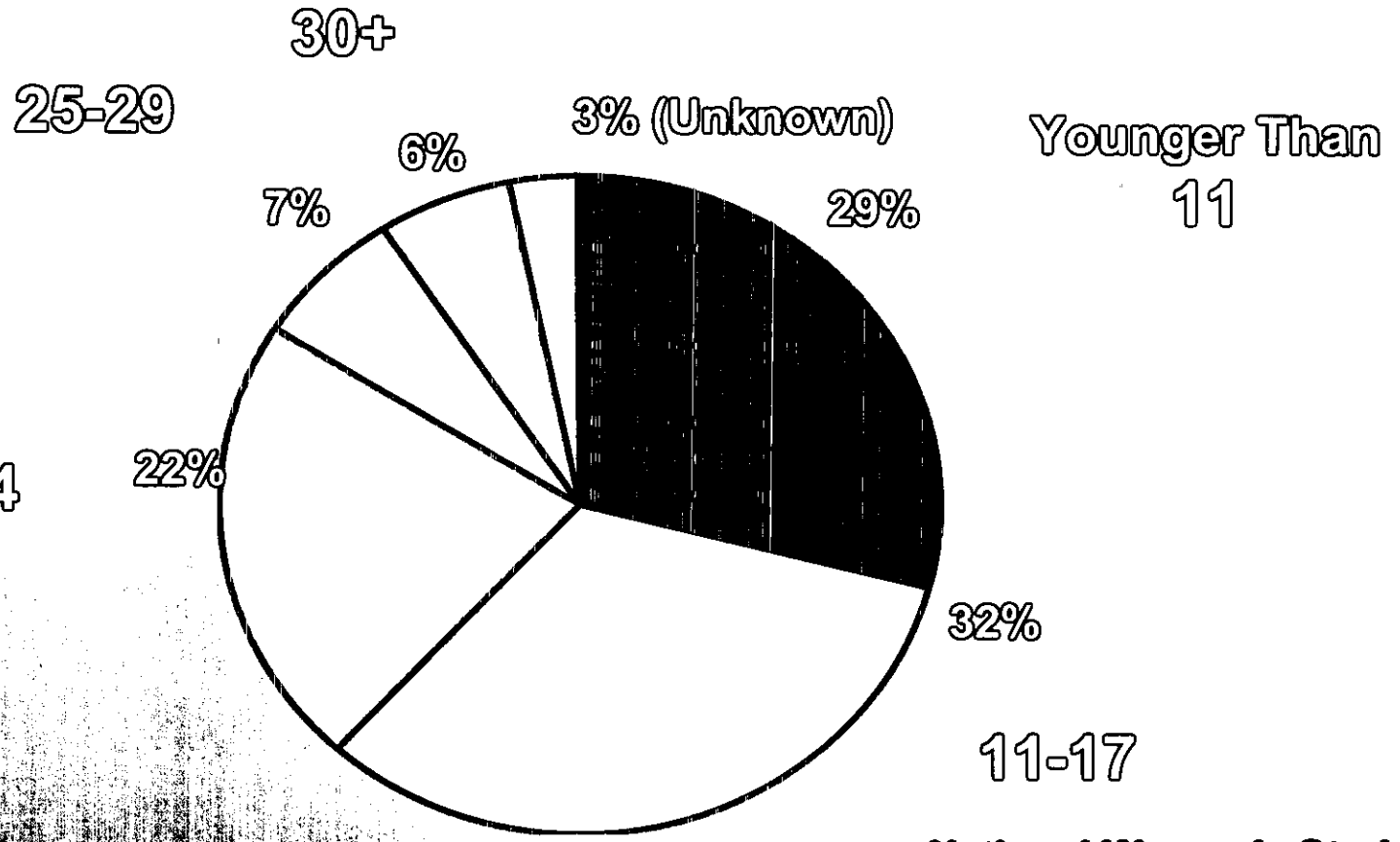
Most Victims Are Young

61% of rapes victims are 17 years old or younger

Age at Time of Rape



National Women's Study (n=714)

Most Victims Know the Perpetrator

- Children
  - Fear of being disbelieved, punished or unprotected (Lawson & Chaffin, 1992)
  - Fear or experience of being blamed for break up of family
    - Often the outcome is more devastating to the child than to the perpetrator
    - Child is held responsible for the father's absence from the family
    - Almost 100% of children said they would not report the incident if they were molested again

(William Marshal presentation, Ass. Of the TX of Sex Abusers 1995)

Lag Time for Detection

Study	Type of Offender	# of Years
Freeman-Longo(1985)	Rapist	6
	Child Molester	13
Elliot (1986)	Paraphiliacs	10
Ahlmeyer et al.(2000)	Rapists and Child Molesters	16

PERSONAL & SOCIAL COSTS

- More than half of victims have been raped more than once
- Victims of sexual assault are:
  - 6x more likely to develop Post-Traumatic Stress Disorder
  - 3x more likely to develop major depression
  - 13x more likely to attempt suicide
  - 25 - 50% of rape and child sexual abuse victims receive some sort of mental health treatment as a result of the victimization (Miller, 1996)

Kilpatrick et al., 1992, Rape in America: Report to the Nation 1992

The New York Times

March 12, 2009

Religious Leaders Battle Abuse Bill in New York

By PAUL VITELLO

Roman Catholic and Orthodox Jewish officials in New York are mounting an intense lobbying effort to block a bill before the State Legislature that would temporarily lift the statute of limitations for lawsuits alleging the sexual abuse of children.

A perennial proposal that has been quashed in past years by Republicans who controlled the State Senate, the bill is now widely supported by the new Democratic majority in that chamber, and for the first time is given a good chance of passing.

If signed by Gov. David A. Paterson, a longtime supporter, the bill would at minimum revive hundreds of claims filed in recent years against Catholic priests and dioceses in New York, but dismissed because they were made after the current time limit, which is five years after the accuser turns 18. Similar legislation has passed in Delaware and in California, where a 2003 law led to claims that have cost the church an estimated $800 million to $1 billion in damages and settlements.

The rekindled prospects of the New York bill, known as the Child Victims Act, come at a delicate juncture for the Archdiocese of New York, the nation's flagship see, where Cardinal Edward M. Egan is scheduled to hand over the reins in April. His successor, Archbishop Timothy M. Dolan of Milwaukee, was so hard hit by settlements for past abuse by priests in that archdiocese that he was forced to put its headquarters up for sale.

"We believe this bill is designed to bankrupt the Catholic Church," said Dennis Poust, spokesman for the New York State Catholic Conference, a group representing the bishops of the state's eight dioceses. He said that Cardinal Egan and Bishop Nicholas A. DiMarzio of Brooklyn visited Albany this week to voice their opposition, and that a statewide network of Catholic parishioners had bombarded lawmakers via e-mail.

But while the Catholic Church is leading the opposition, in recent months a loose coalition of disparate groups has also joined the effort. They include leaders of the Hasidic and Sephardic Jewish institutions in Brooklyn, which could face equally costly abuse claims. The New York Civil Liberties Union and the criminal defense bar oppose lifting statutes of limitation as unfair to the accused, who must defend themselves against claims of transgressions decades old.

Under the Albany measure, which Assemblywoman Margaret M. Markey, a Queens Democrat, has shepherded to Assembly approval in each of the last three sessions, people claiming they were sexually abused as children would be given a one-year exemption from the statute of limitations. Regardless of how long ago the alleged abuse occurred, they could file suit in civil court.

At the year's end, time limits on such claims would be restored, but with a wider window: Instead of a five-year period after turning 18, victims would have 10 years to file claims.

The bill would not lift the statute of limitations for criminal prosecutions of child abuse, which in most cases are the same as for civil complaints. For violent assaults like rape, there are no time limits on prosecution.

Many children's advocates say guilt, shame and fear of the emotional toll on family members have often deterred victims from reporting sexual abuse until well into adulthood. The revelations of past abuse by priests that became a national scandal starting in 2002 prompted some to seek redress, only to discover they were barred by the statutes of limitation.

Marci A. Hamilton, a professor at the Benjamin N. Cardozo School of Law at Yeshiva University who has argued that states should remove all statutes of limitation on child sex abuse claims, said the principle is comparable to the way industrial pollution is treated under the law. "The consequences of toxic pollution may not be known or felt for years after the fact," she said. "The same is often true for children who are sexually abused."

But opponents of such unlimited time frames of liability contend that decades-old memories of childhood events are not reliable.

Foes of Assemblywoman Markey's bill also say it unfairly singles out religious and private institutions, while leaving public schools virtually immune to the same potential liability.

The disparity is built into the legal protections granted under existing state law to all public workers and agencies: to sue a public employee or agency for damages of any kind, a person is required to file a claim within 90 days of the alleged injury. A victim of childhood sex abuse by a public school teacher, for instance, has 90 days after turning 18 to file notice of a claim.

Since the Markey bill would not extend that window, opponents claim that it discriminates. The Rev. Kieran E. Harrington, spokesman for Bishop DiMarzio, said that "a fair piece of legislation would treat all victims equally, and this bill does not do that."

In response to those objections, Assemblyman Vito J. Lopez, a Brooklyn Democrat, introduced an alternative bill last month that would eliminate the proposed one-year suspension of the statute of limitations. Under his measure, the window for filing claims would be extended to seven years after the accuser turns 18, rather than the 10 years in Assemblywoman Markey's bill.

Though he voted for her bill twice in past sessions, he said he had not realized the inequities in the new law until after a series of meetings he held in recent months. They included face-to-face talks with Bishop DiMarzio, he said, as well discussions with civil liberties advocates, members of the Legal Aid Society, and representatives of the Sephardic Community Federation and the United Jewish Organizations of Williamsburg, Brooklyn, which is in his district.

"You have three or four times as many kids in the public schools as in the Catholic schools," Mr. Lopez said. "How is it fair if the law only penalizes these religious and private schools?"

Senator Eric T. Schneiderman of Manhattan, chairman of the Senate Codes Committee, which is scheduled to take up the bill as early as next week, said the disparity might be addressed in future legislation. But he added, "Just because it does not broaden the rights of victims 100 percent does not mean we should not try to broaden their rights somewhat."

In past years, Assemblywoman Markey's bill was never scheduled for discussion in any Senate committee, reflecting the unwavering opposition of the longtime Senate Republican majority leader, Joseph L. Bruno. He did not seek re-election in November, when Democrats won control of the Senate; the new majority leader, Malcolm A. Smith, supports the bill.

Asked for Archbishop Dolan's view of the bill, and its potential impact on his tenure in New York, a spokesman for the New York Archdiocese said Wednesday that the archbishop was not immediately available to comment. Archbishop Dolan spoke out last year against similar legislation in Wisconsin. But at a news conference last month, he said he had not had time to study the New York bill.

Calls to representatives of the United Jewish Organizations of Williamsburg and the Sephardic Community Federation on Wednesday were not returned.

Senator Thomas K. Duane, a Manhattan Democrat and the bill's lead sponsor in the Senate, said he was "extremely optimistic" about its chances.

He said that opponents' claims of unfairness were not compelling, and that warnings of bankruptcy for religious institutions, which he dismissed as unlikely, missed the point.

"It's not about money," he said. "It's about giving people the right to seek justice."