

In the  
Supreme Court of Maryland

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ROMAN CATHOLIC ARCHBISHOP OF WASHINGTON, a corporation sole,  
d/b/a ROMAN CATHOLIC ARCHDIOCESE OF WASHINGTON

*Petitioner,*

*v.*

JOHN DOE, RICHARD DOE, and MARK SMITH, individually and on  
behalf of all others similarly situated,

*Respondents.*

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On a Writ of Certiorari to the  
Circuit Court for Prince George's County  
(Hon. Robin Gill Bright)

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**Record Extract, Volume 1:**

**(E.1 to E.325)**

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Andrew Jay Graham (AIS 7307010005)  
John A. Bourgeois (AIS 9312140080)  
Steven M. Klepper (AIS 0112120030)  
KRAMON & GRAHAM, P.A.  
750 East Pratt Street, Suite 1100  
Baltimore, MD 21202-3201

AGraham@kg-law.com  
JBourgeois@kg-law.com  
SKlepper@kg-law.com

Kevin T. Baine (AIS 8506010010)  
Richard S. Cleary, Jr. (*pro hac vice*)  
WILLIAMS & CONNOLLY LLP  
680 Maine Avenue, S.W.  
Washington, DC 20024

KBaine@wc.com  
RCleary@wc.com

*Counsel for Petitioner Roman  
Catholic Archbishop of Washington, a  
Corporation Sole*

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<sup>1</sup> Available at <https://mgaleg.maryland.gov/2003rs/billfile/sb0068.htm> (click on “PDF” link (“Bill Text: First Reading (PDF)”) in “Documents” section of the page).

<sup>2</sup> As contained in the bill file maintained by the Department of Legislative Services Library for S.B. 238, 426th Gen. Assemb., Reg. Sess., (Md.2009).

<sup>3</sup> As contained in the bill file maintained by the Department of Legislative Services Library for S.B. 238, 426th Gen. Assemb., Reg. Sess., (Md. 2009).

<sup>4</sup> As contained in the bill file maintained by the Department of Legislative Services Library for S.B. 238, 426th Gen. Assemb., Reg. Sess., (Md.2009).

<sup>5</sup>As contained in the bill file maintained by the Department of Legislative Services Library for S.B. 505, 437th Gen. Assemb., Reg. Sess., (Md. 2017).

<sup>6</sup> Available at

<https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0642/?ys=2017rs> (click on “252810/1” link in the row beginning “House 3/16/2017” of the History table).

<sup>7</sup> "Available at

<https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/SB0505?ys=2017RS> (click on “458675/1” link in the row beginning “Senate 3/14/2017” of the History table)."

<sup>8</sup> As contained in the bill file maintained by the Department of Legislative Services Library for H.B. 642, 437th Gen. Assemb., Reg. Sess. (Md. 2017).

<sup>9</sup> As contained in the bill file maintained by the Department of Legislative Services Library for S.B. 505, 437th Gen. Assemb., Reg. Sess. (Md. 2017).

<sup>10</sup> As contained in the bill file maintained by the Department of Legislative Services Library for S.B. 505, 437th Gen. Assemb., Reg. Sess. (Md. 2017).

<sup>11</sup> As contained in the bill file maintained by the Department of Legislative Services Library for H.B. 642, 437th Gen. Assemb., Reg. Sess. (Md. 2017).

<sup>12</sup> Available at <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/HB0687?ys=2019rs> (expanding the “History” tab near the bottom of the page and clicking the link beginning “Text - Third - Civil Actions”).

<sup>13</sup> As contained in the bill file of H.B. 687, 439th Gen. Assemb., Reg. Sess. (Md. 2019) maintained by the Department of Legislative Services Library.

<sup>14</sup> As provided by the Department of Legislative Services Library.

<sup>15</sup> As contained in the bill file of H.B. 1, 445th Gen. Assemb., Reg. Sess. (Md. 2023) maintained by the Department of Legislative Services Library.

<sup>16</sup> As contained in the bill file of S.B. 505, 437th Gen. Assemb., Reg. Sess. (Md. 2017) maintained by the Department of Legislative Services Library.

<sup>17</sup> As contained in the bill file of H.B. 642, 437th Gen. Assemb., Reg. Sess. (Md. 2017) maintained by the Department of Legislative Services Library.

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<sup>18</sup> As contained in the bill file of H.B. 641, 437th Gen. Assemb., Reg. Sess. (Md. 2017) maintained by the Department of Legislative Services Library.

<sup>19</sup> As contained in the bill file of H.B. 974, 440th Gen. Assemb., Reg. Sess. (Md. 2020) maintained by the Department of Legislative Services Library.

<sup>20</sup> Available at <https://adw.org/wp-content/uploads/sites/2/2023/05/2021-2022-Annual-Report.pdf>.

<sup>21</sup> As contained in the bill file of S.B. 686, 445th Gen. Assemb., Reg. Sess. (Md. 2023) maintained by the Department of Legislative Services Library.

<sup>22</sup> As contained in the bill file of H.B. 1, 445th Gen. Assemb., Reg. Sess. (Md. 2023) maintained by the Department of Legislative Services Library.

<sup>23</sup> As contained in the bill file of S.B. 505, 437th Gen. Assemb., Reg. Sess. (Md. 2017) maintained by the Department of Legislative Services Library.

<sup>24</sup> As contained in the bill file maintained by the Department of Legislative Services Library for H.B. 642, 437th Gen. Assemb., Reg. Sess. (Md. 2017).

# Maryland Judiciary Case Search

**NOTICE: Available**

## Case Detail

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### Case Information

Court System: **Circuit Court For Prince George's County - Civil**  
Location: **Prince Georges Circuit Court**  
Case Number: **C-16-CV-23-004497**  
Title: **John Doe, et al. vs. Roman Catholic Archbishop of Washington**  
Case Type: **Tort - Negligence**  
Filing Date: **10/01/2023**  
Case Status: **Open**

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### Other Reference Numbers

Petition Filed: **SCM-PET-0057-2024**  
Petition Granted: **SCM-REG-0009-2024**

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### Involved Parties Information

#### Interested Person/ Party

Name: **Attorney General of Maryland**

Address: **200 St. Paul Place**  
City: **Baltimore** State: **MD** Zip Code: **21202**

#### Attorney(s) for the Interested Person/ Party

Name: **LUOMA, JEFFREY STOKES**  
Appearance Date: **12/21/2023**  
Address Line 1: **Assistant Attorney General**  
Address Line 2: **200 St. Paul Place, 20th Floor**  
City: **Baltimore** State: **MD** Zip Code: **21202**

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#### Defendant

Name: **Roman Catholic Archbishop of Washington**

Address: **Serve on: Christopher Anzeidi, General Counsel**  
**5001 Eastern Avenue**

City: **Hyattsville** State: **MD** Zip Code: **20782**

## Aliases

Business : **ROMAN CATHOLIC ARCHDIOCESE OF WASHINGTON**

## Attorney(s) for the Defendant

Name: **Graham, Andrew Jay**  
Appearance Date: **10/24/2023**  
Address Line 1: **Kramon & Graham, PA**  
Address Line 2: **750 East Pratt Street**  
Address Line 3: **Suite 1100**  
City: **Baltimore** State: **MD** Zip Code: **21202**

Name: **Graham, Andrew Jay**  
Appearance Date: **10/24/2023**  
Address Line 1: **Kramon & Graham, PA**  
Address Line 2: **750 East Pratt Street**  
Address Line 3: **Suite 1100**  
City: **Baltimore** State: **MD** Zip Code: **21202**

Name: **BOURGEOIS, JOHN AUGUSTINE**  
Appearance Date: **10/24/2023**  
Address Line 1: **Kramon & Graham, PA**  
Address Line 2: **750 East Pratt Street**  
Address Line 3: **Suite 1100**  
City: **Baltimore** State: **MD** Zip Code: **21202**

Name: **BOURGEOIS, JOHN AUGUSTINE**  
Appearance Date: **10/24/2023**  
Address Line 1: **Kramon & Graham, PA**  
Address Line 2: **750 East Pratt Street**  
Address Line 3: **Suite 1100**  
City: **Baltimore** State: **MD** Zip Code: **21202**

Name: **BAIN, KEVIN TAYLOR**  
Appearance Date: **11/03/2023**  
Address Line 1: **Williams & Connolly LLP**  
Address Line 2: **680 Maine Avenue SW**  
City: **WASHINGTON** State: **DC** Zip Code: **20024**

Name: **Cleary, Richard Simon Jr.**  
Appearance Date: **12/14/2023**  
Address Line 1: **Williams & Connolly, LLP**  
Address Line 2: **680 Maine Avenue SW**  
City: **WASHINGTON** State: **DC** Zip Code: **20024**

---

Plaintiff

Name: **Doe, John**

Address: **4 Reservoir Circle  
Suite 200**

City: **Baltimore** State: **MD** Zip Code: **21208**

### Attorney(s) for the Plaintiff

Name: **Janet, Andrew Samuel**

Appearance Date: **10/01/2023**

Address Line 1: **Janet, Janet & Suggs, LLC**

Address Line 2: **4 Reservoir Circle**

Address Line 3: **Suite 200**

City: **PIKESVILLE** State: **MD** Zip Code: **21208**

Name: **KELLERMEYER, TARA L**

Appearance Date: **10/01/2023**

Address Line 1: **Janet, Janet & Suggs, LLC**

Address Line 2: **4 Reservoir Circle**

Address Line 3: **Suite 200**

City: **PIKESVILLE** State: **MD** Zip Code: **21208**

Name: **THRONSON, PATRICK ANDREW**

Appearance Date: **10/01/2023**

Address Line 1: **Janet, Janet & Suggs, LLC**

Address Line 2: **Executive Centre at Hooks Lane**

Address Line 3: **4 Reservoir Circle, Suite 200**

City: **Baltimore** State: **MD** Zip Code: **21208**

Name: **SCHOCHOR, JONATHAN**

Appearance Date: **02/21/2024**

Address Line 1: **Schochor, Staton, Goldberg and Cardea, P.A.**

Address Line 2: **1211 St. Paul Street**

City: **BALTIMORE** State: **MD** Zip Code: **21202**

Name: **Peck, Robert**

Appearance Date: **02/23/2024**

Address Line 1: **1901 Connecticut Avenue NW**

Address Line 2: **Suite 1008**

City: **Washington** State: **DC** Zip Code: **20009**

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### Plaintiff

Name: **Smith, Mark**

Address: **4 Reservoir Circle  
Suite 200**

City: **Baltimore** State: **MD** Zip Code: **21208**

## Attorney(s) for the Plaintiff

Name: **THRONSON, PATRICK ANDREW**  
Appearance Date: **10/01/2023**  
Removal Date: **10/03/2023**  
Address Line 1: **Janet, Janet & Suggs, LLC**  
Address Line 2: **Executive Centre at Hooks Lane**  
Address Line 3: **4 Reservoir Circle, Suite 200**  
City: **Baltimore** State: **MD** Zip Code: **21208**

Name: **KAHN, JOSHUA FRANKLIN**  
Appearance Date: **10/03/2023**  
Address Line 1: **Schochor & Staton, P.A.**  
Address Line 2: **1211 St. Paul Street**  
City: **BALTIMORE** State: **MD** Zip Code: **21202**

Name: **SCHOCHOR, JONATHAN**  
Appearance Date: **02/21/2024**  
Address Line 1: **Schochor, Staton, Goldberg and Cardea, P.A.**  
Address Line 2: **1211 St. Paul Street**  
City: **BALTIMORE** State: **MD** Zip Code: **21202**

Name: **Peck, Robert**  
Appearance Date: **02/23/2024**  
Address Line 1: **1901 Connecticut Avenue NW**  
Address Line 2: **Suite 1008**  
City: **Washington** State: **DC** Zip Code: **20009**

---

Plaintiff

Name: **Roe, Richard**

Address: **4 Reservoir Circle**  
**Suite 200**  
City: **Baltimore** State: **MD** Zip Code: **21208**

## Attorney(s) for the Plaintiff

Name: **THRONSON, PATRICK ANDREW**  
Appearance Date: **10/01/2023**  
Removal Date: **10/03/2023**  
Address Line 1: **Janet, Janet & Suggs, LLC**  
Address Line 2: **Executive Centre at Hooks Lane**  
Address Line 3: **4 Reservoir Circle, Suite 200**  
City: **Baltimore** State: **MD** Zip Code: **21208**

Name: **KAHN, JOSHUA FRANKLIN**  
Appearance Date: **10/03/2023**

Address Line 1: **Schochor & Staton, P.A.**  
 Address Line 2: **1211 St. Paul Street**  
 City: **BALTIMORE** State: **MD** Zip Code: **21202**

Name: **SCHOCHOR, JONATHAN**  
 Appearance Date: **02/21/2024**  
 Address Line 1: **Schochor, Staton, Goldberg and Cardea, P.A.**  
 Address Line 2: **1211 St. Paul Street**  
 City: **BALTIMORE** State: **MD** Zip Code: **21202**

Name: **Peck, Robert**  
 Appearance Date: **02/23/2024**  
 Address Line 1: **1901 Connecticut Avenue NW**  
 Address Line 2: **Suite 1008**  
 City: **Washington** State: **DC** Zip Code: **20009**

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## Court Scheduling Information

Event Type	Event Date	Event Time	Judge	Court Location	Court Room	Result
<b>Hearing - Motion to Dismiss</b>	<b>03/06/2024</b>	<b>10:00:00</b>	<b>Bright, Robin DG</b>	<b>Civil Calendar</b>	<b>Courtroom M1421</b>	<b>Concluded / Held</b>
<b>Hearing - Motion to Dismiss</b>	<b>03/27/2024</b>	<b>10:00:00</b>	<b>Killough, Peter K</b>	<b>Civil Calendar</b>	<b>Courtroom D2021</b>	<b>CancelledReason: Postponed/Reset</b>

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## Document Information

File Date: **10/01/2023**  
 Document Name: **Case Information Report Filed**  
 Comment: **Plaintiffs Civil Non Domestic Case Information Sheet**

File Date: **10/01/2023**  
 Document Name: **Complaint / Petition**  
 Comment: **Plaintiffs Class Action Complaint**

File Date: **10/01/2023**  
 Document Name: **Request to Issue**  
 Comment: **Request to issue summonses**

File Date: **10/02/2023**  
 Document Name: **Demand / Request for Jury Trial**  
 Comment:

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File Date: **10/02/2023**  
Document Name: **Summons Issued (Service Event)**  
Comment:

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File Date: **10/02/2023**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **summons**

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File Date: **10/02/2023**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **summons**

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File Date: **10/03/2023**  
Document Name: **Deficient Filing**  
Comment: **Plaintiffs Motion for Leave to Proceed Under A Pseudonym and Permanently Shield from Inspection Supporting Affidavits**

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File Date: **10/03/2023**  
Document Name: **Notice of Restricted Information**  
Comment: **Affidavits of Doe, Roe and Smith to be Sealed**

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File Date: **10/03/2023**  
Document Name: **Notice of Deficiency - Rule 20-203(d)**  
Comment:

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File Date: **10/03/2023**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **Writ of Summons**

---

File Date: **10/03/2023**  
Document Name: **Motion/Petition to Seal**  
Comment: **Plaintiffs Motion for Leave to Proceed Under A Pseudonym and to Permanently Shield from Inspection Supporting Affidavits(tasked to Judge Bright)**

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File Date: **10/03/2023**  
Document Name: **Notice of Restricted Information**  
Comment: **Notice Regarding Restricted Information**

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File Date: **10/03/2023**  
Document Name: **Supporting Exhibit**

Comment: **Exhibit 1 - Supporting Affidavit to Plaintiffs Motion for Leave to Proceed Under a Pseudonym and to Permanently Shield from Inspection**

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File Date: **10/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 2 - Supporting Affidavit to Plaintiffs Motion for Leave to Proceed Under Pseudonym**

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File Date: **10/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 3 - Supporting Affidavit to Plaintiffs Motion for Leave to Proceed Under Pseudonym**

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File Date: **10/09/2023**  
Document Name: **Affidavit - Service**  
Comment: **Affidavit - Service Roman Catholic archdiocese of Washington**

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File Date: **10/09/2023**  
Document Name: **Affidavit - Service**  
Comment: **Plaintiff's Affidavit of Service - RE: Trac, The Registered Agent Company for Defendant Roman Catholic Archdiocese of Washington**

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File Date: **10/20/2023**  
Document Name: **Response/Reply**  
Comment: **DEFENDANTS RESPONSE TO PLAINTIFFS MOTION FOR LEAVE TO PROCEED UNDER A PSEUDONYM AND TO PERMANENTLY SHIELD FROM INSPECTION SUPPORTING AFFIDAVITS**

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File Date: **10/24/2023**  
Document Name: **Attorney Appearance - \$10 Fee**  
Comment: **Entry of Appearance - John A Bourgeois**

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File Date: **10/24/2023**  
Document Name: **Attorney Appearance - No Fee**  
Comment: **Entry of Appearance - Andrew Jay Graham**

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File Date: **11/02/2023**  
Document Name: **Order**  
Comment: **ORDERED, that the Plaintiffs' request to proceed in this action under a pseudonym is hereby GRANTED; and it is further. ORDERED, that Exhibits 1, 2 and 3 filed in support of the Motion shall be sealed and shielded from inspection.**

---

File Date: **11/02/2023**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **Order**

---

File Date: **11/03/2023**  
Document Name: **Motion / Request - For Special Admission of Attorney**  
Comment: **MOTION FOR ADMISSION PRO HAC VICE(tasked to Judge Cotton)**

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File Date: **11/03/2023**  
Document Name: **Attorney Appearance - \$10 Fee**  
Comment: **NOTICE OF APPEARANCE**

---

File Date: **11/03/2023**  
Document Name: **Motion / Request - To Dismiss**  
Comment: **MOTION OF DEFENDANT ROMAN CATHOLIC ARCHBISHOP OF WASHINGTON TO DISMISS FOR FAILURE TO STATE A CLAIM HEARING REQUESTED**

---

File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 11 - Testimony of Senator Delores G. Kelley Re: Senate Bill 238 - February 5, 2009**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 10 - Re: Senate Bill 238 - Civil Actions - Child Sexual Abuse - Statute of Limitations February 5, 2009**

---

File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 11 - Testimony of Senator Delores G. Kelley - February 5, 2009**

---

File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 12 - Testimony of Senator Delores G. Kelley - February 14, 2017**

---

File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 13 - Amendments to House Bill 642**

---

File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 14 - Amendments to Senate Bill 505**

---

File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 15 - Senate Judicial Proceedings Committee - Floor Report (House Bill 642)**

---

File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 19 - House Bill 687**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 20 - The Attorney General of Maryland Letter to The Honorable Kathleen M. Dumais of 3-16-2019**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 22 - Md. Code Ann. Cts & Jud. Proc. 5-117 (sexual abuse of minor)**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 23 - Office of the Attorney General of Maryland Letter to The Honorable William C. Smith Jr., February 22, 2023, Re Senate Bill 686**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 26 - Maryland Catholic Conference Re: House Bill 641 - Oppose**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 27 - Maryland Catholic Conference Re: House Bill 974 - Oppose**

---

File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 28 - The Roman Catholic Archdiocese of Washington - Advisory Board Letter**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 30 - The Roman Catholic Archdiocese of Washington**

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File Date: **11/03/2023**  
Document Name: **Memorandum**  
Comment: **Memorandum in Support of Defendant Roman Catholic Archbishop of Washington's Motion to Dismiss for Failure to State a Claim**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit - Appendix**

---

File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 1 - House Bill 642**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 2 - Senate Bill 505**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 3 - Senate Bill 686**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 4 - House Bill 1**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 5 - Md. Code Ann. Cts. & Jud. Proc. 5-117 (Sexual abuse of minor)**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 6 - Senate Bill 68**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 7 - Md. Code Ann. Cts. & Jud. Proc. 5-117 (sexual abuse of minor)**

---

File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 8 - Senate Bill 68**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 9 - Maryland Chamber of Commerce - Legislative Position SB 238**

---

File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 10 - Members of the Senate Judicial Proceedings Committee Re: Senate Bill 238 - Civil Actions-Child Sexual Abuse-Statute Limitations**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 11 - Testimony of Senator Delores G. Kelley on February 5, 2009**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 12 - Testimony of Senator Delores G. Kelley on February 14, 2017**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 13 - Amendments to House Bill 642**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 14 - Amendments to Senate Bill 505**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 15 - House Bill 642**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 16 - Senate Bill 505**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 17 - Fiscal and Policy Note: Third Reader - Revised SB 505**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 18 - Discussion of certain amendments in SB0505/818470/1**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 19 - House Bill 687**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 20 - Confidential March 16th, 2019**

---

File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 21 - Letter re concern o Senate Bill 134 and House Bill 263**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 22 - 5-117 Abuse of Minor**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 23 - Letter re Senate Bill 686**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 24 - Statement of Information 02/14/2017**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 25 - Statement of Information 02/23/2017**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 26 - Oppose 02/23/2017**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 27 - Oppose 02/20/2020**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 28 -Page Vault: Advisory Board - Archdiocese of Washington**

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File Date: **11/03/2023**

Document Name: **Supporting Exhibit**  
Comment: **Exhibit 29 - Annual Report from the Child Protection & Safe Environment Advisory Board July 1, 2021 to June 20th, 2022**

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File Date: **11/03/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 30 - Page Vault: Who are We - Archdiocese of Washington**

---

File Date: **11/10/2023**  
Document Name: **Consent Motion**  
Comment: **Plaintiff's Consent Motion for Extension of Time**

---

File Date: **11/10/2023**  
Document Name: **Order**  
Comment: **Order Granting Consent Motion for Extension of Time**

---

File Date: **12/08/2023**  
Document Name: **Opposition**  
Comment: **Opposition to Motion to Dismiss**

---

File Date: **12/08/2023**  
Document Name: **Memorandum**  
Comment: **Memorandum - Opposition to Motion to Dismiss**

---

File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Appendix**

---

File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 1 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 2 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 3 - Opposition to Motion to Dismiss**

---

File Date: **12/08/2023**



Document Name: **Supporting Exhibit**  
Comment: **Exhibit 4 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 5 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 6 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 7 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 8 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 9 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 10 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 11 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 12 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 13 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 14 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 15 - Opposition to Motion to Dismiss**

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File Date: **12/08/2023**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 16 - Opposition to Motion to Dismiss**

---

File Date: **12/13/2023**

Document Name: **Order**

Comment: **ORDERED, that the Motion to admit Pro Hac Vice be and is hereby GRANTED, and that Richard S. Cleary, Jr., Esq., is admitted specially for the limited purpose of appearing and participating in the proceedings in this matter as co-counsel alongside the Maryland Attorney, Kevin T. Baine, Esq., for the Defendant, Roman Catholic Archdiocese of Washington; and it is further, ORDERED, that Richard S. Cleary, Jr., Esq., a member in good standing of the Bar of the State of New York and the Bar of the District of Columbia, may appear as co-counsel with the Maryland lawyer in this case, Kevin T. Baine, Esq., whose presence is NOT WAIVED, pursuant to the Maryland Rules, 19-217(d); and it is further, ORDERED, that Richard S. Cleary, Jr., Esq., may only participate in any aspect of this case when accompanied by Kevin T. Baine, Esq. This includes, but is not limited to: depositions, pleadings, correspondence, or any court appearance; and it is further, ORDERED, that the Clerk of the Court shall electronically submit a true copy of this Order to the State Court Administrator via Service Now.**

---

File Date: **12/13/2023**

Document Name: **Writ /Summons/Pleading - Electronic Service**

Comment: **Order**

---

File Date: **12/21/2023**

Document Name: **Motion**

Comment: **Submission of Attorney General Pursuant to Courts and Judicial Proceedings Section 3-405(c) or, in the Alternative, Attorney General's Motion for Leave to File Amicus Curiae Brief**

---

File Date: **12/21/2023**

Document Name: **Supporting Exhibit**

Comment: **Brief of Attorney General Pursuant to Courts and Judicial Proceedings Section 3-405(c) or, in the Alternative, Amicus Curiae Brief**

---

File Date: **01/17/2024**

Document Name: **Response/Reply**

Comment: **REPLY BRIEF OF DEF ROMAN CATHOLIC ARCHBISHOP OF WASHINGTON IN SUPPORT MTD**

---

File Date: **01/17/2024**  
Document Name: **Supporting Document**  
Comment: **Reply Appendix MTD**

---

File Date: **01/17/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 31 MTD**

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File Date: **01/17/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 32 MTD**

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File Date: **01/17/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 33 MTD**

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File Date: **01/17/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 34 MTD**

---

File Date: **01/17/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 35 MTD**

---

File Date: **01/30/2024**  
Document Name: **Correspondence**  
Comment: **PLA letter to Judge Cotton requesting scheduling of hearing on DEF Motion to Dismiss**

---

File Date: **02/16/2024**  
Document Name: **Motion / Request - For Special Admission of Attorney**  
Comment: **Consent Motion for Special Admission of Robert S. Peck Esq**

---

File Date: **02/16/2024**  
Document Name: **Motion / Request - For Special Admission of Attorney**  
Comment: **Consent Motion for Special Admission - Peck (corrected)**

---

File Date: **02/21/2024**  
Document Name: **Order**  
Comment: **ORDERED, that the Motion to admit Pro Hac Vice be and is hereby GRANTED, and that Robert S. Peck, Esq., is admitted specially for the limited purpose of appearing and participating in the proceedings in this matter as co-counsel alongside the Maryland Attorney, Jonathan Schochor, Esq., for the Plaintiffs, Richard Roe and Mark Smith, individually and on behalf of all others**

similarly situated; and it is further, **ORDERED**, that **Robert S. Peck, Esq.**, a member in good standing of the Bars of the District of Columbia and State of New York, may appear as co-counsel with the Maryland lawyer in this case, **Jonathan Schochor, Esq.**, whose presence is **NOT WAIVED**, pursuant to the Maryland Rules, 19-217(d); and it is further, **ORDERED**, that **Robert S. Peck, Esq.**, may only participate in any aspect of this case when accompanied by **Jonathan Schochor, Esq.** This includes, but is not limited to: depositions, pleadings, correspondence, or any court appearance; and it is further, **ORDERED**, that the Clerk of the Court shall electronically submit a true copy of this Order to the State Court Administrator via Service Now **SIGNED JUDGE COTTON 2/20/2024**

---

File Date: **02/21/2024**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **Order of Court**

---

File Date: **03/07/2024**  
Document Name: **Transcript or Audio Recording Requested**  
Comment: **REQUESTED HEARING DATE: 03/06/2024**

---

File Date: **03/12/2024**  
Document Name: **See Open Court Proceedings**  
Comment: **Daily Sheet dated 03/06/2024 signed by Judge Bright. Defendant's Motion to Dismiss for Failure to State a Claim, argued. Judge Bright, CS M1421 Motion - Denied.**

---

File Date: **03/19/2024**  
Document Name: **Transcript**  
Comment: **03-06-2024**

---

File Date: **03/19/2024**  
Document Name: **Transcript Cost Sheet**  
Comment: **HEARING DATE: 1 TOTAL COST: \$407.75**

---

File Date: **03/19/2024**  
Document Name: **Interlocutory Appeal**  
Comment: **\$121.00 FEE PAID by the Defendant, Roman Catholic Archbishop of Washington**

---

File Date: **03/19/2024**  
Document Name: **Civil Information Report - Appeal to ACM**  
Comment: **Civil Appeal Information Report**

---

File Date: **03/20/2024**  
Document Name: **Notice Issued**  
Comment: **Receipt of Notice of Appeal sent to all parties**

---

File Date: **03/20/2024**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **Receipt of Interlocutory Appeal sent to all Parties**

---

File Date: **03/20/2024**  
Document Name: **Order to Proceed**  
Comment: **CASE DUE TO ACM ON 05/19/2024 No. 0107, September Term 2024 ACM-REG-0107-2024 Circuit Court No. C-16-CV-23-004497 It is this the 20th day of March, 2024, by the Appellate Court of Maryland, ORDERED that pursuant to Maryland Rule 8-206(c), the above-captioned appeal shall proceed without a Prehearing Conference or Alternative Dispute Resolution.**

---

File Date: **03/27/2024**  
Document Name: **Answer**  
Comment: **Answer**

---

File Date: **04/01/2024**  
Document Name: **Amended Answer**  
Comment: **Amended Answer**

---

File Date: **04/01/2024**  
Document Name: **Motion / Request - To Stay**  
Comment: **Motion to Stay All Proceedings During Pendency of Appeal**

---

File Date: **04/01/2024**  
Document Name: **Memorandum**  
Comment: **Memorandum - Motion to Stay All Proceedings During Pendency of Appeal**

---

File Date: **04/01/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 1 - Memorandum Opinion Dated 04-01-2024**

---

File Date: **04/01/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 2 - Memorandum and Order Dated 03-18-2024**

---

File Date: **04/15/2024**  
Document Name: **Line**  
Comment: **Supplemental Notice of Appeal**

---

File Date: **04/15/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 1 - Daily Sheet**

---

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File Date: **04/15/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 2 - Order signed by Judge Bright**

---

File Date: **04/16/2024**  
Document Name: **Opposition**  
Comment: **Plaintiffs' Memorandum of Law In Opposition to Defendant's Motion to Stay All Defendant's Motion to Stay All Proceedings During Pendency of Appeal**

---

File Date: **04/16/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 1 - Circuit Court for Montgomery County Unreported Opinion**

---

File Date: **04/16/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 2 - Certified Transcript**

---

File Date: **04/16/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 3 - Maryland State Council on Child Abuse and Neglect Testimony**

---

File Date: **04/16/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 4 - Child USA Letter to House Judiciary Committee, dated March 24, 2023**

---

File Date: **04/16/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 5 - American Psychological Association, Inc.'s "When Time Does Not Heal"**

---

File Date: **04/17/2024**  
Document Name: **Acknowledgement of Petition for Writ of Certiorari**  
Comment: **Roman Catholic Archbishop of Washington v. John Doe, et al. Petition No. 57, September Term, 2024 (SCM-PET-0057-2024) File date: April 16, 2024 I acknowledge that I received a petition for writ of certiorari on April 16, 2024. The petition has been docketed as shown above.**

---

File Date: **04/23/2024**  
Document Name: **Order**  
Comment: **ORDERED that Defendant's Motion to Stay All Proceeding During Pendency of Appeal be and hereby is GRANTED; and it is further ORDERED that this action be and hereby is STAYED during the pendency of the interlocutory appeal of this matter noted by Defendant; and it is further**

**ORDERED that the Parties provide a Status Report within five days after any opinion issued by either the Appellate Court of Maryland or the Supreme Court of Maryland in this matter. SIGNED JUDGE BRIGHT 4/23/2024**

---

File Date: **04/23/2024**  
Document Name: **Order**  
Comment: **Motion to Stay is GRANTED pending interlocutory appeal. SIGNED JUDGE BRIGHT 4/23/2024**

---

File Date: **04/23/2024**  
Document Name: **Deficient Filing**  
Comment: **Line re Change of Address**

---

File Date: **04/23/2024**  
Document Name: **Notice of Deficiency - Rule 20-203(d)**  
Comment: **Address change for attorneys can only be changed by our technical team, JIS**

---

File Date: **04/23/2024**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **Deficiency Notice**

---

File Date: **04/23/2024**  
Document Name: **Case Inactive**  
Comment:

---

File Date: **04/23/2024**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **Order of Court**

---

File Date: **04/23/2024**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **Order of Court**

---

File Date: **05/20/2024**  
Document Name: **Certification**  
Comment: **Original Case File**

---

File Date: **05/20/2024**  
Document Name: **Original Record Sent**  
Comment: **Appeal Record sent to ACM**

---

File Date: **05/20/2024**

Document Name: **Writ /Summons/Pleading - Electronic Service**

Comment: **Cover Letter of Record of Appeal**

---

File Date: **05/20/2024**

Document Name: **Writ /Summons/Pleading - Electronic Service**

Comment: **Appeal Index**

---

File Date: **05/20/2024**

Document Name: **Writ /Summons/Pleading - Electronic Service**

Comment: **Case Summary to all Parties**

---

File Date: **05/29/2024**

Document Name: **Order - Writ of Certiorari Granted**

Comment: **DUE TO SCM: 6/11/2024 Petition No. 57 September Term, 2024 No. 107, Sept. Term, 2024 Appellate Court of Maryland**

---

File Date: **06/11/2024**

Document Name: **Notice Filed**

Comment: **No. 9, September Term, 2024 SCM-REG-0009-2024 Dear Clerk: A writ of certiorari directed to the Appellate Court of Maryland has been issued in John Doe, et al. vs. Roman Catholic Archbishop of Washington, No. C-16-CV-23-004497. As the custodian of the record, the Circuit Court for Prince George's County is required to transmit certification of the record to the Supreme Court of Maryland through the workflow queue on or before June 11, 2024 in accordance with Maryland Rules 8-412 and 20-402. By this Notice and the accompanying writ, the Supreme Court's Clerk's Office is requesting the preparation and transmittal of the record as set forth herein.**

---

File Date: **06/11/2024**

Document Name: **Certification**

Comment: **Original Case File**

---

File Date: **06/11/2024**

Document Name: **Original Record Sent**

Comment: **Record sent to SCM**

---

File Date: **06/11/2024**

Document Name: **Writ /Summons/Pleading - Electronic Service**

Comment: **Appeal Index**

---

File Date: **06/11/2024**

Document Name: **Writ /Summons/Pleading - Electronic Service**

Comment: **Cover Letter of Record of Appeal**

---



File Date: **06/11/2024**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **Case Summary to all Parties**

---

## Service Information

<u>Service Type</u>	<u>Issued Date</u>
<b>Summons Issued</b>	<b>10/02/2023</b>

*This is an electronic case record. Full case information cannot be made available either because of legal restrictions on access to case records found in Maryland Rules, or because of the practical difficulties inherent in reducing a case record into an electronic format.*

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Service Desk: (410) 260-1114

IN THE CIRCUIT COURT  
FOR PRINCE GEORGE'S COUNTY, MARYLAND

RS

JOHN DOE, RICHARD ROE, and  
MARK SMITH, individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

C-16-CV-23-004497

ROMAN CATHOLIC ARCHBISHOP  
OF WASHINGTON, a corporation sole,  
d/b/a ROMAN CATHOLIC  
ARCHDIOCESE OF WASHINGTON,

Defendant.

JURY TRIAL DEMANDED

Index No.:

SERVE ON:

Trac, the Registered Agent Company  
401 E. Pratt Street, Suite 2424  
Baltimore, Maryland 21202

Christopher Anzeidi  
General Counsel  
5001 Eastern Avenue  
Hyattsville, Maryland 20782

CLASS ACTION COMPLAINT

Plaintiffs John Doe, Richard Roe, and Mark Smith, individually and on behalf of all others similarly situated (hereinafter collectively "Plaintiffs"), by and through their undersigned counsel and the law firms of Schochor, Staton, Goldberg, and Cardea, P.A. and Janet, Janet & Suggs, hereby sue Defendant Roman Catholic Archbishop of Washington, a corporation sole, d/b/a Roman Catholic Archdiocese of Washington (hereinafter "the Archdiocese," "Archdiocese of Washington" or "Defendant").

In support of their causes of action against Defendant, Plaintiffs state as follows:

## INTRODUCTION

1. This is a class action for damages and declaratory relief maintained pursuant to Maryland Rule 2-231, section 5-117 of the Maryland Courts and Judicial Proceedings Article, and the common law of Maryland.

2. All three Plaintiffs are filing this action under pseudonyms because of the extremely sensitive nature of the conduct involved and damages suffered by those Plaintiffs and others who are similarly situated.

3. As detailed further herein, this action is being brought by the Plaintiffs, individually and on behalf of a proposed class defined as follows: "All persons (or their personal representatives, heirs, or assigns) who were subjected to one or more acts of sexual abuse or sexual misconduct as minors at any time from 1939 through the present, which were committed by agents, servants, or employees of the Archdiocese of Washington or who were otherwise under the direction, supervision, or control of the Archdiocese of Washington; or on premises owned by or subject to the control of the Archdiocese of Washington." (hereinafter, the "Class.") Excluded from the Class definition are Defendant, and any entity in which Defendant has a controlling interest, any current officers or directors of Defendant, and the legal representatives, heirs, successors, assigns, and spouses of Defendant, and members of the Maryland Judiciary, and their legal representatives, heirs, successors, assigns, and spouses.

4. Over at least the past 84 years, the negligent, grossly negligent, and willful and wanton conduct of the Archdiocese of Washington has caused incalculable harm to numerous Maryland children and their families, entitling them to civil discovery and damages for their calamitous suffering.

5. As Catholic Bishop Robert E. Barron recently wrote:

The Catholic Church, especially in the West, has been passing through one of the very

worst crises in its history. The clergy sex abuse scandal has compromised the work of the Church in almost every way. It has adversely affected teaching, preaching, evangelization, and the recruitment of priests and religious; it has cost many billions of dollars, which could otherwise have supported the Church's mission; it has almost completely undermined the credibility of the Church's ministers; and of course, most terribly, it has deeply wounded many thousands of the most innocent, those the Church is specially charged to protect. Given the gravity of this crime, it is just that the Church should suffer.<sup>1</sup>

6. The members of the class on whose behalf this suit is brought are among the "most innocent" whom Defendant Archdiocese of Washington was "specially charged to protect," yet grievously failed to do so.

7. Defendant systemically betrayed the trust reposed in it, in violation of the civil and common law of Maryland, by repeatedly facilitating and permitting the sexual abuse of children and prioritizing its institutional interests and secular power over the physical, emotional, and spiritual well-being of the parishioners, including Plaintiffs and the Class Members, who made its operations, ministries, and mission possible.

8. Instead of protecting Plaintiffs from sexual abuse, the Archdiocese concealed and facilitated that abuse, choosing to act with care and solicitude toward the perpetrators rather than to protect and heal the Class Members.

#### **PARTIES**

9. All facts alleged in any part of this Complaint are alleged as to all relevant times, unless otherwise expressly specified.

10. Plaintiff John Doe (hereinafter sometimes "Doe" or "Plaintiff Doe") is a citizen of the State of Maryland and a resident of Montgomery County.

---

<sup>1</sup> Most Rev. Robert Barron, "Examining the Sexual Abuse Scandal with Biblical Eyes," in *Renewing Our Hope: Essays for the New Evangelization* (2020).

11. Plaintiff Richard Roe (hereinafter sometimes “Roe” or “Plaintiff Roe”) is a citizen of the State of Maryland and a resident of Frederick County

12. Plaintiff Mark Smith (hereinafter sometimes “Smith” or “Plaintiff Smith”) is a citizen of the State of Maryland and a resident of Queen Anne’s County.

13. Doe, Roe, and Smith and all those similarly situated are referred to hereinafter collectively as the “Plaintiffs.”

14. All references to “Plaintiffs” or “the Class” herein include Doe, Roe, and Smith and the members of the putative class for which certification is sought.

15. All references to “Named Plaintiffs” or “Class Representatives” herein include only Doe, Roe, and Smith.

16. Plaintiffs bring this action on behalf of themselves and all other similarly situated individuals who meet the following previously stated definition of the Class: “All persons (or their personal representatives, heirs, or assigns) who were subjected to one or more acts of sexual abuse or sexual misconduct as minors at any time from 1939 through the present, which were committed by agents, servants, or employees of the Archdiocese of Washington or who were otherwise under the direction, supervision, or control of the Archdiocese of Washington; or on premises owned by or subject to the control of the Archdiocese of Washington.” (hereinafter, the “Class.”) Excluded from the Class definition are Defendant, and any entity in which Defendant has a controlling interest, any current officers or directors of Defendant, and the legal representatives, heirs, successors, assigns, and spouses of Defendant, and members of the Maryland Judiciary, and their legal representatives, heirs, successors, assigns, and spouses.

17. At all relevant times, Defendant Archdiocese of Washington (sometimes hereinafter “Defendant” or “the Archdiocese”) was a corporation sole with its principal place of business in Prince George’s County, Maryland.

18. At all relevant times, the Archdiocese acted directly and through its agents, apparent agents, servants, employees, partners, joint venturers, joint enterprisers, and affiliated organizations. The foregoing include but are not limited to agents, servants, or employees of the Archdiocese or others subject to its direction, control, or supervision who sexually abused Plaintiffs (hereinafter “Perpetrators”); and other entities, priests, nuns, members of religious orders, clergy, administrators, employees, and actual or apparent agents of any of them.

19. All references to Defendant or the Archdiocese in this Class Action Complaint should be deemed to include all of the individuals and entities referenced in paragraph 18.

20. At all relevant times, the Archdiocese of Washington encompassed at least the District of Columbia and Maryland’s Montgomery, Prince George’s, St. Mary’s, Calvert, and Charles counties.

21. The Archdiocese of Washington was created in 1939 out of the Archdiocese of Baltimore.

22. The Archdiocese operates and oversees parishes and missions, schools, religious orders, and other groups and entities.

23. At all relevant times, the Archdiocese is and was led by an Archbishop.

24. At all relevant times, the Archdiocese did business and otherwise acted as an organized religion affiliated with the Roman Catholic Church, under its own name and others as detailed below.

25. At all relevant times, the Archdiocese has, among other activities, ordained, hired, trained, retained, and supervised archdiocesan priests, members of religious orders, and other agents, servants, and employees, and owned and managed land, parishes, schools, and other affiliated entities in Maryland.

26. At all relevant times, the Archdiocese engaged in business and commercial

transactions within the State of Maryland, including the acquisition of property for investment purposes.

27. The Archdiocese engaged in business directly and by and through numerous other entities, including the parishes and schools within the Archdiocese and its agents, servants, partners, joint venturers, joint enterprisers, and affiliates.

28. At all relevant times, the Archbishop had sole and ultimate authority to dispose of the assets owned or controlled by the Archdiocese, including assets of all schools and parishes therein.

29. At all relevant times, the Archbishop has had sole and ultimate authority to hire and control individuals who serve or served as agents, servants, or employees of the Archdiocese of Washington or who worked at locations owned or managed by the Archdiocese.

30. At all relevant times, the Archdiocese has had ultimate control over activities on the properties within its jurisdiction, including any Catholic school or parish property within the Archdiocese.

31. At all relevant times, the Archdiocese, by and through its Archbishop, held title to property and was responsible for governance of archdiocesan entities—including parishes, churches, Catholic schools, and other Catholic entities within the Archdiocese—as well as of clergy and members of religious orders, including the Perpetrators.

32. At all relevant times, the Archdiocese has held authority and responsibility for training, education, ordination, employment, and placement of all clergy members within its jurisdiction.

33. At all relevant times, the Archdiocese has been responsible for monitoring and investigating the moral, ethical, psychological, educational, and emotional fitness of candidates for priesthood and ordained priests during their ministry in the Archdiocese of Washington.

34. At all relevant times, the Archdiocese has been responsible for supervising,

investigating, disciplining, removing, and recommending for laicization<sup>2</sup> clergy ordained within and transferred to its jurisdiction.

35. At all relevant times, the Archdiocese's appointment and retention of Perpetrators in positions in which they had contact with one or more Plaintiffs, were intended to, and had the effect of, causing the general public, Catholic parishioners, and anyone who came in contact with a Perpetrator to believe that he or she was trustworthy, of excellent moral character, participated in virtuous actions and behavior, and was safe for children to encounter.

36. At all relevant times, appointment and retention of personnel in positions within the Archdiocese in which they had contact with children, were intended by the Archdiocese to, and had the effect of, representing and affirming to the public that the individual could be trusted to comport themselves to societal standards in the presence of children, who would be safe and without risk of sexual assault by the individual.

37. At all relevant times, Plaintiffs, their parents and guardians, and their families relied on appropriate hiring, supervision, retention, and ordination of clergy by the Archdiocese in deciding whether and under what circumstances to spend time with or entrust their children to the supervision, custody, or care of members of the Archdiocese.

38. At all relevant times, the Archdiocese has held all or a substantial portion of its assets in a manner that is not subject to an express trust.

39. At all relevant times, the Archdiocese has held all or a substantial portion of its assets in a manner that is not subject to an implied trust.

40. At all relevant times, the Archdiocese has held and used a substantial portion of its assets for non-charitable purposes, e.g., for concealing clergy sexual abuse of children, for lobbying,

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<sup>2</sup> Laicization is also referred to as "dismissal from the clerical state."



public relations, and other activities designed to downplay or conceal clergy sexual abuse and its involvement and accountability for that abuse, and for investment and profit-making activities for its own benefit, such as the acquisition of substantial property holdings through affiliated entities.

41. The Maryland Child Victims Act, other legal authorities, and public policy preclude applying the common-law doctrine of charitable immunity, or any statutory or common-law limitation on recovery to the extent of the Archdiocese's available insurance coverage.

### **JURISDICTION AND VENUE**

42. The Court has general personal jurisdiction over Defendant, because it is a corporation sole with its principal place of business in Hyattsville, Maryland, in Prince George's County.

43. The Court also has specific personal jurisdiction over Defendant, because, among other reasons, the events at issue transpired in Maryland and Defendant committed the torts at issue in Maryland.

44. This Court has subject matter jurisdiction over this action because the amount of damages sought exceeds \$75,000.

45. Venue of this proceeding lies in Prince George's County, Maryland under Md. Code Ann., Cts. & Jud. Proc. § 6-20, because, among other reasons, Defendant has its principal place of business in Prince George's County, Maryland and Plaintiffs' causes of action arose as a direct result of acts and omissions by the Defendant that occurred in Prince George's County, Maryland.

46. The venue of Prince George's County is convenient for the parties and witnesses and serves the interests of justice. Clergy are assigned and supervised by the Archdiocese, and all of the Archdiocese's evidence and witnesses on the clergy it assigns and supervises are located in Prince George's County.

47. Federal court jurisdiction does not lie under the Class Action Fairness Act, 28 U.S.C.

§ 1332(d) (“CAFA”), insofar as (a) greater than two-thirds of the proposed class are citizens of Maryland; (b) Defendant, a Maryland citizen, is the lone named defendant from which all relief is presently sought by the Class, and whose conduct forms the principal basis for the claims asserted herein; (c) the principal injuries resulted from the alleged conduct or related conduct of Defendant as alleged herein were incurred in Maryland; and (d) in the 3-year period preceding the filing of this action, no other class action asserting the same or similar factual allegations against Defendant was filed on behalf of Plaintiffs or other persons. *See* 28 U.S.C. § 1332(d)(1)(A). In the alternative, CAFA jurisdiction does not lie because at least two-thirds of the proposed Class, and Defendant, are citizens of Maryland. *See* 28 U.S.C. § 1332(d)(1)(B).

#### **COMMON FACTUAL ALLEGATIONS**

**I. Awareness of the problem of child sexual abuse by personnel of the Archdiocese of Washington**

48. Plaintiffs incorporate all preceding paragraphs by reference as if fully set forth herein.

49. From the earliest years of its founding to the present day, the Roman Catholic Church has known of the problem of sexual abuse of children by its agents or others subject to its oversight or control. For example:<sup>3</sup>

- a. The *Didache*, a first-century Christian handbook, prohibited sex between adult men and boys.
- b. The Elvira Synod, held c. 305–306 A.D., severely condemned sexual abuse of minors by member of the clergy, and commanded that “[t]hose who sexually abuse boys may not be given communion even when death approaches.” (Canon 71.)

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<sup>3</sup> This case does not concern the propriety of any strictly religious procedures undertaken, or strictly religious penalties imposed, by the Church. The relief sought by Plaintiffs is purely secular. These examples are merely being provided to demonstrate the Church’s longstanding knowledge of the problem of child sexual abuse.

- c. The Penitential of Bede, dating from England in the eighth century, advises that clerics who sexually abused children should be penalized according to their rank.
- d. In 1051, St. Peter Damian completed the *Book of Gomorrah*, which denounced clergy sexual abuse and advocated that those prone to abuse not be allowed to serve in religious ministry.
- e. In 1178, Pope Alexander III and the Third Lateran Council decreed that priests who engaged in child sexual abuse were to be “dismissed from the clerical state or else confined to monasteries to do penance.”<sup>4</sup>
- f. As early as the 16<sup>th</sup> century, clerics who abused children were tried and punished in church courts, then handed over to secular authorities for trial and punishment.<sup>5</sup>
- g. In 1570, for example, a church court in Florence convicted a priest of abusing a teenage choir boy. He was handed over to secular authorities, tried, and executed.<sup>6</sup>
- h. As another example, in 1726 the Sacred Congregation for the Council of Trent sentenced a priest to the galleys for child sexual abuse and forbade him from celebrating mass.<sup>7</sup>
- i. A decree by the Vatican, *Crimen sollicitationis*, was issued in 1922 and communicated in confidence to bishops worldwide, including the then-archbishop of the Archdiocese of Washington. *Crimen sollicitationis* specified procedures and noted penalties for clergy who solicited sex from others during the sacrament of confession. *Crimen sollicitationis* also made clear that the procedures and penalties therein applied to “the worst crime,” which included “any obscene, external act, gravely sinful, perpetrated in any way by a cleric or attempted by him with youths of either sex,” whether in or outside of confession. As punishment for these acts, *Crimen sollicitationis* specifically directed bishops to canon 2359, § 2 of the 1917 Code of Canon Law, which provided that clerics in sacred orders “who engage in a delict against the sixth precept of the Decalogue with a minor below the age of sixteen, or engage in . . . sodomy . . . are suspended, declared infamous, and are deprived of any office, benefice, dignity, responsibility, if they have such, whatsoever, and in more serious cases, they are to be deposed.” Moreover, canons 2186–87 of the 1917 Code of Canon Law permitted bishops “in virtue of an informed conscience” to wholly or partially suspend clerics from office who were believed to have committed child

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<sup>4</sup> Brendan Daly, Dismissal from the Clerical State, 11 *The Canonist* 31-54, available at <https://www.tekupenga.ac.nz/wp-content/uploads/2020/09/Daly-Canonist11-Dismissal.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

sexual abuse, among other offenses.

- j. In 1952, Father Gerald Fitzgerald, who founded the Servants of the Paraclete in 1947 (which specialized in the putative rehabilitation of sexually deviant priests) wrote to Bishop Robert Dwyer of Reno, NV that he was “inclined to favor laicization for any priest, upon objective evidence, for tampering with the virtue of the young.” He noted that “real conversions will be found to be extremely rare,” and “[m]any bishops believe men are never free from the approximate danger once they have begun. Hence, leaving them on duty or wandering from Archdiocese to Archdiocese is contributing to scandal or at least to the approximate danger of scandal.”
- k. In 1957, Fr. Fitzgerald wrote to Archbishop Edwin Byrne of Santa Fe that he thought it was imprudent to “offer hospitality [i.e., treatment] to men who have seduced or attempted to seduce little boys or girls.” He added, ominously, that “if I were a bishop I would tremble when I failed to report them to Rome for involuntary laicization. Experience has taught us these men are too dangerous to the children of the parish and the neighborhood for us to be justified in receiving them here. ... They should ipso facto be reduced to lay men when they act thus.”
- l. A 1961 Vatican Instruction of the Congregation of the Religious, entitled *Religiosorum institution*, mandated that candidates who have “sinned gravely” against the Sixth Commandment with a person of the same or the other sex is to be immediately dismissed, and also stated: “Advancement to religious vows and ordination should be barred to those who are afflicted with evil tendencies to homosexuality or pederasty, since for them the common life and the priestly ministry would constitute serious dangers.”
- m. The Decree on the Adaptation and Renewal of Religious Life, *Perfectae Caritatis*, approved by the Second Vatican Council and proclaimed by Paul VI on October 28, 1965, stated: “Since the observance of perfect continence touches intimately the deepest instincts of human nature, candidates should neither present themselves for nor be admitted to the vow of chastity, unless they have been previously tested sufficiently and have been shown to possess the required psychological and emotional maturity. They should not only be warned about the dangers to chastity which they may meet but they should be so instructed as to be able to undertake the celibacy which binds them to God in a way which will benefit their entire personality.”
- n. In 1971, the *Loyola Psychological Study of the Ministry and Life of the American Priest* was completed by Eugene Kennedy and colleagues under contract with the National Conference of Catholic Bishops (now the U.S. Conference of Catholic Bishops). The Loyola Study indicated that a substantial percentage of priests sampled were

psychosexually immature, lonely, and/or sexually active after ordination.<sup>8</sup>

- o. In May 1985, the report *The Problem of Sexual Molestation by Roman Catholic Clergy: Meeting the Problem in a Comprehensive and Responsible Manner* by Doyle et al. was provided to each bishop and archbishop of the National Conference of Catholic Bishops (now the U.S. Conference of Catholic Bishops).

50. The Archdiocese has also long been aware of the problem and danger of clergy sexual abuse among its personnel through numerous credible allegations against specific clergy, including those indicated on the Archdiocese's list of credibly accused clergy.<sup>9</sup> Its awareness includes the following:

- a. The Archdiocese was aware of the papal decree *Crimen sollicitationis* and its substance, described above, at or around the time of its promulgation in 1922.
- b. One or more confirmed cases of sexual abuse by its personnel occurred in the Archdiocese as early as the 1930s. For example, per the Maryland Attorney General's Report on Child Sexual Abuse Within the Archdiocese of Baltimore, Fr. James Lannon, who went on to serve on the Archdiocese of Washington, reportedly sexually abused a girl in the mid-1930s. The Report further notes that "[a]ccording to an internal document of the Archdiocese of Baltimore, the Archdiocese of Washington 'acknowledges a documented history of sexual impropriety with teenaged boys on [Fr. James Lannon's] part,' though [contradictorily] the Archdiocese of Washington stated that it first learned of Lannon's abuse in 1953. At that time, Lannon was temporarily removed from his duties, evaluated, and then returned to the ministry in 1954. Lannon was permanently removed in 1958."
- c. On information and belief, the Archdiocese knew or should have known of the above-referenced concerns of Fr. Fitzgerald and the Servants of the Paraclete, to whom it sent offending priests for "treatment," that those priests who abused children were at significant risk for exploiting other children.
- d. The Archdiocese was aware of the Vatican Instruction entitled *Religiosorum institution* and its substance, described above, at or around the time it was promulgated in 1961.
- e. The Archdiocese was aware of the decree entitled *Perfectae Caritatis* and its substance, described above, at or around the time it was promulgated in 1965.

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<sup>8</sup> <https://www.usccb.org/sites/default/files/issues-and-action/child-and-youth-protection/upload/The-Causes-and-Context-of-Sexual-Abuse-of-Minors-by-Catholic-Priests-in-the-United-States-1950-2010.pdf>, at 66-74.

<sup>9</sup> See <https://adw.org/about-us/resources/accused-clergy/>.

- f. The Archdiocese was aware of the *Loyola Psychological Study of the Ministry and Life of the American Priest* and its substance, described above, at or around the time it was promulgated in 1971.
- g. In 1983, the St. Luke Institute in Suitland, Maryland began providing psychiatric and psychological services to archdiocesan priests, at the request of the Archdiocese, who were credibly accused of sexually abusing minors.
- h. The Archdiocese was aware of the 1985 report by Doyle et al. and its substance, described above, at or around the time it was distributed to members of the National Conference of Catholic Bishops.
- i. On May 30, 1986, the *Washington Post* reported the arrest of Rev. Peter M. McCutcheon for sexually abusing two teenage boys. McCutcheon was subsequently convicted.
- j. The Archdiocese of Washington's own former Archbishop Theodore McCarrick reportedly had a long-standing history of sexual misconduct towards boys and seminarians. Reports about his misconduct were made to various authority figures in the Church generally and/or in the Archdiocese of Washington specifically at least as early as 1993, but he remained in public ministry until 2018. In a 2020 report,<sup>10</sup> the Holy See acknowledged that two other former Archdiocese of Washington archbishops, James Hickey and Donald Wuerl, each knew about McCarrick's misconduct many years earlier than 2018. However, neither archbishop took action that was sufficient to lead to McCarrick's removal. Donald Wuerl, the Archdiocese of Washington's archbishop from 2006 to 2018, in particular denied knowing about McCarrick's misconduct prior to McCarrick's removal from ministry even though the Holy See's report notes that Wuerl provided Nuncio Montalvo in 2004 with a signed statement documenting abuse by McCarrick. Amid mounting criticism of Wuerl's methods for handling priest abuse both in the Archdiocese of Washington and in his former role as the Bishop of the Diocese of Pittsburgh, Wuerl resigned from his role as archbishop in 2018.

51. The problem of sexual abuse of minors by priests and other archdiocesan personnel was known or should have been known to bishops who served in the Archdiocese of Washington from the outset of the Class Period.

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<sup>10</sup> See [https://www.vatican.va/resources/resources\\_rapporto-card-mccarrick\\_20201110\\_en.pdf](https://www.vatican.va/resources/resources_rapporto-card-mccarrick_20201110_en.pdf).

52. The Archdiocese repeatedly allowed those who had been credibly accused to continue in their roles and ministry after a brief period of therapy, as indicated on the Archdiocese's list of credibly accused clergy.<sup>11</sup>

53. Pope Francis issued a public statement on or about August 20, 2018, regarding the child sexual abuse crisis within the Catholic Church, stating that the Church "must acknowledge our past sins and mistakes" and admitting the Church "showed no care for the little ones" and "abandoned them."

54. The patterns and practices of conduct of the Archdiocese with respect to clergy abuse of children, as further detailed below, contravened numerous policies, procedures, and practices of the Roman Catholic Church or the Archdiocese, which reflected the standard of care at the time but were systematically ignored and not enforced, including the following:

- a. Canon 2359 § 2 of the Pio-Benedictine Code of Canon Law, in force from 1917 through the first day of Advent, 1983, which provided that priests "who engage in a delict against the sixth precept of the Decalogue with a minor below the age of sixteen, or engage in . . . sodomy . . . are suspended, declared infamous, and are deprived of any office, benefice, dignity, responsibility, if they have such, whatsoever, and in more serious cases, they are to be deposed."
- b. Canon 2357, § 2 of the 1917 Code, which provides, "Whoever publicly commits the delict of adultery, or publicly lives in concubinage, or who has been legitimately convicted of another delict against the sixth precept of the Decalogue is excluded from legitimate ecclesiastical acts until he gives a sign of returning to his senses."
- c. Canon 2404 of the 1917 Code, which prohibited abuse of ecclesiastical power and office (here, the concealment, coddling, and reckless assignments to ministry of abusive priests);
- d. Canon 2209 of the 1917 Code, which prohibited "hiding the delinquent" who commits a delict (§ 7) and imputes responsibility for a delict to those who fail in office to prevent it (§ 6).
- e. Canon 1387 of the 1983 Code, which prohibits solicitation of a sexual act by a priest during confession.

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<sup>11</sup> See <https://adw.org/about-us/resources/accused-clergy/>.



- f. Canon 1389 of the 1983 Code, which provides for punishment of “[o]ne who through culpable negligence illegitimately places or omits an act of ecclesiastical power, ministry or function which damages another person.” (No bishop is known to have been punished under this canon, however.)<sup>12</sup>
  - g. Canon 1395 of the 1983 Code, which prohibits sexual conduct with those under sixteen.<sup>13</sup>
  - h. Canon 1717 of the 1983 Code, which requires a bishop to investigate information that “at least seems to be true of an offense” against Church policy.
  - i. Title V of the Holy Office instruction *Crimen sollicitationis*, as described above.
55. As the Vatican itself has admitted:

The period between 1965 and 1983 (the year when the new Latin Code of Canon Law appeared) was marked by differing trends in canonical scholarship as to the scope of canonical penal law and the need for a decentralized approach to cases with emphasis on the authority and discretion of the local bishops. A “pastoral attitude” to misconduct was preferred and canonical processes were thought by some to be anachronistic. A “therapeutic model” often prevailed in dealing with clerical misconduct. The bishop was expected to “heal” rather than “punish”. An over-optimistic idea of the benefits of psychological therapy guided many decisions concerning diocesan or religious personnel, sometimes without adequate regard for the possibility of recidivism.<sup>14</sup>

(Emphasis added.)

## II. Duties of the Archdiocese toward the class

56. At all relevant times, Perpetrators served as agents, employees, or servants of the Archdiocese, acting at all relevant times within the scope of their employment, or otherwise acted

<sup>12</sup> See, e.g., Nat’l Review Board for the Protection of Children and Young People, *A Report on the Crisis in the Catholic Church in the United States* (2004), available at <https://www.bishop-accountability.org/usccb/causesandcontext/2004-02-27-CC-Report.pdf>.

<sup>13</sup> “If a cleric has otherwise committed an offense against the sixth commandment of the Decalogue with force or threats or publicly or with a minor below the age of sixteen, the cleric is to be punished with just penalties including dismissal from the clerical state if the case warrants it.” (Can. 1395, § 2, 1983 Code).

<sup>14</sup> See [https://www.vatican.va/resources/resources\\_introd-storica\\_en.html](https://www.vatican.va/resources/resources_introd-storica_en.html).



under the control, supervision, or management of the Archdiocese.

57. At all relevant times, the Archdiocese retained the right to control Perpetrators' activities as well as the activities of those responsible for Perpetrators' supervision, and Perpetrators served under the Archdiocese's management and supervision.

58. At all relevant times from their incardination or appointment within the Archdiocese, Perpetrators served as agents of the Archdiocese; took a vow of obedience to the Archdiocese; and/or acted under the direct supervision, control, and authority of the Archdiocese.

59. Because the Archdiocese was a public-facing religious institution dedicated to increasing the ranks of its believers, the Perpetrators were expected by the Archdiocese to perform certain acts and duties involving children, including but not limited to supervising children in their search for religious and spiritual understanding, teaching child parishioners to act in the manner consistent with the ideals of the Roman Catholic Church, and other acts consistent with their roles as spiritual mentors, leaders, and teachers.

60. The Archdiocese is vicariously liable for all negligent acts and omissions of the Perpetrators complained of herein, including all inappropriate conduct, boundary violations, grooming, rape, sexual exploitation, and sexual misconduct, on at least the following grounds, among others that may be determined in the course of this litigation:

- a. The Archdiocese expressly and impliedly ratified the conduct of Perpetrators, because, among other reasons, it failed to discipline and remove the Perpetrators, and failed to formulate and enforce policies and procedures, despite having knowledge of all material facts, where sexual abuse and exploitation by Perpetrators was known or reasonably foreseeable;
- b. Perpetrators acted within the scope of their duties with respect to grooming, boundary violations, sexual misconduct, sexual abuse with respect to children ("the conduct") such that the Archdiocese is liable on the basis of respondeat superior, because, among other reasons:
  - i. The conduct served the purposes of the Archdiocese, in that it permitted the Archdiocese to maintain its image and reputation and the illusion that its priests were observing the strictures of mandatory celibacy, by allowing

Perpetrators to act out sexually with children, who could be easily intimidated and would be much less likely to disclose sexual contact with priests than adults;

- ii. The conduct was commonly performed by personnel of the Archdiocese, including Perpetrators;
- iii. The conduct occurred incident to the Archdiocese's ministry to children;
- iv. The conduct often occurred on property owned or controlled by the Archdiocese and was made possible by the Archdiocese's relationship with the Perpetrators;
- v. Perpetrators had long-term, extensive relationships with the Archdiocese;
- vi. The Archdiocese entrusted to Perpetrators its ministry to children;
- vii. The conduct was foreseeable and expectable, for all the reasons stated in this Complaint;
- viii. The conduct was tolerated as a regular practice of the Archdiocese;
- ix. In engaging in the conduct, Perpetrators did not act for a purely personal purpose;
- x. In engaging in the conduct, Perpetrators did not act to protect their interests;
- xi. The conduct was not highly unusual or outrageous to the Archdiocese or those in leadership positions within the Archdiocese, because the conduct commonly occurred in the Archdiocese and was commonly committed by its agents, servants, and employees; and
- xii. For other reasons as may be disclosed during this litigation.

61. All hiring, retention, and supervision of Perpetrators by agents of the Archdiocese was within the scope of employment of said agents, as it was part of their employment duties and responsibilities.

62. Perpetrators' abuse, exploitation, and misconduct was also made possible by the Archdiocese's failure to enforce existing policies and procedures regarding the supervision and discipline of Perpetrators, who were suspected or credibly accused of having committed sexual abuse, or who foreseeably could commit sexual abuse.

63. The Archdiocese implicitly and explicitly represented to the Plaintiffs, their parents, and other parishioners through actions and teachings that Perpetrators and other agents would act in the best interests of parishioners and would not pose a risk to children.

64. The Archdiocese encouraged Plaintiffs, their parents, and all parishioners to honor, revere, and obey Perpetrators and other agents because they were representatives of God. As the 1983 Code of Canon Law states: “The Christian faithful, conscious of their own responsibility, are bound by Christian obedience to follow what the sacred pastors, as representatives of Christ, declare as teachers of the faith or determine as leaders of the church.” Can. 212 § 1.

65. Plaintiffs and their parents and guardians entrusted Plaintiffs’ well-being to the Archdiocese and its agents, servants, and employees.

66. The Archdiocese undertook and otherwise had a corresponding duty to be solicitous toward and protective of the Plaintiffs in the exercise of its positions of trust, confidentiality, and moral authority.

67. At all relevant times, the Archdiocese had a policy of avoiding “scandal” or harm to its reputation and that of the Roman Catholic Church. It chose to protect its own reputation and the reputation of the Roman Catholic Church—and to give its parishioners and members of the public, including Plaintiffs, a false sense of security—rather than act to prevent foreseeable harm in the form of rape, sexual violence, and sexual abuse committed by agents operating within its jurisdiction, including Perpetrators. This permitted, promoted, and perpetuated foreseeable rape, sexual violence, and sexual abuse committed by Perpetrators and other agents against parishioners of the Archdiocese and other members of the public, including Plaintiffs.

68. At all relevant times, the Archbishop and his delegates had the right to control and oversee the operation of Catholic schools, parishes, seminaries, missions, members of Catholic religious orders engaged in ministry within the Archdiocese, and other ministries and organizations

within the Archdiocese.

69. At all relevant times, the Archdiocese, directly and through its actual or apparent agents, servants, and employees—including but not limited to the Archdiocese and archdiocesan priests and staff—undertook and otherwise owed a duty to parishioners of the Archdiocese, individuals present on its property, and members of the public, to exercise reasonable care to prevent and mitigate foreseeable harm caused by its actual or apparent agents, servants, and employees.

70. At all relevant times, the Archdiocese adopted or followed various policies and procedures—including the Code of Canon Law (1917) or the Code of Canon Law (1983), and the ecclesiastical laws, precepts, and other directives promulgated by the Holy See, the United States Conference of Catholic Bishops, the Archdiocese, and other governing bodies of the Roman Catholic Church—which prohibited child sexual abuse and required the Archdiocese to act affirmatively to prevent it, rather than facilitate it.

71. For most of the Class Period, the Archdiocese and its agents, servants, and employees were mandatory reporters of child sexual abuse under Maryland law.

72. Maryland specifically criminalized child abuse by statute in 1963.

73. By 1973 at the latest, the Archdiocese had a statutory duty to report child sexual abuse to proper authorities. *See* Md. Code Ann., Family Law § 5-705; 60 Op. Atty. Gen. 51.

74. The Archdiocese's statutory duty to report child sexual abuse extended to all members of the Class and existed for their benefit and protection.

75. At all relevant times, the Archdiocese undertook and otherwise owed a duty to protect children who participated in its ministry or were on its premises from the unreasonable risk of foreseeable physical or emotional harm on its premises.<sup>15</sup>

76. At all relevant times, the Archdiocese and its agents and employees undertook and otherwise owed a duty to the Class to provide a safe environment for children who were on its premises or encountering its agents, such as Perpetrators.

77. At all relevant times, the Archdiocese undertook and otherwise owed a duty to the Class to be solicitous toward and protective of children in the exercise of its positions of trust, confidentiality, and moral authority.

78. At all relevant times, the Archdiocese had a duty to act to prevent any unreasonable risk of physical or emotional harm it created or contributed to creating (such as allowing credibly accused clergy to remain in ministry to children) from taking effect.<sup>16</sup>

79. At all relevant times, the Archdiocese had the duty to control the conduct of its agents to protect children from sexual abuse.<sup>17</sup> In particular, the Archdiocese had the duty to protect children from priests, other archdiocesan personnel, and other individuals subject to its control, whom it knew or should have known had dangerous propensities to sexually abuse minors.

80. At all relevant times, the Archdiocese had the duty to not consciously or negligently misrepresent, by word or deed, that its agents posed no danger to minors when it knew or should have known they did.<sup>18</sup>

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<sup>15</sup> See Restatement (Second) of Torts § 314A.

<sup>16</sup> Restatement (Second) of Torts §§ 310–311, 313, 321.

<sup>17</sup> See Restatement (Second) of Torts § 319.

<sup>18</sup> See Restatement (Second) of Torts §§ 310–311, 313.

81. For the reasons stated herein, the Archdiocese violated all of the aforementioned duties during the Class Period, which caused damage to each Class Member.

**III. Tortious patterns and practices of the Archdiocese.**

82. At all relevant times, the Archdiocese engaged in a pattern or practice of failing to appropriately hire and/or assign ministries to church personnel, including priests, members of religious orders, and lay leaders, who posed a substantial risk to child safety.

83. At all relevant times, the Archdiocese engaged in a pattern or practice of failing to supervise seminarians, priests, others in religious life, and those in administrative positions to ensure appropriate boundaries were maintained with children to ensure their safety.

84. At all relevant times, the Archdiocese engaged in a pattern or practice of failing to train seminarians, priests, others in religious life, and those in administrative positions to maintain appropriate boundaries with children and other parishioners.

85. At all relevant times, the Archdiocese engaged in a pattern or practice of failing to adequately investigate and report allegations of sexual abuse of children and adults, including an abject failure to undertake any investigation in many circumstances.

86. At all relevant times, the Archdiocese maintained a pattern or practice of concealing credible reports of child sexual abuse from the public and law enforcement.

87. These problems were particularly widespread with respect to priests:

- a. Despite its actual and constructive knowledge of the problem of child sexual abuse committed by Catholic clergy, the Archdiocese at all relevant times taught Plaintiffs and others to view priests, including priest Perpetrators, as alter Christus (“another Christ”) and that a priest’s religious status entitled him to special privileges exceeding freedoms a lay person would be allowed.
- b. These teachings instructed Plaintiffs—to their great detriment—to give priests the highest respect and degree of reverence as representatives of God and deterred them from reporting sexual abuse to the Church or publicly, or frightened them into silence.
- c. At all relevant times, the Archdiocese engaged in a pattern or practice of failing to

screen seminarians and other candidates for the priesthood or religious life for propensities to sexually abuse children.

- d. At all relevant times, the Archdiocese engaged in a pattern or practice of transferring priests to other parishes or locations—or accepting incoming transfers of priests from other Diocese or Archdiocese—who had been credibly accused of sexual violence against children, without informing congregations of what the offending clergy had done and the danger they posed.

88. The Archdiocese has adopted and enforced numerous policies and procedures that prohibited or discouraged reporting of incidents of child sexual abuse or transparent and public communication to promote public safety through the prevention of child sexual abuse, in violation of the standard of care, including policies that:

- a. Prohibit public criticism of it for serious wrongs;<sup>19</sup>
- b. Prohibit members of the church from organizing against its institutional interests and power.<sup>20</sup>
- c. Automatically excommunicate one who “falsely accuses a confessor before an ecclesiastical superior” of soliciting sex during confession. (Can. 1390, 1983 code)
- d. Punish those who “injure[] the good reputation of another person” or who “furnish[] an ecclesiastical superior with any other calumnious denunciation of an offense.” (Can. 1390, 1983 code).

89. At all relevant times, the Archdiocese created, fostered, and promoted a culture that

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<sup>19</sup> See Can. 1369 (1983 Code) (“A person who uses a public show or speech, published writings, or other media of social communication to blaspheme, seriously damage good morals, express wrongs against religion or against the Church or stir up hatred or contempt against religion or the Church is to be punished with a just penalty.”); Can. 1373 (“One who publicly either stirs up hostilities or hatred among subjects against the Apostolic See or against an ordinary on account of some act of ecclesiastical power or ministry or incites subjects to disobey them is to be punished by an interdict or by other just penalties.”).

<sup>20</sup> See Can. 1374 (1983 Code) (“One who joins an association which plots against the Church is to be punished with a just penalty; one who promotes or moderates such an association, however, is to be punished with an interdict); Can. 1375 (1983 Code) (“Those who impede the freedom of ecclesiastical ministry or election or power, or the legitimate use of sacred goods or other ecclesiastical goods, or who grossly intimidate an elector, or the elected, or the one who exercises ecclesiastical ministry or power, can be punished with a just penalty.”).



was permissive to acts of child sexual abuse, by declining to discipline or remove offending personnel and declining to promulgate or enforce effective policies and procedures to prevent child sexual abuse.

90. At all relevant times, the Archdiocese created, fostered, and promoted a culture in which personnel, children, and their families, were taught to believe that the Archdiocese, through its representatives, could not seriously err and required complete obedience to the Archdiocese and its personnel, particularly priests.<sup>21</sup>

91. At all relevant times, the culture created, fostered, and promoted by the Archdiocese had the effect of encouraging personnel subject to the control of the Archdiocese to engage in sexual abuse and exploitation without fear of exposure or discipline, and had the effect of intimidating victims into silence or misleading them into believing that the outrageous conduct to which they were subjected was not sexual abuse or was not serious in nature.

92. Plaintiffs, at all relevant times, had a fiduciary relationship with the Archdiocese that created a duty on the part of the Archdiocese to disclose material facts and to not conceal material facts pertinent to Plaintiffs' causes of action, including those set forth herein.

93. All of Plaintiffs' causes of action arise from conduct characterized by negligence, gross negligence, fraudulent concealment, fraud, and reckless and willful disregard for Plaintiffs' health and safety.

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<sup>21</sup> See, e.g., Baltimore Catechism No. 3 (1949) at ¶ 163 (“By the infallibility of the Catholic Church is meant that the Church, by the special assistance of the Holy Ghost, cannot err when it teaches or believes a doctrine of faith or morals. . . . It is unthinkable that an institution established by God for the salvation of souls could lead men into error and turn them away from God.”); ¶ 455 (“Catholics should show reverence and honor to the priest because he is the representative of Christ Himself and the dispenser of His mysteries.”)



94. The Archdiocese's tortious acts and omissions resulted in unjust enrichment of the Archdiocese, in that the Archdiocese was able to avoid, through wrongful means, legal accountability and payment of just compensation to Plaintiffs.

95. As a direct result of the negligent, grossly negligent, or reckless conduct of the Archdiocese and its agents, servants, volunteers and/or employees, including but not limited to Perpetrators, Plaintiffs have suffered serious and permanent physical, emotional, and financial injuries, including but not limited to:

- a. Severe stress and attendant medical problems;
- b. Emotional distress and anger;
- c. Severe mental anguish and despair;
- d. Severe anxiety, nervousness, fearfulness, and panic attacks;
- e. Flashbacks, intrusive thoughts, and night terrors;
- f. Post-traumatic stress disorder;
- g. Depression;
- h. Suicidal ideation;
- i. Attempts at suicide;
- j. Profound anger;
- k. Irritability;
- l. Harmful, disruptive, or distressing personality changes;
- m. A loss of faith;
- n. Ongoing humiliation, embarrassment, shame, and guilt;
- o. Physical pain, nausea, and stress;
- p. Sleeplessness, and night sweats;
- q. A loss of enjoyment of life;

- r. Extreme difficulty in trusting and interacting with others, including those in positions of authority and/or those in intimate relationships with Plaintiffs;
- s. Extreme difficulty in participating in and enjoying intimate relationships;
- t. A loss of earnings and earning capacity;
- u. Damages for past expenses incurred as a result of psychological treatment;
- v. Future damages for medical, health care, and psychological treatment; and
- w. Other damages that may become apparent during the course of discovery or awarded by a jury.

**V. Timeliness of claims**

96. Plaintiffs' causes of action are timely brought under the Maryland Child Victims Act of 2023.

97. Plaintiffs' causes of action are timely brought under the continuing violation doctrine, as the course of conduct of the Archdiocese described herein constitutes a continuing course of tortious conduct.

98. Plaintiffs' causes of action are also timely brought under the doctrine of fraudulent concealment, because Defendant had a special, confidential, or fiduciary relationship with the Plaintiffs, yet did not disclose facts material to their causes of action against the Archdiocese, that were necessary to put Plaintiffs on notice of the existence of a cause of action against the Archdiocese.

99. Specifically, the Archdiocese had a duty to notify, but failed to notify, Plaintiffs that it had engaged in a pattern of conduct of, at a minimum, (1) concealment of sexual abuse; (2) silencing of victims; (3) negligent training, retention, and supervision of its agents, including both Perpetrators and those responsible for hiring and supervising them—all of which directly and proximately caused or contributed to the sexual abuse Plaintiffs suffered from agents of the

Archdiocese and the resulting damages.

100. Plaintiffs were unaware they had a cause of action against the Archdiocese until the publication of the Maryland Attorney General's Report on Child Sexual Abuse in the Archdiocese of Baltimore (the "Report") as well as the announcement that the Maryland Attorney General was in the midst of a similar investigation of the Archdiocese of Washington, both of which brought Plaintiffs' attention to the types of tactics that Catholic dioceses are engaged in within the State of Maryland.

101. The Report, published in redacted form in April 2023, made numerous crucial findings, including the following:

- a. "As the case descriptions in this Report make clear, from the 1940s through 2002, over a hundred priests and other Archdiocese personnel engaged in horrific and repeated abuse of the most vulnerable children in their communities while Archdiocese leadership looked the other way. Time and again, members of the Church's hierarchy resolutely refused to acknowledge allegations of child sexual abuse for as long as possible. When denial became impossible, Church leadership would remove abusers from the parish or school, sometimes with promises that they would have no further contact with children. Church documents reveal with disturbing clarity that the Archdiocese was more concerned with avoiding scandal and negative publicity than it was with protecting children."<sup>22</sup>
- b. "Over 600 children are known to have been abused by the 156 people included in this Report, but the number is likely far higher."<sup>23</sup>
- c. "Leaders of the Archdiocese repeatedly dismissed reports of abuse and exhibited little to no concern for victims. They failed to adequately investigate complaints and made no effort to identify other victims or corroborate alleged abuse. They transferred known abusers to other positions of equal authority and access to children. They focused not on protecting victims or stopping the abuse, but rather on ensuring at all costs that the abuse be kept hidden. The costs and consequences of avoiding scandal were borne by the victimized children."<sup>24</sup>
- d. "[P]rior to 2002, known abusers were allowed to remain in ministry after

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<sup>22</sup> Report at 9.

<sup>23</sup> Report at 9.

<sup>24</sup> Report at 11.

'treatment.'<sup>25</sup>

- e. "Our judicial system should provide a means for victims who have suffered these harms to seek damages from the people and institutions responsible for them. They should also have access to the discovery afforded parties in civil litigation in order to learn what the Church knew about their abuse and what might have been done to protect them."<sup>26</sup>

102. At all relevant times, Defendant propagated the Roman Catholic tradition of encouraging parishioners and the surrounding community to have complete and unflinching faith in the Roman Catholic Church through the Archdiocese and its associated agents.

103. Plaintiffs, for all the reasons stated herein—including those specified in Count V: Breach of Fiduciary Duty—had a special and fiduciary relationship with the Archdiocese that created a fiduciary duty on the part of the Archdiocese to disclose material facts and to not conceal material facts pertinent to Plaintiffs' causes of action, including those set forth herein.

104. The Archdiocese fraudulently concealed information pertaining to clergy sexual abuse that was pertinent and essential to their claims, including their knowledge of and failure to take adequate measures to prevent abuse by clergy in general and the relevant perpetrator in particular.

105. The agents of the Archdiocese who sexually abused Plaintiffs often did so in a manner that carried with it an express or implied threat not to disclose their abuse to others.

106. The agents of the Archdiocese who sexually abused Plaintiffs often did so, at all relevant times, in a manner that was intended to or had the effect of concealing the true significance and meaning of the acts of sexual abuse (e.g., by misleading Plaintiffs that such acts were normal, an expression of genuine love and affection, or "God's will").

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<sup>25</sup> Report at 18.

<sup>26</sup> Report at 20.

107. The Archdiocese knew or should have known that Perpetrators had previously been accused of sexually abusing children at prior postings or had propensities that disposed them to committing sexual abuse and concealed that knowledge from Plaintiffs.

108. The Archdiocese knew or should have known that Perpetrators were at risk of committing abuse before they abused Plaintiffs.

109. Information published by the Archdiocese indicated that transfers of sexually predatory clergy were to be celebrated and were the result of routine movement and assignment of clergy, when in fact the Perpetrators were often transferred due to their predatory behavior toward children.

110. As indicated above, at all relevant times, the Archdiocese concealed child sexual abuse by hiding the abuse from parishioners; providing false information about clergy members' prior actions, moral character, and reasons for transfers; quietly transferring clergy members to new postings to prevent further complaints and legal filings; failing to report abuses to police, child protective services, and other appropriate authorities; and by failing to reach out to prior victims, including Plaintiffs, to disavow sexually abusive behavior and offer aid and just compensation.

111. At all relevant times, the Archdiocese has actively misrepresented, concealed, and withheld material facts from the laity of the Archdiocese, including Plaintiffs, regarding numerous complaints and substantiated findings of clergy sexually abusing children on account of their ministry in the Archdiocese.

112. Defendant misrepresented, concealed, and withheld material facts, including all factual allegations above, with the intent of concealing the abuse, concealing their role in enabling the sexual abuse of children and for the purpose of preserving the reputation of the Archdiocese and the Roman Catholic Church in general.

113. Further, the Archdiocese's concealment was meant to quiet and subdue complaints

of sexual abuse and prevent valid legal filings against the entity, at all relevant times.

114. The Archdiocese's fraudulent concealment of Perpetrators' abuse consisted of silence and affirmative acts that had the purpose and effect of lulling victim-survivors, including Plaintiffs, into delay and preventing them from discovering their causes of action against the Archdiocese.

115. The Archdiocese had knowledge of its aforementioned constructive fraud and fraud in connection with its fraudulent concealment of Perpetrators' abuse, and expected and intended Plaintiffs to rely on its constructive fraud and fraud so as to trust that Perpetrators were safe with children and to not pursue claims against the Archdiocese arising from sexual abuse by the Perpetrators.

116. As a result of the Archdiocese's conduct as described herein, the entity is equitably estopped from asserting any defense that Plaintiffs' causes of action are time-barred.

117. Any defense that Plaintiffs' claims are time-barred is unavailing, because the Archdiocese has purposefully concealed its conduct pertaining to clergy sexual abuse from law enforcement, Plaintiffs and their families, members of the church and surrounding community, and other individuals who had the authority to stop the abuse from occurring.

118. As a result of the Archdiocese's actions, Plaintiffs have been unable to discover the Defendant's efforts to conceal its involvement in Plaintiffs' injuries that were sustained as a result of sexual abuse and misconduct by clergy and other agents of the Archdiocese, within applicable limitations periods.

119. Plaintiffs' causes of action also are not time-barred because the Archdiocese negligently failed to ameliorate the severe, disabling mental and emotional harm it knew or should have known that Plaintiffs experienced as a result of rape and sexual abuse by clergy and other agents of the Archdiocese.

120. By virtue of its continuing victimization of Plaintiffs and the aforementioned breach of its fiduciary, confidential, and special relationships with them, the Archdiocese is estopped from raising any defense that Plaintiffs' claims are time-barred.

121. Plaintiffs will be wrongfully and unjustly prejudiced by the misrepresentations and concealment committed by the Archdiocese if any defense that Plaintiffs' claims are time-barred is invoked.

122. Plaintiffs' causes of action are thus timely under the doctrines of fraudulent concealment, equitable estoppel, and equitable tolling.

123. Plaintiffs do not admit, and expressly deny, that any statute of limitations, statute of repose, laches, or similar principle operates to bar the claims herein, or any other cause of action that Plaintiffs possess against the Archdiocese.

#### **PLAINTIFF JOHN DOE**

124. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

125. Plaintiff John Doe is an adult resident of Montgomery County, Maryland.

126. Doe brings this action on his own behalf and on behalf of all others similarly situated.

127. Doe was born in 1985. During the abuse described herein, he was a minor.

128. Plaintiff attended St. Martin of Tours Catholic Church and St. Martin of Tours Catholic School (collectively, "St. Martin") in Montgomery County, Maryland from the time he was approximately 4 or 5 years old.

129. Father Michael Mellone ("Mellone") was ordained as a priest for the Archdiocese of Washington.

130. From 1991 to 2003, Mellone served as the pastor, assistant pastor, and/or priest of St. Martin.

131. Deacon Lawrence Bell ("Bell") was ordained as a deacon in 1991. At all times relevant to the events alleged herein, Bell served as a deacon at St. Martin.

132. Bell and Mellone were perpetrators.

133. Beginning in approximately 5th grade, Mellone and Bell started to abuse Doe.

134. Mellone and Bell would abuse Doe at separate times, not together. However, they would engage Doe in the same types of sexual acts at similar times of Doe's life. Doe does not know whether either Mellone or Bell knew that the other was abusing him.

135. On the first occasion where Doe was abused by Father Mellone, Father Mellone touched Doe's genitals over his clothes in a school classroom.

136. On the first occasion where Doe was abused by Deacon Bell, Deacon Bell touched Doe's genitals over his clothes in a room connected to the altar.

137. The over-the-clothes sexual touching by Mellone and Bell occurred for approximately a couple months, and then it progressed to under-the-clothes touching.

138. At some of the early incidents of abuse, each of Mellone and Bell provided Doe with wine.

139. Eventually, each of Mellone and Bell began forcing Doe to insert his own penis into their mouths for oral copulation.

140. The abuse by Mellone and Bell would often happen when church staff, altar boys, or Doe were assisting in setting up the church for services.

141. Mellone told Doe that the abuse was God's will.

142. The abuse by both men occurred on a regular basis (approximately once a week, on average) for multiple years, always on property controlled by St. Martin and the Archdiocese.

143. Mellone and Bell each separately told Doe that no one would believe him if he told anyone about the abuse.



144. Plaintiff had been raised to honor and revere priests and clergy and had the belief instilled in him by the Archdiocese that priests and clergy, including Mellone and Bell, were representatives of God.

145. Plaintiff believed that the authority, direction, and instruction from the Catholic Church through the Archdiocese and its agents, including Mellone and Bell, was doctrinally infallible.

146. Plaintiff placed his trust and confidence in the Archdiocese and in Mellone and Bell, as its agents and employees, thereby placing the Archdiocese in a position of influence and superiority over him.

147. As a result of Bell and Mellone's conduct, Doe suffered the damages described in paragraph 95.

148. The Archdiocese knew or should have known that Bell and Mellone posed a danger to children before allowing them to minister in the Archdiocese and at St. Martin.

#### **PLAINTIFF RICHARD ROE**

149. Plaintiffs incorporate all preceding paragraphs by reference as if fully set forth herein.

150. Plaintiff Richard Roe is an adult resident of Frederick County, Maryland.

151. Roe brings this action on his own behalf and on behalf of all others similarly situated.

152. Roe served as an altar boy in the mid-1960s, roughly between the ages of 9 and 12, at St. Jerome Parish in Hyattsville, Prince George's County, Maryland.

153. Following a service, Roe was cleaning and organizing the sacristy behind the altar. A priest who just led the service invited Roe into his bedroom in the rectory, adjacent to the church, under the pretext of engaging in additional discussion about Roe's personal life. Once in the priest's quarters, the priest manipulated Roe to remove his clothing down to his underwear and get into the

priest's bed. The priest also removed his own clothing except his underwear and got into bed with Roe. Once together in the priest's bed, the priest began spooning Roe, with Roe's back and buttocks adjacent to the priest's chest and groin, respectively. The priest then wrapped his arm around Roe and started fondling him while discussing Plaintiff's home life. Roe froze in horror and felt trapped. The priest said, "I want to make you feel better. Doesn't that feel good?" Roe finally summoned the courage to get out of the priest's bed, got dressed and prepared to exit. Before leaving, the priest said they would "carry on the conversation" another time.

154. During this episode, the priest appeared comfortable, confident, and in no fear of being caught with a child in an area not typically open to the public, and especially children. This was so despite the presence of other clergy and church administrators in and around the rectory during the episode.

155. Roe was a lonely child who came from a dysfunctional home. As such, the priest recognized that Roe was particularly vulnerable to sexual abuse and exploitation under the guise of mentorship.

156. As a result of the priest's conduct, Roe suffered the damages described in paragraph 95.

157. The Archdiocese knew or should have known that this priest was a danger to children before he was placed at St. Jerome where he abused Roe.

158. Abuse by the priest of children such as Roe was foreseeable to the Archdiocese before he was accepted by the Archdiocese and placed at St. Jerome where he abused Roe.

**PLAINTIFF MARK SMITH**

159. Plaintiffs incorporate all preceding paragraphs by reference as if fully set forth herein.

160. Mark Smith is an adult resident of Quenn Anne's County, Maryland.

161. Smith brings this action on his own behalf and on behalf of all others similarly situated.

162. In the 1960s, Smith and his family were parishioners at St. Catherine Labouré Church in Wheaton, Montgomery County, Maryland. Smith attended elementary school at St. Catherine's.

163. In or about 1965, Smith (12 years old), Smith's older brother, and another family friend (both 13 years old) were asked to volunteer at an evening event for adults held in the auditorium of St. Catherine's school. The three boys were tasked with setting out tablecloths, snacks, and other miscellaneous tasks to help set up the event.

164. During the evening, before the event started, Fr. Robert J. Petrella approached the boys as they worked in the kitchen. Smith was alarmed to see Petrella. Smith previously observed Petrella monitoring children while they played on playgrounds during recess, and felt uneasy around Petrella.

165. Petrella said he was also assisting with the event and requested that the boys help inspecting and securing the school grounds. Petrella claimed that he needed to ensure event participants could only enter the school at the auditorium. As such, he asked the two older boys to inspect outside to ensure that all doors were locked except those leading to the auditorium. The older boys did as they were told, leaving Smith alone with Petrella.

166. Petrella then asked Smith to walk with him through the interior of the school, which was vacant and dark. While walking empty dark hallways, Petrella suddenly picked up Smith in a bear hug from behind and painfully rubbed his thick facial hair stubble against Smith's cheek. Petrella asked how much Smith weighed. "75 pounds," Smith responded. "You're much bigger than that!" Petrella replied. He escorted Smith to the school nurse's office under the pretext of verifying Smith's weight. Once there, Petrella turned on the light, lifted Smith into the air and fondled him

from behind. Smith immediately understood he was in danger.

167. Petrella then took out petroleum jelly from a cabinet. He knew exactly where to find it. Petrella undid Smith's belt, took down his pants and pushed Smith towards an examination table. Petrella dipped his fingers in petroleum jelly and proceeded to insert them into Smith's anus, inflicting extreme pain. Petrella again placed his cheek next to Smith's cheek while fondling him. Petrella then positioned Smith's chest on the examination table with his legs hanging over the edge at a 90 degree angle. The fondling became rougher, and Petrella calmly reassured Smith that "everything was fine" and he was "God's child." Petrella then raped Smith.

168. At some point, Smith's brother was heard coming down the hallway towards the nurse's office—the only office with a light on—calling for Smith. Hearing Smith's brother approach, Petrella immediately ceased raping Smith and let Smith get dressed. When Smith's brother reached the office, Petrella said "We're just about done," and told the boys he would finish inspecting the school by himself and they should return to the auditorium.

169. As a result of Petrella's conduct, Smith suffered the damages described in paragraph 95.

170. About a year after he assaulted Smith, Petrella was caught by an adult parishioner raping another child. The Archdiocese did not report the rape to authorities, did not inform the parishioners of what transpired, and did not investigate whether Petrella had other victims. Instead, upon information and belief, the Archdiocese sent Petrella to psychiatric treatment and evaluation, and then permitted him to return to the ministry.

171. Between the mid-1960s and 1988, the Archdiocese sent Petrella away three more times for treatment following allegations of abuse, allowing him each time to return to parish work.

172. In 1989, Petrella was permanently removed after more allegations of sexual abuse were reported.

173. In January 1997, Petrella was indicted and convicted for sexually abusing a 10-year-old boy in the late 1970s, when he was pastor at St. Thomas More Catholic Church. He was accused of molesting the boy during car trips from church to the boy's home from November 1977 to December 1978.

174. In April 2003, Petrella was finally laicized.

175. In June 2003, he admitted to sexually molesting three altar boys at St. Columbia Catholic Church in the late 1960s and early 1970s. He was convicted of unnatural and perverted sex practices against children.

176. According to the Archdiocese, Petrella abused at least 25 known victims.

177. Petrella was listed as credibly accused in 2018.

178. The Archdiocese knew or should have known that Petrella was a danger to children before he was placed at St. Catherine's where he abused Smith.

179. Abuse by Petrella of children such as Smith was foreseeable to the Archdiocese before he was accepted by the Archdiocese and placed at St. Catherine's where he abused Smith.

#### **CLASS DEFINITION**

180. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

181. Plaintiffs seek to maintain this action as a class action on behalf of the Class, defined as follows: "All persons (or their personal representatives, heirs, or assigns) who were subjected to one or more acts of sexual abuse or sexual misconduct as minors at any time from 1939 through the present, which were committed by agents, servants, or employees of the Archdiocese of Washington or who were otherwise under the direction, supervision, or control of the Archdiocese of Washington; or on premises owned by or subject to the control of the Archdiocese of Washington.." (hereinafter, the "Class.") Excluded from the Class definition are Defendant and any entity in which Defendant has a controlling interest, any current officers or directors of Defendant,

and the legal representatives, heirs, successors, assigns, and spouses of Defendant, and members of the Maryland Judiciary, and their legal representatives, heirs, successors, assigns, and spouses.

182. The period from 1939 to the present is sometimes referred to herein as the “Class Period.”

183. The 1939 start date of the class definition is chosen because the Archdiocese started in 1939. From the date of inception, the Archdiocese knew or should have known of the rampant and pervasive problem of sexual abuse against minors perpetrated by those within its ranks but did nothing to stop or curb the problem, and in fact took actions that enabled sexual abuse against minors to continue with no or minimal repercussions.

184. Plaintiffs reserve the right to maintain a class action under an amended definition as may be proposed in the future—such as one based on evidence of an earlier documented date of actual or constructive knowledge of the problem of sexual abuse by clergy and other personnel in the Archdiocese of Washington.

185. Plaintiffs reserve the right to maintain a class action under an amended definition as may be proposed or certified by the Court.

186. Plaintiffs reserve the right to substitute class representatives.

187. The interests of justice require that the action be maintained as a class action.

**A. The Class satisfies Rule 2-231(b) as to numerosity, commonality, typicality, and adequacy.**

188. The Class is so numerous that joinder of all members is impracticable, because, among other reasons, the Archdiocese’s most recent list of credibly accused clergy, dating to 2018, contains 34 names. Nearly 70% of child sex offenders have between 1 and 9 victims, and at least

20% have 10 to 40 victims.<sup>27</sup> By way of example, as of 2006, there were at least 45 known victims of two convicted priests—Father Thoms S. Schaefer (20 known victims) and Father Robert J. Petrella (25 known victims).<sup>28</sup> The total number of Schaefer and Petrella’s victims, moreover, is likely much larger than 45 because nearly 85% of child abuse victims never report their abuse.<sup>29</sup> As such, the Class vastly exceeds 40 members.

189. There are questions of law and fact common to the members of the Class that are susceptible to generalized, class-wide proof, the resolution of which will materially advance the litigation of the entire action. These common questions include but are not limited to the following:

- a. Whether the Maryland Child Victims Act is constitutionally infirm;
- b. Whether the caps on damages specified in the Maryland Child Victims Act apply to each incident of abuse or other tortious act or omission that occurs within a larger course of conduct;
- c. Whether Plaintiffs’ causes of action are time-barred;
- d. Whether the common-law doctrine of charitable immunity or Maryland statutory law that purports to limit recovery against charitable organizations bars recovery against the Defendant beyond the limits of its applicable insurance coverage;
- e. Whether the common-law doctrine of charitable immunity should be retained in actions against the Archdiocese of Washington involving child sexual abuse;
- f. Whether the doctrine of fraudulent concealment/constructive fraud and the facts pled herein precludes a finding that Plaintiffs’ claims are time-barred as a matter of law;
- g. Whether the Archdiocese engaged in a pattern or practice of concealment of sexual abuse and sexual misconduct of its priests or other employees in violation of Maryland common law or statutory law;
- h. Whether the Archdiocese engaged in a pattern or practice of failing to report incidents of sexual abuse and sexual misconduct of its priests in violation of

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<sup>27</sup> <https://www.indianaprevention.org/child-abuse-statistics>.

<sup>28</sup> C. Murphy, *Quest to Heal Leads Abuse Victims to Face Old Demons*, Wash. Post (Mar. 20, 2006).

<sup>29</sup> <https://www.indianaprevention.org/child-abuse-statistics>.



Maryland common and statutory law;

- i. Whether the Archdiocese engaged in a pattern or practice of tacitly tolerating sexual abuse and sexual misconduct of its priests in violation of Maryland common law;
- j. Whether the Archdiocese engaged in a pattern or practice of exposing children to priests or other agents or employees of the Archdiocese who were known sexual predators, in violation of Maryland common law;
- k. Whether the Archdiocese engaged in a pattern or practice of failing to properly screen, supervise, and discipline those priests whom it knew or should have known were engage or were likely to engage in acts of sexual abuse and misconduct in violation of Maryland common law;
- l. Whether it was the policy of the Archdiocese to keep information regarding sexual abuse and sexual misconduct by archdiocesan priests against children, parishioners, and employees of the Archdiocese concealed from the priests, nuns, teachers, and employees with whom the perpetrators worked and from law enforcement authorities so that these individuals would be unable to take action to protect other victims from further abuse in violation of Maryland common law;
- m. The time at which the aforementioned policies, patterns, or practices of the Archdiocese commenced or ended;
- n. Whether or not Defendant's common policies, patterns, or practices caused or were capable of causing injury to class members; and
- o. Whether or not Defendant's common policies, patterns, or practices resulted in foreseeable injuries or damages to class members.

190. Named Plaintiffs' claims are typical of the claims of the Class, because they arise from the same practices or course of conduct by the Archdiocese that gives rise to the claims of other class members and are based on the same legal theory.

191. Named Plaintiffs will adequately represent the interests of the Class, because the named Plaintiffs have no conflicts of interest with Class members and will prosecute the action vigorously on behalf of the Class.

192. Schochor, Staton, Goldberg and Cardea, P.A. and the undersigned counsel are adequate to represent the Class. The undersigned counsel have extensive experience in class action litigation, including specifically experience in litigation involving claims of sexual abuse:



- a. *Doe v. Johns Hopkins Hospital Systems Corp.*, No. 24-C-13-001041 (Balt. City Cir. Ct.). Jonathan Schochor spearheaded that class action litigation from inception to completion. He filed the case as a class action, served as the Chairman of the Plaintiffs' Steering Committee, developed the case, and ultimately led a series of mediations culminating in a \$190 million settlement for class members. At that time, it was reported to be the largest single perpetrator sexual assault settlement in U.S. history. It has also been reported to be the largest sexual abuse case in Maryland history.
- b. *Doe v. Earl Bradley*, C.A. Nos. N10C-05-023 JRS, N10C-10-317 JRS in the Superior Court for Delaware, New Castle County. The pediatrician defendant, Earl Bradley, M.D., was convicted of sexually abusing hundreds of minor patients in Delaware. The firm was a leader in the class action litigation that followed, which culminated in a settlement for \$123 million.
- c. In addition to significant experience in sexual assault-related class action litigation, Schochor, Staton, Goldberg and Cardea, P.A. has experience in other mass tort class actions. The firm launched an extensive investigation into the waste management practices of Mountaire, a chicken processing plant in Millsboro, Delaware, which resulted in class action litigation, *Cuppels v. Mountaire Corp.*, C.A. No. S18C-06-009 in the Superior Court of the State of Delaware. After detailed and involved discovery, the firm was a leader in ongoing negotiations, ultimately achieving a \$205 million settlement in 2021.

193. Janet, Janet and Suggs and the undersigned counsel are adequate to represent the Class. The undersigned counsel have extensive experience in class action litigation, including extensive experience in litigation that specifically concerns claims of sexual abuse, including but not limited to the following:

- a. *Doe v. Johns Hopkins Hospital Systems Corp.*, No. 24-C-13-001041 (Balt. City Cir. Ct.). As Vice-Chair of Plaintiffs' Steering Committee in the class action, Janet, Janet and Suggs attorneys worked closely with Mr. Schochor on bringing the class action, which involved sexual abuse claims concerning the conduct of Dr. Nikita Levy, to its successful resolution.
- b. *Tyndall v. University of Southern California*, No. BC705677 (Sup. Ct. Los Angeles Cnty.) (co-counsel in mass action involving sexual abuse claims related to the conduct of Dr. George Tyndall; represented 136 out of 702 plaintiffs (second largest of any firm), average of \$1.2 million per claim, for a total of \$852 million; historic settlement for sexual abuse case).
- c. *Glibowski v. SCANA et al.*, No. 9:18-cv-00273-TLW (D.S.C.) (co-counsel in class action involving fraud against ratepayers by two South Carolina energy utilities, part of \$2 billion global settlement).

- d. *Jane Doe, et al. v. Regents of the University of California, et al.* (Sup. Ct. Los Angeles Cnty.), a lawsuit against UCLA for sexual abuse by Dr. James Heaps. Janet, Janet & Suggs and co-counsel reached a \$243.6 million settlement with UCLA. This settlement, on behalf of 203 plaintiffs (of which JJS represented 27), was part of a larger group of settlements totaling nearly \$700 million recovered from UCLA for their part in the sexual abuse, assault, and harassment of patients by Heaps.
- e. *In re Behr Dayton Thermal Products, LLC*, No. 08-000326 (S.D. Ohio) (co-class counsel in toxic tort class action against Fortune 1000 corporations involving groundwater contamination, class certification affirmed on appeal, cert. denied, class action settlement preliminarily approved).
- f. Co-class counsel in \$19.5 million class-action settlement involving contamination claims arising from Nevada mining operations, against Atlantic Richfield Co. and BP America.
- g. Co-class counsel in \$10,017,000 class action settlement against Honeywell International involving hexavalent chromium soil contamination in Jersey City, New Jersey.
- h. *John Doe No. 6 v. Pennsylvania State University*, No. 13-0336 (E.D. Pa.), an action on behalf of a survivor of abuse by Jerry Sandusky which resulted in a confidential settlement.

194. Janet, Janet & Suggs and the undersigned counsel also have significant experience prosecuting sexual abuse actions against the Archdiocese and Catholic dioceses in numerous other states. Five Janet, Janet & Suggs attorneys focus on sexual abuse claims, including an of-counsel attorney, Richard Serbin, who practices exclusively for Janet, Janet & Suggs, has been litigating child sexual abuse cases since 1987, and has represented over 300 survivors of clergy sexual abuse.<sup>30</sup>

195. The undersigned counsel and law firms will diligently and vigorously represent the interests of the named Plaintiff(s) and unnamed class members.

**B. The action satisfies the requirements of Maryland 2-231(c)(1).**

196. Maryland Rule 2-231(c)(1) is satisfied because, among other reasons, maintaining individual actions would risk inconsistent or varying adjudications with respect to individual members of the class that would establish incompatible standards of conduct for the party opposing

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<sup>30</sup> See <https://www.thedailybeast.com/the-crusader-who-exposed-pennsylvanias-sadistic-priests>.

the class, as different courts may well make conflicting findings regarding the common issues identified above, including whether the action may be maintained under the Maryland Child Victims Act and whether charitable immunity applies.

197. Plaintiffs do not admit—and, in fact, deny—that the doctrine of charitable immunity applies to any claim at issue in this action. However, if the Archdiocese asserts charitable immunity as a defense, the action satisfies Maryland Rule 2-231(c)(1) on the basis that adjudications with respect to individual members of the class would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests if charitable immunity is deemed to apply, for reasons including the following:

- a. If charitable immunity applies, the Archdiocese would be entitled to immunity for third-party tort claims under the Maryland doctrine of charitable immunity, except to the extent of available insurance coverage.
- b. The limits of the Archdiocese's liability insurance would be eroded in an arbitrary fashion, based on which plaintiffs were able to resolve their causes of action first against the Archdiocese.
- c. The Archdiocese's liability insurance is likely a wasting policy that is depleted by the costs of defense of claims.
- d. Given the number of claims at issue in this action, the available insurance coverage for the Archdiocese is expected to be rapidly depleted. The result may be that only the earliest-filed cases have access to the Archdiocese's insurance coverage.

**C. The action satisfies the requirements of Maryland Rule 2-231(c)(3).**

198. The action may also be maintained as a class action under Maryland Rule 2-231(c)(3), because the requirements of predominance and superiority are satisfied.

199. Common questions of law or fact, including those identified in paragraph 189 above, predominate over individual questions, such as those pertaining to individual damages.

200. Resolution of common questions of law or fact, including those identified in

paragraph 189 above, will materially advance the termination of the action as a whole and the individual claims of all class members.

201. Common questions of law or fact, including those identified in paragraph 189 above, are a significant part of the individual claims.

202. The proposed class is sufficiently cohesive to warrant adjudication by representation.

203. A class action is superior to other available methods for the fair and efficient adjudication of the controversy, for reasons including the following:

- a. The proposed class action is the most efficient means of resolving common questions of law and fact, which will materially advance the termination of the litigation.
- b. If charitable immunity applies, resolving issues on a classwide basis will reduce the cost of defense, allowing for greater compensation for individual class members from a limited pool of insurance.
- c. Individual class members do not have an interest in controlling the prosecution of the action as to common, class-wide issues, and will be able to control the prosecution of follow-on proceedings to resolve individualized aspects of their claims.
- d. Individual class members who wish to litigate their claims individually may opt out of the class, and, at any rate, will be able to present claims related to individual issues once the class phase of the case is completed.
- e. It is desirable to concentrate litigation of claims in this forum since the Defendant's principal place of business is in the forum.
- f. It is also desirable to concentrate litigation of the claims in this forum, because the Class Members either suffered sexual abuse in this venue or were injured as a result of a common course of conduct of the Archdiocese, explained above, that occurred primarily in this venue.
- g. Plaintiffs anticipate no substantial difficulties in managing this class action in this Court, particularly when compared to available alternatives (e.g., the litigation of hundreds or thousands of individual claims against the Archdiocese, which arise from a common course of conduct).

**D. The action satisfies the requirements of Maryland Rule 2-231(e).**

204. In the alternative, it is also appropriate to maintain the action as a class action with

respect to particular issues, including each and every common question of law and fact identified in paragraph 189 above, which is incorporated here by reference.

205. Maintaining the action as a class action with respect to common questions of law and fact—including but not limited to the constitutionality of the Maryland Child Victims Act and the applicability of charitable immunity—will permit the efficient and material advancement of all claims arising from sexual abuse by employees, servants, or agents of the Archdiocese.

206. In addition, should the Court find it appropriate, the class can be divided into subclasses pursuant to Md. Rule 2-231(e).

**COUNT I: NEGLIGENCE, NEGLIGENCE PER SE, AND PREMISES LIABILITY**

207. Plaintiffs incorporate all preceding paragraphs by reference as if fully set forth herein.

208. During the Class Period, Plaintiffs were anally or orally raped, sexually molested, or otherwise sexually abused by Perpetrators.

209. These actions taken by Perpetrators were within the scope of their relationship with the Archdiocese, because they occurred or were made possible by that relationship (including the grooming of Plaintiffs and other children that Perpetrators performed under the guise of parish and community ministry) and were ratified expressly or impliedly by the Archdiocese.

210. The Archdiocese, by and through its agents, servants, and/or employees, knew or reasonably should have known of Perpetrators' sexual interest in children and misconduct and abuse of children; and that Perpetrators were capable of committing immoral and criminal acts upon Plaintiffs.

211. The Archdiocese had a duty to protect Plaintiffs during the time they were in the Archdiocese's care, custody, or responsibility and owed Plaintiffs a special and fiduciary duty to care for them as a reasonably prudent parent would care for them.

212. Plaintiffs' care, welfare, and physical custody was entrusted to the Archdiocese while they were on the property of schools, parishes, or other locations subject to the management or control of the Archdiocese, and while they were in the company of Perpetrators.

213. The Archdiocese ratified Perpetrators' conduct by declining to discipline them for their sexual abuse and exploitation of Plaintiffs, and by enabling Perpetrators through its inaction to continue to rape, abuse, and torture children under the guise of offering spiritual guidance to children.

214. The Archdiocese operated a business where parishes, school buildings, and other properties within its controls were held open to the general public for the purpose of worship and church business.

215. Plaintiffs were invitees or licensees and were allowed and encouraged to be in archdiocesan churches and on church property, and to go on Archdiocese- and church-sponsored trips.

216. As such, the Archdiocese also owed Plaintiffs a duty to protect them against unreasonable physical harm including any harm foreseeably caused by a third party, including Perpetrators.<sup>31</sup>

217. The Archdiocese allowed Perpetrators to use its properties, and thus owed a duty to Plaintiffs to exercise reasonable care so to control the conduct of Perpetrators and prevent them from intentionally harming others or from so conducting themselves as to create an unreasonable risk of bodily harm to Plaintiffs.

218. The Archdiocese failed to warn Plaintiffs of the danger Perpetrators posed.

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<sup>31</sup> Restatement (Second) of Torts § 314A (1965).

219. The Archdiocese knew or should have known that Perpetrators posed a serious risk to the physical safety of Plaintiffs before the time that each Plaintiff was sexually abused or exploited.

220. It was foreseeable that Perpetrators would physically injure children such as Plaintiffs, because, among other reasons, the Archdiocese knew or should have known that they had previously sexually abused or exploited children, committed sexual misconduct, or committed other misconduct.

221. Furthermore, the Archdiocese knew or had reason to know that Perpetrators sexually abused children, including Plaintiffs, and caused them bodily harm. Plaintiffs and other children were in danger of future harm and were helpless due to their age, Perpetrators' statuses, and the physical and emotional injury they suffered as a result of Perpetrators' abuse of them. The Archdiocese had a continuing duty to exercise reasonable care to prevent such further injury.

222. The Archdiocese's failure to exercise reasonable care increased the risk of harm to Plaintiffs and other children. Families and children, including Plaintiffs and their parents, relied on the Archdiocese and Perpetrators and suffered due to their reliance and the Archdiocese's breach of duty.

223. The Archdiocese was under a duty to exercise reasonable care to control Perpetrators as their servants even at times when they were acting outside of the scope of their employment—including those times when they sexually abused Plaintiffs—so as to prevent them from causing harm or further harm.

224. The Archdiocese knew that it had the ability to control Perpetrators and knew or should have known of the necessity and opportunity to exercise its control over them.

225. The Archdiocese failed to follow and adopt appropriate policies and procedures, including those identified above, to control the conduct of its employees, including Perpetrators.



226. The Archdiocese, through its agents, servants, or employees, including but not limited to Perpetrators, and employees of the Archdiocese who worked with Perpetrators, witnessed, knew, or should have known of—and should have reported to superiors and law enforcement—sexual abuse committed by Perpetrators against children.

227. During the time Perpetrators served as archdiocesan agents, the Archdiocese did not adequately investigate, report, or discipline them, or warn parishioners or the community of the danger they posed.

228. The Archdiocese maintained a secret archive (otherwise known as a *sub secreto* or Canon 489 file) containing material pertaining to allegations against certain Perpetrators, in which materials related to and supporting allegations of child sexual abuse were wrongly kept hidden from the public and Plaintiffs.

229. By allowing Perpetrators to serve as archdiocesan agents, the Archdiocese should have realized that it had created an unreasonable risk of physical harm to parishioners at its parishes. The Archdiocese did not exercise reasonable care to prevent the risk from taking effect.

230. The Archdiocese knew and expected that the pastors and parishioners of those parishes would rely on its misrepresentations and be lulled into a false sense of security regarding Perpetrators, and thus would be without the knowledge that Perpetrators' presence created an unreasonable risk and danger of physical harm and emotional distress.

231. The Archdiocese never reasonably sought to control the conduct of Perpetrators so as to protect Plaintiffs, despite knowing the Perpetrators had dangerous propensities to physically and sexually abuse minors.

232. The Archdiocese systematically breached its duty to Plaintiffs in all of the aforementioned ways, and by:

- a. Transferring Perpetrators to positions of active ministry where they encountered children, despite the fact that the Archdiocese knew or should have known that



Perpetrators had abused and would likely continue abusing children;

- b. Enabling Perpetrators to have unrestricted access to children and placing them in a position of trust and control despite knowing they had a propensity to sexually abuse children;
- c. Failing to warn Plaintiffs, their families and other parishioners, and the community of Perpetrators' criminal sexual proclivities and the dangerous conditions their behavior created;
- d. Failing to properly monitor and supervise Perpetrators to prevent them from sexually abusing children, including Plaintiffs;
- e. Failing to prevent Perpetrators from committing physical and psychologically abusive acts upon Plaintiffs;
- f. Failing to properly adopt and enforce child sexual abuse reporting, prevention, intervention, and investigation protocols within the Archdiocese and comply with applicable child sexual abuse reporting laws and other requirements;
- g. Failing to monitor for and subsequently investigate allegations of sexual, physical, and psychological abuse committed by any employee, volunteer, or agent of the Archdiocese;
- h. Failing to timely notify law enforcement, government, and child protection agencies of allegations of child sexual abuse against employees and other actual or apparent agents of the Archdiocese;
- i. Failing to provide a safe environment where children were not subjected to sexual and psychological abuse;
- j. Holding Perpetrators out as being ethically and morally reputable and safe for children to encounter;
- k. Failing to remove Perpetrators from parish property and positions of active ministry, after it knew or should have known that they had sexually abused one or more children or were in danger of doing so;
- l. Failing to comply with statutes, rules, regulations, and ordinances enacted for one or more classes of persons that include Plaintiffs (e.g., children, victims of sexual abuse), enacted to prevent injuries of the type sustained by the Plaintiffs, which imply a private right of action or impose liability under a negligence per se theory, including but not limited to statutes and regulations criminalizing sexual abuse and exploitation or imposing a duty on the Archdiocese and its agents to report abuse committed by Perpetrators to law enforcement and state authorities;
- m. Negligent entrustment in permitting Perpetrators to exercise ministries for, and use property of, the Archdiocese or parishes within the Archdiocese to engage in the

sexual abuse, sexual torture, and assault and battery of children, including Plaintiffs, where the Archdiocese knew or should have known that Perpetrators were likely to conduct themselves or use property of the Archdiocese or parishes within the Archdiocese to abuse Plaintiffs and other children;

- n. Acting negligently under legal theories articulated in Restatement (Second) of Torts §§ 310–11, 313, 314A, 319, and 321, among others.
- o. Violating internal policies and procedures that reflected the standard of care, including those set forth *supra*;
- p. Failing to educate and inform parishioners, clergy, and other members of the church that sexual abuse may have occurred or was at risk of occurring; and
- q. Other negligent acts and omissions that may be disclosed during the course of discovery.

233. Through each of these actions, the Archdiocese acted in reckless disregard of the safety of Plaintiffs and knew or had reason to know of facts which would lead a reasonable person to realize, not only that its conduct created an unreasonable risk of physical harm to Plaintiffs and other children, but also that such risk was substantially greater than that which is necessary to make their conduct negligent.

234. It was reasonably foreseeable that if the Archdiocese did not adequately exercise the duty to provide reasonable care to children, including but not limited to Plaintiffs, the children entrusted to its care would be vulnerable to sexual abuse by actual or apparent agents, servants, or employees of the Archdiocese, including Perpetrators.

235. The failure of the Archdiocese to protect Plaintiffs from the foreseeable harm of Perpetrators' sexual, physical, and psychological misconduct was committed with negligence, gross negligence, wanton recklessness, or reckless indifference to Plaintiffs.

236. Each and every tortious act and omission of the Archdiocese enumerated herein directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

237. The Archdiocese acted with actual malice and engaged in conduct motivated by evil motive, intent to injure, ill will, or fraud in the aforementioned respects, which directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

WHEREFORE, Plaintiffs demand judgment for damages against the Archdiocese, in an amount exceeding the monetary jurisdictional limits of any and all lower courts that would otherwise have jurisdiction and to be determined upon trial of this action, together with interest, costs, and any other appropriate relief.

#### **COUNT II: GROSS NEGLIGENCE**

238. Plaintiffs incorporate all preceding paragraphs by reference as if fully set forth herein.

239. The Archdiocese knew and had reason to know that the sexual assaults and misconduct by Perpetrators were performed under the guise of parish and community ministry.

240. The Archdiocese transferred and installed Perpetrators to positions of active ministry within the Archdiocese without warning parishioners or the community of the priests' behavior or taking steps to monitor either priest, despite the fact that the Archdiocese knew or should have known that each priest had abused and would likely continue abusing children.

241. The Perpetrators were permitted by the Archdiocese to exercise their clerical faculties and ministry and use property of the Archdiocese or parishes within the Archdiocese to engage in the sexual abuse of children, including Plaintiffs, where the Archdiocese knew and should have known that the Perpetrators were likely to use property and resources of the Archdiocese or parishes within the Archdiocese to abuse Plaintiff and other children.

242. The Archdiocese declined to discipline Perpetrators for their sexual abuse of children, and enabled them, through its inaction, to continue to abuse and exploit children under the guise of offering spiritual and moral guidance.

243. The Archdiocese knowingly failed to remove Perpetrators from parish property and positions of active ministry, even though it knew and should have known they had abused or were likely to sexually abuse one or more children.

244. The Archdiocese knowingly failed to promulgate and enforce guidelines for child protection.

245. The Archdiocese knowingly failed to enforce existing rules for clerical discipline and child protection, including those referenced above.

246. The Archdiocese was utterly indifferent to Plaintiffs' safety and consciously disregarded Plaintiffs' welfare.

247. The Archdiocese routinely exposed children, including Plaintiffs, to sexually abusive individuals, including the Perpetrators, and ratified Perpetrators' conduct by failing to discipline, sanction, remove, or admonish them appropriately.

248. It was reasonably foreseeable that if the Archdiocese failed to warn and protect Plaintiffs from the Perpetrators, the Plaintiffs would be vulnerable to and would suffer sexual abuse by the Perpetrators.

249. The foregoing conduct by the Archdiocese pled in this count constituted such gross negligence as to indicate a wanton disregard of the rights of others, including Plaintiffs.

250. Each of the aforementioned grossly negligent acts and omissions committed by the Archdiocese directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

251. The Archdiocese acted with actual malice and engaged in conduct motivated by evil motive, intent to injure, ill will, or fraud in the aforementioned respects, which directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

WHEREFORE, Plaintiffs demand judgment for damages against the Archdiocese, in an amount exceeding the monetary jurisdictional limits of any and all lower courts that would otherwise have jurisdiction and to be determined upon trial of this action, together with interest, costs, and any other appropriate relief.

**COUNT III: NEGLIGENT SUPERVISION AND RETENTION**

252. Plaintiffs incorporate all preceding paragraphs by reference as if fully set forth herein.

253. Supervision of agents, servants, employees, and other personnel within the Archdiocese's control was mandatory and created an unqualified duty upon it.

254. At all relevant times, the Archdiocese, directly and by and through its actual or apparent agents, servants, and employees, undertook or otherwise had a duty to engage in reasonable supervision, monitoring, and retention of any employees, agents, or representatives who interacted with children, held positions that brought them within close proximity of children, or accepted responsibility for children.

255. Perpetrators were, at all relevant times, the actual or apparent agents, servants, or employees of the Archdiocese.

256. The Archdiocese was familiar with the problem of numerous agents sexually violating children within the Archdiocese.

257. The Archdiocese was responsible for the Perpetrators' supervision and retention at all relevant times.

258. The Archdiocese knew or should have known before placing Perpetrators in positions where they came into contact with children that they were unfit to serve in their respective roles because they had sexually abused children previously or were at risk of sexually abusing children in the future.

259. Despite actual or constructive knowledge of prior incidents or allegations of child sexual abuse, and of the reasonable likelihood that Perpetrators might abuse children in the future, the Archdiocese placed or transferred Perpetrators into positions of active ministry and allowed them all the freedoms granted them in association with those positions.

260. The Archdiocese knew or reasonably should have known of Perpetrators' sexual interest in children and their capacity to commit sexual, physical, emotional, and psychological violence against Plaintiffs and other children.

261. The Archdiocese failed to properly observe, supervise, and monitor areas and individuals where it was known, knowable, or foreseeable that vulnerable children could fall victim to sexual, physical, emotional, and psychological abuse without proper supervision.

262. The Archdiocese systematically breached its duty to Plaintiffs in the aforementioned ways, and by:

- a. Failing to protect Plaintiffs from abusive conduct by Perpetrators;
- b. Failing to properly monitor and supervise Perpetrators;
- c. Permitting Plaintiffs to spend extended periods of time alone with Perpetrators;
- d. Failing to properly supervise children in their care or monitor the whereabouts of children on archdiocesan property;
- e. Failing to perform adequate screening of Perpetrators prior to their placement within the Archdiocese to ensure they were fit to minister to children;
- f. Failing to appropriately place Perpetrators upon hiring and failing to monitor them to ensure the safety of children;
- g. Failing to institute or follow a child sexual abuse reporting process, intervention protocols, investigative procedures, and procedures to follow upon a substantiated finding of abuse;
- h. Failing to prevent Perpetrators from committing physically and psychologically abusive acts upon Plaintiffs;
- i. Failing to monitor for and subsequently investigate acts of sexual, physical, emotional, and psychological abuse and immoral conduct committed by any

employee, including Perpetrators;

- j. Failing to provide a safe environment where children were protected from sexual abuse;
- k. Failing to promptly remove Perpetrators from all interaction and exposure to children, after having actual or constructive notice that Perpetrators sexually assaulted a child;
- l. Failing to sufficiently punish, reprimand, remove, or dissuade Perpetrators from continuing to sexually abuse children;
- m. Transferring Perpetrators to various parishes in an effort to minimize complaints, knowledge, and repercussions of their actions; and
- n. Other acts and omissions that may become apparent during the course of discovery.

263. The Archdiocese's negligent supervision, negligent retention, and negligent failure to protect Plaintiffs from the foreseeable harm of Perpetrators' sexual, physical, emotional, and psychological abuse was a result of negligence, gross negligence, wanton recklessness, or reckless indifference to Plaintiffs.

264. Each and every tortious act and omission of the Archdiocese enumerated herein directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

265. The Archdiocese acted with actual malice and engaged in conduct motivated by evil motive, intent to injure, ill will, or fraud in the aforementioned respects, which directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

WHEREFORE, Plaintiffs demand judgment for damages against the Archdiocese in an amount exceeding the monetary jurisdictional limits of any and all lower Courts that would otherwise have jurisdiction, in amounts to be determined upon trial of this action, together with interest, costs, and any other appropriate relief.

#### **COUNT IV: NEGLIGENT TRAINING**



266. Plaintiffs incorporate all preceding paragraphs by reference as if fully set forth herein.

267. At all relevant times, the Archdiocese was responsible for the training and education of its employees, agents and/or representatives, and parishioners pertinent to the recognition of, monitoring for, and prevention of child sexual abuse.

268. Despite the Archdiocese's knowledge that sexual abuse of children was being perpetrated by its actual and apparent agents, servants, and employees (including Perpetrators), on its premises, it failed to take preventative and reactive measures in the form of training to address systemic problems of formation, training, and supervision of clergy.

269. The Archdiocese failed to sufficiently train with respect to Perpetrators' sexual abuse of children, including Plaintiffs, by:

- a. Failing to ensure that Perpetrators were taught proper techniques of establishing boundaries and limits to relationships to enable them to properly conduct counseling and confidential relationships with minor children;
- b. Failing to effectively train church leaders, including vicars, bishops, archdiocesan administrators, and other supervisory personnel, how to detect, prevent, monitor for, report and investigate child sexual abuse within the Archdiocese;
- c. Failing to effectively train archdiocesan employees, agents, servants and representatives, including priests, how to detect, prevent, monitor for and report child sexual abuse;
- d. Failing to effectively train priests and other members of the clergy how to establish appropriate boundaries and relationships with children while providing them Catholic ministry and other services;
- e. Failing to effectively train archdiocesan employees, agents, and servants, including priests, how to respond to actual, alleged, or threatened child abuse so as to protect children; and
- f. Other acts and omissions that may become apparent during the course of discovery.

270. The failure of the Archdiocese to protect Plaintiffs from the foreseeable harm of Perpetrators' sexual, physical, emotional, and psychological abuse by providing sufficient training



was a result of negligence, gross negligence, wantonness, recklessness, and/or reckless indifference to Plaintiffs.

271. Each and every tortious act and omission of the Archdiocese set forth herein directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

272. The Archdiocese acted with actual malice and engaged in conduct motivated by evil motive, intent to injure, ill will, or fraud in the aforementioned respects, which directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

WHEREFORE, Plaintiffs demand judgment for damages against the Archdiocese in an amount exceeding the monetary jurisdictional limits of any and all lower Courts that would otherwise have jurisdiction, in amounts to be determined upon trial of this action, together with interest, costs, and any other appropriate relief.

#### **COUNT V: BREACH OF FIDUCIARY DUTY**

273. Plaintiffs incorporate all preceding paragraphs by reference as if fully set forth herein.

274. The Archdiocese had a special, confidential, and fiduciary relationship with each Plaintiff.

275. Plaintiffs were entrusted by their parents or guardians to the Archdiocese.

276. The Archdiocese was required to provide Plaintiffs with physical care and protection in the same capacity as a reasonably prudent parent.

277. The Archdiocese also maintained a fiduciary relationship of trust and confidence with Plaintiffs, in which the Archdiocese promised to engage in, and did actively engage in, fostering, promoting, and safeguarding Plaintiffs' well-being.

278. Plaintiffs believed that the authority, direction, and instruction from the Archdiocese was doctrinally infallible.

279. The Archdiocese taught Plaintiffs and others to view priests, including priest Perpetrators, as *alter Christus* (“another Christ”) and that a priest’s religious status entitled him to special privileges exceeding freedoms a lay person would be allowed.<sup>32</sup> These teachings instructed Plaintiffs to give priests the highest respect and degree of reverence as representatives of God.

280. The Archdiocese confided the performance of their duty toward Plaintiffs to Perpetrators and other agents.

281. As agents of the Archdiocese, Perpetrators deepened and affirmed the Archdiocese’s fiduciary relationship with Plaintiffs because they singled Plaintiffs out and spent time with them under the guise of providing Plaintiffs with moral and spiritual guidance.

282. Plaintiffs placed their trust and confidence in the Archdiocese and in Perpetrators, as its agents and employees, thereby placing the Archdiocese in a position of influence and superiority over Plaintiffs.

283. In addition to the Archdiocese’s duties *in loco parentis*, the fiduciary relationship between Plaintiffs and the Archdiocese created an affirmative duty on the part of the Archdiocese to act in Plaintiffs’ best interest and to protect them, considering their age of minority and vulnerability.

284. The Archdiocese was obligated to do at least the following, among other responsibilities it had toward Plaintiffs:

- a. Prevent Perpetrators from being placed in a position where they could abuse Plaintiffs and other minor children;
- b. Provide notice and warning to Plaintiffs and their parents that Perpetrators had prior allegations of childhood sexual abuse against them and were reassigned due to those allegations;

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<sup>32</sup> This doctrine is reflected in *Catechism of the Catholic Church*, ¶¶ 1542-48.

- c. Intervene to prevent Perpetrators' sexual abuse of Plaintiffs once it was discovered;
- d. Reach out to Plaintiffs after the abuse ended to disavow Perpetrators' representations to Plaintiffs that the abuse was in any way allowable;
- e. Otherwise exercise its control to prevent and intervene in abuse of Plaintiffs and address Plaintiffs' abuse by Perpetrators after it occurred;
- f. Disclose its own negligence and wrongdoing to Plaintiffs, including its tortious conduct in placing Perpetrators in a position where they could sexually abuse Plaintiffs, and in failing to act to prevent Perpetrators' sexual abuse of Plaintiffs;
- g. Disclose to Plaintiffs that they may have one or more causes of action against the Archdiocese;
- h. Timely address the devastating effects of Perpetrators' abuse on Plaintiffs by offering or securing for Plaintiffs emotional, spiritual, medical, and financial assistance, and holding Perpetrators meaningfully accountable;
- i. Ensure its agents maintained appropriate relationships and boundaries with Plaintiffs;
- j. Protect Plaintiffs from harm by Perpetrators; and
- k. Other acts and omissions that may become apparent during the course of discovery.

285. The Archdiocese was aware that Perpetrators made misrepresentations to Plaintiffs concerning the nature of the sexual abuse they committed.

286. The Archdiocese was aware Perpetrators used the Archdiocese's special relationship with its parishioners, invitees, and the wider community to influence children into believing that the abuse was a necessary and allowable thing required or sanctioned by God, the Catholic faith, or a Catholic theology of love or hierarchical acceptance of the legitimate actions of a Catholic priest.

287. The Archdiocese's continued affirmative acts, ratification of, and silence about Perpetrators' sexual abuse breached its duty to Plaintiffs and fraudulently concealed Plaintiffs' claims against them.

288. Plaintiffs had no reason to suspect that the Archdiocese entered a scheme of concealment and fraud with Perpetrators. Plaintiffs believed that the Archdiocese would not tolerate

conduct that was truly wrong, sinful, and illegal and that as agents of the Archdiocese, Perpetrators would not commit such wrongful acts.

289. Plaintiffs were under no obligation to search for wrongdoing by the Archdiocese where they reasonably believed the Archdiocese would uphold its duties to act in Plaintiffs' best interests and keep them safe.

290. The Archdiocese breached its fiduciary duties to Plaintiffs for all the reasons previously stated.

291. Each breach of its fiduciary duties directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

292. The Archdiocese acted with actual malice and engaged in conduct motivated by evil motive, intent to injure, ill will, or fraud in the aforementioned respects, which directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

WHEREFORE, Plaintiffs demand judgment for damages against the Archdiocese in an amount exceeding the monetary jurisdictional limits of any and all lower Courts that would otherwise have jurisdiction, in amounts to be determined upon trial of this action, together with interest, costs, and any other appropriate relief.

#### **COUNT VI: CONSTRUCTIVE FRAUD**

293. Plaintiffs incorporate all preceding paragraphs by reference as if fully set forth herein.

294. As described above, the Archdiocese had a fiduciary and confidential relationship of trust and confidence with Plaintiffs.

295. Plaintiffs' position in the relationship with the Archdiocese was one of subordinate weakness and dependence, whereas the Archdiocese was in a position of superior knowledge and influence; hence, Plaintiffs and the Archdiocese did not deal on equal terms.

296. The Archdiocese betrayed the fiduciary duty owed to Plaintiffs as a result of the relationship of trust and confidence, by, among other tortious acts and omissions, failing to inform Plaintiffs of Perpetrators' dangerous propensities, transferring Perpetrators (who they knew or should have known posed a risk to child parishioners and children present on church property) to parishes where they preyed on unsuspecting victims, and failing to remove Perpetrators after their placement.

297. The Archdiocese held itself out as an institution that would protect vulnerable children.

298. The Archdiocese's failure to investigate, punish, and remove Perpetrators, and failure to protect the community from and seek to remedy the effects of his sexual abuse and misconduct, are examples of a course of conduct that had the intent and effect of deceiving and misleading Plaintiffs and the public about the Archdiocese's focus on the protection of children and the well-being and safety of its parishioners and the communities it purported to serve.

299. The Archdiocese had and has an accumulation of critical knowledge of the sexual abuse of children by their employees and clerics, including Perpetrators, which it kept from Plaintiffs, their parents and guardians, and the public.

300. Further, as mentioned above, the Archdiocese had specific knowledge that Perpetrators sexually abused children in seminary or prior placements, but still falsely assured parishioners, Plaintiffs and their parents, and the general public through explicit and implicit representations that Perpetrators were moral and ethical representatives of the Archdiocese.

301. Perpetrators betrayed the fiduciary duty owed to Plaintiffs and conspired with the Archdiocese, by holding themselves out as moral and ethical individuals and representatives of God while engaged in the systematic rape, sexual abuse, and sexual torture of Plaintiffs and other children.

302. The Archdiocese had knowledge of the aforementioned acts and omissions constituting constructive fraud and expected and intended Plaintiffs to rely on said acts and omissions.

303. The Archdiocese's aforementioned constructive fraud directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

304. The Archdiocese acted with actual malice and engaged in conduct motivated by evil motive, intent to injure, ill will, or fraud in the aforementioned respects, which directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

WHEREFORE, Plaintiffs demand judgment for damages against the Archdiocese, in an amount exceeding the monetary jurisdictional limits of any and all lower courts that would otherwise have jurisdiction and to be determined upon trial of this action, together with interest, costs, and any other appropriate relief.

#### **COUNT VII: FRAUD**

305. Plaintiffs incorporate all preceding paragraphs by reference as if fully set forth herein.

306. The Archdiocese appointed Perpetrators to positions within the Archdiocese and expressly and impliedly represented that Perpetrators were fit to conduct Catholic ministry at the locations to which they had been assigned, were clerics of good moral character, and were appropriate persons to be around and interact with minors.

307. The Archdiocese published or caused to be published false information for parishioners and the general public indicating that Perpetrators' transfers to other locations after abusing children was a normal or routine re-assignment or was done for reasons of "health."

308. With the knowledge of the Archdiocese, Perpetrators held themselves out as pious and fit clerics who would obey the orders of the Archdiocese, would uphold requisite moral and ethical values, and would protect the safety of children.

309. At all times material herein the Archdiocese, by and through its agents and employees, knew or should have known that these representations by Perpetrators were false.

310. The express and implied representations made by the Archdiocese and the Perpetrators concerning Perpetrators' fitness to serve in their ministries were false.

311. The Archdiocese, directly and by and through Perpetrators and other agents, servants, and employees, made the following additional express or implied misrepresentations of fact, among others as set forth in this complaint and as may be disclosed during formal discovery in this action:

- a. Perpetrators were fit to serve as agents of the Archdiocese, despite the fact that the Archdiocese knew or should have known of their proclivities to sexually abuse and exploit children;
- b. Perpetrators had never before been accused of child sexual abuse;
- c. Perpetrators would not abuse their authority and power to sexually abuse children; and
- d. The Archdiocese had no knowledge or reason to know of Perpetrators' sexual abuse of children and that its transfers of Perpetrators were motivated by legitimate needs and goals of the Archdiocese or other needs of the Perpetrators, such as their "health."

312. Perpetrators also represented that sexual abuse being committed by themselves was allowable because Perpetrators were representatives of God, and the Archdiocese made no efforts to disavow Perpetrators' statements or abusive actions.

313. The Archdiocese had knowledge of the falsity of the aforementioned misrepresentations and expected Plaintiffs would rely on said misrepresentations.

314. The Archdiocese engaged in extreme and outrageous conduct by representing that the Perpetrators were fit to serve the community, while concealing and withholding information about their risks or histories of sexual misconduct from the members of parishes in the Archdiocese, including Plaintiffs and their families.

315. Even after discovering that Perpetrators sexually abused children, including Plaintiffs, the Archdiocese concealed Perpetrators' actions and facilitated their transfers to other parishes without proper investigations, findings, or repercussions for Perpetrators.

316. The Archdiocese concealed the abuse so as to not subject itself to legal action.

317. The Archdiocese's aforementioned acts of fraud directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

318. The Archdiocese acted with actual malice and engaged in conduct motivated by evil motive, intent to injure, ill will, or fraud in the aforementioned respects, which directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

WHEREFORE, Plaintiffs demand judgment for damages against the Archdiocese, in an amount exceeding the monetary jurisdictional limits of any and all lower courts that would otherwise have jurisdiction and to be determined upon trial of this action, together with interest, costs, and any other appropriate relief.

#### **COUNT VIII: CIVIL CONSPIRACY**

319. Plaintiffs incorporate all preceding paragraphs by reference as if fully set forth herein.

320. Defendant acted in concert with Perpetrators and others to conceal allegations and evidence of sexual, physical, emotional, and psychological assaults and abuse of minors from the public that occurred in churches and other locations by Perpetrators.



321. The Archdiocese hid information of Perpetrators' sexual abuse to benefit itself as an entity and to limit "scandal," negative publicity, and legal action by those who were abused or their families.

322. Perpetrators' sexual abuse of children was self-serving, not in accordance with the interests of the Archdiocese, and was outside of the scope of their official duties for the Archdiocese. Perpetrators conspired with the Archdiocese for their own benefit, to avoid prosecution, and to be able to continue to sexually abuse children without intervention.

323. The Archdiocese's aforementioned acts of concealment were not limited only to Perpetrators, but also included concealment of other priests' sexually abusive behavior within the Archdiocese—so much so that concealment of sexual abuse was standard procedure.

324. Plaintiffs are informed and believe that the Archdiocese and Perpetrators conspired and acted with common design to allow Perpetrators to continue to sexually abuse parish children, including Plaintiffs, by transferring Perpetrators to different parishes on a regular basis, after Perpetrators were accused of abuse at their prior stations.

325. After transferring Perpetrators, the Archdiocese encouraged each congregation to accept Perpetrators as competent, moral, and safe clerics, while concealing the reason for their transfers and their proclivity for sexually abusing children.

326. Instead of punishing, reprimanding, or correcting Perpetrators, the Archdiocese continued to provide Perpetrators with employment, compensation, benefits, living quarters, and the support of archdiocesan leaders, thereby ratifying their tortious conduct, including their sexual abuse and exploitation of Plaintiffs.

327. The Archdiocese knew that Perpetrators' conduct constituted a breach of duty, and still gave Perpetrators substantial assistance that allowed them to continue to conduct themselves in a manner that caused severe harm to Plaintiffs.

328. When considered separately, the Archdiocese's substantial assistance to Perpetrators constituted a breach of duty to Plaintiffs in and of itself, because it assisted Perpetrators in accomplishing a tortious action that resulted in physical harm.

329. The Archdiocese and the Perpetrators also conspired or sought to conspire with certain individuals in law enforcement to keep acts of abuse quiet and out of the public eye.

330. These policies, practices, and conspiratorial acts endangered numerous children and were made with the knowledge that such actions would cause the repeated commission of a variety of intentional and negligent torts.

331. The Archdiocese and Perpetrators conspired to publicly deny responsibility for and conceal the immoral and sexually abusive crimes committed by Perpetrators against children and did so with the coordination of various officials within the Archdiocese and within the greater whole of the Catholic Church.

332. Both the Archdiocese and Perpetrators each had a duty and responsibility to laity of the Archdiocese, and the neighborhoods and communities where Perpetrators lived and work, to report Perpetrators, and others that might reasonably be expected to cause harm to children, to police, district attorneys, and child welfare authorities, and remove Perpetrators from service that allowed them access to children—but refused or otherwise failed to do so.

333. The Archdiocese declined to remove Perpetrators and thereby created foreseeable risk to the children Perpetrators came into contact with through their assignments.

334. The Archdiocese undertook overt acts in furtherance of the common scheme, including but not limited to the following:

- a. Concealing the sexual assaults committed by Perpetrators at the time they were committed;
- b. Publishing false information that transfers of priests, including priest Perpetrators, were normal and done in due course instead of being responsive to child sexual

abuse;

- c. Refusing to report the sexual assaults to the proper civil and police authorities;
- d. Allowing Perpetrators to live freely in the community without informing parishioners of their actions and proclivities;
- e. Transferring Perpetrators to new locations without warning parishioners or the public of the threats they posed;
- f. Making affirmative representations regarding Perpetrators' fitness for employment in positions that include working with children, while failing to disclose negative information regarding their sexual misconduct;
- g. Concealing Perpetrators' actions from survivors of past abuse, including Plaintiffs, and thereby causing delay to their legal claims and additional injuries and harm;
- h. Tacitly approving known instances of sexual child abuse by its priests by enabling them to continue to abuse children by reassigning known pedophiles and sexual predators to positions in which they would have contact with minor children;
- i. Failing to report its priests who were known pedophiles and sexual predators to a governmental agency as it was obligated to do by law;
- j. Failing to properly screen, supervise, and discipline its priests to protect children in the Archdiocese, after becoming aware that pedophilia and sexual abuse by priests were serious problems within the Archdiocese;
- k. Granting pedophiles and sexual predators unsupervised access to minor children in its schools and parishes;
- l. Actively concealing from the public, including parents of actual and potential victims, the fact that children in the Archdiocese were being exposed as a captive audience to pedophiles and sexual predators, thus depriving parents of the opportunity to take steps to protect their children from additional incidents of abuse;
- m. Convincing those child sexual abuse victims and their families who did complain that they have no legal recourse and that they must accept small monetary settlements that have no relation to the abuse suffered, pastoral counseling, and psychological counseling;
- n. Coercing and swearing victims to secrecy; and
- o. Other overt acts that may be disclosed during the course of discovery.

335. The Archdiocese entered into this conspiracy with the common purpose of concealing from the public the nature and scope of sexual abuse of minors committed by Perpetrators while they were in the service or employ of the Archdiocese.

336. The Archdiocese held Perpetrators out as trustworthy, moral, ethical, and law-abiding with the common purpose of delaying or preventing individuals from reporting sexual abuse to authorities, and concealing victims' cause of action until the civil statute of limitations expired.

337. It was essential for the Archdiocese to engage in such a conspiracy because doing so allowed Perpetrators and the Archdiocese to retain their positions of authority, trust, respect, and influence within their respective communities and, with respect to the Archdiocese, on the national and international stage.

338. By engaging in this conspiracy, the Archdiocese directly caused and perpetuated the commission of various torts, including assault, sexual abuse, fraud, and other torts and wrongful acts against Plaintiffs and many other innocent vulnerable children.

339. The Archdiocese intentionally entered into agreements of complicity and performed the actions set forth above, which agreements were passed on from one leader to the next successor.

340. Actions of the Archdiocese with Perpetrators form a legal cause of a single and indivisible harm to Plaintiffs. Accordingly, the Archdiocese is subject to liability to Plaintiffs for the entire harm suffered.

341. The above-described purposeful and overt acts undertaken in furtherance of the conspiracy effectively protected Perpetrators as child predators within the Catholic Church and caused further abuse of innocent children, including Plaintiffs.

342. Each of the Archdiocese's aforementioned conspiratorial acts and omissions directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

343. The Archdiocese acted with actual malice and engaged in conduct motivated by evil motive, intent to injure, ill will, or fraud in the aforementioned respects, which directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

WHEREFORE, Plaintiffs demand judgment for damages against the Archdiocese, in an amount exceeding the monetary jurisdictional limits of any and all lower courts that would otherwise have jurisdiction and to be determined upon trial of this action, together with interest, costs, and any other appropriate relief.

#### **COUNT IX: AIDING AND ABETTING**

344. Plaintiffs incorporate all preceding paragraphs by reference as though fully set forth at length herein.

345. Perpetrators repeatedly performed wrongful acts of sexual abuse against Plaintiffs over a period of years and caused them severe physical and emotional injury.

346. The Archdiocese aided Perpetrators in sexually abusing, exploiting, and defrauding Plaintiffs by:

- a. Appointing Perpetrators to positions of ministry within the Archdiocese, thereby giving them the benefit of respected and revered positions in the Church that prevented parishioners and community members from questioning, confronting, or challenging the Perpetrators' and the Archdiocese's actions;
- b. Knowingly allowing Perpetrators to have continuous and repeated access to children, including Plaintiffs, despite the fact that they were known to have sexually abused children before;
- c. Acknowledging amongst the Archdiocese's own clerics that Perpetrators were sexually abusing children and still participating in cordial communications, exchanges, and correspondence with them instead of voicing its disdain, displeasure, and condemnation of Perpetrators' actions;
- d. Purposefully refusing to report Perpetrators' abuse to the police or civil authorities and thereby ratifying the Perpetrators' actions;
- e. Transferring Perpetrators on a habitual basis each time it was discovered that they had sexually abused children;

- f. Purposefully and knowingly giving Perpetrators repeated access to children whom they would foreseeably sexually abuse, including Plaintiffs; and
- g. Other acts and omissions that may become apparent during the course of discovery.

347. The Archdiocese knew of the criminal, immoral, wrongful, and abhorrent nature of Perpetrators' actions, yet acted in concert with Perpetrators to protect the reputation of the Catholic Church and the Archdiocese and to insulate itself and the Perpetrators from legal liability.

348. The Archdiocese knowingly and substantially aided Perpetrators in their endeavor to sexually abuse children by refusing to remove them from active ministry and consistently placing them in archdiocesan parishes and other ministries where they had access to children upon whom they preyed.

349. The Archdiocese knowingly cooperated with Perpetrators' efforts to continue their abusive behavior and purposefully concealed Perpetrators' abuse over a period of years, ratified their actions, and provided them with the ability to continue sexually abusing children in the same manner.

350. Furthermore, each time Perpetrators committed subsequent sexual abuse of children, the Archdiocese removed them from the parish and placed them with a new congregation. These transfers had the effect of purposefully and intentionally providing Perpetrators with a "fresh start" at each church where they were assigned instead of subjecting them to scrutiny or legal actions.

351. The Archdiocese assisted Perpetrators by refusing to meaningfully reprimand, punish, remove, or report them, and knowingly provided them with the ideal venue, environment, and atmosphere to commit the same horrific sexual abuses at each new church they were assigned to,

352. But for the Archdiocese's aid and assistance, Perpetrators would not have sexually abused Plaintiffs. The Archdiocese's ordination of Perpetrators, placement of them into active ministry, concealment of their abusive behavior, failure to remove Perpetrators from ministry,

failure to report Perpetrators, and persistent transfers after their abuses were discovered effectively shielded Perpetrators from repercussions or moral reproach and greatly assisted them in sexually abusing children under the guise of being Catholic priests.

353. Each of the aforementioned actions of the Archdiocese in aiding and abetting Perpetrators' battery of Plaintiffs and concealment of the illegal and immoral nature of their actions directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

354. The Archdiocese acted with actual malice and engaged in conduct motivated by evil motive, intent to injure, ill will, or fraud in the aforementioned respects, which directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

WHEREFORE, Plaintiffs demand judgment for damages against the Archdiocese, in an amount exceeding the monetary jurisdictional limits of any and all lower courts that would otherwise have jurisdiction and to be determined upon trial of this action, together with interest, costs, and any other appropriate relief.

**COUNT X: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

355. Plaintiffs incorporate all preceding paragraphs by reference as though fully set forth at length herein.

356. The Archdiocese intentionally engaged in extreme and outrageous conduct by, among other tortious acts and omissions:

- a. Falsely representing to its parishioners, Plaintiffs, and the general public that Perpetrators were safe to be around children, despite actual or constructive knowledge that they abused or were at risk of abusing children;
- b. Placing Perpetrators in positions and ministries in which interaction with children were common, despite knowing the Perpetrators had previously sexually abused children at prior postings or during seminary training (or was at risk for doing so);



- c. Failing to prevent Perpetrators from sexually abusing Plaintiffs despite reasonable knowledge that Perpetrators would continue to abuse children;
- d. Failing to stop Perpetrators from continuing to abuse Plaintiffs despite the Archdiocese's knowledge that the abuse was occurring;
- e. Removing Perpetrators from one parish and placing them in another parish, allowing them access to new, unsuspecting child victims; and
- f. Knowingly failing to inform Plaintiffs and their church communities that Perpetrators were removed due to abusive behavior or risk and denouncing the Perpetrators' actions.

357. The Archdiocese knew that there was a high probability that placing Perpetrators in a position of active ministry would result in the sexual abuse of children.

358. The Archdiocese's repeated, patterned behaviors as described above were so extreme that it went beyond all possible bounds of decency and should be regarded as intolerable in civilized society.

359. Each of the Archdiocese's aforementioned tortious acts and omissions constituted extreme and outrageous conduct that directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

360. The Archdiocese acted with actual malice and engaged in conduct motivated by evil motive, intent to injure, ill will, or fraud in the aforementioned respects, which directly and proximately caused Plaintiffs to sustain severe and permanent damages as described in paragraph 95.

WHEREFORE, Plaintiffs demand judgment for damages against the Archdiocese, in an amount exceeding the monetary jurisdictional limits of any and all lower courts that would otherwise have jurisdiction and to be determined upon trial of this action, together with interest, costs, and any other appropriate relief.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, for each and all of their causes of action, respectfully request that this Court:



- A. Certify this case as a Plaintiff class action pursuant to Rule 2-231(c)(1), 2-231(c)(3), or 2-231(e);
- B. Appoint Plaintiffs as Class Representatives;
- C. Appoint Plaintiffs' Counsel as Class Counsel;
- D. Enter a judgment against Defendant finding that it is liable to Plaintiffs and all others similarly situated;
- E. Award compensatory and punitive damages in excess of \$75,000, with the exact amount to be determined at trial;
- F. Award the costs and expenses of this action, including attorneys' fees;
- G. Award prejudgment and postjudgment interest;
- H. Award all other relief requested in this Complaint; and
- I. Award all other appropriate relief.

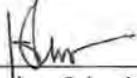
**JURY DEMAND**

Plaintiffs demand trial by jury.

Dated: October 1, 2023

Respectfully submitted,

**SCHOCHOR, STATON, GOLDBERG  
AND CARDEA, P.A.**



Jonathan Schochor (#7406010179)  
jschochor@sfspa.com  
Kerry D. Staton (#8011010366)  
kstaton@sfspa.com  
Joshua F. Kahn (#1012150095)  
jkahn@sfspa.com  
The Paulton  
1211 St. Paul Street  
Baltimore, Maryland 21202  
Telephone: 410-234-1000  
Facsimile: 410-234-1010

*Counsel for Plaintiffs Richard Roe and Mark Smith,  
individually and on behalf of all others similarly  
situated*

**JANET, JANET & SUGGS, LLC**



Andrew S. Janet (#1812110188)  
asjanet@jjsjustice.com  
Patrick A. Thronson (#1312190237)  
pthronson@jjsjustice.com  
Tara L. Kellermeyer (#0406150162)  
tkellermeyer@jjsjustice.com  
Adina S. Katz (#1606210140)  
akatz@jjsjustice.com  
Executive Centre at Hooks Lane  
4 Reservoir Circle, Suite 200  
Baltimore, Maryland 21208  
Telephone: 410-653-3200  
Facsimile: 410-653-9030

*Counsel for Plaintiff John Doe, individually and on  
behalf of all others similarly situated*

**IN THE CIRCUIT COURT  
FOR PRINCE GEORGE'S COUNTY**

JOHN DOE, RICHARD ROE, and MARK  
SMITH, individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

ROMAN CATHOLIC ARCHBISHOP OF  
WASHINGTON, a corporation sole, d/b/a  
ROMAN CATHOLIC ARCHDIOCESE OF  
WASHINGTON,

Defendant.

Case No. C-16-CV-23-004497

**AMENDED ANSWER**

Defendant, Roman Catholic Archbishop of Washington, a corporation sole, d/b/a Roman Catholic Archdiocese of Washington (the "Archdiocese"), by its undersigned counsel, hereby answers the Complaint and states as follows:

**General Denial of Liability**

Because the action in each Count of the Complaint is for tort and the claim for relief is money only, the Archdiocese answers each Count by a general denial of liability.

**Affirmative and Other Defenses**

1. Plaintiffs have failed to state claims upon which relief can be granted.
2. Plaintiff Mark Smith's claims are barred by res judicata and/or collateral estoppel.
3. Plaintiffs' claims are barred and/or extinguished by the applicable statute of limitations and the statute of repose.
4. Plaintiffs' claims are barred by total or partial charitable immunity.

5. Plaintiffs' claims are barred by the Maryland Constitution's and Declaration of Rights' prohibition against impairing the Archdiocese's vested rights.

6. Plaintiffs' claims are barred by the United States Constitution's Fifth Amendment takings clause, Article I ex post facto and contracts clauses, and Fourteenth Amendment due process and equal protection clauses, as well as by the Maryland Constitution and Declaration of Rights—including Article III, Section 40 and Articles 17, 19, and 24.

7. Plaintiffs' claims are barred by the First Amendment of the United States Constitution and Article 36 of the Maryland Declaration of Rights.

8. Plaintiffs' claims are barred because the Child Victims Act of 2023, 2023 Md. Laws ch. 5, 2023 Md. Laws ch. 6, is unconstitutional as applied in this case.

WHEREFORE, the Archdiocese respectfully requests that this Court deny the relief sought in the Complaint, dismiss this action with prejudice in favor of the Archdiocese, award the Archdiocese its costs, and grant the Archdiocese such other and further relief as may be appropriate.

Respectfully submitted,

/s/ Kevin T. Baine

Kevin T. Baine (AIS 8506010010)  
Richard S. Cleary, Jr. (*pro hac vice*)  
WILLIAMS & CONNOLLY LLP  
680 Maine Avenue, S.W.  
Washington, D.C. 20024  
202-434-5010  
[kbaine@wc.com](mailto:kbaine@wc.com)  
[rcleary@wc.com](mailto:rcleary@wc.com)

/s/ John A. Bourgeois

Andrew Jay Graham (AIS 7307010005)  
John A. Bourgeois (AIS 9312140080)  
KRAMON & GRAHAM, P.A.  
One South Street, Suite 2600  
Baltimore, Maryland 21202-3201  
(410) 752-6030; (410) 539-1269 (fax)  
[agraham@kg-law.com](mailto:agraham@kg-law.com)  
[jbourgeois@kg-law.com](mailto:jbourgeois@kg-law.com)

*Attorneys for the Roman Catholic Archbishop of Washington*

Dated: April 1, 2024.

**Rule 1–322.1 Certification**

I HEREBY CERTIFY under Md. Rule 1–322.1 that there is no personal identified information included within this filing.

/s/ John A. Bourgeois  
John A. Bourgeois (AIS 9312140080)

**Rule 20–201 Certification**

I HEREBY CERTIFY under Md. Rule 20-201(h)(2) that there is no restricted information included within this filing.

/s/ John A. Bourgeois  
John A. Bourgeois (AIS 9312140080)

**Certificate of Service**

I HEREBY CERTIFY that on April 1, 2024, a copy of the foregoing document was filed via the MDEC system, which will cause a copy to be served electronically on all persons entitled to service.

/s/ John A. Bourgeois  
John A. Bourgeois (AIS 9312140080)

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

- - - - - x	
	:
JOHN DOE, et al.,	:
	:
Plaintiffs,	: Civil No. C-16-CV-23-004497
	:
v.	:
	:
ROMAN CATHOLIC ARCHBISHOP	:
OF WASHINGTON,	:
	:
Defendant.	: Upper Marlboro, Maryland
	:
- - - - - x	
	March 6, 2024

**MOTION TO DISMISS  
VOLUME I OF I**

WHEREUPON, proceedings in the above-entitled matter commenced.

BEFORE: THE HONORABLE ROBIN BRIGHT, Judge

APPEARANCES:

FOR THE PLAINTIFFS:

ROBERT PECK, ESQ.  
Center for Constitutional Litigation  
1901 Connecticut Avenue, N.W., Suite 1008  
Washington, D.C. 20009

JONATHAN SCHOCHOR, ESQ.  
Schochor, Staton, Goldberg and Cardea, P.A.  
1211 St. Paul Street  
Baltimore, Maryland 21202

PATRICK A. JANET, ESQ.  
HOWARD JANET, ESQ.  
Janet, Janet & Suggs, LLC  
Executive Center at Hooks Lane  
4 Reservoir Circle, Suite 200  
Baltimore, Maryland 21208

APPEARANCES (Continued):

FOR THE DEFENDANT:

JOHN A. BOURGEOIS, ESQ.  
Kramon & Graham, P.A.  
1 South Stret, Suite 2600  
Baltimore, Maryland 21202

KEVIN T. BAINE, ESQ.  
RICHARD S. CLEARY, JR., ESQ.  
Williams & Connolly, LLP  
680 Main Avenue, S.W.  
Washington, D.C. 20024

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1                                   P R O C E E D I N G S

2                   (Whereupon, at 10:20 a.m., the hearing began.)

3                   THE COURT: All right. Calling C-16-CV-23-004497,  
4 John Doe, et al. versus Roman Catholic Archbishop of  
5 Washington. Would you all like to introduce yourselves for  
6 the record? Let's start with the Plaintiffs' side.

7                   MR. PECK: Robert Peck, for the Plaintiffs.

8                   MR. SCHOCHOR: Jonathan Schochor, for the  
9 Plaintiffs.

10                  MR. A. JANET: Andrew Janet, from Janet, Janet and  
11 Suggs, for the Plaintiffs.

12                  MR. H. JANET: Howard Janet, also from Janet, Janet  
13 and Suggs.

14                  MR. BOURGEOIS: Good morning, Your Honor. John  
15 Bourgeois, representing the Roman Catholic Archdiocese of  
16 Washington. I'm joined by my colleagues from Williams and  
17 Connolly. This is Kevin Baine and Richard Cleary.

18                  MR.           : Good morning, Your Honor.

19                  THE COURT: Good morning.

20                  And we also had a filing from the Attorney General's  
21 Office in this case. Okay.

22                  Now the Court had an opportunity -- I appreciate the  
23 fact that you gave me these binders because going through MDEC  
24 was a little bit difficult. But the Court had an opportunity  
25 to review all of the motions and the exhibits.

1           And just so that we are all on the same page, I just  
2 want to make sure that the focus for today in this motion to  
3 dismiss was the Defense position that this case is barred by  
4 statute of limitations and there was a failure to state a  
5 claim and that it was pursuant to the new legislation that  
6 came out in 2023 that was signed by Governor Wes Moore.

7           And that was Senate Bill 686, which is the Child  
8 Victims Act and talks about when these cases can be brought  
9 forth in civil litigation, and the Court also reviewed the  
10 prior bills. In particular, Senate Bill 505, which was in  
11 2017, which applied to that 7 to 20-year range.

12           Is that where we are?

13           MR. CLEARY: Your Honor, Richard Cleary, on behalf  
14 of the Archdiocese of Washington. Yes, Your Honor. It is the  
15 position of the Archdiocese that Plaintiffs' claims are barred  
16 in their entirety, both by the statute of repose enacted in  
17 2017 and separately by the applicable statute of limitations  
18 period. And for that reason, Plaintiffs have failed to state  
19 a claim.

20           THE COURT: And that is your --

21           MR.           : Yes, Your Honor. Our position is that  
22 the only way you get to that is if the CVA, Child Victims Act,  
23 is declared unconstitutional.

24           THE COURT: Correct. By due process violations. Is  
25 that what is being alleged as well?

1 MR. CLEARY: Your Honor, yes. Our position is that  
2 the Due Process Clause of the Maryland Declaration of Rights  
3 and separately the Takings Clause of the Maryland  
4 Constitution, each protect the vested rights that accrue to  
5 the Archdiocese under the statute of repose and under the  
6 statute of limitations and under well settled Maryland law.

7 Those rights, once vested in a defendant, as here  
8 the Archdiocese, cannot be later aggregated under those two  
9 clauses of the constitution.

10 THE COURT: And so the Defendant's position is that  
11 the current legislation in Criminal Procedure 5-117 is  
12 unconstitutional?

13 MR. CLEARY: Yes, Your Honor. Our position is that  
14 Plaintiffs' claims were barred long ago by the statute of  
15 response enacted in 2017 and separately by the applicable  
16 statute of limitations periods in effect as to each of the  
17 three named Plaintiffs' claims.

18 THE COURT: So how do you read, I believe it is  
19 Section B, in Courts and Judicial Proceedings 5-117? So how  
20 does the Defense interpret that portion?

21 MR. CLEARY: Your Honor, under the Child Victims Act  
22 there is a total abolition. This is the law passed last year.  
23 There is a total abolition of the statute of repose and the  
24 statute of limitations, and there is a revival of -- a  
25 purported revival of any claims that were barred by those two

1 laws previously. It is our position that that law is  
2 unconstitutional and cannot be enforced.

3 To Your Honor's question, Section 117, and we can  
4 look at the 2017 session law --

5 THE COURT: And I am going to let you have all of  
6 your arguments so that your record is clear.

7 MR. CLEARY: Oh, sure.

8 THE COURT: But if the current statute is based on  
9 the Child Victims Act of 2023, enacted in October 1 of 2023,  
10 why does the Court need to address prior statutes of 2017?

11 MR. CLEARY: Because by its terms the 2023 law  
12 retroactively revives claims that were time barred, and at the  
13 time of those bars, the Archdiocese obtained a vested right to  
14 be free of liability for the claims at issue. So the purpose  
15 of the Child Victims Act of 2023 was to sweep away  
16 retroactively any statute of limitations and any statute of  
17 repose, barring the Plaintiffs' claims in this case.

18 And it is our position that that retroactive  
19 legislation under well-settled Maryland Supreme Court  
20 precedent is unconstitutional, because in Maryland there  
21 are --

22 THE COURT: Well, just so we are all on the same  
23 page --

24 MR. CLEARY: Yes, sure.

25 THE COURT: -- so the Defense argument is that

1 because 5-117 is unconstitutional then you revert back to the  
2 original? Is that what you are saying?

3 MR. CLEARY: Yes, Your Honor. I just want to be  
4 clear about 5-117 because there are two different versions of  
5 5-117. There was the version in 2023 that was modified  
6 through this law, which we say is unconstitutional. And for  
7 that reason, as Your Honor says, we would ask that the Court  
8 apply the 2017 version of Section 117 to the claims in this  
9 case.

10 THE COURT: Okay. All right. So we all are on the  
11 same page. And so then I would like to hear your arguments as  
12 to why the Defense finds that the current statute is  
13 unconstitutional based on the reading of prior Supreme Court  
14 cases and the statute of repose.

15 MR. CLEARY: Right. And I do want to just be clear  
16 at the outset, Your Honor, that our argument is that the 2023  
17 law, as applied in this case, is unconstitutional. There may  
18 be other applications of that law that would be  
19 constitutional, but in this case, based on the claims  
20 contained in the complaint, it is unconstitutional.

21 THE COURT: And for clarity, you are saying someone  
22 that may have been within the statute of limitations under the  
23 prior law?

24 MR. CLEARY: There could be a --

25 THE COURT: That would not have been -- that would

1 make this current statute constitutional?

2 MR. CLEARY: For other claimants as to whom the  
3 limitations period or the repose period had not expired. To  
4 Your Honor's point, the current could apply to them, and our  
5 arguments here about vested rights would not be applicable in  
6 a case like that.

7 THE COURT: Okay. So based on the facts in this  
8 case, Courts and Judicial Proceedings 5-117 is  
9 unconstitutional?

10 MR. CLEARY: Yes. As enacted in 2023.

11 THE COURT: Well, right. Because that is the  
12 current -- that is the current statute and that is the statute  
13 that was under when the Plaintiffs filed their complaint?

14 MR. CLEARY: Yes, Your Honor.

15 THE COURT: Okay. All right. I will hear you.

16 MR. CLEARY: Okay. Thank you, Your Honor. And for  
17 Your Honor's planning, I think that we would ask for maybe 15  
18 to 20 minutes in opening, and I don't think that we would need  
19 more than 30 minutes. Of course, I am happy to answer any  
20 questions that the Court has. But I just wanted to say that.

21 THE COURT: Right. And you will have all the time  
22 that you need to make your arguments. I just wanted to make  
23 certain that we all were on the same page before we even  
24 began. So we are.

25 MR. CLEARY: Certainly. Thank you.

1 THE COURT: Yes.

2 MR. CLEARY: Well, may it please the Court, Richard  
3 Cleary, on behalf of the Archdiocese of Washington.

4 The three named Plaintiffs in this case seek to  
5 bring a putative class action on behalf of any individual who  
6 alleges sexual abuse as a minor by any servant, any employee,  
7 any agent of the Archdiocese of Washington, from the present  
8 back to the year 1939, when the Archdiocese was established.  
9 That is a period of 85 years. Or almost 85 years.

10 It is our position, as we have discussed this  
11 morning, that the statute of repose bars Plaintiffs'  
12 complaint, and it should be dismissed for that reason.

13 Now going back to 2017 and the 2017 law, that year  
14 the Maryland Legislature passed a law that did two main  
15 things. First, it expanded prospectively the statute of  
16 limitations for all claims arising from alleged sexual abuse  
17 of a minor. And second, it adopted something stronger, what  
18 it called a statute of repose, for claims against defendants  
19 like the Archdiocese that were not themselves perpetrators of  
20 abuse.

21 Now Plaintiffs' position is that the statute of  
22 repose and the relevant provision of this 2017 law, Section  
23 117(d), is not what the legislature said it was. Their  
24 position is that the statute of repose in the 2017 law is not  
25 a statute of repose or should not be treated as a statute of

1 repose because the legislature did not understand what a  
2 statute of repose was.

3           Our position, Your Honor, is very straightforward.  
4 By 2017 Maryland courts had clearly explained what the  
5 difference was between a statute of repose and a statute of  
6 limitations. And so when in the 2017 law the legislature said  
7 it was "altering the statute of limitations" and "establishing  
8 a statute of repose," it must have understood what it was  
9 doing and it must be taken at its word that it was doing both  
10 of those things.

11           And once it is accepted that the 2017 law contained  
12 the strong protection as to non-perpetrator defendants only in  
13 the form of a statute of repose, the rest of the case follows  
14 logically. Statutes of repose in Maryland give rise to  
15 substantive vested rights on the part of the protected class  
16 of defendants to be free of claims after a specified period of  
17 time, and that is what happened here for the Archdiocese. So  
18 the Archdiocese obtained the substantive vested right to be  
19 free of the claims at issue in this case.

20           And under the due process clause of the Maryland  
21 Declaration of Rights and under the takings clause of the  
22 Maryland Constitution, those vested rights, once conferred,  
23 cannot be destroyed, and it is for that reason that the 2023  
24 law is unconstitutional as applied in this case and cannot  
25 revive Plaintiffs' claims. And because Plaintiffs' claims are



1 a longtime barred, the complaint should be dismissed in its  
2 entirety with prejudice.

3 Now -- go ahead, Your Honor.

4 THE COURT: So can you just go in further as to, so  
5 we don't get sidetracked, why the statute violates the due  
6 process clause and the takings clause?

7 MR. CLEARY: Yes. Yes, Your Honor.

8 So there are three steps to the argument. One is  
9 that -- and I should say, just at the outset, there are two  
10 different arguments that we make; that the statute of repose  
11 and the statute of limitations each give rise to these vested  
12 rights. And under Maryland case law, those vested rights  
13 cannot be withdrawn.

14 Now this morning I will focus on the statute of  
15 repose in response to Your Honor's questions. That is our  
16 leading argument, and it is with the statute of repose that  
17 the legislature really sought to put beyond reach any claims  
18 like Plaintiffs' that were ancient or barred at the time of  
19 the 2017 law.

20 To your question, the reason why the 2023 law is  
21 unconstitutional as applied in this case is because the point  
22 of the 2023 law is to revive claims that were already  
23 extinguished under the statute of repose as against the  
24 Archdiocese.

25 And so what happens in a statute of repose is after

1 the expiration of the repose period the defendant obtains a  
2 substantive or vested right to be free of the claims at issue  
3 in the statute, and this is a very strong protection that is  
4 recognized in a number of cases. The Anderson case; the  
5 Carbon case; the intermediate report of the Duffy case from  
6 the Maryland Appellate Court. And under Maryland law there is  
7 a case called Dua from the Maryland Supreme Court from 2001  
8 that walks through the history of vested rights and causes of  
9 action and rights to be free of causes of action.

10           Once a repose period expires the defendant has a  
11 substantive right to be free of that cause of action and can  
12 rely on that right and can move on and arrange its affairs  
13 accordingly.

14           Now in Maryland, in contrast to some other states,  
15 there is a per se bar on the destruction of the substantive  
16 rights once they vest in the defendant. And so here the  
17 statute of repose, once it runs, imparts this vested right to  
18 be free of the claim, and the Child Victims Act of 2023  
19 resurrected these claims. And when it did that -- it  
20 purported to resurrect the claims. And when it did that, it  
21 destroyed completely the right to be free of the lawsuit.

22           And so our argument this morning really just has  
23 three key elements. The first is that Section 117(d) of the  
24 2017 was a statute of repose, but that statute of repose  
25 creates vested rights and those vested rights, once conferred,

1 cannot be withdrawn.

2           As we discussed a moment ago, we talked about what a  
3 statute of repose is. It is sometimes helpful to compare a  
4 statute of repose with the statute of limitations. The  
5 statute of repose gives rise to this absolute bar or grant of  
6 immunity or substantive right to be free of the lawsuit to a  
7 specified class of potential defendants. So in the 2017 law  
8 that would be the non-perpetrator defendants, as opposed to  
9 all defendants.

10           By contrast, a statute of limitations is a  
11 procedural law that imposes a limit on an available remedy as  
12 to an already existing cause of action, and a statute of  
13 limitations can be subject to tolling or fraudulent  
14 concealment. And the black letter law in Maryland is that  
15 statutes of repose are not subject to tolling or fraudulent  
16 concealment; that there is an exact time period and that the  
17 expiration of that time period there is the assurance of what  
18 one federal case calls absolute peace.

19           Now Section 117(d) by its text -- and we always  
20 start with the text, of course, when interpreting a statute,  
21 as Your Honor knows better than anyone. But --

22           THE COURT: I wouldn't say better, but we all know.

23           MR. CLEARY: We start with the ordinary and natural  
24 meaning of the text. If the text is clear and unambiguous and  
25 consistent with the purpose of the statute, ordinarily the

1 inquiry ends there. And here, there are three clear textual  
2 statements in the 2017 law that Section 117(d) is a statute of  
3 repose.

4           The first is in the statement of purpose, which we  
5 just discussed a moment ago, which provides that the purposes  
6 of the 2017 law include "altering the statute of limitations"  
7 and "establishing a statute of repose."

8           And so when the legislature used the word altering,  
9 it was communicating that it was altering or modifying a  
10 preexisting provision of the law, which was Section 117(b) of  
11 the 2017 law. That section, that subsection, had been enacted  
12 in 2003 by the legislature.

13           When the legislature used the term establishing,  
14 establishing a statute of repose, it communicated that it was  
15 creating something totally new in the 2017 law, which is a  
16 statute of repose that had not existed previously.

17           Now the legislature also used those two terms in the  
18 same statement of purpose, which is another statement from the  
19 legislature that it understood the difference between these  
20 different statutory creatures.

21           Now next in the 2017 law the legislature implemented  
22 these purposes. So in Section 117(b) the legislature expanded  
23 the limitations period from seven years after the victim gains  
24 the age of majority to 20 years after the victim gains the age  
25 of majority and provided an express tolling provision in cases

1 of conviction after those 20 years and also expressly  
2 authorized suit when the victim is still a minor.

3 In Section 117(d), again, this is a totally new  
4 section, the legislature provided "in no event" may an action  
5 for damages arising from alleged sexual abuse of a minor be  
6 brought against any non-perpetrator defendant after -- 20  
7 years after the victim gains the age of majority.

8 And then the third key textual statement is in  
9 Section 3 of that law, which expressly refers to section  
10 117(d) as the statute of repose under Section 117(d), and that  
11 is a quote, and provides that that section will provide repose  
12 to defendants.

13 Now, of course, the Court in our view can and should  
14 stop there because there is clear and unambiguous language  
15 providing that this is a statute of repose, and it is clearly  
16 consistent with the stated purpose of the law. But if the  
17 Court were to consult the legislative record, that legislative  
18 record reinforces the natural meaning of the statute, that the  
19 2017 law contains a statute of repose.

20 There are --

21 THE COURT: I don't think there is any -- and  
22 correct me if I am wrong. I don't think there is any dispute  
23 as to the meaning of the 2017 statute by the Plaintiffs, in  
24 the sense of what the plain meanings of the words allow as far  
25 as the age, the time period up to 20 years until you reach the

1 age of majority; after you reach the age of majority, and then  
2 there's some other exceptions. But that was the 2017 statute,  
3 and that was clear and unambiguous. Is that accurate?

4 MR. PECK: Your Honor, we do question whether it is  
5 a statute of repose --

6 THE COURT: No, no, no.

7 MR. PECK: -- because its provision are not. But  
8 otherwise, yes, that is accurate.

9 THE COURT: Okay. Thank you. Thank you for the  
10 clarification.

11 What I am saying is the plain meaning of the words  
12 within the statute in 2017. However you want to define them or  
13 use another word to characterize them, the plain meaning and  
14 the words that are contained within that statute there is no  
15 dispute as to its constitutionality and what that statute  
16 says. Correct?

17 MR. PECK: We have not questioned its  
18 constitutionality.

19 THE COURT: Okay. And so the words that are in the  
20 statute show what it reveals?

21 MR. CLEARY: Your Honor, it is the position of the  
22 Archdiocese that the 2017 law clearly and unambiguously  
23 contains a statute of repose and that the statute of repose is  
24 a particular type of statute whose meaning was well-settled in  
25 Maryland courts by the year 2017, and that is a statute that

1 creates substantive vested rights on the part of defendants.

2 THE COURT: Without even using the word statute of  
3 repose, the plain meaning of the words say when someone can  
4 bring a civil lawsuit against a non-perpetrator.

5 MR. CLEARY: That is correct.

6 THE COURT: And what -- if it -- and what happens  
7 after -- if it is filed after that, then that would be a  
8 violation of the statute. You could not proceed because it  
9 would be a violation of the statute.

10 MR. CLEARY: You are right, Your Honor.

11 THE COURT: Okay.

12 MR. CLEARY: These are time limits imposed by the  
13 statute under which the plaintiff has to bring claims, and the  
14 language of Section 117(d), the in no event language, is  
15 strong and categorical. And Subsection 117(b), which is the  
16 statute of limitations, is subject to Section 117(d).

17 Now briefly on the legislative record, because there  
18 are a number of pieces of evidence that we cite for Your Honor  
19 in our papers, and we won't recite them all this morning. But  
20 just to point Your Honor to a couple highlights, there are the  
21 floor reports issued with respect to a house version of the  
22 bill and the senate version of the bill.

23 THE COURT: Why is that important if we all agree  
24 that the plain -- I understand what the argument is for the  
25 Archdiocese as to the 2023 statute. But what is the necessity

1 to look into the history and go beyond the plain meaning of  
2 the words if everyone agrees that those words are controlling  
3 and there is no ambiguity?

4 MR. CLEARY: Your Honor, it is our position that  
5 there is no ambiguity in the 2017 law and that Your Honor does  
6 not need to consult the legislative record. I do think that  
7 there is a dispute about the meaning and effect of the 2017  
8 law between Defendant and Plaintiffs. So our position is that  
9 the 2017 law is clearly -- clearly and unambiguously contains  
10 a statute of limitations in 117(b) and a statute of repose in  
11 117(d) and that --

12 THE COURT: I think what is clear from the Plaintiff  
13 is that the statute poses time constraints in when someone can  
14 bring a civil lawsuit against a non-perpetrator, without using  
15 the term statute of limitations/statute of repose. I  
16 understand the Defense position.

17 But that being said, what is the relevance of going  
18 into all of the legislative of 2017 when everyone is in  
19 agreement as to the plain meaning of the words?

20 MR. CLEARY: I think that the legislative history of  
21 2017 reinforces the plain meaning of the 2017 law. So it --

22 THE COURT: But the law is clear that you just stop.  
23 You stop.

24 MR. CLEARY: Right. I agree.

25 THE COURT: So we don't need to go into that.



1 MR. CLEARY: Yes.

2 THE COURT: Okay.

3 MR. CLEARY: And then so the second point, which we  
4 have covered already, is that in Maryland statutes of repose  
5 could rise to these substantive vested rights in these  
6 specified defendants.

7 And then the third point of our argument is that in  
8 Maryland the due process clause and the takings clause prevent  
9 the aggregation or the total destruction of those vested  
10 rights, and because -- and we cite the underlying cases in our  
11 papers. Canonical

12 The leading, really canonical, most exhaustive one  
13 is Dua. But under those cases the application of the Child  
14 Victims Act to the claims of the three named Plaintiffs in this  
15 case, all of which were covered by the statute of repose, and  
16 the attempt of that law to revive these extinguished claims is  
17 unconstitutional and for that reason is not a basis for  
18 Plaintiffs to bring their expired claims. And accordingly,  
19 the claims should be dismissed.

20 THE COURT: Thank you.

21 MR. CLEARY: Thank you, Your Honor.

22 MR. PECK: Your Honor, Robert Peck, on behalf of the  
23 Plaintiffs.

24 Delegate C.T. Wilson introduced and shepherded  
25 through the Child Victims Act, which I will refer to as the

1 CVA, because he wanted to remedy a longstanding horrific  
2 injustice. The General Assembly agreed. It found that  
3 whatever it had done before, and it had made several attempts  
4 to address this issue, had been inadequate because the problem  
5 of blameless victims of childhood sexual abuse were not able  
6 to receive the civil recourse that they deserved.

7 This was inspired in part by an Attorney General  
8 report, and I would like to quote a key part of that report.  
9 Just a couple of sentences.

10 "The duration and scope of the abuse perpetrated by  
11 Catholic clergy was only possible because of the complicity of  
12 those charged with leaving the church and protecting the  
13 faithful. They focused not on protecting victims or stopping  
14 the abuse, but rather, on ensuring, at all costs, that the  
15 abuse be kept hidden. The costs of consequences of avoiding  
16 scandal were borne by the victimized children."

17 Now although the report was about the Archdiocese of  
18 Baltimore, it also covered part of the Archdiocese of  
19 Washington. There are five counties of Maryland that are  
20 included within the Archdiocese of Washington. Prince  
21 George's, Montgomery, Charles, Calvert and St. Mary's.

22 We know also from the Archdiocese of Washington that  
23 they have admitted that there are credible accusations against  
24 34 of their clergy. They have also included among those 34  
25 the former Archbishop of Washington, Theodore McCarrick, who

1 was involved in this type of activity. It may explain why the  
2 leadership was so reluctant to provide information.

3 We know also that we are not simply suing the  
4 Archdiocese as vicariously liable. We have accused them of  
5 fraud and fraudulent concealment and other things in which  
6 they were the perpetrators.

7 The CVA represents a legislative response that  
8 justice demands no time constraints to help the victims  
9 disclose their abuse and be vindicated. Too often victims  
10 lack the psychological maturity or the legal of real world  
11 sophistication, and they face conflicted feelings. Especially  
12 about the church's role.

13 THE COURT: Now if -- understanding the reason  
14 behind the newly elected statute, what is the Plaintiffs'  
15 argument that the previous statute allowed for a time; that  
16 beyond the 20 years after reaching the age of maturity you  
17 were not able to pursue this type of cause of action? And so  
18 why, with now this change and an individual having, or  
19 individuals or entities having, let's just say, vested rights  
20 without using repose or having an understanding that they  
21 would not be -- there would be no subsequent litigation. Why  
22 would that not be a violation of due process?

23 MR. PECK: We have a number of arguments on that.  
24 First, it is not a statute of repose, and therefore, it does  
25 not convey vested rights. Two, even if it did convey vested

1 rights, that is not categorical as the adjustment to the real  
2 property improvements statute of repose to allow lawsuits over  
3 asbestos, to allow lawsuits where the property is owned and  
4 controlled; obviously went back and took away what the  
5 Archdiocese characterizes as vested right.

6 And clearly, that -- and they cite the intermediate  
7 decision, Duffy, to say that it was unconstitutional. But  
8 that was reversed. So therefore, it has no precedential value  
9 whatsoever.

10 And it is important also to understand the burden  
11 that they bear. A statute enters the courtroom with the  
12 presumption of constitutionality, and in Maryland the  
13 requirement is that they prove it unconstitutional beyond a  
14 reasonable doubt. So if the Court entertains any doubt about  
15 their constitutional argument, it is obligated to sustain it  
16 because there is great deference that is owed to the  
17 legislature. The legislature is fixing things that they did.

18 And I also learned that today, for the first time,  
19 we heard that this was an as applied challenge as opposed to a  
20 facial challenge. Nothing in their brief suggests that it was  
21 as applied. They make the argument, which was made here, that  
22 this was the total destruction of the 2017 act. If it is a  
23 facial challenge, then they must prove that it is  
24 unconstitutional under every possible set of circumstances.  
25 They can't meet that high bar.

1           Okay. We turn to the other arguments. If this is a  
2 statute of limitations, precedent says that statutes of  
3 limitation are procedural, especially here where it is  
4 remedial as well, and therefore, can be adjusted. But there  
5 are no vested rights that are connected with that, and we cite  
6 the Michigan case for that proposition.

7           So if you look at it any different way, it does --  
8 they also have told you that this case -- this -- the 2017  
9 statute was based on an Illinois law. And if indeed it was  
10 based on the Illinois law, then Illinois allows their statute  
11 of repose to be evaded by fraudulent concealment. So if that  
12 is the case, then -- and that was the model, then perhaps that  
13 is what the legislature had in mind by adopting the Illinois  
14 approach. So all of these suggest that there is not a vested  
15 right at issue.

16           And to return to my point about what a difficult  
17 situation this is, keep in mind that our named Plaintiffs of a  
18 putative class are all using pseudonyms because they really  
19 fear for being exposed for this. There is great pressure --

20           THE COURT: And I apologize to interrupt you,  
21 Counsel.

22           MR. PECK: Sure.

23           THE COURT: We know the facts. We know the history  
24 of these type of cases. I want to just stay focused on the  
25 issue today, and the issue today is the Defense is making

1 these arguments regarding the unconstitutionality of this  
2 statute. And you --

3 MR. PECK: Right.

4 THE COURT: -- stated that they have not met its  
5 burden, their burden, because they haven't put forth why it is  
6 unconstitutional.

7 MR. PECK: Okay. So let me begin with why this is  
8 not a statute of repose. They say it is the title, it is the  
9 expression and the purpose, and twice in their opening brief,  
10 twice in their replay brief, they cite a phrase from the  
11 Anderson decision that says you look at the text, which we  
12 have already discussed this morning.

13 Well, the text is not the title. It is not the  
14 purpose. It is the operative language of it. And if you look  
15 at the operative language, the operative language is that of a  
16 tolling provision. It says that once someone reaches the age  
17 of majority, having already accrued a cause of action because  
18 of injury, they have 20 years in which to bring the case.  
19 That is a tolling provision.

20 Tolling provisions are adjuncts of subsidiary  
21 provisions of statutes of limitations. Tolling provisions, as  
22 my friend told you, are not available under statutes of  
23 repose.

24 And the Anderson case said, well, one reason we say  
25 that the Medical Malpractice Act, which was considered to be a

1 statute of repose, is not a statute of repose, and we  
2 recognize that we in the legislature and others have used  
3 these interchangeably (sic) and confusedly, is because it had a  
4 discovery provision in it and a discovery provision is  
5 inconsistent with a statute of repose.

6 And so the Court said the general assembly -- and  
7 this is in Anderson. Was free to choose a different statutory  
8 scheme, one that did not run the limitations period from an  
9 injury or toll the period for minority or otherwise, but it  
10 chose not to do. It made that same decision here, and so that  
11 is one reason why it cannot be a statute of repose.

12 Now they tell it is a second argument because their  
13 title argument is not their only argument, that because it  
14 targets a specific set of defendants, it must be a statute of  
15 repose. And those are non-perpetrators in its view now. You  
16 know, we think that because of the Attorney General's report,  
17 which labels them as complicit, that that may not make them  
18 non-perpetrators. But that is not at issue right now.

19 The fact is that what they have done is say, you  
20 know, as long as there is a specific set of defendants, it  
21 becomes a statute of repose. That makes very little sense.

22 Imagine, for example, the legislature were to pass  
23 new statute of limitations for car accidents, collisions, and  
24 they carve out drunk drivers for a lengthier statute of repose  
25 because they are more complicit. And so therefore, under

1 their theory it becomes a statute of repose because they  
2 specified specific defendants, not the whole universe of  
3 defendants. But that does not make it a statute of repose.  
4 It still makes it a statute of limitations.

5 We know, from cases in this Court, when the asbestos  
6 amendments were passed they were passed after a statute of  
7 repose for real property improvements. If under their theory  
8 that existed, then there was a vested property interest in all  
9 those suppliers and manufacturers of asbestos, as well as  
10 those who would otherwise be covered by the statute of repose  
11 but who continued to own and control a property.

12 And so what the Court did, when challenged on that  
13 the first time, was to say, well, of the title, the argument  
14 that was being made against them, was that the title was  
15 asbestos related amendments. Does that mean that the control  
16 and ownership provision exception to the statute of repose  
17 only applied to asbestos related claims? No. Because it is  
18 the text that mattered, and the text told them that it really  
19 applied across the board.

20 No one has questioned since the Duffy decision by  
21 the Maryland Supreme Court -- and I will call it the Supreme  
22 Court in order to reduce confusion. But no one has questioned  
23 its constitutionality. It has continued to operate. People  
24 afflicted asbestos way back as 50 years ago continue to bring  
25 cases, and no one questions whether the defendants have a



1 vested interest that has somehow been abrogated and violates  
2 the constitution.

3           So I think that, you know, their argument says too  
4 much. This is nothing more than a tolling provision  
5 masquerading as a statute of repose, and the Court has no  
6 obligation to give it that credit.

7           We also made the argument that a statute of repose  
8 has to basically also at least be susceptible to application  
9 to instances where nothing has happened yet, where no  
10 plaintiff can make a claim because no cause of action has  
11 accrued. They have argued against that position.

12           But in Anderson they quote both First United, from  
13 the Fourth Circuit, and the Streeter (phonetically sp.) case,  
14 from the District Court in Maryland, the Federal District  
15 Court, which says that that is an essential element of a  
16 statute of repose. In fact, the Illinois cases also say that  
17 that is an essential element of a statute of repose, though no  
18 one has questioned whether that statute of repose really was a  
19 statute of limitations. And in fact, it only existed for  
20 three days. From 1991 to '94 when the legislature abrogated  
21 it.

22           And they continue to allow -- although they have  
23 applied it to other cases and my friend had cited a Seventh  
24 Circuit case, they continue to allow, because of the limited  
25 range of coverage from that statute of repose, certain people

1 who were exposed to asbestos beforehand but who suffer the  
2 injury, the damage that makes their claim ripe subsequent to  
3 it, to bring those cases.

4           And so I think it -- again, the law is muddy. The  
5 Illinois cases also say that they have been confused and have  
6 used, interchangeably, repose and limitations and regret it.  
7 As I said, even if you were to regard this as a statute of  
8 repose it is not a per se, as my friend said, bar.

9           Constitutional law has very few categorical rules.  
10 Now the president must be native born, but nonetheless, as a  
11 rule of construction, the Supreme Court has read that to say  
12 as long as you are born of American citizens, even on foreign  
13 soil, you are qualified to run for president.

14           Due process forbids irrefutable presumptions. You  
15 have to have the opportunity -- the notice and the opportunity  
16 to argue why the presumption is incorrect. Free speech. It  
17 says no law in the First Amendment. No law to abridge free  
18 speech. And yet, time, place and manner restrictions are  
19 permitted, as well as other restrictions that meet the  
20 scrutiny test, a compelling governmental interest.

21           Grants of immunity are subject to legislative  
22 override, so that the legislature can undo mistakes that they  
23 have made there. And immunity would seem as much a vested  
24 right as anything else.

25           But also, Maryland law regards vested rights,

1 whether it is property rights or liberty interests, to be not  
2 fundamental rights. So they don't get the highest level of  
3 protection, and they are subject to review under a rational  
4 basis test. Here we contend that a compelling state interest  
5 exists so that you don't even have to go that far.

6 So we think that all these factors support the  
7 legislature's authority to amend the statute and to insist on  
8 a different one.

9 Now they also say that statutes of limitations  
10 create vested rights, and as a result, there is no different  
11 analysis. It makes you wonder why they spent so much time  
12 arguing that this is a statute of repose. It doesn't matter  
13 whether they are a statute of repose or limitation.

14 But the fact is that statutes of limitations are not  
15 vested rights, and the Michigan case specifically and  
16 explicitly says so. And as a result, you can retroactively  
17 adjust them and recapture what the legislature might have once  
18 regarded as stale claims, because it is a legislative judgment  
19 that is necessarily arbitrary.

20 The Maryland courts have repeatedly cited the  
21 Supreme Court's decision in Chase Securities vs. Donaldson,  
22 and I think it is very useful to hear what that Court said.  
23 It said, "Statutes of limitations find their justification in  
24 necessity and convenience rather than in logic. They  
25 represent expedience rather than principles. They are

1 practical and pragmatic devices to spare the courts from  
2 litigation of stale claims. They are, by definition,  
3 arbitrary and their operation does not discriminate between  
4 the just and the unjust claim or the voidable or unavoidable  
5 delay.

6           They have come into law not through the judicial  
7 process, but through legislation. They represent a public  
8 policy about the privilege to litigate. Their shelter has  
9 never been regarded as what is now called fundamental rights."

10           The legislature can create a statute of limitations.  
11 They can also change it. They can also say that, you know, we  
12 no longer regard this as stale claims. They are the ultimate  
13 arbiter or what the public policy of the State of Maryland is,  
14 and here they made their judgment known.

15           By changing the statute of limitations, by reviving  
16 claims that might have once been thought lost, the legislature  
17 is basically affecting the remedy. They are not affecting the  
18 cause of action. The cause of action preexisted, and so this  
19 is something about timing, which the legislature has the  
20 authority to do, as long as it does not cut off the timing too  
21 quickly to prevent someone who has a claim from bringing that  
22 claim. That is the most important part of what due process  
23 protects, and here they made a judgment that there wasn't  
24 sufficient time and they needed to make that change.

25           Now Michigan also says no person has a vested right

1 in a particular remedy or in particular modes of procedure or  
2 rules of evidence. The legislature may pass retroactive acts  
3 changing, eliminating or adding remedies, so long as the  
4 efficacious remedies exist after the passage of the act.

5           They further said that there is no vested right in a  
6 statute of limitations. And we know also that in criminal  
7 law, if these crimes had been prosecuted, they could be  
8 prosecuted at any time because there is no statute of  
9 limitations. So the issues that are prudential in nature that  
10 allow someone to come forward and say, oh, you know, witnesses  
11 may have a foggy memory now do not affect criminal law where  
12 incarceration and a fine can be even more severe than civil  
13 liability. So there should not be any issue here.

14           Now the Archdiocese also relies on the Smith vs.  
15 Westinghouse case. That a case that said a statute of  
16 limitations that was part of a wrongful death statute should  
17 not be treated as this kind of procedural thing subject to  
18 change later because it is part of the substantive law of  
19 wrongful death. Wrongful death, it exists as a matter of  
20 legislative grace. It doesn't exist in the common law.

21           And so the legislature, be creating a cause of  
22 action, can also create those things that are necessary to  
23 bring that cause of action. So in Smith vs. Westinghouse,  
24 they refer to this as a conditioned precedent to bringing the  
25 wrongful death action.

1           Now my friend claims that the Dua suggests that it  
2 should be read differently. I beg to differ. They cite in  
3 their brief a part where Smith is cited where there is a  
4 parenthetical that gives a very short description of the case.  
5 But if you look earlier in the decision, you will find that  
6 the Dua case does describe it accurately in terms of wrongful  
7 death and the unique nature of it.

8           In fact, in Geitz vs. Greater Baltimore Medical  
9 Center, in 1988, they said the time period specified in the  
10 wrongful death statute is not an ordinary statute of  
11 limitations but is part of the substantive right of action.  
12 That is what makes it different from the ordinary statute of  
13 limitations.

14           For that reason, if regarded as a statute of  
15 limitations, we think that there is no limitation on the  
16 legislature making the judgment that they made through the  
17 Child Victims act. It is remedial, it is procedural, it is  
18 well within their authority and legislatures have plenary  
19 authority unless there is a specific part of the constitution  
20 that forbids them to do so.

21           The idea that one legislature earlier could  
22 essentially stop this legislature from finding that their  
23 judgment was wrong and make a correction seems very odd. Even  
24 courts can overrule *stare decisis*. So therefore, the  
25 legislature, as the primary exponent of a public policy of

1 Maryland, ought to be able to do this, and providing justice  
2 to these victims from their childhood experiences is something  
3 that the legislature clearly can do. No other part of  
4 government can.

5 It is something that is important for them to do and  
6 they made that judgment, and they made it in light of what was  
7 revealed in the Attorney General's report; in light of the  
8 depth and scope of what had happened, which they had no idea  
9 about. They deserve to have that sustained.

10 THE COURT: Thank you.

11 Okay. Can you first address the standard as to  
12 challenges to the statute?

13 MR. CLEARY: Yes, Your Honor. So I will just read  
14 for the Court the state constitutional standard as announced  
15 by the Maryland Supreme Court in the Dua case, and that is:  
16 "The state constitutional standard for determining the  
17 validity of retroactive civil legislation is whether vested  
18 rights are impaired and not whether the statute has a rational  
19 basis." That is conclusive. Rational basis does not apply  
20 here.

21 THE COURT: Say that part again.

22 MR. CLEARY: In Maryland there is a per se bright  
23 line rule that when retroactive civil legislation, like the  
24 2023 law, is reviewed for constitutionality, if the law  
25 abrogates, impairs, destroys a vested right, it is

1 unconstitutional. In some other areas of constitutional  
2 jurisprudence there are balancing tests. There is a weighing  
3 of different consideration.

4 But when it comes to vested rights in Maryland, if a  
5 law destroys those rights, as the CVA 2023 law does,  
6 specifically the rights here of the Archdiocese to be free  
7 from the at-issue claims, then that law is unconstitutional.

8 THE COURT: So if the Court does not find that this  
9 is a vested right, what is the standard?

10 MR. CLEARY: Well, if the Court concludes that a  
11 vested right -- that a vested right did not obtain to the  
12 Archdiocese, then this -- that is the core -- like our  
13 argument that we make. And I am not sure that Maryland courts  
14 have ever reviewed retroactive legislation outside of the  
15 vested rights context for constitutionality.

16 THE COURT: So what is our response to the  
17 Plaintiffs' argument of finding beyond a reasonable doubt that  
18 there has been no violation?

19 MR. CLEARY: Those are statements from cases not  
20 involving vested rights. The vested right case under the due  
21 process clause and takings clause is very clear, and that is  
22 this per se rule. I would say that certainly the CVA, the  
23 entire purpose of the CVA, is to revive claims that are barred  
24 by either the statute of repose or the statute of limitations  
25 or both, and that is plain from the text of the 2023 law.



1           THE COURT: But if the Court does not find that this  
2 change was a change in a vested right, what would be the  
3 standard for the Defendants to challenge the constitutionality  
4 of the statute?

5           MR. CLEARY: Our challenge is based on the rights  
6 that are vested to the Archdiocese.

7           THE COURT: I understand that. But if the Court --  
8 if the Court did find a vested right, the Court understands  
9 what the Defendant's argument is. If the Court does not find  
10 that there was a vested right in the 2017 statute, then what  
11 would be the -- what is the burden that the moving party has  
12 to challenge the constitutionality of a statute?

13           MR. CLEARY: Your Honor, I think that it would be a  
14 different kind of challenge, frankly, than the one that we are  
15 making here that is based perhaps on the specifics of the  
16 case. In our motion it is based on the vested rights that  
17 were conferred on the Archdiocese.

18           THE COURT: Should the Court find that there was a  
19 vested right?

20           MR. CLEARY: Yes.

21           THE COURT: But if the Court does not find that  
22 there is a vested right, then are you disputing the  
23 Plaintiffs' argument that the burden now is higher to  
24 challenge the constitutionality of a statute?

25           MR. CLEARY: If there was not a vested right at

1 issue, then the burden would be higher to show  
2 unconstitutionality. I would agree with that because Maryland  
3 provides the strongest possible protections to vested rights.

4 For example, the Chase case cited by opposing  
5 counsel. That is a case applying federal law, which typically  
6 does apply a rational basis standard.

7 I would say to Your Honor that federal courts  
8 applying even this rational basis standard have expressed real  
9 skepticism about laws that retroactively revive long expired  
10 claims. So even the lowest form of scrutiny, as here, as  
11 applied in this case and -- again, that is a form of review  
12 that Maryland courts have never applied.

13 I think that there would be a very strong argument  
14 that this is an arbitrary and oppressive revival of long  
15 extinguished claims because of the difficulty of defending  
16 against these claims due to the passage of time.

17 THE COURT: When you say Maryland law has never  
18 covered this, you are saying if the Court found that this was  
19 a vested right?

20 MR. CLEARY: That is correct. So when reviewing  
21 retroactive legislation, like the CVA, Maryland courts ask was  
22 there a vested right or not, and if there was a vested right,  
23 then the inquiry stops there and the law is unconstitutional.

24 Even under a rational basis standard, which is,  
25 again, something that is foreclosed by this case law, claims

1 alleging conduct in the 1960s, as two of three claimants do,  
2 would present a host of severe difficulties for any  
3 institutional defendant, and these are problems that are  
4 reflected in the legislative record.

5 THE COURT: Okay. Thank you.

6 Because this involved very lengthy motions and  
7 several exhibits, typically this would be the conclusion. But  
8 since it is very extensive, I will allow the Plaintiffs one  
9 additional opportunity, and then the Defendants will have the  
10 final word.

11 MR. PECK: I would like to respond to the most  
12 recent statement by my friend. He said that the rational  
13 basis test is not used in Maryland, that it is used at the  
14 federal level. Not only has the Maryland court -- had the  
15 Maryland courts cited the Chase decision to explain how they  
16 approach the statute of limitations, I want to point out a  
17 case that both sides cited. Allstate Insurance vs. Kim.

18 That is the case that found that there was no issue  
19 with the retroactive abolition of the parent/child immunity,  
20 and the Court used the rational basis test there. So Maryland  
21 courts does use rational basis even when there is a claim as  
22 there was in Kim, that there was a vested right to immunity.

23 With that, let me just conclude that the 2017  
24 statute, by its own terms, by its operative provisions, do not  
25 amount to a statute of limitations -- or a statute of repose,

1 do not categorically prevent any change to its status and  
2 allow things like the fraudulent concealment argument that we  
3 have made in our complaint.

4           But if not a statute of repose, it is clear that the  
5 legislature has the authority over statutes of limitations.  
6 My friend seems to have conceded that where there is no vested  
7 interest there is no argument that they have. He also, by  
8 arguing this way, I think has made a facial challenge and has  
9 also conceded that there are cases in which this would apply  
10 where there has not been a prior statute that affected it.

11           So I think that in conclusion this Court should hold  
12 that the CVA is constitutionally valid and applies here.

13           THE COURT: Thank you.

14           MR. CLEARY: Your Honor, a few things, and thank you  
15 for the opportunity to speak again.

16           First, on page 32 of our reply brief we refer  
17 multiple times to this as an as applied challenge.

18           And I want to be clear in response to Your Honor's  
19 earlier question. If a Court concludes that there is not a  
20 vested right here -- and respectfully, Your Honor, the  
21 Maryland courts have been extremely clear, both with respect  
22 to statutes of repose and with respect to statutes of  
23 limitations, that they do give rise to vested rights at the  
24 expiration of the repose period and the limitations period,  
25 then there would be available to us an as applied -- a further

1 as applied challenge based on the facts of the particular  
2 case.

3 With respect to the statute of repose and the vested  
4 rights there -- pardon me. "Statutes of repose are  
5 substantive grants of immunity." That is the Gilroy case.

6 Anderson, :Statutes of repose create a substantive  
7 right protecting a defendant from liability after a  
8 legislatively determined period of time."

9 The Duffy case, which is an intermediate, it is a  
10 Maryland Appellate Court case that was reversed on other  
11 grounds and whose reasoning with respect to the statute of  
12 repose was never disturbed, held that even a statute of repose  
13 that was later repealed did not abrogate the defendant's right  
14 to be free from the claim at issue in that case.

15 And with respect to the categorical rule in  
16 Maryland, the cases that say that statutes of limitations may  
17 not give rise to vested rights are dealing with the  
18 plaintiff's right of a cause of action. So if a cause of  
19 action is reduced from five years to three years, as long as  
20 the plaintiff has a reasonable opportunity to bring suit, that  
21 vested right is not destroyed. They are also very clear that  
22 the complete destruction of vested rights is, again,  
23 categorically off limits.

24 And with respect to a statute of limitations, the  
25 Maryland Appellate Court in the Rice case says, "When a

1 defendant has survived the period set forth in the statute of  
2 limitations without being sued, a legislative attempt to  
3 revive the expired claim would violate the defendant's right  
4 to due process."

5 Your Honor, unless you have any other questions, we  
6 would rest on our briefs.

7 THE COURT: No, I do not.

8 MR. CLEARY: Thank you.

9 THE COURT: Okay. Thank you.

10 All right. There is additional things that I need  
11 to look over, and so -- and I do have --

12 (Pause)

13 THE COURT: Are the parties here on the Robinson  
14 case? It is a different case. If you can just come on up  
15 briefly.

16 (Pause; intervening matter at bench conference.)

17 THE COURT: Okay. So the Court is going to take a  
18 brief recess, and I will return. I do know I have other  
19 matters, but I do not think they are going to be taking place  
20 now. So, I will return. Thank you.

21 THE CLERK: All rise.

22 (Whereupon, at 11:26 a.m., a recess was taken, and  
23 the hearing resumed at 2:19 p.m.)

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A F T E R N O O N S E S S I O N

(Whereupon, at 2:19 p.m., the hearing resumed.)

THE COURT: You may be seated. All right. Thank you all for your patience. Recalling C-16-CV-23-004497, John Doe, et al. versus Roman Catholic Archbishop of Washington, or the Archdiocese of Washington.

If you can, please introduce yourselves again for the record.

MR. PECK: Robert Peck, for the Plaintiffs.

MR. SCHOCOR: Your Honor, Jonathan Schocor for the Plaintiffs.

MR. A. JANET: Andrew Janet for the Plaintiffs.

MR. H. JANET: Howard.

MR. BOURGEOIS: Good afternoon, John Bourgeois, for the Archdiocese.

MR. BAINE: Kevin Baine, for the Archdiocese.

MR. CLEARY: Richard Cleary, for the Archdiocese.

THE COURT: Thank you. All right.

Because the statute was enacted on October 1st, 2023, regardless of the Court's decision today, it is likely that this case would ultimately be determined by the Supreme Court of Maryland. But the Court had an opportunity to review all the cases, it had an opportunity to review the exhibits, and I just want to talk through the Court's thought process.

So first we had the complaint that was filed with

1 the Plaintiffs John Doe, Richard Doe (sic), Mark Smith against  
2 the Archdiocese of Washington, and it was for several counts  
3 of negligence, breach of fiduciary duty, constructive fraud  
4 and various other counts. There were 10 counts.

5 So the issue in this case is primarily that the  
6 Plaintiffs allege that they were victims of sexual abuse that  
7 occurred when they were minors. So the Plaintiffs filed a  
8 motion to dismiss based on the statute of limitations and the  
9 statute of repose, and because they were -- the Plaintiffs are  
10 barred by those, the Defendants state that the Plaintiffs have  
11 failed to file a cause of action.

12 The Plaintiffs disagree and filed its opposition,  
13 and the Court had an opportunity to review the amicus brief  
14 filed by the Attorney General's Office.

15 So the first thing we look at is the statutory  
16 interpretation. As was stated throughout this morning, when  
17 the language of a statute is clear and unambiguous, the Court  
18 goes no further. The plain meaning of the words apply.

19 And so we know that the General Assembly creates a  
20 statute of limitations, so that this would give Plaintiffs  
21 adequate time to investigate a cause of action, file a  
22 lawsuit, and it would also allow Defendants an opportunity to  
23 not have an unreasonable delay in the process or have claims  
24 that are so delayed that people's memories fade and evidence  
25 is no longer available. And all of this is in the interest of



1 the public and judicial economy.

2           So there is a general presumption that the statutes  
3 operate prospectively, as was suggested earlier today, and  
4 that presumption is only rebutted if there are clear  
5 expressions in the statute to the contrary. So now we have a  
6 statute of limitations and a statute of repose issue.

7           The statute of limitations sets forth a deadline in  
8 which cases may be brought before the Court. That may be  
9 extended and in some cases shortened by the General Assembly.  
10 But what triggers the event is the accrual of the claim, and  
11 in this case what is alleged is the action; the sexual abuse  
12 that the Plaintiffs alleged occurred when they were minors.  
13 It is a procedural device, and it operates to limit the remedy  
14 that may be available for a particular cause of action.

15           The statute of repose, on the other hand, shelters  
16 certain groups after a certain period of time. The purpose is  
17 to provide an absolute bar to an action or to provide a grant  
18 of immunity to a class of potential defendants after a  
19 designated time period. So the period of time may be  
20 unrelated to when the injury occurs or, in some cases, when  
21 there is discovery of the injury.

22           Now all of the cases pretty much go back to the  
23 Anderson case, Anderson vs. United States, 427 Md 99, 2012.  
24 And even the cases after that go back to the Anderson case.

25           So when looking at whether this is a statute of

1 limitations or a statute of repose issue, that is when the  
2 courts then look at -- that is when the courts then look at  
3 the history of the case. So they look at what starts the  
4 timeclock. They also look at does it eliminate any claims  
5 that have not yet accrued. You look at what is the purpose  
6 behind the statute and you look at the legislative history.

7           That is what the courts look at in order to  
8 determine whether the statute of limitations statute or an  
9 issue involving a statute of repose.

10           So then let's look at Courts and Judicial  
11 Proceedings 5-117, because now, looking at the legislative  
12 history of the statute, until October 1st, 2023 -- I am sorry.  
13 October 1st, 2003. The statute provided that an action for  
14 damages arising out of an alleged incident or incidents of  
15 sexual abuse that occurred while the victim was a minor shall  
16 be filed within seven years of the date that the victim  
17 attains the age of majority.

18           And that was in effect all the way until October 1  
19 of 2017, in which the statute was then changed. And looking  
20 at 5-117(b) -- well, for this case it would be (c), because  
21 the allegations are that the Archdiocese is not the  
22 perpetrator but the entity that the Plaintiffs allege allowed  
23 this to occur.

24           And based on the statute at that time it was even  
25 years after the victim reaches the age of majority, but no

1 more than 20 years; from 7 to 20. And so that is what was  
2 operating prior to the Plaintiffs filing this complaint.

3           When the Plaintiffs filed the complaint in October  
4 of 2023, the statute had now changed and the statute provides  
5 any time, that -- and removed the provision as to seven years  
6 after the age of majority up until 20 years. So that is what  
7 the change has been. And so was that -- what was the purpose  
8 behind that?

9           In order to determine what the purpose was behind  
10 that, not only did the Court look at the various cases and  
11 statutes but specifically looked at Courts and Judicial  
12 Proceedings 5-108, and that gave the Court a lot of guidance  
13 as well. It was also referenced somewhat this morning.

14           And when looking at 5-108, the statute currently  
15 provides that real property that occurs more than 20 years  
16 after the date the entire improvement first becomes available  
17 for its intended use, and that is in 5-108(a). That is the  
18 limitation that is allowed.

19           Now what happened was prior to that statute being  
20 enacted there was concern because manufacturers were unable --  
21 were shielded from liability. And so there was a concern with  
22 the legislature because they were not being able to be  
23 prosecuted civilly for any products that they manufactured.  
24 So it went back and forth and back and forth.

25           Some of the bills that were proposed were rejected.

1 Some were vetoed by the then governor. But then we have  
2 today's statute, and so that statute, which initially did not  
3 allow claims to be brought against these product manufacturers  
4 for asbestos, has now changed and has added that to clarify  
5 whether they can or cannot be liable for their actions.

6 And so what the statute of repose does it create  
7 that substantive right so that you no longer have to worry  
8 about any liability and you no longer have to worry about any  
9 claim coming before you.

10 Now why did the legislature make that change in  
11 5-108? They made the change because of the concern that was  
12 going forth, and now we go back to 5-117. Why did the  
13 legislature make that change? They made the change because  
14 initially it was problematic when a minor could not bring  
15 suit, and then that is when they made the change to seven  
16 years after reaching the age majority.

17 And so the whole point was to allow individuals, at  
18 a certain age and a certain time, to bring suit. It was  
19 different from 5-108 because 5-108 was focusing on making sure  
20 that these manufacturers had a finite time in which a suit  
21 could be brought, and the Court -- or the General Assembly  
22 felt that there was a public interest to be served by making  
23 sure that cases would not go indefinitely.

24 5-117 is distinguished because based on the  
25 legislative history there is nothing within the history that

1 would say that the General Assembly attempted or chose to make  
2 these changes to protect sexual abusers. So that is  
3 distinguished from the 5-108 statute and is also distinguished  
4 in some of the cases that were cited, because the interest in  
5 having the statute of repose does not apply in this particular  
6 case based on the legislative history, the intent of the  
7 General Assembly and the focus on not having sexual abusers be  
8 prohibited from prosecuted -- being prosecuted civilly.

9           That timeframes that they put in place were not  
10 meant to have a bar to recovery, but just a time as to the  
11 limitations in bringing forth the suit.

12           As such, the Court does not find that 5-117 is a  
13 statute of repose. It finds that the statute is clear and  
14 unambiguous. It allows for anyone at any time to bring suit,  
15 and that was done in this case. And so, the motion to dismiss  
16 is denied. Thank you.

17           (Chorus of "thank you.")

18           THE COURT: And you are free to go.

19           (Whereupon, at 2:33 p.m., the hearing concluded.)  
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C E R T I F I C A T E

I hereby certify that the proceedings in the matter of John Doe, et al. versus Roman Catholic Archbishop of Washington, Civil No. C-16-CV-23-004497, heard in the Circuit Court for Prince George's County, Maryland on March 6, 2024, were recorded by means of digital recordings.

I further certify that to the best of my knowledge and belief, pages 1 through 48 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness whereof, I have affixed my signature this 19th day of March 2024.

By:

*Fabiana E. Barham*

---

Fabiana Barham  
Certified Transcriber, CompuScribe  
Certification No. CET-1214

2

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

DAILY SHEET

JOHN DOE, et. al Plaintiff (not present)	Case # <u>C-16-CV-23-004497</u>
Robert Peck, Jonathan Schochor Howard Janet, Andrew Janet Plaintiff's Attorneys	Judge <u>Bright</u>
-v-	Date <u>03/06/2024</u>
ROMAN CATHOLIC ARCHBISHOP OF WASHINGTON	Court Clerk <u>900JAJ</u>
Defendant(not present)	Tracking #: <input type="checkbox"/> J <input type="checkbox"/> C Day _____ (J=Jury Sworn) (C=Court Trial)
John Bourgeois, Kevin Bane, Richard Clearly Defendant's Attorneys	<b>Case Start Time:</b> <b>Case End Time:</b>

DOCKET ENTRIES

Defendant's Motion to Dismiss for Failure to State a Claim, argued.  
 Judge Bright, CS M1421  
 Motion – Denied

*Brian Bright*

ENTERED: 3-12-2024

*WCSB*

CLERK OF THE CIRCUIT COURT  
FOR PRINCE GEORGES COUNTY, MD

MAR 12 2024

FILED



**IN THE CIRCUIT COURT  
FOR PRINCE GEORGE'S COUNTY**

JOHN DOE, RICHARD ROE, and MARK SMITH, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

ROMAN CATHOLIC ARCHBISHOP OF WASHINGTON, a corporation sole, d/b/a ROMAN CATHOLIC ARCHDIOCESE OF WASHINGTON,

Defendant.

Case No. C-16-CV-23-004497

**NOTICE OF APPEAL**

Defendant notes an interlocutory appeal from the Order, entered March 12, 2024, denying Defendant's motion to dismiss "based on a defense that the applicable statute of limitations or statute of repose bars the claim and any legislative action reviving the claim is unconstitutional" under Section 12-303(3)(xii) of the Courts Article.

/s/ Kevin T. Baine  
Kevin T. Baine (AIS 8506010010)  
Richard S. Cleary, Jr. (*pro hac vice*)  
WILLIAMS & CONNOLLY LLP  
680 Maine Avenue, S.W.  
Washington, D.C. 20024  
202-434-5010  
[kbaine@wc.com](mailto:kbaine@wc.com)  
[rcleary@wc.com](mailto:rcleary@wc.com)

/s/ Andrew Jay Graham  
Andrew Jay Graham (AIS 7307010005)  
John A. Bourgeois (AIS 9312140080)  
KRAMON & GRAHAM, P.A.  
One South Street, Suite 2600  
Baltimore, Maryland 21202-3201  
(410) 752-6030; (410) 539-1269 (fax)  
[agraham@kg-law.com](mailto:agraham@kg-law.com)  
[jbourgeois@kg-law.com](mailto:jbourgeois@kg-law.com)

*Attorneys for the Roman Catholic Archbishop of Washington*

**Rule 1-322.1 Certification**

I HEREBY CERTIFY under Md. Rule 1-322.1 that there is no personal identified information included within this filing.

/s/ John A. Bourgeois  
John A. Bourgeois (AIS 9312140080)

**Rule 20-201 Certification**

I HEREBY CERTIFY under Md. Rule 20-201(h)(2) that there is no restricted information included within this filing.

/s/ John A. Bourgeois  
John A. Bourgeois (AIS 9312140080)

**Certificate of Service**

I HEREBY CERTIFY that on March 19, 2024, a copy of the foregoing document was filed via the MDEC system, which will cause a copy to be served electronically on all persons entitled to service.

/s/ John A. Bourgeois  
John A. Bourgeois (AIS 9312140080)

**IN THE CIRCUIT COURT  
FOR PRINCE GEORGE'S COUNTY, MARYLAND**

JOHN DOE, *et al.*, individually and on behalf  
of all others similarly situated,

Plaintiffs,

v.

Case No. C-16-CV-23-004497


ROMAN CATHOLIC ARCHBISHOP OF  
WASHINGTON, a corporation sole, d/b/a  
ROMAN CATHOLIC ARCHDIOCESE OF  
WASHINGTON,

Defendant.

**ORDER**

Upon consideration of Defendant Roman Catholic Archbishop of Washington, a corporation sole, d/b/a Roman Catholic Archdiocese of Washington's Motion to Dismiss for Failure to State a Claim, Plaintiff's Opposition thereto, and the case records, it is this 20<sup>th</sup> day of March, 2024, by the Circuit Court for Prince George's County, Maryland, hereby

ORDERED that Defendant's Motion shall be and the same hereby is DENIED

  
\_\_\_\_\_  
Judge, Circuit Court for Prince George's County,  
Maryland      Robin D. G. Bright

cc: All counsel of record

**IN THE CIRCUIT COURT  
FOR PRINCE GEORGE'S COUNTY**

JOHN DOE, RICHARD ROE, and MARK SMITH, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

ROMAN CATHOLIC ARCHBISHOP OF WASHINGTON, a corporation sole, d/b/a ROMAN CATHOLIC ARCHDIOCESE OF WASHINGTON,

Defendant.

Case No. C-16-CV-23-004497

**SUPPLEMENTAL NOTICE OF APPEAL**

On March 6, 2024, the Court announced from the bench that it was denying Defendant's motion to dismiss. The Court's order denying Defendant's motion to dismiss—in the form of a "Daily Sheet" signed by the Court (Bright, J.) and stating "Motion—Denied," was entered on the docket on March 12, 2024. See **Exhibit 1**. On March 19, 2024, Defendant noted an interlocutory appeal from the order, entered March 12, 2024, denying Defendant's motion to dismiss "based on a defense that the applicable statute of limitations or statute of repose bars the claim and any legislative action reviving the claim is unconstitutional" under Section 12-303(3)(xii) of the Courts Article. That appeal was docketed in the Appellate Court of Maryland under the caption *Roman Catholic Archbishop of Washington v. John Doe*, No. 0107, September Term 2024.

On March 20, 2024, the Court (Bright, J.) signed an Order stating that Defendant's motion to dismiss "shall be and the same hereby is DENIED." See **Exhibit 2**. Although this Order was provided to counsel via email, as of the date hereof it does not appear on the docket

available to undersigned counsel. Out of an abundance of caution, the Archdiocese of Washington hereby notes an appeal of both the order entered March 12, 2024 and the order signed on March 20, 2024, both denying Defendant's motion to dismiss "based on a defense that the applicable statute of limitations or statute of repose bars the claim and any legislative action reviving the claim is unconstitutional" under Section 12-303(3)(xii) of the Courts Article.

Respectfully submitted,

/s/ Kevin T. Baine  
Kevin T. Baine (AIS 8506010010)  
Richard S. Cleary, Jr. (*pro hac vice*)  
WILLIAMS & CONNOLLY LLP  
680 Maine Avenue, S.W.  
Washington, D.C. 20024  
202-434-5010  
[kbaine@wc.com](mailto:kbaine@wc.com)  
[rcleary@wc.com](mailto:rcleary@wc.com)

/s/ John A. Bourgeois  
Andrew Jay Graham (AIS 7307010005)  
John A. Bourgeois (AIS 9312140080)  
KRAMON & GRAHAM, P.A.  
One South Street, Suite 2600  
Baltimore, Maryland 21202-3201  
(410) 752-6030; (410) 539-1269 (fax)  
[agraham@kg-law.com](mailto:agraham@kg-law.com)  
[jbougeois@kg-law.com](mailto:jbougeois@kg-law.com)

*Attorneys for the Roman Catholic Archbishop of Washington*

**Rule 1-322.1 Certification**

I HEREBY CERTIFY under Md. Rule 1-322.1 that there is no personal identified information included within this filing.

/s/ John A. Bourgeois  
John A. Bourgeois (AIS 9312140080)

**Rule 20-201 Certification**

I HEREBY CERTIFY under Md. Rule 20-201(h)(2) that there is no restricted information included within this filing.

/s/ John A. Bourgeois  
John A. Bourgeois (AIS 9312140080)

**Certificate of Service**

I HEREBY CERTIFY that on April 15, 2024, a copy of the foregoing document was filed via the MDEC system, which will cause a copy to be served electronically on all persons entitled to service.

/s/ John A. Bourgeois  
John A. Bourgeois (AIS 9312140080)

# **EXHIBIT 1**

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

DAILY SHEET

JOHN DOE, et al Plaintiff (not present)	Case # <u>C-16-CV-23-004497</u>
Robert Peck, Jonathan Schochor Howard Janet, Andrew Janet Plaintiff's Attorneys	Judge <u>Bright</u>
-v-	Date <u>03/06/2024</u>
ROMAN CATHOLIC ARCHBISHOP OF WASHINGTON	Court Clerk <u>900,1,1</u>
Defendant(not present)	Tracking #:
John Bourgeois, Kevin Bane, Richard Clearly Defendant's Attorneys	<input type="checkbox"/> J <input type="checkbox"/> C Day _____ (J=Jury Sworn) (C=Court Trial) Case Start Time: Case End Time:

DOCKET ENTRIES

Defendant's Motion to Dismiss for Failure to State a Claim, argued.  
 Judge Bright. CS M1421  
 Motion – Denied

*Bright*

FILED: 3-13-2024

*V. WEBB*



**FILED**

**MAR 12 2024**

**CLERK OF THE CIRCUIT COURT  
FOR PRINCE GEORGE'S COUNTY, MD**

# **EXHIBIT 2**

**IN THE CIRCUIT COURT  
FOR PRINCE GEORGE'S COUNTY, MARYLAND**

JOHN DOE, *et al.*, individually and on behalf  
of all others similarly situated,

Plaintiffs,

v.

Case No. C-16-CV-23-004497


ROMAN CATHOLIC ARCHBISHOP OF  
WASHINGTON, a corporation sole, d/b/a  
ROMAN CATHOLIC ARCHDIOCESE OF  
WASHINGTON,

Defendant.

**ORDER**

Upon consideration of Defendant Roman Catholic Archbishop of Washington, a corporation sole, d/b/a Roman Catholic Archdiocese of Washington's Motion to Dismiss for Failure to State a Claim, Plaintiff's Opposition thereto, and the case records, it is this 20<sup>th</sup> day of March, 2024, by the Circuit Court for Prince George's County, Maryland, hereby

ORDERED that Defendant's Motion shall be and the same hereby is DENIED

  
\_\_\_\_\_  
Judge, Circuit Court for Prince George's County,  
Maryland      Robin D. G. Bright

cc: All counsel of record

# EXHIBIT 1

**(House Bill 642)**

AN ACT concerning

**Civil Actions – Child Sexual Abuse – Statute of Limitations and Required Findings**

FOR the purpose of altering the statute of limitations in certain civil actions relating to child sexual abuse; establishing a statute of repose for certain civil actions relating to child sexual abuse; providing that, in a certain action filed more than a certain number of years after the victim reaches the age of majority, damages may be awarded against a person or governmental entity that is not an alleged perpetrator only under certain circumstances; providing that a certain action is exempt from certain provisions of the Local Government Torts Claims Act; providing that a certain action is exempt from certain provisions of the Maryland Torts Claims Act; defining a certain term; making certain stylistic changes; providing for the application of this Act; and generally relating to child sexual abuse.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 5–117 and 5–304(a)  
Annotated Code of Maryland  
(2013 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,  
Article – Courts and Judicial Proceedings  
Section 5–304(b)  
Annotated Code of Maryland  
(2013 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 12–106(a)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 12–106(b)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

## Article – Courts and Judicial Proceedings

5-117.

(a) **(1)** In this section, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

**(2)** “ALLEGED PERPETRATOR” MEANS THE INDIVIDUAL ALLEGED TO HAVE COMMITTED THE SPECIFIC INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT SERVE AS THE BASIS OF AN ACTION UNDER THIS SECTION.

**(3)** ~~“sexual~~ “SEXUAL abuse” has the meaning stated in § 5-701 of the Family Law Article.

(b) An action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor shall be filed [within] ~~AGAINST THE ALLEGED PERPETRATOR OF THE SEXUAL ABUSE:~~

**(1)** AT ANY TIME BEFORE THE VICTIM REACHES THE AGE OF MAJORITY; OR

**(2)** ~~WITHIN~~ SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, WITHIN THE LATER OF:

**(I)** [7] 20 years [of] AFTER the date that the victim [attains] REACHES the age of majority; OR

**(II)** 3 YEARS AFTER THE DATE THAT THE DEFENDANT IS CONVICTED OF A CRIME RELATING TO THE ALLEGED INCIDENT OR INCIDENTS UNDER:

1. § 3-602 OF THE CRIMINAL LAW ARTICLE; OR

2. THE LAWS OF ANOTHER STATE OR THE UNITED STATES THAT WOULD BE A CRIME UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE.

~~(c) (1) AN ACTION FOR DAMAGES ARISING OUT OF AN ALLEGED INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE THE VICTIM WAS A MINOR SHALL BE FILED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT AN ALLEGED PERPETRATOR OF THE SEXUAL ABUSE:~~

~~(i) AT ANY TIME BEFORE THE VICTIM REACHES THE AGE OF MAJORITY; OR~~

~~(H) WITHIN 20 YEARS AFTER THE DATE THAT THE VICTIM REACHES THE AGE OF MAJORITY.~~

~~(2) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, DAMAGES MAY BE AWARDED AGAINST A PERSON OR GOVERNMENTAL ENTITY ONLY ON A DETERMINATION BY THE FINDER OF FACT THAT THE PERSON OR GOVERNMENTAL ENTITY:~~

~~(I) PRIOR TO THE INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT FORM THE BASIS OF THE ACTION, HAD ACTUAL KNOWLEDGE OF A PREVIOUS INCIDENT OR INCIDENTS OF SEXUAL ABUSE; AND~~

~~(II) NEGLIGENCE FAILED TO PREVENT THE INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT FORM THE BASIS OF THE ACTION.~~

(C) IN AN ACTION BROUGHT UNDER THIS SECTION MORE THAN 7 YEARS AFTER THE VICTIM REACHES THE AGE OF MAJORITY, DAMAGES MAY BE AWARDED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT THE ALLEGED PERPETRATOR OF THE SEXUAL ABUSE ONLY IF:

(1) THE PERSON OR GOVERNMENTAL ENTITY OWED A DUTY OF CARE TO THE VICTIM;

(2) THE PERSON OR GOVERNMENTAL ENTITY EMPLOYED THE ALLEGED PERPETRATOR OR EXERCISED SOME DEGREE OF RESPONSIBILITY OR CONTROL OVER THE ALLEGED PERPETRATOR; AND

(3) THERE IS A FINDING OF GROSS NEGLIGENCE ON THE PART OF THE PERSON OR GOVERNMENTAL ENTITY.

(D) IN NO EVENT MAY AN ACTION FOR DAMAGES ARISING OUT OF AN ALLEGED INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE THE VICTIM WAS A MINOR BE FILED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT THE ALLEGED PERPETRATOR MORE THAN 20 YEARS AFTER THE DATE ON WHICH THE VICTIM REACHES THE AGE OF MAJORITY.

5-304.

(a) This section does not apply to an action [against]:

(1) AGAINST a nonprofit corporation described in § 5-301(d)(23), (24), (25), (26), (28), or (29) of this subtitle or its employees; OR

(2) BROUGHT UNDER § 5-117 OF THIS TITLE.

(b) (1) Except as provided in subsections (a) and (d) of this section, an action for unliquidated damages may not be brought against a local government or its employees unless the notice of the claim required by this section is given within 1 year after the injury.

(2) The notice shall be in writing and shall state the time, place, and cause of the injury.

### Article – State Government

12–106.

(a) This section does not apply to a claim that is:

- (1) asserted by cross–claim, counterclaim, or third–party claim; OR
- (2) **BROUGHT UNDER § 5–117 OF THE COURTS ARTICLE.**

(b) Except as provided in subsection (c) of this section, a claimant may not institute an action under this subtitle unless:

- (1) the claimant submits a written claim to the Treasurer or a designee of the Treasurer within 1 year after the injury to person or property that is the basis of the claim;
- (2) the Treasurer or designee denies the claim finally; and
- (3) the action is filed within 3 years after the cause of action arises.

SECTION 2. AND BE IT FURTHER ENACTED, ~~That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any cause of action arising before the effective date of this Act~~ That this Act may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017.

SECTION 3. AND BE IT FURTHER ENACTED, That the statute of repose under § 5–117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

**Approved by the Governor, April 4, 2017.**



# **EXHIBIT 2**

(Senate Bill 505)

AN ACT concerning

**Civil Actions – Child Sexual Abuse – Statute of Limitations and Required Findings**

FOR the purpose of altering the statute of limitations in certain civil actions relating to child sexual abuse; establishing a statute of repose for certain civil actions relating to child sexual abuse; providing that, in a certain action filed more than a certain number of years after the victim reaches the age of majority, damages may be awarded against a person or governmental entity that is not an alleged perpetrator only under certain circumstances; providing that a certain action is exempt from certain provisions of the Local Government Torts Claims Act; providing that a certain action is exempt from certain provisions of the Maryland Torts Claims Act; defining a certain term; making certain stylistic changes; providing for the application of this Act; and generally relating to child sexual abuse.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 5–117 and 5–304(a)  
Annotated Code of Maryland  
(2013 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,  
Article – Courts and Judicial Proceedings  
Section 5–304(b)  
Annotated Code of Maryland  
(2013 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 12–106(a)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 12–106(b)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

## Article – Courts and Judicial Proceedings

5-117.

(a) **(1)** In this section, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

**(2)** “ALLEGED PERPETRATOR” MEANS THE INDIVIDUAL ALLEGED TO HAVE COMMITTED THE SPECIFIC INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT SERVE AS THE BASIS OF AN ACTION UNDER THIS SECTION.

**(3)** ~~“sexual~~ “SEXUAL abuse” has the meaning stated in § 5-701 of the Family Law Article.

(b) An action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor shall be filed [within] ~~AGAINST THE ALLEGED PERPETRATOR OF THE SEXUAL ABUSE:~~

**(1)** AT ANY TIME BEFORE THE VICTIM REACHES THE AGE OF MAJORITY; OR

**(2)** ~~WITHIN~~ SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, WITHIN THE LATER OF:

**(I)** [7] 20 years [of] AFTER the date that the victim [attains] REACHES the age of majority; OR

**(II)** 3 YEARS AFTER THE DATE THAT THE DEFENDANT IS CONVICTED OF A CRIME RELATING TO THE ALLEGED INCIDENT OR INCIDENTS UNDER:

1. § 3-602 OF THE CRIMINAL LAW ARTICLE; OR

2. THE LAWS OF ANOTHER STATE OR THE UNITED STATES THAT WOULD BE A CRIME UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE.

~~(c) (1) AN ACTION FOR DAMAGES ARISING OUT OF AN ALLEGED INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE THE VICTIM WAS A MINOR SHALL BE FILED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT AN ALLEGED PERPETRATOR OF THE SEXUAL ABUSE:~~

~~(i) AT ANY TIME BEFORE THE VICTIM REACHES THE AGE OF MAJORITY; OR~~

~~(H) WITHIN 20 YEARS AFTER THE DATE THAT THE VICTIM REACHES THE AGE OF MAJORITY.~~

~~(2) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, DAMAGES MAY BE AWARDED AGAINST A PERSON OR GOVERNMENTAL ENTITY ONLY ON A DETERMINATION BY THE FINDER OF FACT THAT THE PERSON OR GOVERNMENTAL ENTITY:~~

~~(I) PRIOR TO THE INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT FORM THE BASIS OF THE ACTION, HAD ACTUAL KNOWLEDGE OF A PREVIOUS INCIDENT OR INCIDENTS OF SEXUAL ABUSE; AND~~

~~(II) NEGLIGENCE FAILED TO PREVENT THE INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT FORM THE BASIS OF THE ACTION.~~

(C) IN AN ACTION BROUGHT UNDER THIS SECTION MORE THAN 7 YEARS AFTER THE VICTIM REACHES THE AGE OF MAJORITY, DAMAGES MAY BE AWARDED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT THE ALLEGED PERPETRATOR OF THE SEXUAL ABUSE ONLY IF:

(1) THE PERSON OR GOVERNMENTAL ENTITY OWED A DUTY OF CARE TO THE VICTIM;

(2) THE PERSON OR GOVERNMENTAL ENTITY EMPLOYED THE ALLEGED PERPETRATOR OR EXERCISED SOME DEGREE OF RESPONSIBILITY OR CONTROL OVER THE ALLEGED PERPETRATOR; AND

(3) THERE IS A FINDING OF GROSS NEGLIGENCE ON THE PART OF THE PERSON OR GOVERNMENTAL ENTITY.

(D) IN NO EVENT MAY AN ACTION FOR DAMAGES ARISING OUT OF AN ALLEGED INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE THE VICTIM WAS A MINOR BE FILED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT THE ALLEGED PERPETRATOR MORE THAN 20 YEARS AFTER THE DATE ON WHICH THE VICTIM REACHES THE AGE OF MAJORITY.

5-304.

(a) This section does not apply to an action [against]:

(1) AGAINST a nonprofit corporation described in § 5-301(d)(23), (24), (25), (26), (28), or (29) of this subtitle or its employees; OR

(2) BROUGHT UNDER § 5-117 OF THIS TITLE.

(b) (1) Except as provided in subsections (a) and (d) of this section, an action for unliquidated damages may not be brought against a local government or its employees unless the notice of the claim required by this section is given within 1 year after the injury.

(2) The notice shall be in writing and shall state the time, place, and cause of the injury.

### Article – State Government

12–106.

(a) This section does not apply to a claim that is:

- (1) asserted by cross–claim, counterclaim, or third–party claim; OR
- (2) **BROUGHT UNDER § 5–117 OF THE COURTS ARTICLE.**

(b) Except as provided in subsection (c) of this section, a claimant may not institute an action under this subtitle unless:

- (1) the claimant submits a written claim to the Treasurer or a designee of the Treasurer within 1 year after the injury to person or property that is the basis of the claim;
- (2) the Treasurer or designee denies the claim finally; and
- (3) the action is filed within 3 years after the cause of action arises.

SECTION 2. AND BE IT FURTHER ENACTED, ~~That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any cause of action arising before the effective date of this Act~~ That this Act may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017.

SECTION 3. AND BE IT FURTHER ENACTED, That the statute of repose under § 5–117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

**Approved by the Governor, May 25, 2017.**

# **EXHIBIT 5**

West's Annotated Code of Maryland  
Courts and Judicial Proceedings  
Title 5. Limitations, Prohibited Actions, and Immunities ([Refs & Annos](#))  
Subtitle 1. Limitations ([Refs & Annos](#))

This section has been updated. Click [here](#) for the updated version.

MD Code, Courts and Judicial Proceedings, § 5-117

§ 5-117. Sexual abuse of minor

Effective: October 1, 2017 to September 30, 2023

### **Definitions**

(a)(1) In this section the following words have the meanings indicated.

(2) “Alleged perpetrator” means the individual alleged to have committed the specific incident or incidents of sexual abuse that serve as the basis of an action under this section.

(3) “Sexual abuse” has the meaning stated in [§ 5-701 of the Family Law Article](#).

### **In general**

(b) An action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor shall be filed:

(1) At any time before the victim reaches the age of majority; or

(2) Subject to subsections (c) and (d) of this section, within the later of:

(i) 20 years after the date that the victim reaches the age of majority; or

(ii) 3 years after the date that the defendant is convicted of a crime relating to the alleged incident or incidents under:

1. [§ 3-602 of the Criminal Law Article](#); or

2. The laws of another state or the United States that would be a crime under [§ 3-602 of the Criminal Law Article](#).

**Actions brought more than 7 years after victim reaches age of majority**

(c) In an action brought under this section more than 7 years after the victim reaches the age of majority, damages may be awarded against a person or governmental entity that is not the alleged perpetrator of the sexual abuse only if:

- (1) The person or governmental entity owed a duty of care to the victim;
- (2) The person or governmental entity employed the alleged perpetrator or exercised some degree of responsibility or control over the alleged perpetrator; and
- (3) There is a finding of gross negligence on the part of the person or governmental entity.

**Actions against person or governmental entity not the alleged perpetrator**

(d) In no event may an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor be filed against a person or governmental entity that is not the alleged perpetrator more than 20 years after the date on which the victim reaches the age of majority.

**Credits**

Added by [Acts 2003, c. 360, § 1, eff. Oct. 1, 2003](#). Amended by [Acts 2017, c. 12, § 1, eff. Oct. 1, 2017](#); [Acts 2017, c. 656, § 1, eff. Oct. 1, 2017](#).

[Notes of Decisions \(5\)](#)

MD Code, Courts and Judicial Proceedings, § 5-117, MD CTS & JUD PRO § 5-117

Current with all legislation from the 2023 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.



# EXHIBIT 3

**(Senate Bill 686)**

AN ACT concerning

**Civil Actions – Child Sexual Abuse – Definition, Damages, and Statute of  
Limitations  
(The Child Victims Act of 2023)**

FOR the purpose of altering the definition of “sexual abuse” for purposes relating to civil actions for child sexual abuse; establishing certain limitations on damages that may be awarded under this Act; repealing the statute of limitations in certain civil actions relating to child sexual abuse; repealing a statute of repose for certain civil actions relating to child sexual abuse; providing that a certain party may appeal an interlocutory order under certain circumstances; providing for the retroactive application of this Act under certain circumstances; and generally relating to child sexual abuse.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 5–117, 5–303(a), ~~and 5–518~~ 5–518, and 12–303  
Annotated Code of Maryland  
(2020 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,  
Article – Education  
Section 4–105  
Annotated Code of Maryland  
(2022 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 12–104(a)  
Annotated Code of Maryland  
(2021 Replacement Volume and 2022 Supplement)

BY repealing  
Chapter 12 of the Acts of the General Assembly of 2017  
Section 2 and 3

BY repealing  
Chapter 656 of the Acts of the General Assembly of 2017  
Section 2 and 3

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

## Article – Courts and Judicial Proceedings

5-117.

[(a) (1) In this section the following words have the meanings indicated.

(2) “Alleged perpetrator” means the individual alleged to have committed the specific incident or incidents of sexual abuse that serve as the basis of an action under this section.

(3) “Sexual abuse” has the meaning stated in § 5-701 of the Family Law Article.]

**(A) IN THIS SECTION, “SEXUAL ABUSE” MEANS ANY ACT THAT INVOLVES:**

**(1) AN ADULT ALLOWING OR ENCOURAGING A CHILD TO ENGAGE IN:**

**(I) OBSCENE PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY;**

**(II) PORNOGRAPHIC PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY; OR**

**(III) PROSTITUTION;**

**(2) INCEST;**

**(3) RAPE;**

**(4) SEXUAL OFFENSE IN ANY DEGREE; OR**

**(5) ~~UNNATURAL OR PERVERTED SEXUAL PRACTICES~~ ANY OTHER SEXUAL CONDUCT THAT IS A CRIME.**

(b) [An] ~~NOTWITHSTANDING~~ EXCEPT AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION AND NOTWITHSTANDING ANY TIME LIMITATION UNDER A STATUTE OF LIMITATIONS, A STATUTE OF REPOSE, THE MARYLAND TORT CLAIMS ACT, THE LOCAL GOVERNMENT TORT CLAIMS ACT, OR ANY OTHER LAW, AN action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor [shall be filed:

(1) At any time before the victim reaches the age of majority; or

(2) Subject to subsections (c) and (d) of this section, within the later of:

(i) 20 years after the date that the victim reaches the age of majority; or

(ii) 3 years after the date that the defendant is convicted of a crime relating to the alleged incident or incidents under:

1. § 3–602 of the Criminal Law Article; or

2. The laws of another state or the United States that would be a crime under § 3–602 of the Criminal Law Article.

(c) In an action brought under this section more than 7 years after the victim reaches the age of majority, damages may be awarded against a person or governmental entity that is not the alleged perpetrator of the sexual abuse only if:

(1) The person or governmental entity owed a duty of care to the victim;

(2) The person or governmental entity employed the alleged perpetrator or exercised some degree of responsibility or control over the alleged perpetrator; and

(3) There is a finding of gross negligence on the part of the person or governmental entity.

(d) In no event may an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor be filed against a person or governmental entity that is not the alleged perpetrator more than 20 years after the date on which the victim reaches the age of majority] **MAY BE FILED AT ANY TIME.**

**(C) EXCEPT AS PROVIDED IN §§ 5–303 AND 5–518 OF THIS TITLE AND § 12–104 OF THE STATE GOVERNMENT ARTICLE, THE TOTAL AMOUNT OF NONECONOMIC DAMAGES THAT MAY BE AWARDED UNDER THIS SECTION TO A SINGLE CLAIMANT IN AN ACTION AGAINST A SINGLE DEFENDANT FOR INJURIES ARISING FROM ~~A SINGLE INCIDENT OR OCCURRENCE~~ AN INCIDENT OR OCCURRENCE THAT WOULD HAVE BEEN BARRED BY A TIME LIMITATION BEFORE OCTOBER 1, 2023, MAY NOT EXCEED \$1,500,000.**

**(D) NO ACTION FOR DAMAGES THAT WOULD HAVE BEEN BARRED BY A TIME LIMITATION BEFORE OCTOBER 1, 2023, MAY BE BROUGHT UNDER THIS SECTION IF THE ALLEGED VICTIM OF ABUSE IS DECEASED AT THE COMMENCEMENT OF THE ACTION.**

5–303.

(a) (1) Except as provided in paragraphs (2) [and], (3), AND (4) of this subsection, the liability of a local government may not exceed \$400,000 per an individual claim, and \$800,000 per total claims that arise from the same occurrence for damages resulting from tortious acts or omissions, or liability arising under subsection (b) of this section and indemnification under subsection (c) of this section.

(2) The limits on liability provided under paragraph (1) of this subsection do not include interest accrued on a judgment.

(3) If the liability of a local government arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer, the following limits on liability apply:

(i) Subject to item (ii) of this paragraph, the combined award for both economic and noneconomic damages may not exceed a total of \$890,000 for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and

(ii) In a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the limitation established under item (i) of this paragraph, regardless of the number of claimants or beneficiaries who share in the award.

**(4) IF THE LIABILITY OF A LOCAL GOVERNMENT ARISES FROM A CLAIM OF SEXUAL ABUSE, AS DEFINED IN § 5-117 OF THIS TITLE, THE LIABILITY MAY NOT EXCEED ~~\$850,000~~ \$890,000 TO A SINGLE CLAIMANT FOR INJURIES ARISING FROM ~~A SINGLE INCIDENT OR OCCURRENCE~~ AN INCIDENT OR OCCURRENCE.**

5-518.

(a) (1) In this section the following words have the meanings indicated.

(2) “Compensation” does not include actual and necessary expenses that are incurred by a volunteer in connection with the services provided or duties performed by the volunteer for a county board of education, and that are reimbursed to the volunteer or otherwise paid.

(3) “County board employee” means:

(i) Any employee whose compensation is paid in whole or in part by a county board of education; or

(ii) A student teacher.

(4) “County board member” means a duly elected or appointed member of a county board of education.

(5) “Volunteer” means an individual who, at the request of the county board and under its control and direction, provides services or performs duties for the county board without compensation.

(b) A county board of education, described under Title 4, Subtitle 1 of the Education Article, may raise the defense of sovereign immunity to [any]:

(1) ANY amount claimed above the limit of its insurance policy; or[, if]

(2) IF self-insured or a member of a pool described under § 4-105(c)(1)(ii) of the Education Article:

(I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS ITEM, ANY AMOUNT above \$400,000; OR

(II) IF THE LIABILITY OF THE COUNTY BOARD OF EDUCATION ARISES FROM A CLAIM OF SEXUAL ABUSE, AS DEFINED IN § 5-117 OF THIS TITLE, ANY AMOUNT ABOVE ~~\$850,000~~ \$890,000 TO A SINGLE CLAIMANT FOR CLAIMS ~~ARISING FROM A SINGLE INCIDENT OR OCCURRENCE~~ AN INCIDENT OR OCCURRENCE.

(c) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A county board of education may not raise the defense of sovereign immunity to any claim of \$400,000 or less.

(2) IF LIABILITY OF A COUNTY BOARD OF EDUCATION ARISES UNDER A CLAIM OF SEXUAL ABUSE, AS DEFINED IN § 5-117 OF THIS TITLE, THE LIABILITY MAY NOT EXCEED ~~\$850,000~~ \$890,000 TO A SINGLE CLAIMANT FOR INJURIES ~~ARISING FROM A SINGLE INCIDENT OR OCCURRENCE~~ AN INCIDENT OR OCCURRENCE.

(d) (1) The county board shall be joined as a party to an action against a county board employee, county board member, or volunteer that alleges damages resulting from a tortious act or omission committed by the employee in the scope of employment, by the county board member within the scope of the member’s authority, or by the volunteer within the scope of the volunteer’s services or duties.

(2) The issue of whether the county board employee acted within the scope of employment may be litigated separately.

(3) The issue of whether the county board member acted within the scope of the member’s authority may be litigated separately.

(4) The issue of whether the volunteer acted within the scope of the volunteer’s services or duties may be litigated separately.

(e) A county board employee acting within the scope of employment, without malice and gross negligence, is not personally liable for damages resulting from a tortious act or omission for which a limitation of liability is provided for the county board under subsection (b) of this section, including damages that exceed the limitation on the county board's liability.

(f) (1) A county board member, acting within the scope of the member's authority, without malice and gross negligence, is not personally liable for damages resulting from a tortious act or omission for which a limitation of liability is provided for the county board under subsection (b) of this section, including damages that exceed the limitation on the county board's liability.

(2) In addition to the immunity provided under paragraph (1) of this subsection, a county board member is immune as an individual from civil liability for any act or omission if the member is acting:

- (i) Within the scope of the member's authority;
- (ii) Without malice; and
- (iii) In a discretionary capacity.

(g) (1) The provisions of this subsection apply only to a volunteer.

(2) A volunteer who acts within the scope of the volunteer's services or duties is not personally liable for damages resulting from a tortious act or omission beyond the limits of any personal insurance the volunteer may have unless:

- (i) The damages were the result of the volunteer's negligent operation of a motor vehicle; or
- (ii) The damages were the result of the volunteer's willful, wanton, malicious, reckless, or grossly negligent act or omission.

(3) The limitations on liability contained in this subsection may not be construed or applied to affect any immunities from civil liability or defenses established by any other provision of the Code or available at common law to which the volunteer may be entitled.

(h) Except as provided in subsection (e), (f), or (g) of this section, a judgment in tort for damages against a county board employee acting within the scope of employment, a county board member acting within the scope of the member's authority, or a volunteer acting within the scope of the volunteer's services or duties shall be levied against the county board only and may not be executed against the county board employee, the county board member, or the volunteer personally.

12-303.

A party may appeal from any of the following interlocutory orders entered by a circuit court in a civil case:

(1) An order entered with regard to the possession of property with which the action is concerned or with reference to the receipt or charging of the income, interest, or dividends therefrom, or the refusal to modify, dissolve, or discharge such an order;

(2) An order granting or denying a motion to quash a writ of attachment;  
and

(3) An order:

(i) Granting or dissolving an injunction, but if the appeal is from an order granting an injunction, only if the appellant has first filed his answer in the cause;

(ii) Refusing to dissolve an injunction, but only if the appellant has first filed his answer in the cause;

(iii) Refusing to grant an injunction; and the right of appeal is not prejudiced by the filing of an answer to the bill of complaint or petition for an injunction on behalf of any opposing party, nor by the taking of depositions in reference to the allegations of the bill of complaint to be read on the hearing of the application for an injunction;

(iv) Appointing a receiver but only if the appellant has first filed his answer in the cause;

(v) For the sale, conveyance, or delivery of real or personal property or the payment of money, or the refusal to rescind or discharge such an order, unless the delivery or payment is directed to be made to a receiver appointed by the court;

(vi) Determining a question of right between the parties and directing an account to be stated on the principle of such determination;

(vii) Requiring bond from a person to whom the distribution or delivery of property is directed, or withholding distribution or delivery and ordering the retention or accumulation of property by the fiduciary or its transfer to a trustee or receiver, or deferring the passage of the court's decree in an action under Title 10, Chapter 600 of the Maryland Rules;

(viii) Deciding any question in an insolvency proceeding brought under Title 15, Subtitle 1 of the Commercial Law Article;



(ix) Granting a petition to stay arbitration pursuant to § 3–208 of this article;

(x) Depriving a parent, grandparent, or natural guardian of the care and custody of his child, or changing the terms of such an order; [and]

(xi) Denying immunity asserted under § 5–525 or § 5–526 of this article; AND

**(XII) DENYING A MOTION TO DISMISS A CLAIM FILED UNDER § 5–117 OF THIS ARTICLE IF THE MOTION IS BASED ON A DEFENSE THAT THE APPLICABLE STATUTE OF LIMITATIONS OR STATUTE OF REPOSE BARS THE CLAIM AND ANY LEGISLATIVE ACTION REVIVING THE CLAIM IS UNCONSTITUTIONAL.**

### Article – Education

4–105.

(a) (1) Each county board shall carry comprehensive liability insurance to protect the board and its agents and employees.

(2) The purchase of insurance in accordance with paragraph (1) of this subsection is a valid educational expense.

(b) (1) The State Board shall establish standards for these insurance policies, including a minimum liability coverage of not less than:

**(I) \$890,000 FOR EACH OCCURRENCE FOR CLAIMS OF SEXUAL ABUSE MADE UNDER § 5–117 OF THE COURTS ARTICLE; AND**

**(II) ~~[\$400,000]~~ \$850,000 for each occurrence FOR ALL OTHER CLAIMS.**

(2) The policies purchased under this section shall meet these standards.

(c) (1) A county board complies with this section if it:

(i) Is individually self-insured for at least ~~[\$400,000]~~ ~~\$850,000~~ **\$890,000** for each occurrence under the rules and regulations adopted by the State Insurance Commissioner; or

(ii) Pools with other public entities for the purpose of self-insuring property or casualty risks under Title 19, Subtitle 6 of the Insurance Article.

(2) A county board that elects to self-insure individually under this subsection periodically shall file with the State Insurance Commissioner, in writing, the terms and conditions of the self-insurance.

(3) The terms and conditions of this individual self-insurance:

(i) Are subject to the approval of the State Insurance Commissioner;  
and

(ii) Shall conform with the terms and conditions of comprehensive liability insurance policies available in the private market.

(d) A county board shall have the immunity from liability described under § 5-518 of the Courts and Judicial Proceedings Article.

### Article – State Government

12-104.

(a) (1) Subject to the exclusions and limitations in this subtitle and notwithstanding any other provision of law, the immunity of the State and of its units is waived as to a tort action, in a court of the State, to the extent provided under paragraph (2) of this subsection.

(2) (i) Except as provided in [subparagraph] **SUBPARAGRAPHS (ii) AND (III)** of this paragraph, the liability of the State and its units may not exceed \$400,000 to a single claimant for injuries arising from a single incident or occurrence.

(ii) If liability of the State or its units arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer, the following limits on liability shall apply:

1. subject to item 2 of this subparagraph, the combined award for both economic and noneconomic damages may not exceed a total of \$890,000 for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and

2. in a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the limitation established under item 1 of this item, regardless of the number of claimants or beneficiaries who share in the award.

**(III) IF LIABILITY OF THE STATE OR ITS UNITS ARISES UNDER A CLAIM OF SEXUAL ABUSE, AS DEFINED IN § 5-117 OF THE COURTS ARTICLE, THE LIABILITY MAY NOT EXCEED ~~\$850,000~~ \$890,000 TO A SINGLE CLAIMANT FOR**

**INJURIES ARISING FROM ~~A SINGLE INCIDENT OR OCCURRENCE~~ AN INCIDENT OR OCCURRENCE.**

**Chapter 12 of the Acts of 2017**

[SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017.]

[SECTION 3. AND BE IT FURTHER ENACTED, That the statute of repose under § 5–117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017.]

**Chapter 656 of the Acts of 2017**

[SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017.]

[SECTION 3. AND BE IT FURTHER ENACTED, That the statute of repose under § 5–117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017.]

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that any claim of sexual abuse that occurred while the victim was a minor may be filed at any time without regard to previous time limitations that would have barred the claim.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2023.

SECTION 4. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.

**Approved by the Governor, April 11, 2023.**

# EXHIBIT 4

**(House Bill 1)**

AN ACT concerning

**Civil Actions – Child Sexual Abuse – Definition, Damages, and Statute of  
Limitations  
(The Child Victims Act of 2023)**

FOR the purpose of altering the definition of “sexual abuse” for purposes relating to civil actions for child sexual abuse; establishing certain limitations on damages that may be awarded under this Act; repealing the statute of limitations in certain civil actions relating to child sexual abuse; repealing a statute of repose for certain civil actions relating to child sexual abuse; providing that a certain party may appeal an interlocutory order under certain circumstances; providing for the retroactive application of this Act under certain circumstances; and generally relating to child sexual abuse.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 5–117, 5–303(a), 5–518, and 12–303  
Annotated Code of Maryland  
(2020 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,  
Article – Education  
Section 4–105  
Annotated Code of Maryland  
(2022 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 12–104(a)  
Annotated Code of Maryland  
(2021 Replacement Volume and 2022 Supplement)

BY repealing  
Chapter 12 of the Acts of the General Assembly of 2017  
Section 2 and 3

BY repealing  
Chapter 656 of the Acts of the General Assembly of 2017  
Section 2 and 3

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

## Article – Courts and Judicial Proceedings

5-117.

[(a) (1) In this section the following words have the meanings indicated.

(2) “Alleged perpetrator” means the individual alleged to have committed the specific incident or incidents of sexual abuse that serve as the basis of an action under this section.

(3) “Sexual abuse” has the meaning stated in § 5-701 of the Family Law Article.]

**(A) IN THIS SECTION, “SEXUAL ABUSE” MEANS ANY ACT THAT INVOLVES:**

**(1) AN ADULT ALLOWING OR ENCOURAGING A CHILD TO ENGAGE IN:**

**(I) OBSCENE PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY;**

**(II) PORNOGRAPHIC PHOTOGRAPHY, FILMS, POSES, OR SIMILAR ACTIVITY; OR**

**(III) PROSTITUTION;**

**(2) INCEST;**

**(3) RAPE;**

**(4) SEXUAL OFFENSE IN ANY DEGREE; OR**

**(5) ~~UNNATURAL OR PERVERTED SEXUAL PRACTICES~~ ANY OTHER SEXUAL CONDUCT THAT IS A CRIME.**

(b) ~~AN~~ EXCEPT AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION AND NOTWITHSTANDING ANY TIME LIMITATION UNDER A STATUTE OF LIMITATIONS, A STATUTE OF REPOSE, THE MARYLAND TORT CLAIMS ACT, THE LOCAL GOVERNMENT TORT CLAIMS ACT, OR ANY OTHER LAW, AN action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor [shall be filed:

(1) At any time before the victim reaches the age of majority; or

(2) Subject to subsections (c) and (d) of this section, within the later of:

(i) 20 years after the date that the victim reaches the age of majority; or

(ii) 3 years after the date that the defendant is convicted of a crime relating to the alleged incident or incidents under:

1. § 3–602 of the Criminal Law Article; or

2. The laws of another state or the United States that would be a crime under § 3–602 of the Criminal Law Article.

(c) In an action brought under this section more than 7 years after the victim reaches the age of majority, damages may be awarded against a person or governmental entity that is not the alleged perpetrator of the sexual abuse only if:

(1) The person or governmental entity owed a duty of care to the victim;

(2) The person or governmental entity employed the alleged perpetrator or exercised some degree of responsibility or control over the alleged perpetrator; and

(3) There is a finding of gross negligence on the part of the person or governmental entity.

(d) In no event may an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor be filed against a person or governmental entity that is not the alleged perpetrator more than 20 years after the date on which the victim reaches the age of majority] **MAY BE FILED AT ANY TIME.**

**(C) EXCEPT AS PROVIDED IN §§ 5–303 AND 5–518 OF THIS TITLE AND § 12–104 OF THE STATE GOVERNMENT ARTICLE, THE TOTAL AMOUNT OF NONECONOMIC DAMAGES THAT MAY BE AWARDED UNDER THIS SECTION TO A SINGLE CLAIMANT IN AN ACTION AGAINST A SINGLE DEFENDANT FOR INJURIES ARISING FROM AN INCIDENT OR OCCURRENCE THAT WOULD HAVE BEEN BARRED BY A TIME LIMITATION BEFORE OCTOBER 1, 2023, MAY NOT EXCEED \$1,500,000.**

**(D) NO ACTION FOR DAMAGES THAT WOULD HAVE BEEN BARRED BY A TIME LIMITATION BEFORE OCTOBER 1, 2023, MAY BE BROUGHT UNDER THIS SECTION IF THE ALLEGED VICTIM OF ABUSE IS DECEASED AT THE COMMENCEMENT OF THE ACTION.**

5–303.



(a) (1) Except as provided in paragraphs (2) [and], (3), AND (4) of this subsection, the liability of a local government may not exceed \$400,000 per an individual claim, and \$800,000 per total claims that arise from the same occurrence for damages resulting from tortious acts or omissions, or liability arising under subsection (b) of this section and indemnification under subsection (c) of this section.

(2) The limits on liability provided under paragraph (1) of this subsection do not include interest accrued on a judgment.

(3) If the liability of a local government arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer, the following limits on liability apply:

(i) Subject to item (ii) of this paragraph, the combined award for both economic and noneconomic damages may not exceed a total of \$890,000 for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and

(ii) In a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the limitation established under item (i) of this paragraph, regardless of the number of claimants or beneficiaries who share in the award.

**(4) IF THE LIABILITY OF A LOCAL GOVERNMENT ARISES FROM A CLAIM OF SEXUAL ABUSE, AS DEFINED IN § 5-117 OF THIS TITLE, THE LIABILITY MAY NOT EXCEED \$890,000 TO A SINGLE CLAIMANT FOR INJURIES ARISING FROM AN INCIDENT OR OCCURRENCE.**

5-518.

(a) (1) In this section the following words have the meanings indicated.

(2) “Compensation” does not include actual and necessary expenses that are incurred by a volunteer in connection with the services provided or duties performed by the volunteer for a county board of education, and that are reimbursed to the volunteer or otherwise paid.

(3) “County board employee” means:

(i) Any employee whose compensation is paid in whole or in part by a county board of education; or

(ii) A student teacher.

(4) “County board member” means a duly elected or appointed member of a county board of education.

(5) “Volunteer” means an individual who, at the request of the county board and under its control and direction, provides services or performs duties for the county board without compensation.

(b) A county board of education, described under Title 4, Subtitle 1 of the Education Article, may raise the defense of sovereign immunity to [any]:

(1) ANY amount claimed above the limit of its insurance policy; or[, if]

(2) IF self-insured or a member of a pool described under § 4–105(c)(1)(ii) of the Education Article:

(I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS ITEM, ANY AMOUNT above \$400,000; OR

(II) IF THE LIABILITY OF THE COUNTY BOARD OF EDUCATION ARISES FROM A CLAIM OF SEXUAL ABUSE, AS DEFINED IN § 5–117 OF THIS TITLE, ANY AMOUNT ABOVE \$890,000 TO A SINGLE CLAIMANT FOR CLAIMS ARISING FROM AN INCIDENT OR OCCURRENCE.

(c) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A county board of education may not raise the defense of sovereign immunity to any claim of \$400,000 or less.

(2) IF LIABILITY OF A COUNTY BOARD OF EDUCATION ARISES UNDER A CLAIM OF SEXUAL ABUSE, AS DEFINED IN § 5–117 OF THIS TITLE, THE LIABILITY MAY NOT EXCEED \$890,000 TO A SINGLE CLAIMANT FOR INJURIES ARISING FROM AN INCIDENT OR OCCURRENCE.

(d) (1) The county board shall be joined as a party to an action against a county board employee, county board member, or volunteer that alleges damages resulting from a tortious act or omission committed by the employee in the scope of employment, by the county board member within the scope of the member’s authority, or by the volunteer within the scope of the volunteer’s services or duties.

(2) The issue of whether the county board employee acted within the scope of employment may be litigated separately.

(3) The issue of whether the county board member acted within the scope of the member’s authority may be litigated separately.

(4) The issue of whether the volunteer acted within the scope of the volunteer’s services or duties may be litigated separately.

(e) A county board employee acting within the scope of employment, without malice and gross negligence, is not personally liable for damages resulting from a tortious act or omission for which a limitation of liability is provided for the county board under subsection (b) of this section, including damages that exceed the limitation on the county board's liability.

(f) (1) A county board member, acting within the scope of the member's authority, without malice and gross negligence, is not personally liable for damages resulting from a tortious act or omission for which a limitation of liability is provided for the county board under subsection (b) of this section, including damages that exceed the limitation on the county board's liability.

(2) In addition to the immunity provided under paragraph (1) of this subsection, a county board member is immune as an individual from civil liability for any act or omission if the member is acting:

(i) Within the scope of the member's authority;

(ii) Without malice; and

(iii) In a discretionary capacity.

(g) (1) The provisions of this subsection apply only to a volunteer.

(2) A volunteer who acts within the scope of the volunteer's services or duties is not personally liable for damages resulting from a tortious act or omission beyond the limits of any personal insurance the volunteer may have unless:

(i) The damages were the result of the volunteer's negligent operation of a motor vehicle; or

(ii) The damages were the result of the volunteer's willful, wanton, malicious, reckless, or grossly negligent act or omission.

(3) The limitations on liability contained in this subsection may not be construed or applied to affect any immunities from civil liability or defenses established by any other provision of the Code or available at common law to which the volunteer may be entitled.

(h) Except as provided in subsection (e), (f), or (g) of this section, a judgment in tort for damages against a county board employee acting within the scope of employment, a county board member acting within the scope of the member's authority, or a volunteer acting within the scope of the volunteer's services or duties shall be levied against the county board only and may not be executed against the county board employee, the county board member, or the volunteer personally.

A party may appeal from any of the following interlocutory orders entered by a circuit court in a civil case:

(1) An order entered with regard to the possession of property with which the action is concerned or with reference to the receipt or charging of the income, interest, or dividends therefrom, or the refusal to modify, dissolve, or discharge such an order;

(2) An order granting or denying a motion to quash a writ of attachment;  
and

(3) An order:

(i) Granting or dissolving an injunction, but if the appeal is from an order granting an injunction, only if the appellant has first filed his answer in the cause;

(ii) Refusing to dissolve an injunction, but only if the appellant has first filed his answer in the cause;

(iii) Refusing to grant an injunction; and the right of appeal is not prejudiced by the filing of an answer to the bill of complaint or petition for an injunction on behalf of any opposing party, nor by the taking of depositions in reference to the allegations of the bill of complaint to be read on the hearing of the application for an injunction;

(iv) Appointing a receiver but only if the appellant has first filed his answer in the cause;

(v) For the sale, conveyance, or delivery of real or personal property or the payment of money, or the refusal to rescind or discharge such an order, unless the delivery or payment is directed to be made to a receiver appointed by the court;

(vi) Determining a question of right between the parties and directing an account to be stated on the principle of such determination;

(vii) Requiring bond from a person to whom the distribution or delivery of property is directed, or withholding distribution or delivery and ordering the retention or accumulation of property by the fiduciary or its transfer to a trustee or receiver, or deferring the passage of the court's decree in an action under Title 10, Chapter 600 of the Maryland Rules;

(viii) Deciding any question in an insolvency proceeding brought under Title 15, Subtitle 1 of the Commercial Law Article;

(ix) Granting a petition to stay arbitration pursuant to § 3-208 of this article;

(x) Depriving a parent, grandparent, or natural guardian of the care and custody of his child, or changing the terms of such an order; [and]

(xi) Denying immunity asserted under § 5-525 or § 5-526 of this article; AND

**(XII) DENYING A MOTION TO DISMISS A CLAIM FILED UNDER § 5-117 OF THIS ARTICLE IF THE MOTION IS BASED ON A DEFENSE THAT THE APPLICABLE STATUTE OF LIMITATIONS OR STATUTE OF REPOSE BARS THE CLAIM AND ANY LEGISLATIVE ACTION REVIVING THE CLAIM IS UNCONSTITUTIONAL.**

### Article – Education

4-105.

(a) (1) Each county board shall carry comprehensive liability insurance to protect the board and its agents and employees.

(2) The purchase of insurance in accordance with paragraph (1) of this subsection is a valid educational expense.

(b) (1) The State Board shall establish standards for these insurance policies, including a minimum liability coverage of not less than:

**(I) \$890,000 FOR EACH OCCURRENCE FOR CLAIMS OF SEXUAL ABUSE MADE UNDER § 5-117 OF THE COURTS ARTICLE; AND**

**(II) \$400,000 for each occurrence FOR ALL OTHER CLAIMS.**

(2) The policies purchased under this section shall meet these standards.

(c) (1) A county board complies with this section if it:

(i) Is individually self-insured for at least [~~\$400,000~~] **\$890,000** for each occurrence under the rules and regulations adopted by the State Insurance Commissioner; or

(ii) Pools with other public entities for the purpose of self-insuring property or casualty risks under Title 19, Subtitle 6 of the Insurance Article.

(2) A county board that elects to self-insure individually under this subsection periodically shall file with the State Insurance Commissioner, in writing, the terms and conditions of the self-insurance.

(3) The terms and conditions of this individual self–insurance:

(i) Are subject to the approval of the State Insurance Commissioner;  
and

(ii) Shall conform with the terms and conditions of comprehensive liability insurance policies available in the private market.

(d) A county board shall have the immunity from liability described under § 5–518 of the Courts and Judicial Proceedings Article.

### Article – State Government

12–104.

(a) (1) Subject to the exclusions and limitations in this subtitle and notwithstanding any other provision of law, the immunity of the State and of its units is waived as to a tort action, in a court of the State, to the extent provided under paragraph (2) of this subsection.

(2) (i) Except as provided in [subparagraph] SUBPARAGRAPHS (ii) AND (iii) of this paragraph, the liability of the State and its units may not exceed \$400,000 to a single claimant for injuries arising from a single incident or occurrence.

(ii) If liability of the State or its units arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer, the following limits on liability shall apply:

1. subject to item 2 of this subparagraph, the combined award for both economic and noneconomic damages may not exceed a total of \$890,000 for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and

2. in a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the limitation established under item 1 of this item, regardless of the number of claimants or beneficiaries who share in the award.

**(iii) IF LIABILITY OF THE STATE OR ITS UNITS ARISES UNDER A CLAIM OF SEXUAL ABUSE, AS DEFINED IN § 5–117 OF THE COURTS ARTICLE, THE LIABILITY MAY NOT EXCEED \$890,000 TO A SINGLE CLAIMANT FOR INJURIES ARISING FROM AN INCIDENT OR OCCURRENCE.**

### **Chapter 12 of the Acts of 2017**

[SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017.]

[SECTION 3. AND BE IT FURTHER ENACTED, That the statute of repose under § 5-117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017.]

### **Chapter 656 of the Acts of 2017**

[SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017.]

[SECTION 3. AND BE IT FURTHER ENACTED, That the statute of repose under § 5-117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017.]

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that any claim of sexual abuse that occurred while the victim was a minor may be filed at any time without regard to previous time limitations that would have barred the claim.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2023, ~~if the action is filed before October 1, 2025.~~

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.

**Approved by the Governor, April 11, 2023.**

# **EXHIBIT 22**



[West's Annotated Code of Maryland](#)

[Courts and Judicial Proceedings](#)

[Title 5. Limitations, Prohibited Actions, and Immunities \(Refs & Annos\)](#)

[Subtitle 1. Limitations \(Refs & Annos\)](#)

MD Code, Courts and Judicial Proceedings, § 5-117

§ 5-117. Sexual abuse of minor

Effective: October 1, 2023

[Currentness](#)

### **Definitions**

(a) In this section, “sexual abuse” means any act that involves:

(1) An adult allowing or encouraging a child to engage in:

(i) Obscene photography, films, poses, or similar activity;

(ii) Pornographic photography, films, poses, or similar activity; or

(iii) Prostitution;

(2) Incest;

(3) Rape;

(4) Sexual offense in any degree; or

(5) Any other sexual conduct that is a crime.

### **In general**

(b) Except as provided under subsection (d) of this section and notwithstanding any time limitation under a statute of limitations, a statute of repose, the Maryland Tort Claims Act, the Local Government Tort Claims Act, or any other law, an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor may be filed at any time.

**Incident or occurrence that would have been barred by a time limitation before October 1, 2023**

(c) Except as provided in §§ 5-303 and 5-518 of this title and § 12-104 of the State Government Article, the total amount of noneconomic damages that may be awarded under this section to a single claimant in an action against a single defendant for injuries arising from an incident or occurrence that would have been barred by a time limitation before October 1, 2023, may not exceed \$1,500,000.

**Deceased alleged victim**

(d) No action for damages that would have been barred by a time limitation before October 1, 2023, may be brought under this section if the alleged victim of abuse is deceased at the commencement of the action.

**Credits**

Added by [Acts 2003, c. 360, § 1, eff. Oct. 1, 2003](#). Amended by [Acts 2017, c. 12, § 1, eff. Oct. 1, 2017](#); [Acts 2017, c. 656, § 1, eff. Oct. 1, 2017](#); [Acts 2023, c. 5, § 1, eff. Oct. 1, 2023](#); [Acts 2023, c. 6, § 1, eff. Oct. 1, 2023](#).

[Notes of Decisions \(5\)](#)

MD Code, Courts and Judicial Proceedings, § 5-117, MD CTS & JUD PRO § 5-117

Current with all legislation from the 2023 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

# EXHIBIT 6

**SENATE BILL 68**

D4

3lr0443

HB 326/94 - JPR

By: **Senators Kelley, Britt, Conway, Exum, Forehand, Gladden, Grosfeld, Hollinger, Hughes, Jones, Kramer, Lawlah, Ruben, Stone, and Teitelbaum**

Introduced and read first time: January 20, 2003

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2003

0360

MAY 22 '03

CHAPTER \_\_\_\_\_

**APPROVED BY THE GOVERNOR**

1 AN ACT concerning:

2 **Civil Actions - Child Sexual Abuse - Statute of Limitations**

3 FOR the purpose of extending the statute of limitations in certain civil actions  
4 relating to child sexual abuse; providing for the ~~construction and~~ application of  
5 this Act; defining a certain term; and generally relating to child sexual abuse.

6 BY adding to

7 Article - Courts and Judicial Proceedings

8 Section 5-117

9 Annotated Code of Maryland

10 (2002 Replacement Volume)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Courts and Judicial Proceedings**

14 5-117.

15 (A) IN THIS SECTION, "SEXUAL ABUSE" HAS THE MEANING STATED IN § 5-701  
16 OF THE FAMILY LAW ARTICLE.

17 (B) AN ACTION FOR DAMAGES ARISING OUT OF AN ALLEGED INCIDENT OR  
18 INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE THE VICTIM WAS A MINOR  
19 SHALL BE FILED WITHIN ~~12 YEARS OF THE LATER OF~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



2

SENATE BILL 68

1           (1) ~~THE VICTIM'S 21ST BIRTHDAY, OR~~

2           (2) ~~THE DATE ON WHICH THE VICTIM KNEW OR REASONABLY SHOULD~~

3 ~~HAVE KNOWN THAT THE ALLEGED ABUSE WAS ACTIONABLE 7 YEARS OF THE DATE~~

4 ~~THAT THE VICTIM ATTAINS THE AGE OF MAJORITY.~~

5           (C) ~~THIS SECTION MAY NOT BE CONSTRUED TO PRECLUDE A COURT FROM~~

6 ~~APPLYING ANY OTHER APPLICABLE EXCEPTION TO THE RUNNING OF THE~~

7 ~~APPLICABLE STATUTE OF LIMITATIONS.~~

8           (D) ~~THIS SECTION SHALL APPLY TO ANY ACTION COMMENCED ON OR AFTER~~

9 ~~OCTOBER 1, 2003, INCLUDING ANY ACTION THAT WOULD HAVE BEEN BARRED BY THE~~

10 ~~APPLICATION OF THE PERIOD OF LIMITATION APPLICABLE BEFORE OCTOBER 1, 2003.~~

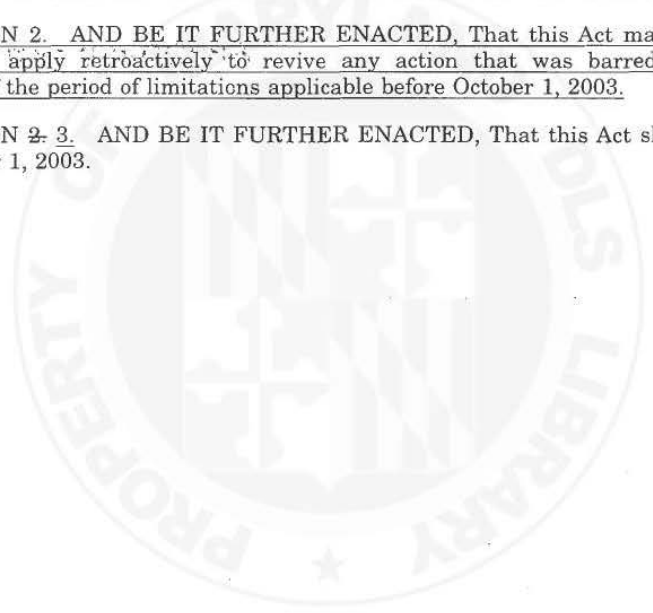
11           SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be

12 construed to apply retroactively to revive any action that was barred by the

13 application of the period of limitations applicable before October 1, 2003.

14           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take

15 effect October 1, 2003.



Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.

# **EXHIBIT 7**

West's Annotated Code of Maryland  
Courts and Judicial Proceedings  
Title 5. Limitations, Prohibited Actions, and Immunities ([Refs & Annos](#))  
Subtitle 1. Limitations ([Refs & Annos](#))

This section has been updated. Click [here](#) for the updated version.

MD Code, Courts and Judicial Proceedings, § 5-117

§ 5-117. Sexual abuse of minor

Effective: [See Text Amendments] to September 30, 2017

**Sexual abuse defined in Family Law Article**

(a) In this section, “sexual abuse” has the meaning stated in [§ 5-701 of the Family Law Article](#).

**Within seven years of date victim attains age of majority**

(b) An action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor shall be filed within 7 years of the date that the victim attains the age of majority.

**Credits**

Added by [Acts 2003, c. 360, § 1, eff. Oct. 1, 2003](#).

MD Code, Courts and Judicial Proceedings, § 5-117, MD CTS & JUD PRO § 5-117

Current with all legislation from the 2023 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

# EXHIBIT 8



SENATE BILL 68

Unofficial Copy  
D4  
HB 326/94 - JPR

2003 Regular Session  
3lr0443

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By: **Senators Kelley, Britt, Conway, Exum, Forehand, Gladden, Grosfeld,  
Hollinger, Hughes, Jones, Kramer, Lawlah, Ruben, Stone, and  
Teitelbaum**

Introduced and read first time: January 20, 2003  
Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions - Child Sexual Abuse - Statute of Limitations**

3 FOR the purpose of extending the statute of limitations in certain civil actions  
4 relating to child sexual abuse; providing for the construction and application of  
5 this Act; defining a certain term; and generally relating to child sexual abuse.

6 BY adding to  
7 Article - Courts and Judicial Proceedings  
8 Section 5-117  
9 Annotated Code of Maryland  
10 (2002 Replacement Volume)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Courts and Judicial Proceedings**

14 5-117.

15 (A) IN THIS SECTION, "SEXUAL ABUSE" HAS THE MEANING STATED IN § 5-701  
16 OF THE FAMILY LAW ARTICLE.

17 (B) AN ACTION FOR DAMAGES ARISING OUT OF AN ALLEGED INCIDENT OR  
18 INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE THE VICTIM WAS A MINOR  
19 SHALL BE FILED WITHIN 12 YEARS OF THE LATER OF:

20 (1) THE VICTIM'S 21ST BIRTHDAY; OR

21 (2) THE DATE ON WHICH THE VICTIM KNEW OR REASONABLY SHOULD  
22 HAVE KNOWN THAT THE ALLEGED ABUSE WAS ACTIONABLE.

23 (C) THIS SECTION MAY NOT BE CONSTRUED TO PRECLUDE A COURT FROM  
24 APPLYING ANY OTHER APPLICABLE EXCEPTION TO THE RUNNING OF THE  
25 APPLICABLE STATUTE OF LIMITATIONS.

1 (D) THIS SECTION SHALL APPLY TO ANY ACTION COMMENCED ON OR AFTER  
2 OCTOBER 1, 2003, INCLUDING ANY ACTION THAT WOULD HAVE BEEN BARRED BY THE  
3 APPLICATION OF THE PERIOD OF LIMITATION APPLICABLE BEFORE OCTOBER 1, 2003.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
5 effect October 1, 2003.

# EXHIBIT 9



**Maryland Chamber of Commerce**

## **Legislative Position**

**SB 238**

**OPPOSE**

**Judicial  
Proceedings  
Committee  
2/5/09**

**SB 238**

### **Civil Actions – Child Sexual Abuse – Statute of Limitations**

**Bill Summary:** This bill would extend the current statute of limitations for filing a lawsuit concerning alleged sexual abuse of a minor by an additional 25 years. It would also provide a two year period in which lawsuits that are currently extinguished by law could be filed.

**Chamber Position:** The Maryland Chamber of Commerce opposes this bill. While we have no tolerance for the sexual abuse of minors, we are concerned about the far-reaching damage and precedent that this bill would cause for Maryland's civil liability climate. Maryland law already allows lawsuits alleging sexual abuse of a minor to be filed until the victim turns age 25. This is well beyond the normal three year statute of limitations. There is no justification for extending the statute of limitations for an alleged victim until age 50.

More damaging to Maryland's system of jurisprudence would be the bill's establishment of a two year period in which such lawsuits could be filed, notwithstanding when the alleged offense occurred, and despite the fact that the statute of limits had already expired. Reviving claims that have been legally extinguished would demonstrate that there is no legal finality to civil liability in Maryland. Such an action would be unfair to defendants, including companies that extended insurance contracts in good faith. The bill would reinforce the message that companies doing business in Maryland have unlimited exposure to civil liability.

For these reasons, we urge an unfavorable report for this bill.

**Contact:** Ronald W. Wineholt, [rwineholt@mdchamber.org](mailto:rwineholt@mdchamber.org)

# **EXHIBIT 10**



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**To:** Members of the Senate Judicial Proceedings Committee

**From:** Richard A. Montgomery III  
Director of Legislative Relations

**Date:** February 5, 2009

**Re:** Senate Bill 238 – Civil Actions – Child Sexual Abuse – Statute of Limitations

**Position:** Oppose

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The Maryland State Bar Association (MSBA) **opposes** Senate Bill 238 – Civil Actions – Child Sexual Abuse – Statute of Limitations. Senate Bill 238 extends the statute of limitations for an action arising out of an alleged incident or incidents of sexual abuse that occurred when the victim was a minor from its current limit of seven years to thirty two years from the date that the victim reaches the age of majority. Also, the bill contains a two year retroactive provision. This provision specifies that actions barred only because the statute of limitations had expired as of January 1, 2010 may be revived as long as the cause of action is commenced before January 1, 2012.

Although the Maryland State Bar Association (MSBA) understands and appreciates the intent of the sponsor in introducing Senate Bill 238, the MSBA has a longstanding opposition to legislation which proposes to extend the statute of limitations in selected civil matters. Extending the statute of limitations to thirty two years presents the further problem of whether witnesses or even the perpetrator may be alive to testify on or to defend against the charges. Although the MSBA supports the concept of providing redress and closure for victims of child sex abuse, we do not believe that the retroactive revival of claims that would be provided under SB238 are appropriate for Maryland. Accordingly, the Maryland State Bar Association (MSBA) **opposes** Senate Bill 238 and urges an unfavorable report.

# **EXHIBIT 11**

SENATOR DELORES G. KELLEY  
10th Legislative District  
Baltimore County

Finance Committee

*Chair*

Executive Nominations Committee

*Senate Vice Chair*

Joint Committee on Health  
Care Delivery and Financing

*Senate Chair*

Joint Committee on Access to  
Mental Health Services



James Senate Office Building  
11 Bladen Street, Room 302  
Annapolis, Maryland 21401  
410-841-3606  
800-492-7122 Ext. 3606  
Fax 410-841-3399  
delores.kelley@senate.state.md.us

THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

## TESTIMONY OF SENATOR DELORES G. KELLEY

### BEFORE THE SENATE COMMITTEE ON JUDICIAL PROCEEDINGS

### REGARDING SENATE BILL 238-CIVIL ACTIONS-CHILD SEXUAL ABUSE-STATUTE OF LIMITATIONS

FEBRUARY 5, 2009

**Mr. Chairman and Members:**

Prior to October 1, 2003, Maryland law required a victim of child sexual abuse to file for any civil damages prior to the victim reaching the age of 21.

In 2003, SB 68, which I introduced, was enacted into law, and raised the statute of limitations for the filing of these cases to the 25<sup>th</sup> birth date of the alleged victims. When that legislation was enacted none of the terrible consequences which had been projected by opponents occurred in Maryland. There was no mass hysteria among victims; there were no class action law suits, and all of our major charitable and religious



**institutions continued to do their usual good works.**

**Here we are in 2009, and I am back with a second request for an extension of the statute of limitations for victims of child sexual abuse to file civil actions against their alleged abusers. I am back on behalf of untold numbers of victims, because the current statute of limitations is still far too short to be of much effect.**

**These victims don't wait in silence for frivolous reason, but rather for many heartbreaking reasons, including:**

- 1) lack of timely knowledge of their legal standing;**
- 2) internalization of the offenders' claims that the victims are somehow guilty;**
- 3) fear of ostracism by their families being torn apart when the offender is a relative of the victim; and**
- 4) coping mechanisms based upon disassociation and/or denial.**

**Senator Raskin, a constitutional scholar and law professor, who is a respected member of this Committee, has recognized, as I have, that the retroactivity (the 2-year window) in the uncodified section of this Bill**

**Page 3-SB 238**

**poses a problem that could sink the entire Bill. I therefore thank Senator Raskin for the amendment that he will offer to delete the uncodified language.**

**I say to victims who advocate so valiantly, sometimes when we do what is necessary and right, we might not personally reap all the fruits of our actions. But we should be comforted to know that with the enactment of this Bill, as amended, others for whom the window has not yet closed will benefit, and perhaps future victims, hearing of your courage, will one day call you blessed.**

**Some opponents of this legislation claim that the trial lawyers are behind this Bill. Let me answer unequivocally that I have not sought advice from or heard from any trial lawyers regarding SB 238, although as with other Marylanders, they have a right to an opinion and the right to advocate for their position, if they have one.**

**This Bill is not about any institutions of our society, including those which are charitable or religious. This Bill is about providing adequate time for badly traumatized victims of a heinous crime to muster the courage, and the emotional stability to face their individual violators in**

**Page 4-SB 238**

**a court of law in order to seek healing as well as appropriate monetary relief. For those victims to be denied would be ungodly. I leave their fate in your hands.**



# **EXHIBIT 12**

SENATOR DELORES G. KELLEY  
*Legislative District 10*  
Baltimore County

—  
*Vice Chair*  
Judicial Proceedings Committee

—  
*Vice Chair*  
Executive Nominations Committee

—  
Joint Committee on  
Unemployment Insurance Oversight



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

James Senate Office Building  
11 Bladen Street, Room 302  
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410-841-3606 • 301-858-3606  
800-492-7122 Ext. 3606  
Fax: 410-841-3399 • 301-858-3399  
Delores.Kelley@senate.state.md.us

**TESTIMONY OF SENATOR DELORES G. KELLEY**

**REGARDING SENATE BILL 505-CIVIL ACTIONS-CHILD SEXUAL ABUSE  
STATUTE OF LIMITATIONS AND REQUIRED FINDINGS**

**BEFORE THE SENATE JUDICIAL PROCEEDINGS COMMITTEE**

**ON FEBRUARY 14, 2017**

**Mr. Chairman and Members:**

Senate Bill 505 expands the statute of limitations for the filing of an action by a victim of child sexual abuse against the alleged perpetrator of the abuse. Prior to 2003, a victim could file such an action only until his/her 21<sup>st</sup> birthday (that was for three years upon attaining the age of majority).

In 2003, I successfully sponsored Senate Bill 68 , which increased the statute of limitations until the victim's 25<sup>th</sup> birth date (Chapter 360 of 2003). Senate Bill

505 would further increase the statute of limitations for a child sexual abuse victim to file suit against the perpetrator until the victim's 38<sup>th</sup> birthdate (that is 20 years from the date that the victim attained the age of majority). The discovery rule is applicable in all actions, and the cause of action accrues when the victim knew or should have known that Maryland law provides a right of action to a person so abused during his/her childhood.

Under current law, and under the provisions of Senate Bill 505, a cause of action cannot apply retroactively to revive any action that was barred by the statute of limitations applicable before the new statute takes effect (in the case of SB 505, that would be October 1, 2017). Senate Bill 505 additionally permits a child abuse victim to file a cause of action against the alleged perpetrator of the abuse at any time within three years of the perpetrator's conviction for the incident or incidents which comprised the abuse.

Additionally, Senate Bill 505 permits child sexual abuse victims to file an action against certain non-perpetrators of child sexual abuse, that is if a person or

governmental entity had actual knowledge of the abuse and negligently failed to do anything to prevent the incident or incidents that form the basis of the victim's action. Think about the Penn State case where athletic staff members of the University observed a colleague abusing young boys on University property, but did nothing to either prevent or to report the abuse.

Why, you might ask, should Maryland further extend the statute of limitations for filing an action against a perpetrator of child sexual abuse beyond the date of the victim's 25<sup>th</sup> birth date. Few, if any, young adults have knowledge of their legal right in Maryland to file an action against the perpetrator of their abuse. They also lack the financial means and the sophistication to file an action in a court of law to seek damages for crimes which they suffered as minors. Many young adults are still dependent upon the authority figures in their lives, some of whom still provide food, shelter, tuition and health care (as per the provisions of the Affordable Care Act), even beyond the young adult's 25<sup>th</sup> birth date (a later timeline than the current insufficient statute of limitations).



In addition, victims of sexual assaults fear unfair judgment and public humiliation if they air their pain and suffering in public; thus they often need much more time than the current 7 years from the age of majority to seek any legal remedy so that their healing may begin.

It is past time for victims of child sexual abuse to have great access to civil relief in the courts, so I ask for your favorable report of SB 505.



# **EXHIBIT 13**

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 642  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “abuse;” insert “establishing a statute of repose for certain civil actions relating to child sexual abuse;”; in the same line, after “action” insert “filed more than a certain number of years after the victim reaches the age of majority”; and in line 9, after “Act;” insert “defining a certain term; making certain stylistic changes;”.

AMENDMENT NO. 2

On page 2, in line 9, after “(a)” insert “**(1)**”; in the same line, strike the comma and substitute “**THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**”

**(2) “ALLEGED PERPETRATOR” MEANS THE INDIVIDUAL ALLEGED TO HAVE COMMITTED THE SPECIFIC INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT SERVE AS THE BASIS OF AN ACTION UNDER THIS SECTION.**

**(3)**;

in the same line, strike ““sexual” and substitute “**SEXUAL**”; strike beginning with “AGAINST” in line 12 down through “ABUSE” in line 13; and in line 16, strike “WITHIN” and substitute “**SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, WITHIN**”.

On pages 2 and 3, strike in their entirety the lines beginning with line 25 on page 2 through line 11 on page 3, inclusive, and substitute:

**“(C) IN AN ACTION BROUGHT UNDER THIS SECTION MORE THAN 7 YEARS AFTER THE VICTIM REACHES THE AGE OF MAJORITY, DAMAGES MAY BE AWARDED**

AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT THE ALLEGED PERPETRATOR OF THE SEXUAL ABUSE ONLY IF:

(1) THE PERSON OR GOVERNMENTAL ENTITY OWED A DUTY OF CARE TO THE VICTIM;

(2) THE PERSON OR GOVERNMENTAL ENTITY EMPLOYED THE ALLEGED PERPETRATOR OR EXERCISED SOME DEGREE OF RESPONSIBILITY OR CONTROL OVER THE ALLEGED PERPETRATOR; AND

(3) THERE IS A FINDING OF GROSS NEGLIGENCE ON THE PART OF THE PERSON OR GOVERNMENTAL ENTITY.

(D) IN NO EVENT MAY AN ACTION FOR DAMAGES ARISING OUT OF AN ALLEGED INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE THE VICTIM WAS A MINOR BE FILED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT THE ALLEGED PERPETRATOR MORE THAN 20 YEARS AFTER THE DATE ON WHICH THE VICTIM REACHES THE AGE OF MAJORITY.”

AMENDMENT NO. 3

On page 4, strike beginning with “That” in line 6 down through “Act” in line 8 and substitute “That this Act may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017”; and in line 9, after “That” insert “the statute of repose under § 5-117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017.”

SECTION 4. AND BE IT FURTHER ENACTED, That”.

# **EXHIBIT 14**

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 505  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, after “Kelley,” insert “Young”; in the same line, after “Kasemeyer,” insert “King”; in the same line, after “Manno,” insert “Mathias”; in the same line, after “Peters,” insert “Pinsky, Ramirez”; in the same line, after “Robinson,” insert “Salling”; in line 5, after the semicolon insert “establishing a statute of repose for certain civil actions relating to child sexual abuse”; in the same line, after “action” insert “filed more than a certain number of years after the victim reaches the age of majority”; and in line 9, after the semicolon insert “defining a certain term; making certain stylistic changes”.

AMENDMENT NO. 2

On page 2, in line 10, after “(a)” insert “**(1)**”; in the same line, strike the comma and substitute “**THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**”

**(2) “ALLEGED PERPETRATOR” MEANS THE INDIVIDUAL ALLEGED TO HAVE COMMITTED THE SPECIFIC INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT SERVE AS THE BASIS OF AN ACTION UNDER THIS SECTION.**

**(3)**;

in the same line, strike ““sexual” and substitute “**SEXUAL**”; strike beginning with “AGAINST” in line 13 down through “ABUSE” in line 14; and in line 17, strike “WITHIN” and substitute “**SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, WITHIN**”.

On pages 2 and 3, strike in their entirety the lines beginning with line 26 on page 2 through line 11 on page 3, inclusive, and substitute:

**“(C) IN AN ACTION BROUGHT UNDER THIS SECTION MORE THAN 7 YEARS AFTER THE VICTIM REACHES THE AGE OF MAJORITY, DAMAGES MAY BE AWARDED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT THE ALLEGED PERPETRATOR OF THE SEXUAL ABUSE ONLY IF:**

**(1) THE PERSON OR GOVERNMENTAL ENTITY OWED A DUTY OF CARE TO THE VICTIM;**

**(2) THE PERSON OR GOVERNMENTAL ENTITY EMPLOYED THE ALLEGED PERPETRATOR OR EXERCISED SOME DEGREE OF RESPONSIBILITY OR CONTROL OVER THE ALLEGED PERPETRATOR; AND**

**(3) THERE IS A FINDING OF GROSS NEGLIGENCE ON THE PART OF THE PERSON OR GOVERNMENTAL ENTITY.**

**(D) IN NO EVENT MAY AN ACTION FOR DAMAGES ARISING OUT OF AN ALLEGED INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE THE VICTIM WAS A MINOR BE FILED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT THE ALLEGED PERPETRATOR MORE THAN 20 YEARS AFTER THE DATE ON WHICH THE VICTIM REACHES THE AGE OF MAJORITY.”.**

**AMENDMENT NO. 3**

On page 4, strike beginning with “That” in line 6 down through “Act” in line 8 and substitute “That this Act may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017”; and in line 9, after “That” insert “the statute of repose under § 5-117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that

were barred by the application of the period of limitations applicable before October 1, 2017.

SECTION 4. AND BE IT FURTHER ENACTED, That”.

# **EXHIBIT 15**





SENATE JUDICIAL PROCEEDINGS COMMITTEE  
BOBBY A. ZIRKIN, CHAIR • COMMITTEE REPORT SYSTEM  
DEPARTMENT OF LEGISLATIVE SERVICES • 2017 MARYLAND GENERAL ASSEMBLY

**FLOOR REPORT**

House Bill 642

**Civil Actions - Child Sexual Abuse - Statute of Limitations and Required Findings**

**SPONSORS:** Delegate C. Wilson, *et al.*

**COMMITTEE RECOMMENDATION:** FAVORABLE

**SHORT SUMMARY:**

House bill 642 is identical to Senate bill 505, as unanimously passed by the Senate.

The bill (1) expands the statute of limitations for an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor and (2) exempts causes of action filed under the bill's provisions from the notice of claim requirement under the Local Government Tort Claims Act and the submission of a written claim requirement, denial of claim requirement, and the statute of limitations under the Maryland Tort Claims Act. The bill also creates a statute of repose for specified civil actions relating to child sexual abuse.

**COMMITTEE AMENDMENTS:** NONE

**SUMMARY OF BILL:**

An action for damages arising out of an alleged incident or incidents of sexual abuse, as defined in § 5-701 of the Family Law Article, that occurred while the victim was a minor must be filed (1) at any time before the victim reaches the age of majority or (2) within the later of 20 years after the date on which the victim reaches the age of majority or 3 years after the date that the defendant is convicted of a crime relating to the alleged incident or incidents under § 3-602 of the Criminal Law Article (sexual abuse of a minor) or the laws of another state or the United States that would be a crime under § 3-602 of the Criminal Law Article.

However, in an action brought more than seven years after the victim reaches the age of majority, damages may be awarded against a person or governmental entity that is not the alleged perpetrator of the sexual abuse only if (1) the person or governmental entity owed



a duty of care to the victim; (2) the person or governmental entity employed or exercised some degree of responsibility or control over the alleged perpetrator; and (3) there is a finding of gross negligence on the part of the person or governmental entity. The bill defines “alleged perpetrator” as the individual alleged to have committed the specific incident or incidents of sexual abuse that serve as the basis of an action arising from alleged sexual abuse under § 5-117 of the Courts and Judicial Proceedings Article.

The bill establishes a “statute of repose” prohibiting a person from filing an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor against a person or governmental entity that is not the alleged perpetrator more than 20 years after the date on which the victim reaches the age of majority.

The bill exempts causes of action filed under the provisions of the bill from the notice of claim requirement under LGTCA and the submission of a written claim requirement, denial of claim requirement, and the statute of limitations under MTCA.

The bill may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017. The statute of repose created by the bill must be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017.

#### **CURRENT LAW:**

*Current statute of limitations:* Pursuant to Chapter 360 of 2003, an action for damages arising out of an alleged incident(s) of sexual abuse, as defined in § 5-701 of the Family Law Article, that occurred while the victim was a minor must be filed within seven years of the date that the victim attains the age of majority. The law is not to be construed to apply retroactively to revive any action that was barred by application of the period of limitations applicable before October 1, 2003.

*Maryland Tort Claims Act and Local Government Tort Claims Act:* MTCA applies to tortious acts or omissions, including State constitutional torts, by State personnel performed in the course of their official duties, so long as the acts or omissions are made without malice or gross negligence. MTCA limits State liability to \$400,000 to a single claimant for injuries arising from a single incident. In actions involving malice or gross negligence or actions outside of the scope of the public duties of the State employee, the State employee is not shielded by the State’s color of authority or sovereign immunity and may be held personally liable.

MTCA also contains specific notice and procedural requirements. In general, a claimant is prohibited from instituting an action under MTCA unless (1) the claimant submits a



written claim to the State Treasurer or the Treasurer's designee within one year after the injury to person or property that is the basis of the claim; (2) the State Treasurer/designee denies the claim finally; and (3) the action is filed within three years after the cause of action arises.

LGTCAs are the local government counterpart to MTCA. LGTCAs limit the liability of a local government to \$400,000 per individual claim and \$800,000 per total claims that arise from the same occurrence for damages from tortious acts or omissions (including intentional and constitutional torts). It further establishes that the local government is liable for tortious acts or omissions of its employees acting within the scope of employment, so long as the employee did not act with actual malice. A local government is not liable for punitive damages. Thus, LGTCAs prevent local governments from asserting a common law claim of governmental immunity from liability for such acts of its employees.

LGTCAs also specify that an action for unliquidated damages may not be brought unless notice of the claim is given within one year after the injury. The notice must be in writing and must state the time, place, and cause of the injury. In general, unless the defendant can affirmatively show that its defense has been prejudiced by lack of required notice, upon motion and for good cause shown, the court may entertain the suit even though the required notice was not given.

*Limits on Liability for County Boards of Education:* County boards of education are not covered under LGTCAs. However, a county board of education may raise the defense of sovereign immunity to any amount claimed above the limit of its insurance policy or, if self-insured or a member of an insurance pool, above \$400,000. A county board of education may not raise the defense of sovereign immunity to any claim of \$400,000 or less. A county board employee acting within the scope of employment, without malice and gross negligence, is not personally liable for damages resulting from a tortious act or omission for which a limitation of liability is provided for the county board, including damages that exceed the limitation on the county board's liability.

Each county board of education must carry comprehensive liability insurance to protect the board and its agents and employees. The purchase of this insurance is a valid educational expense. The State Board of Education must establish standards for these insurance policies, including a minimum liability coverage of not less than \$400,000 for each occurrence. The policies purchased must meet the standards established by the State Board of Education.

A county board complies with this requirement if it (1) is individually self-insured for at least \$400,000 for each occurrence under the rules and regulations adopted by the Insurance Commissioner or (2) pools with other public entities for the purpose of self-insuring property or casualty risks.



*Gross Negligence:* Gross negligence involves “an intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another, and also implies a thoughtless disregard of the consequences without the exertion of any effort to avoid them. Stated conversely, a wrongdoer is [liable] of gross negligence or acts wantonly and willfully only when he inflicts injury intentionally or is so utterly indifferent to the rights of others that he acts as if such rights did not exist.” *Barbre v. Pope*, 402 Md. 157, 187 (2007) (citations omitted). Gross negligence is a level of neglect more egregious than simple negligence. *Holloway-Johnson v. Beall*, 220 Md. App. 195 (2014). However, “...a fine line exists between allegations of negligence and gross negligence.” *Barbre* at 187. The existence of gross negligence depends on the facts and circumstances of the case. *Rodriguez v. State*, 218 Md. App. 573 (2014).

#### **FISCAL IMPACT:**

**State Effect:** Minimal increase in special fund expenditures for the State Insurance Trust Fund (SITF) that occur well into the future if the bill results in payments in MTCA cases that would not be allowed to proceed under existing statute. Revenues are not affected.

**Local Effect:** The bill is not expected to significantly affect local expenditures. Some local governments covered under LGTCA obtain insurance coverage through the Local Government Insurance Trust (LGIT), a self-insurer that is wholly owned by its member local governments. LGIT’s membership currently includes 17 counties, 144 municipalities, and 19 sponsored entities. LGIT advises that because the types of causes of action affected by the bill are rarely filed against a local government employee or official, the bill has virtually no impact on local governments, including LGIT members.

As previously mentioned, local boards of education and their employees are not covered under LGTCA. The Maryland Association of Boards of Education (MABE) advises that based on information provided by its insurance program and some school system administrators, MABE does not anticipate significant increased liabilities arising from the bill.

**Small Business Effect:** Potential meaningful impact on small business law firms that are allowed to litigate or proceed with cases as a result of the bill.

#### **ADDITIONAL INFORMATION:**

**Prior Introductions:** None.

**Cross File:** SB 505 (Senator Kelley, et al.) - Judicial Proceedings.

**COUNSEL:** April

# **EXHIBIT 16**



SENATE JUDICIAL PROCEEDINGS COMMITTEE  
BOBBY A. ZIRKIN, CHAIR · COMMITTEE REPORT SYSTEM  
DEPARTMENT OF LEGISLATIVE SERVICES · 2017 MARYLAND GENERAL ASSEMBLY

**FLOOR REPORT**

Senate Bill 505

**Civil Actions - Child Sexual Abuse - Statute of Limitations and Required Findings**

**SPONSORS:** Senator Kelley, *et al.*

**COMMITTEE RECOMMENDATION:** Favorable with amendments (3)

**SHORT SUMMARY:**

Senate bill 505 (1) expands the statute of limitations for an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor and (2) exempts causes of action filed under the provisions of the bill from the notice of claim requirement under the Local Government Tort Claims Act (LGTCA) and the submission of a written claim requirement, denial of claim requirement, and the statute of limitations under the Maryland Tort Claims Act (MTCA).

**COMMITTEE AMENDMENTS:** There are 3 committee amendments

Amendment no. 1: Adds co-sponsors and makes technical changes.

Amendment no. 2: Strikes language in the bill that would have created a heightened standard in all civil sex abuse actions against certain persons and governmental entities. The amendment instead provides that, in an action brought more than 7 years after the victim reaches the age of majority, damages may only be awarded against a person or governmental entity that is not the alleged perpetrator of abuse if there is a finding of gross negligence on the part of the person or governmental entity. The amendment also prohibits filing an action against such persons and governmental entities more than 20 years after the victim reaches the age of majority.

Amendment no. 3: Clarifies the application of the bill to claims barred by the statute of limitations in effect before the bill's October 1, 2017 effective date.

## **SUMMARY OF BILL:**

Under the bill, an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor must be filed (1) at any time before the victim attains the age of majority or (2) within the later of 20 years after the victim reaches the age of majority or 3 years after the defendant is convicted of a crime relating to the alleged incident or incidents under § 3-602 of the Criminal Law Article or the laws of another state or the United States that would be a crime under § 3-602 of the Criminal Law Article.

The bill further provides that, in an action brought more than 7 years (which is the current statute of limitations) after the victim reaches the age of majority, damages may be awarded against a person or governmental entity that is not the alleged perpetrator of the abuse if (1) the person or governmental entity owed a duty of care to the victim, (2) the person or governmental entity employed or exercised some degree of responsibility or control over the alleged perpetrator, and (3) there is a finding of gross negligence on the part of the person or governmental entity. The bill defines “alleged perpetrator” as “the individual alleged to have committed the specific incident or incidents of sexual abuse that serve as the basis of an action under this section.”

The bill establishes a “statute of repose” prohibiting a person from filing an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor against a person or governmental entity that is not the alleged perpetrator more than 20 years after the date on which the victim reaches the age of majority.

The bill exempts causes of action filed under the provisions of the bill from the notice of claim requirement under the Local Government Tort Claims Act (LGTCOA) and the submission of a written claim requirement, denial of claim requirement, and the statute of limitations under the Maryland Tort Claims Act (MTCA)

The bill may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017. The statute of repose created by the bill must be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017

## **CURRENT LAW:**

Pursuant to Chapter 360 of 2003, an action for damages arising out of an alleged incident(s) of sexual abuse, as defined in § 5-701 of the Family Law Article, that occurred while the victim was a minor must be filed within seven years of the date that the victim attains the



age of majority. The law is not to be construed to apply retroactively to revive any action that was barred by application of the period of limitations applicable before October 1, 2003.

The statute of limitations for a civil action requires that a civil action must be filed within three years from the date it accrues unless another statutory provision permits a different period of time within which an action can be commenced. The “discovery rule” is applicable generally in all actions, and the cause of action accrues when the claimant in fact knew or reasonably should have known of the wrong. *Poffenberger v. Risser*, 290 Md. 631 (1981).

If a cause of action accrues to a minor, the general three-year statute of limitations is tolled until the child reaches the age of majority. Thus, on becoming an adult at age 18, a child victim of a tort other than one involving sexual abuse is required to file the suit before the victim reaches age 21.

#### **BACKGROUND:**

In response to growing recognition of the long-term impact of child sexual abuse, approximately 45 states and the District of Columbia have enacted laws that specifically address the statute of limitations for actions to recover damages stemming from this type of abuse. The approaches vary by state, with the simplest and most direct approach extending the limitations period for a civil action based on child sexual abuse for a specified number of years.

A number of state statutes contain a general “discovery” rule that allows any civil claim to proceed within a specific number of years after the injury was or should have been discovered, even if the discovery occurs beyond the expiration of the period of limitations. Other states have a specific discovery rule that tolls the statute of limitations until the abused individual discovers or should have discovered that sexual abuse occurred and that the sexual abuse caused the individual’s injuries.

For example, Delaware allows a cause of action based upon the sexual abuse of a minor to be filed at any time if the cause of action is based upon sexual acts that would constitute a criminal offense under the Delaware Code. This statute of limitations applies to actions against perpetrators and actions for gross negligence by an employer of a perpetrator. However, in Arkansas, any civil action based on sexual abuse that occurred when the injured person was a minor (younger than age 18) must be brought by the later of (1) three years from when the person reaches age 21 or (2) three years from the injured person’s discovery of the effect of the injury or condition attributable to the childhood sexual abuse.



**FISCAL IMPACT:**

**State Effect:** Minimal increase in special fund expenditures for the State Insurance Trust Fund (SITF) that occur well into the future if the bill results in payments in MTCA cases that would not be allowed to proceed under existing statute. Revenues are not affected.

**Local Effect:** Depending on the cumulative value of claims or payments in cases against local governments awarded as a result of the bill, local expenditures may increase significantly, but not until well into the future. Revenues are not affected.

**Small Business Effect:** Potential meaningful impact on small business law firms that are allowed to litigate or proceed with cases as a result of the bill.

**ADDITIONAL INFORMATION:**

**Prior Introductions:** None.

**Cross File:** HB 642 (Delegate C. Wilson, et al.) - Judiciary. Also, SB 585 (Senator Young, et al. - Judicial Proceedings) is identical.

**COUNSEL:** April

# **EXHIBIT 17**

SB 505

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

Senate Bill 505

(Senator Kelley, *et al.*)

Judicial Proceedings

Judiciary

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Civil Actions - Child Sexual Abuse - Statute of Limitations and Required Findings

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This bill (1) expands the statute of limitations for an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor; (2) establishes a statute of repose for specified civil actions relating to child sexual abuse; and (3) exempts causes of action filed under the provisions of the bill from the notice of claim requirement under the Local Government Tort Claims Act (LGTC) and the submission of a written claim requirement, denial of claim requirement, and the statute of limitations under the Maryland Tort Claims Act (MTCA).

The bill may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017. The statute of repose created by the bill must be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017.

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Fiscal Summary

**State Effect:** Minimal increase in special fund expenditures for the State Insurance Trust Fund (SITF) that occur well into the future if the bill results in payments in MTCA cases that would not be allowed to proceed under existing statute. Revenues are not affected.

**Local Effect:** The bill is not expected to significantly affect local expenditures, as discussed below. Revenues are not affected.

**Small Business Effect:** Potential meaningful impact on small business law firms that are allowed to litigate or proceed with cases as a result of the bill.

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## Analysis

**Bill Summary:** An action for damages arising out of an alleged incident or incidents of sexual abuse, as defined in § 5-701 of the Family Law Article, that occurred while the victim was a minor must be filed (1) at any time before the victim reaches the age of majority or (2) within the later of 20 years after the date on which the victim reaches the age of majority or 3 years after the date that the defendant is convicted of a crime relating to the alleged incident or incidents under § 3-602 of the Criminal Law Article (sexual abuse of a minor) or the laws of another state or the United States that would be a crime under § 3-602 of the Criminal Law Article.

However, in an action brought more than seven years after the victim reaches the age of majority, damages may be awarded against a person or governmental entity that is not the alleged perpetrator of the sexual abuse only if (1) the person or governmental entity owed a duty of care to the victim; (2) the person or governmental entity employed or exercised some degree of responsibility or control over the alleged perpetrator; and (3) there is a finding of gross negligence on the part of the person or governmental entity. The bill defines "alleged perpetrator" as the individual alleged to have committed the specific incident or incidents of sexual abuse that serve as the basis of an action arising from alleged sexual abuse under § 5-117 of the Courts and Judicial Proceedings Article.

The bill establishes a "statute of repose" prohibiting a person from filing an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor against a person or governmental entity that is not the alleged perpetrator more than 20 years after the date on which the victim reaches the age of majority.

The bill exempts causes of action filed under the provisions of the bill from the notice of claim requirement under LGTCA and the submission of a written claim requirement, denial of claim requirement, and the statute of limitations under MTCA.

**Current Law:** Pursuant to Chapter 360 of 2003, an action for damages arising out of an alleged incident(s) of sexual abuse, as defined in § 5-701 of the Family Law Article, that occurred while the victim was a minor must be filed within seven years of the date that the victim attains the age of majority. The law is not to be construed to apply retroactively to revive any action that was barred by application of the period of limitations applicable before October 1, 2003.

The statute of limitations for a civil action requires that a civil action must be filed within three years from the date it accrues unless another statutory provision permits a different period of time within which an action can be commenced. The "discovery rule" is applicable generally in all actions, and the cause of action accrues when the claimant in SB 505/ Page 2

fact knew or reasonably should have known of the wrong. *Poffenberger v. Risser*, 290 Md. 631 (1981).

If a cause of action accrues to a minor, the general three-year statute of limitations is tolled until the child reaches the age of majority. Thus, on becoming an adult at age 18, a child victim of a tort other than one involving sexual abuse is required to file the suit before the victim reaches age 21.

*Section 5-701 of the Family Law Article:* Section 5-701 of the Family Law Article defines "sexual abuse" as any act that involves sexual molestation or exploitation of a child by a parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member. "Sexual abuse" includes (1) allowing or encouraging a child to engage in prostitution or specified activities involving obscene or pornographic photography; (2) human trafficking; (3) incest; (4) rape; (5) sexual offense in any degree; (6) sodomy; and (7) unnatural or perverted sexual practices.

*Section 3-602 of the Criminal Law Article:* Section 3-602 of the Criminal Law Article prohibits (1) a parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor from causing sexual abuse to the minor and (2) a household member or family member from causing sexual abuse to a minor. Violators are guilty of a felony, punishable by imprisonment for up to 25 years. A sentence imposed for this offense may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation of § 3-602 or a violation of § 3-601 of the Criminal Law Article (child abuse) involving an act of abuse separate from sexual abuse under § 3-602.

Section 3-602 defines "sexual abuse" as an act that involves sexual molestation or exploitation of a minor, whether physical injuries are sustained or not. "Sexual abuse" includes incest, rape, sexual offense in any degree, sodomy, and unnatural or perverted sexual practices.

*Maryland Tort Claims Act and Local Government Tort Claims Act:* In general, the State is immune from tort liability for the acts of its employees and cannot be sued in tort without its consent. Under MTCA, the State statutorily waives its own common law (sovereign) immunity on a limited basis. MTCA applies to tortious acts or omissions, including State constitutional torts, by State personnel performed in the course of their official duties, so long as the acts or omissions are made without malice or gross negligence. Under MTCA, the State essentially "...waives sovereign or governmental immunity and substitutes the liability of the State for the liability of the state employee committing the tort." *Lee v. Cline*, 384 Md. 245, 262 (2004). However, the State remains immune from liability for punitive damages.

SB 505/ Page 3

MTCA limits State liability to \$400,000 to a single claimant for injuries arising from a single incident. In actions involving malice or gross negligence or actions outside of the scope of the public duties of the State employee, the State employee is not shielded by the State's color of authority or sovereign immunity and may be held personally liable.

MTCA also contains specific notice and procedural requirements. A claimant is prohibited from instituting an action under MTCA unless (1) the claimant submits a written claim to the State Treasurer or the Treasurer's designee within one year after the injury to person or property that is the basis of the claim; (2) the State Treasurer/designee denies the claim finally; and (3) the action is filed within three years after the cause of action arises.

However, pursuant to Chapter 132 of 2015, a court, upon motion of a claimant who failed to submit a written claim to the State Treasurer or the Treasurer's designee within the one-year time period under MTCA, and for good cause shown, may entertain the claimant's action unless the State can affirmatively show that its defense has been prejudiced by the claimant's failure to submit the claim.

Pursuant to Chapter 623 of 2016, the submission of a written claim and denial of claim requirements do not apply if, within one year after the injury to person or property that is the basis of the claim, the State has actual or constructive notice of (1) the claimant's injury or (2) the defect or circumstances giving rise to the claimant's injury.

LGTC is the local government counterpart to MTCA. LGTC limits the liability of a local government to \$400,000 per individual claim and \$800,000 per total claims that arise from the same occurrence for damages from tortious acts or omissions (including intentional and constitutional torts). It further establishes that the local government is liable for tortious acts or omissions of its employees acting within the scope of employment, so long as the employee did not act with actual malice. A local government is not liable for punitive damages. Thus, LGTC prevents local governments from asserting a common law claim of governmental immunity from liability for such acts of its employees.

LGTC also specifies that an action for unliquidated damages may not be brought unless notice of the claim is given within one year after the injury. The notice must be in writing and must state the time, place, and cause of the injury. Unless the defendant can affirmatively show that its defense has been prejudiced by lack of required notice, upon motion and for good cause shown, the court may entertain the suit even though the required notice was not given. Chapter 624 of 2016 provides an exception to the notice requirements for claimants against local governments under specified circumstances. Chapter 624 establishes that the requirement to submit a written claim within one year after the injury does not apply if, within one year after the injury to person or property that is the basis of the claim, the defendant local government has actual or constructive notice of (1) the claimant's injury or (2) the defect or circumstances giving rise to the claimant's injury.

SB 505/ Page 4

*Limits on Liability for County Boards of Education:* County boards of education are not covered under LGTCA. However, a county board of education may raise the defense of sovereign immunity to any amount claimed above the limit of its insurance policy or, if self-insured or a member of an insurance pool, above \$400,000. A county board of education may not raise the defense of sovereign immunity to any claim of \$400,000 or less. A county board employee acting within the scope of employment, without malice and gross negligence, is not personally liable for damages resulting from a tortious act or omission for which a limitation of liability is provided for the county board, including damages that exceed the limitation on the county board's liability.

Each county board of education must carry comprehensive liability insurance to protect the board and its agents and employees. The purchase of this insurance is a valid educational expense. The State Board of Education must establish standards for these insurance policies, including a minimum liability coverage of not less than \$400,000 for each occurrence. The policies purchased must meet the standards established by the State Board of Education.

A county board complies with this requirement if it (1) is individually self-insured for at least \$400,000 for each occurrence under the rules and regulations adopted by the Insurance Commissioner or (2) pools with other public entities for the purpose of self-insuring property or casualty risks.

*Gross Negligence:* Gross negligence involves "an intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another, and also implies a thoughtless disregard of the consequences without the exertion of any effort to avoid them. Stated conversely, a wrongdoer is [liable] of gross negligence or acts wantonly and willfully only when he inflicts injury intentionally or is so utterly indifferent to the rights of others that he acts as if such rights did not exist." *Barbre v. Pope*, 402 Md. 157, 187 (2007) (citations omitted). Gross negligence is a level of neglect more egregious than simple negligence. *Holloway-Johnson v. Beall*, 220 Md. App. 195 (2014). However, "...a fine line exists between allegations of negligence and gross negligence." *Barbre* at 187. The existence of gross negligence depends on the facts and circumstances of the case. *Rodriguez v. State*, 218 Md. App. 573 (2014).

**Background:** In response to growing recognition of the long-term impact of child sexual abuse, approximately 45 states and the District of Columbia have enacted laws that specifically address the statute of limitations for actions to recover damages stemming from this type of abuse. The approaches vary by state, with the simplest and most direct approach extending the limitations period for a civil action based on child sexual abuse for a specified number of years.

A number of state statutes contain a general "discovery" rule that allows any civil claim to proceed within a specific number of years after the injury was or should have been discovered, even if the discovery occurs beyond the expiration of the period of limitations. Other states have a specific discovery rule that tolls the statute of limitations until the abused individual discovers or should have discovered that sexual abuse occurred and that the sexual abuse caused the individual's injuries.

For example, Delaware allows a cause of action based upon the sexual abuse of a minor to be filed at any time if the cause of action is based upon sexual acts that would constitute a criminal offense under the Delaware Code. This statute of limitations applies to actions against perpetrators and actions for gross negligence by an employer of a perpetrator. However, in Arkansas, any civil action based on sexual abuse that occurred when the injured person was a minor (younger than age 18) must be brought by the later of (1) three years from when the person reaches age 21 or (2) three years from the injured person's discovery of the effect of the injury or condition attributable to the childhood sexual abuse.

**State Expenditures:** Special fund expenditures increase minimally for litigation costs and SITF payments in cases brought and damages awarded as a result of the bill's provisions. However, given the prospective application of the bill and the likely length of time between when a civil action involving child sexual abuse arises and when it is filed, such expenditures are not likely to occur until well into the future. According to the Treasurer's Office, most of the cases involving sexual abuse involve resident-on-resident or inmate-on-inmate behavior, not an authority figure employed by the State. The Treasurer's Office reports that it did pay a claim in one case in 2010.

The Treasurer's Office advises that the bill's impact on SITF expenditures depends on the judicial interpretation of the findings required under the bill in order for damages awarded against a nonperpetrator under specified circumstances. As previously noted, one of the required findings is gross negligence on the part of a person or governmental entity. A State employee is personally liable (and may be sued personally) and is not covered under MTCA if his/her tortious actions were grossly negligent. The Department of Legislative Services (DLS) advises that given the volume of claims and payments in child sexual abuse cases, special fund expenditures increase minimally.

**Local Expenditures:** The bill is not expected to significantly affect local expenditures.

Some local governments covered under LGTCA obtain insurance coverage through the Local Government Insurance Trust (LGIT), a self-insurer that is wholly owned by its member local governments. LGIT's membership currently includes 17 counties, 144 municipalities, and 19 sponsored entities.



LGIT advises that because the types of causes of action affected by the bill are rarely filed against a local government employee or official, the bill has virtually no impact on local governments, including LGIT members.

As previously mentioned, local boards of education and their employees are not covered under LGTCA. The Maryland Association of Boards of Education (MABE) advises that based on information provided by its insurance program and some school system administrators, MABE does not anticipate significant increased liabilities arising from the bill. Based on this assessment, DLS advises that the bill's fiscal impact on local governments is minimal.

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#### Additional Information

**Prior Introductions:** None.

**Cross File:** HB 642 (Delegate C. Wilson, *et al.*) - Judiciary.

**Information Source(s):** Baltimore City; Harford, Prince George's, and Talbot counties; City of Bowie; Maryland State Treasurer's Office; Judiciary (Administrative Office of the Courts); *Maryland Law Encyclopedia*; Department of Legislative Services

**Fiscal Note History:** First Reader - February 13, 2017  
md/kdm Third Reader - March 22, 2017  
Revised - Amendment(s) - March 22, 2017

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Analysis by: Amy A. Devadas

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510

# **EXHIBIT 18**

SB 0505

Discussion of certain amendments in SB0505/818470/1

New Section 5-117(d) of the Courts and Judicial Proceedings Article provides a “statute of repose” for claims of sexual abuse 20 years after a plaintiff turns 18, but only for claims against governmental entities or persons other than the alleged perpetrators. This clarifies that although the alleged perpetrator might be sued after the victim turns 38, civil claims against the government or private entities could not be filed after the victim turns 38 (even if, for example, a perpetrator is convicted of child sexual abuse). Statutes of repose are related to statutes of limitations, and are used when the legislature balances various interests and determines an appropriate period of time after which liability for the defendant should no longer exist. A statute of limitations provides time during which a plaintiff may sue, whereas a statute of repose indicates time after which a defendant may not be sued. The Maryland legislature has enacted other statutes of repose, most notably in Section 5-108 of the Courts and Judicial Proceedings Article which creates a statute of repose for actions for contribution or indemnification relating to personal injury or wrongful death 20 years after a building is put into service. The statute of repose in § 5-108 specifically for architects, engineers, and contractors is only 10 years after a building is put into service.

The Amendments to Section 2 make the SB0505 apply retroactively in certain ways.

First, the amendment deletes the original language which limited SB0505 to apply only prospectively to actions arising after October 1, 2017. The original language would have provided additional time for alleged victims in the future but would not have provided any additional time to alleged victims of abuse in the past. The first sentence of Section 2 now makes clear, by adopting the same language used by the legislature in 2003 when the statute of limitations for sexual abuse claims was extended previously, that the bill will operate to extend the statute of limitations for claims that are not now barred by the applicable statute of limitations. That is, if someone is under 25 years old as of October 1, 2017, they will now have until their 38<sup>th</sup> birthday to file a claim regardless of how long ago in the past the abuse occurred. Such a “partial retroactive” application was upheld by the Maryland Court of Appeals in *Doe v. Roe*, 419 Md. 687 (2011) (applying the 2003 language to claim that had not yet been barred by limitations).

The second sentence of Section 2 makes clear that the statute of repose applies to any past claims relating to sexual abuse that are currently barred by the statute of limitations. That is, if someone is over 25 years old as of October 1, 2017, the statute of repose will apply and claims precluded by the statute of repose cannot be revived in the future. Although it appears that under the Maryland Constitution, the legislature could not revive a claim that is past the applicable statute of limitations, the second sentence of Section 2 confirms that the statute of repose applies retroactively to provide vested rights to defendants relating to claims that have already been barred by the statute of limitations. The second sentence of Section 2 has no impact on claims that have not yet been barred by limitations (e.g. anyone under 25 years old) and such claims can be brought at least until the plaintiff reaches 38 years old.

In sum, through SB0505 as amended, the legislature will substantially extend the time for filing a lawsuit for any victim under the age of 25 regardless of when the abuse occurred, while at the same time indicating that claims already barred by limitations will remain barred.

# **EXHIBIT 19**

# HOUSE BILL 687

D3, D4

9lr1025

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By: ~~Delegates Wilson, Atterbeary, Bromwell, and D.E. Davis~~ D.E. Davis, Moon, Lopez, Grammer, Bartlett, Crutchfield, McComas, R. Watson, Arian, Shetty, and W. Fisher

Introduced and read first time: February 7, 2019

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2019

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Civil Actions – Child Sexual Abuse – Definition and Statute of Limitations**  
3 **(Hidden Predator Act of 2019)**

4 FOR the purpose of altering the definition of “sexual abuse”; altering the statute of  
5 limitations in certain civil actions relating to child sexual abuse; repealing a certain  
6 definition; ~~providing for the application of this Act~~ providing for the retroactive  
7 application of this Act under certain circumstances; and generally relating to child  
8 sexual abuse.

9 BY repealing and reenacting, with amendments,  
10 Article – Courts and Judicial Proceedings  
11 Section 5–117  
12 Annotated Code of Maryland  
13 (2013 Replacement Volume and 2018 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
15 That the Laws of Maryland read as follows:

16 **Article – Courts and Judicial Proceedings**  
17 **5–117.**

18 (a) [(1) In this section the following words have the meanings indicated.

1 (2) "Alleged perpetrator" means the individual alleged to have committed  
2 the specific incident or incidents of sexual abuse that serve as the basis of an action under  
3 this section.

4 (3) "Sexual] **IN THIS SECTION, "SEXUAL abuse" has the meaning stated**  
5 ~~in § 5-701 of the Family Law Article~~ **MEANS ANY ACT THAT INVOLVES:**

6 (1) **ALLOWING OR ENCOURAGING A CHILD TO ENGAGE IN:**

7 (I) **OBSCENE PHOTOGRAPHY, FILMS, POSES, OR SIMILAR**  
8 **ACTIVITY;**

9 (II) **PORNOGRAPHIC PHOTOGRAPHY, FILMS, POSES, OR**  
10 **SIMILAR ACTIVITY; OR**

11 (III) **PROSTITUTION;**

12 (2) **INCEST;**

13 (3) **RAPE;**

14 (4) **SEXUAL OFFENSE IN ANY DEGREE;**

15 (5) **SODOMY; OR**

16 (6) **UNNATURAL OR PERVERTED SEXUAL PRACTICES.**

17 (b) An action for damages arising out of an alleged incident or incidents of sexual  
18 abuse that occurred while the victim was a minor [shall be filed:

19 (1) At any time before the victim reaches the age of majority; or

20 (2) Subject to subsections (c) and (d) of this section, within the later of:

21 (i) 20 years after the date that the victim reaches the age of  
22 majority; or

23 (ii) 3 years after the date that the defendant is convicted of a crime  
24 relating to the alleged incident or incidents under:

25 1. § 3-602 of the Criminal Law Article; or

26 2. The laws of another state or the United States that would  
27 be a crime under § 3-602 of the Criminal Law Article.

1 (c) In an action brought under this section more than 7 years after the victim  
2 reaches the age of majority, damages may be awarded against a person or governmental  
3 entity that is not the alleged perpetrator of the sexual abuse only if:

4 (1) The person or governmental entity owed a duty of care to the victim;

5 (2) The person or governmental entity employed the alleged perpetrator or  
6 exercised some degree of responsibility or control over the alleged perpetrator; and

7 (3) There is a finding of gross negligence on the part of the person or  
8 governmental entity.

9 (d) In no event may an action for damages arising out of an alleged incident or  
10 incidents of sexual abuse that occurred while the victim was a minor be filed against a  
11 person or governmental entity that is not the alleged perpetrator more than 20 years after  
12 the date on which the victim reaches the age of majority] **MAY BE FILED AT ANY TIME.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~may not be construed~~  
14 ~~to apply retroactively to revive any action that was barred by the application of the period~~  
15 ~~of limitation applicable before October 1, 2019~~ shall be construed to apply retroactively to  
16 revive any action that was barred by the application of the period of limitations applicable  
17 before October 1, 2019, if the action is filed before October 1, 2021.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2019.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.



# **EXHIBIT 20**

BRIAN E. FROSH  
ATTORNEY GENERAL

ELIZABETH E. HARRIS  
CHIEF DEPUTY ATTORNEY GENERAL

CAROLYN A. QUATTROCKI  
DEPUTY ATTORNEY GENERAL



SANDRA BENSON BRANTLEY  
COUNSEL TO THE GENERAL ASSEMBLY

KATHRYN M. ROWE  
DEPUTY COUNSEL

JEREMY M. MCCOY  
ASSISTANT ATTORNEY GENERAL

DAVID W. STAMPER  
ASSISTANT ATTORNEY GENERAL

THE ATTORNEY GENERAL OF MARYLAND  
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

CONFIDENTIAL  
March 16, 2019

The Honorable Kathleen M. Dumais  
313 House Office Building  
Annapolis, Maryland 21401-1991

Dear Delegate Dumais:

You have asked for advice concerning House Bill 687, "Civil Actions - Child Sexual Abuse - Definitions and Statute of Limitations (Hidden Predator Act of 2019) with the amendments proposed by the Judiciary Committee. Specifically, you have asked for advice as to whether portions of the amendments repealing existing Courts and Judicial Proceedings Article ("CJ"), § 5-117(d) and the addition of language permitting cases that are already barred by past statutes of limitations to be brought within the two year window between the effective date of the bill and October 1, 2021 are constitutional. It is my view that these provisions would most likely be found unconstitutional as interfering with vested rights as applied to cases that were covered by CJ § 5-117(d) and Section 3 of Chapter 12 of 2017.<sup>1</sup>

The provision in question, CJ § 5-117(d), was enacted as Chapter 12 by House Bill 642 of 2017. Subsection (d) provides:

In no event may an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor be filed against a person or a governmental entity that is not the alleged perpetrator more than 20 years after the date on which the victim reaches the age of majority.

The difference between a statute of repose and a statute of limitations is that the former provides "an absolute bar to an action or a grant of immunity to a class of potential defendants after a designated time period," while a statute of limitations is a "procedural device that operates as a defense to limit the remedy available from an existing cause of action." *SVF Riva Annapolis*

<sup>1</sup> In a letter to The Honorable Luke Clippinger March 12, 2019, I advised the constitutional status of retroactive application of the bill as amended was not clear, but that it could possibly be upheld. This is essentially the same advice I gave to then Chairman Frosh in 2003. I admit, however, that I was unaware of Chapter 12 of 2017 which has the effect of making CJ § 5-117(d) a statute of repose rather than a statute of limitation. A copy of the Clippinger letter is attached.

The Honorable Kathleen M. Dumais  
March 16, 2019  
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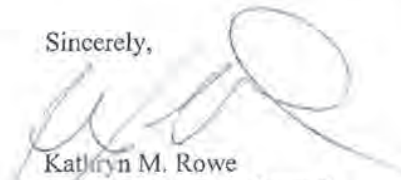
*v. Gilroy*, 459 Md. 632 (2018).<sup>2</sup> The relevance of this difference with respect to House Bill 687 is that the substantive right of the protected class would most likely be deemed a vested right “to be free from liability after a legislatively-determined period of time.” *Carven v. Hickman*, 135 Md. App. 645, 652 (2000).

The Court of Appeals has noted that “there are overlapping features of statutes of limitations and statutes of repose, and definitions aplenty from which to choose,” and that there is “no hard and fast rule to use as a guide.” *Anderson v. United States*, 427 Md. 99, 123 (2012). Rather, it is necessary to “look holistically at the statute and its history to determine whether it is akin to a statute of limitation or a statute of repose.” *Id.* at 124.

Black’s Law Dictionary defines “statute of limitations” as a “law that bars claims after a specified period ... a statute establishing a time limit for suing in a civil case, based on the date when the claim accrued (as when the injury occurred or was discovered),” while it defines a statute of repose as a “statute barring any suit that is brought after a specified time since the defendant acted (such as by designing or manufacturing a product), even if this period ends before the plaintiff has suffered a resulting injury.” Black’s Law Dictionary 1546 (9th ed. 2009), cited in *Anderson*, 427 Md. at 117; *see also id.* at 118-119. This difference does not hold with CJ § 5-117(d), which has a limitation of time identical to the statute of limitations found in CJ § 5-117(b)(2), and runs, as statutes of limitations applying to minors generally do, from the time the victim reaches the age of majority. CJ § 5-201(a).

Nevertheless the provision must be read as a statute of repose for at least two reasons. First, by saying that “in no event” may an action be filed more than twenty years after the victim reaches the age of majority, the statute shows an intent to provide the type of absolute bar to an action provided by a statute of repose. *Anderson*, 427 at 118. Moreover, and arguably more importantly, Section 3 of the bill refers to the subsection as providing “repose to defendants regarding actions that were barred by the period of limitations applicable before October 1, 2017.” In contrast, Section 2 of Chapter 360 of 2003, which originally extended the statute of limitations said only that “[t]his Act may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2003.” Identical language appeared in Section 2 of Chapter 12 of 2017.

Sincerely,



Kathryn M. Rowe  
Assistant Attorney General

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<sup>2</sup> The Court further stated “Statutes of limitations are motivated by ‘considerations of fairness’ and are ‘intended to encourage prompt resolution of disputes’ by providing a means of disposing of stale claims. Statutes of repose are motivated by ‘considerations of the economic best interests of the public as a whole and are substantive grants of immunity based on a legislative balance of the respective rights of potential plaintiffs and defendants.’” *SVF*, 459 Md. at 637.

# **EXHIBIT 21**



BRIAN E. FROSH  
ATTORNEY GENERAL

ELIZABETH F. HARRIS  
CHIEF DEPUTY ATTORNEY GENERAL

CAROLYN A. QUATTROCKI  
DEPUTY ATTORNEY GENERAL



SANDRA BENSON BRANTLEY  
COUNSEL TO THE GENERAL ASSEMBLY

KATHRYN M. ROWE  
DEPUTY COUNSEL

JEREMY M. MCCOY  
ASSISTANT ATTORNEY GENERAL

DAVID W. STAMPER  
ASSISTANT ATTORNEY GENERAL

THE ATTORNEY GENERAL OF MARYLAND  
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

June 23, 2021

The Honorable William C. Smith, Jr.  
2 East Miller Senate Office Building  
Annapolis, Maryland 21401-1991

Dear Senator Smith:

You have asked for advice concerning Senate Bill 134 and House Bill 263 of 2021, "Civil Actions - Child Sexual Abuse - Definition and Statute of Limitations." You have asked generally about the constitutionality of the bills and have raised specific questions. Your questions and the answers thereto appear below.

The bills would have revised the definition of the term "sexual abuse," in Courts and Judicial Proceedings Article ("CJ"), § 5-117(a). They would also have deleted the current statute of limitation for sexual abuse of a minor, which requires that an action be brought before the victim reaches the age of majority or within the later of 20 years after the date the victim reaches the age of majority or 3 years after the defendant is convicted of a crime under Criminal Law Article, § 3-602 or an equivalent law in another jurisdiction. CJ § 5-117(a). The bills would also repeal provisions of current law that bar the award of damages against a person or government entity who is not the perpetrator more than seven years after the victim reaches the age of majority unless the person or governmental entity owed a duty of care to the victim, employed the perpetrator or exercised some degree of control over them, and there is a finding of gross negligence by the person or governmental entity, CJ § 5-117(c), and that bar the filing of an action for damages against a person or governmental entity that is not the perpetrator more than 20 years after the victim reaches the age of majority. CJ § 5-117(d). In the place of the current statute of limitation, the bills would provide that an action for damages for sexual abuse of a minor "may be filed at any time."

I have previously advised that eliminating a statute of limitation in this way may or not be unconstitutional, but that it was possible that retroactive application to barred cases could be found to violate the due process requirements of the Maryland Constitution. This conclusion is based on the fact that courts around the country have reached differing conclusions with respect to this question, and that the Maryland Court of Appeals had not yet addressed the issue. Letter to the Honorable Luke Clippinger from Kathryn M. Rowe, Assistant Attorney General, dated March 12, 2019; Letter to the Honorable Brian E. Frosh from Kathryn M. Rowe, Assistant Attorney General, dated March 10, 2003. This remains the state of the law. Thus, to the extent that the bill would

simply eliminate the statute of limitations without reference to whether the cause of action is already barred, it is not clearly unconstitutional.

The bills would also repeal uncodified sections of Chapter 12 of the Acts of 2017, and enact two new uncodified sections. The repealed sections from the 2017 legislation stated that the Act “may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017,” and that “the statute of repose under § 5-117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017.”

The new uncodified sections would provide that the bills “shall be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2021, if the action is filed before October 1, 2023,” and would further provide that “if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.”

Your specific questions relate to the repeal of the uncodified sections and the new language granting a “lookback window” during which an action could be brought with respect to matters that had been barred under previous law.

1) If there is a statute of repose, could the court find the bill constitutional because the lookback window under Section 2 is limited to 2 years?

As a preliminary matter, it seems clear that there is a statute of repose. The difference between a statute of repose and a statute of limitations is that the former provides “an absolute bar to an action or a grant of immunity to a class of potential defendants after a designated time period,” while a statute of limitations is a “procedural device that operates as a defense to limit the remedy available from an existing cause of action.” *SVF Riva Annapolis v. Gilroy*, 459 Md. 632 (2018). Courts and Judicial Proceedings Article, § 5-117(d) should be read as a statute of repose for at least two reasons. First, by saying that “in no event” may an action be filed more than twenty years after the victim reaches the age of majority, the statute shows an intent to provide the type of “absolute bar” to an action provided by a statute of repose. *Anderson v. United States*, 427 Md. 99, 118 (2012). Moreover, and arguably more importantly, the language of Section 3 of the bill refers to “the statute of repose under § 5-117(d) of the Courts Article” as providing “repose to defendants regarding actions that were barred by the period of limitations applicable before October 1, 2017.”

Cases looking at similar statutes of repose have found that they grant a vested right against suit. In *Anderson v. Catholic Bishop of Chicago*, 759 F.3d 645, 648 (7th Cir. 2014), the court concluded that a statute of repose very similar to Maryland’s created a vested right against suit “and that claims time-barred under the old law therefore remained time-barred even after the repose period was abolished in the subsequent legislative action.” *Id.* at 648 (“but in no event may

an action for personal injury based on childhood sexual abuse be commenced more than 12 years after the date on which the person abused attains the age of 18 years.”). In *Doe H.B. v. M.J.*, 482 P.3d 596 (Kan. App. 2021), the Court held that “[w]hen the timeframe in a statute of repose expires, the claim is absolutely abolished as a matter of law, even if the claim has not yet accrued under the relevant statute of limitations.” *Id.* at 605, *see also Doe v. Popravak*, 421 P.3d 760 (Kan. App. 2017) (“[T]he legislature cannot revive a legal claim barred by a statute of repose because doing so would constitute taking the potential defendant’s property (the vested right) without due process.”). While Maryland courts have not addressed the meaning of this particular statute of repose, the Court of Special Appeals has said that a statute of repose “creates a substantive right in those protected to be free from liability after a legislatively-determined period of time,” which is “typically an absolute time limit beyond which liability no longer exists and is not tolled for any reason.” *Carven v. Hickman*, 135 Md. App. 645 (2000), citing *First United Methodist Church of Hyattsville v. United States Gypsum Co.*, 882 F.2d 862, 866 (4th Cir.1989).

In light of the widely held view that a statute of repose grants a substantive right to be free of liability after the passage of a set amount of time, I find it unlikely that a court would find a that a change in the law creating a new two year period during which a person would be once again liable to be sued did not violate the vested right created by the passage of the statute of repose.

2) If § 5-117 of the Courts Article does not contain a statute of repose, could the courts still find that the bills are unconstitutional?

If CJ § 5-117(d) is not a statute of repose, it would presumably be treated like a statute of limitations. As discussed above, states are split on whether a person has a vested right in a statute of limitations that has run. In light of that, if CJ § 5-117(d) is found to only be a statute of limitations, the bills could be found to be constitutional.

3) Is there a constitutional issues with the lookback window contained in Section 2, as applied to government entities?

Section 2, the lookback window, provides that the bills “shall be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2021, if the action is filed before October 1, 2023.” Unlike other persons, government entities have no vested rights that they can assert against the action of a State law. The Court of Appeals addressed this issue with respect to a law that extended the period of limitations for suits against counties and municipalities in *Mayor and Council of Hagerstown v. Sehner*, 37 Md. 180 (1872):

All the cases to which we have been referred, or our own researches have disclosed, are suits or actions between individuals, and all the legislation declared null and void on this ground, has been such as operated directly upon and divested rights vested in private persons or private corporations. Such is not the character or effect of the law here assailed. It is not directed against individuals or private corporations. It applies to the counties, incorporated towns and cities of the State, and to all of them. Between these public bodies and private citizens, there is a wide

and substantial distinction, with respect to vested rights protected from legislative power. They are public corporations created by the Legislature for political purposes, with political powers, to be exercised for purposes connected with the public good, in the administration of civil government.

They are instruments of government subject at all times to the control of the Legislature with respect to their duration, powers, rights and property. It is of the essence of such a corporation, that the government has the sole right as trustee of the public interest, at its own good will and pleasure, to inspect, regulate, control and direct the corporation, its funds and franchises.

Id. at 192-193. In short, it is my view that the General Assembly has the authority to change a statute of limitation or a statute of repose to allow suits against government entities which had previously been barred.

4) You have also asked that I discuss the severability clause.

The severability clause is found in Section 3 of the bills and provides that:

if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

General Provisions Article (“GP”), § 1-210 provides:

(a) Except as otherwise provided, the provisions of all statutes enacted after July 1, 1973, are severable.

(b) The finding by a court that part of a statute is unconstitutional or void does not affect the validity of the remaining portions of the statute, unless the court finds that the remaining valid provisions alone are incomplete and incapable of being executed in accordance with the legislative intent.

The Court of Appeals has stated that this provision “appears to be merely a codification of the common law principle that courts presume that an enactment is severable unless it appears that the legislative body intended otherwise.” *Anne Arundel County v. Bell*, 442 Md. 539, 569 n. 18 (2015), citing *Park v. Board of Liquor License Com'rs for Baltimore City*, 338 Md. 366, 382 (1995); *Board of Supervisors of Elections of Anne Arundel Co. v. Smallwood*, 327 Md. 220, 245-46 (1992). The Article Review Committee for the General Provisions Article, however, expressed the view that the “language of the Maryland statute appears tougher than the test set forth in case law,” which was “probably deliberately intended.” Revisor’s Note to GP § 1-210. The Revisor’s Note also makes reference to the fact that “courts sometimes ignore severability clauses and apply



The Honorable William C. Smith, Jr.  
June 23, 2021  
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their own tests.” *Id.* Nevertheless, where there is a concern that one or more provision of a bill may be found to be unconstitutional it is probably advisable to include a severability clause.

In this case, a severability clause could help save the changes in the definition of the term “sexual assault,” as well as the application of the elimination of the statute of limitations and the statute of repose to cases that were not yet barred at the time of the passage of the bill.

Sincerely,



Kathryn M. Rowe  
Assistant Attorney General

KMR/kmr  
smith05

# **EXHIBIT 23**

ANTHONY G. BROWN  
Attorney General



CANDACE McLAREN LANHAM  
Chief of Staff

CAROLYN A. QUATTROCKI  
Deputy Attorney General

STATE OF MARYLAND  
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

February 22, 2023

The Honorable William C. Smith, Jr.  
Chair, Judicial Proceedings Committee  
2 East Miller Senate Office Bldg.  
Annapolis, Maryland 21401

**Re: *Senate Bill 686 – Civil Actions – Child Sexual Abuse – Definition, Damages, and Statute of Limitations (The Child Victims Act of 2023)***

Dear Chair Smith:

Considering the number of times the Office of the Attorney General has weighed in on the constitutionality of previous legislation intended to provide victims of child sexual abuse a meaningful opportunity to hold wrongdoers accountable, I send this letter to confirm our view that Senate Bill 686, The Child Victims Act of 2023, is not clearly unconstitutional. If the General Assembly chooses to pass this legislation and it is enacted, I am comfortable defending the legislation should it be challenged in court.

No Maryland case is directly on point about the constitutional issue Senate Bill 686 raises. A law review article could be written evaluating the facets of the issue. As intellectually interesting as the debate is, however, the victims of childhood sexual abuse are forefront in my mind, along with my constitutional obligations to provide sound legal advice to State officials and to defend State laws. I have reviewed the various past letters of advice from the Office of the Attorney General as well as legal evaluations from others. The materials contain well-researched analyses and reach a reasonable difference of prediction as to how the Maryland Supreme Court would decide the issue. Accordingly, I conclude that, as Attorney General, I can make a good faith defense of the constitutionality of Senate Bill 686.

Several aspects of the issue are worth summarizing here. The primary issue is whether allowing a victim of child sexual abuse to file a civil action for sexual abuse at any time without limitation and without regard to previous time limitations, including any previously barred action, impairs a vested right. The answer turns in large part on whether Chapter 12, 2017 Laws of Maryland extended the statute of limitations for such claims or, alternatively, enacted a statute of repose.

The State's highest court has explained that a statute of limitations is "a statute establishing a time limit for suing in a civil case, based on the date when the claim accrued (as when the injury occurred or was discovered)." *Anderson v. United States*, 427 Md. 99, 117 (2012) (quoting Black's Law Dictionary 1546 (9th ed. 2009)). Statutes of limitations are not substantive and can be tolled for reasons such as fraudulent concealment. *Id.* On the other hand, a statute of repose is a "statute barring any suit that is brought after a specified time since the defendant acted (such as by designing or manufacturing a product), even if this period ends before the plaintiff has suffered a resulting injury." *Id.* "The purpose of a statute of repose is to provide an absolute bar to an action or to provide a grant of immunity to a class of potential defendants after a designated time period." *Id.* at 119. *See also Craven v. Hickman*, 135 Md. App. 645, 653 (2000) (noting that a statute of repose "is a substantive grant of immunity derived from a legislative balance of economic considerations affecting the general public and the respective rights of potential plaintiffs and defendants").

Before Courts and Judicial Proceedings Article ("CJP"), § 5-117 was amended by Chapter 12 (House Bill 642) in 2017, there was no question it was a statute of limitations. *See Doe v. Roe*, 419 Md. 687, 703 (2011) (confirming that the statute was procedural and remedial). Moreover, as introduced, there is little doubt that the legislative intent of House Bill 642 was to extend the limitations to allow victims more time to bring civil claims. Thus, if the bill was intentionally changed during the legislative process to become a statute of repose, we would have to conclude that the General Assembly intended to immunize from liability, solely by the passage of time, persons who owed a duty of care to the victims and were grossly negligent, even if those persons concealed their negligence.

On the contrary, a concealment would likely toll a statute of limitations. *See Poffenberger v. Risser*, 290 Md. 631, 637 (1981) (holding that to "activate the running of limitations [it must be proven that the plaintiff had] actual knowledge—that is express cognition, or awareness implied from 'knowledge of circumstances which ought to have put a person of ordinary prudence on inquiry'"). Moreover, the legislature can extend statutes of limitations without concern about impacting substantive rights, and usually apply it retroactively. *Doe*, 419 Md. at 703.

While there is reason to doubt that the legislature intended to give any class of persons immunity from liability for their culpability in child sexual abuse after a certain time, we cannot ignore the arguments there was such intent. First, CJP § 5-117(d) states that "in no event" may an action be filed more than twenty years after the victim reaches the age of majority, which is the wording that is often used to establish the type of absolute bar to an action provided by a statute of repose. In addition, Section 3 of Chapter 12 refers to the subsection as providing "repose to defendants regarding actions that were barred by the period of limitations applicable before October 1, 2017."

Even if the 2017 enactment was intended to create a statute of repose, an elimination of a statute of repose may not impair a vested right in all cases. In 1991, the General Assembly amended CJP § 5-108, which is clearly a statute of repose, to add exceptions for asbestos claims. Citing to a 1990 letter of advice, the Attorney General's bill review letter for the 1991 legislation (Senate Bill 335) stated that "[w]e have previously advised that the statute of repose may be altered retroactively without violating due process." The 1990 letter noted that Maryland's highest court

would analyze whether the retroactive application would “divest or adversely affect vested rights.” See Letter to the Honorable David B. Shapiro from Asst. Att’y Gen. Kathryn M. Rowe, Feb. 15, 1990. Because the Maryland case law on vested rights was scant at the time, the letter cited cases from other jurisdictions that looked at, among other things, the public interest served by the statute. The letter concluded CJP § 5-108 created no vested rights. The asbestos carve outs are still good law today.

In the 23 years since that letter was written, however, Maryland case law on vested rights has developed. A retrospective application of a limitations period may impair a vested right in some circumstances. The Maryland Supreme Court has pointed out that it “consistently held that the Maryland Constitution ordinarily precludes the Legislature (1) from retroactively abolishing an accrued cause of action, thereby depriving the plaintiff of a vested right, and (2) from retroactively creating a cause of action, *or reviving a barred cause of action, thereby violating the vested right of the defendant.*” *Dua v. Comcast Cable*, 370 Md. 604, 833 (2002) (emphasis added). See also *Muskin v. State Dept. of Assessments & Taxation*, 422 Md. 544, 556-57 (2011) (announcing that “[i]t has been firmly settled by this Court’s opinions that the Constitution of Maryland prohibits legislation which retroactively abrogates vested rights. No matter how ‘rational’ under particular circumstances, the State is constitutionally precluded from abolishing a vested property right or taking of a person’s property and giving it to someone else.”).

The *Dua* and *Muskin* cases, however, did not involve the revival of a cause of action. And courts in other states have upheld retroactive extensions of the statute of limitations for child sexual abuse, largely relying on the compelling public interest. See, e.g., *Sliney v. Previte*, 41 N.E.3d 732 (Mass. Sup. 2015) and *Doe v. Hartford Roman Catholic Diocesan Corp.*, 119 A.3d 462 (Conn. 2015). Moreover, in *Doe v. Roe*, the Maryland Supreme Court recognized that “an extended period of time during which alleged victims of child sexual abuse may seek redress in the courts ‘improves’ the child’s right to seek compensation for the alleged wrongs committed against him or her.” 419 Md. at 703. Consequently, while it is possible that Senate Bill 686’s retrospective reach to time barred actions would be found to be unconstitutional, it is not a given that would be the outcome. It is an open question. *Id.* at 707 (making clear that the case at hand addressing retroactivity did not involve time barred claims and thus, “[b]ecause we are not presented with that scenario, we express no holding regarding the applicability of § 5-117 to child sexual abuse claims barred under the three-year statute as of 1 October 2003, the effective date of the new statute”).

In summary, it is our view that Senate Bill 686 is not clearly unconstitutional. If the General Assembly chooses to provide victims of child sexual abuse an expanded chance for justice, I can in good faith defend the legislation should it be challenged in court.

Sincerely,

A handwritten signature in black ink, appearing to read "A.G. Brown". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Anthony G. Brown

# **EXHIBIT 24**





ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

**Testimony to the Senate Judicial Proceedings Committee  
Re: Senate Bills 505 and 585  
Child Sexual Abuse - Statute of Limitations and Required Findings  
February 14, 2017**

**Statement of Information**

The Maryland Catholic Conference represents the mutual public policy interests of the three dioceses serving Maryland, including the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington. We offer this testimony as informational background regarding Senate Bills 505 and 585, which we neither support nor oppose.

At the outset, we wish to acknowledge the tremendously painful and emotional nature of the issue of child sexual abuse, the courage of those who advocate for changes in the law regarding the civil statute of limitations for cases involving child sexual abuse, and our sorrow for all those who have suffered this travesty through contact with anyone involved with the Catholic Church. Regardless of the measures now in place in our institutions to prevent child sexual abuse from ever taking place again, and the very low incidence of current abuse in our institutions, we recognize these measures cannot erase or excuse the terrible harms incurred in the past.

We continue to maintain, however, that the current extension of the statute to seven years past the age of majority (age 25) is an established, fair, and agreed upon resolution, and that there is no need to change the current law. That being said, as currently written, Senate Bill 505 and Senate Bill 585 reflect positive changes from past legislation introduced to change the existing statute of limitations – bills that the Church has consistently opposed.

First and foremost, unlike past bills that only target private institutions, Senate Bill 505 and Senate Bill 585 take some steps to reduce the law's inequitable treatment of public and private institutions, in recognition of the fact that the incidence of child sexual abuse is by no means limited to private institutions. While caps on damages against public institutions would still remain, these bills would at least remove onerous notice requirements and very short limitations periods that apply only to claims against public institutions. It is patently unfair to hold private institutions to a different standard of accountability and bar survivors of abuse in public institutions from the same treatment as those harmed in private institutions. Senate Bill 505 and Senate Bill 585 would reduce this disparity, thereby lessening one of the major objections the Church has raised to earlier bills.

Secondly, similar to bills introduced in the past, Senate Bill 505 and Senate Bill 585 propose to extend the statute of limitations far beyond the period of time civil law ordinarily allows for filing a claim against a defendant. Our past opposition to such bills rests in part on the concern that such a lengthy extension of the statute of limitation undermines fairness in the judicial process. Statutes of limitations exist in order to provide a defendant a fair opportunity to

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gather evidence, bring forward witnesses, and access accounts based on recent memory. The longer the statute of limitation, the more these interests are strained. This is particularly the case in the context of civil claims, where the burden of proof is less stringent than the “beyond a reasonable doubt” standard applicable in criminal cases. Such claims would certainly be subject to overwhelming problems regarding faded memories, missing evidence, and missing or deceased witnesses. In civil lawsuits brought decades after an alleged event occurs, a defendant who has lost the evidence that would have supported its defense may stand little chance.

Senate Bill 505 and Senate Bill 585, however, also differ significantly from past bills in that they establish distinct parameters for extending the statute, both by distinguishing between cases brought against a perpetrator and an institution, and by raising the standard of evidence necessary in order to bring a suit forward against an institution. Again, while we do not believe it is necessary to change the law, and remain concerned about the significant extension of the statute as provided in these bills, we acknowledge that the provisions included in these bills that are contingent on extending the statute at least impose a fairer application of the law than past legislative proposals.

In sum, we do not oppose Senate Bill 505 and Senate Bill 585 in their current form, since they afford private institutions the bare minimum of due process and a greater measure of parity between the treatment of public and private institutions. We would however, strongly oppose any alteration to these bills that would align them more closely with bills that have been introduced in the past. In particular, we are vigorously opposed to any amendment to Senate Bill 505 or Senate Bill 585 that would apply the bills retrospectively, allowing causes of action from the distant past to be brought forward, claims against which private institutions would be unable to reasonably defend themselves.

#### **Catholic Church Child Protection Policies in Maryland**

The Catholic Church remains committed to responding promptly to all credible allegations of sexual abuse – regardless of when they may have occurred – by 1) reporting them immediately to appropriate authorities; 2) responding to the reporter with outreach and assistance toward healing; and 3) widely publicizing notification of the allegation to affected communities. We believe this step of providing notification is essential, not only to protect others from potential harm, but also to assist any other victims who may have been harmed by the identified perpetrator to seek help from available counselors and law enforcement.

In addition to these reporting procedures, the Catholic Church, like many other institutions serving children, observes stringent child protection measures in all of its parishes, diocesan schools and youth programs. Our institutions provide comprehensive awareness training to educate both adults and children on how to recognize predatory behaviors, and conduct mandatory criminal background checks on all employees and volunteers who work with children. We stand ready to support any legislative measure that might come before you to promote these efforts. *(See attached summary of the Church’s child protection measures.)*



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# Child Protection Policies Observed

## *by the* Catholic Church in Maryland

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**C**hild sexual abuse is sadly a tragedy that affects every sector of society. As the Church has come to grips with the need to acknowledge and root out the scourge of child sexual abuse within our own institution, we have worked diligently to put into place stringent policies upholding the goals of prevention, accountability, transparency, and healing. The harm done to abuse survivors is a shame the Church must never forget, and never cease to work to prevent from ever happening again.

In accordance with the policies of the Charter for the Protection of Children promulgated by the U.S. Conference of Catholic Bishops in 2002, the three (arch)dioceses serving Maryland, including the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington, have long been committed to enacting and enforcing local child protection policies that go far beyond the practices required by law of all child-serving institutions in Maryland. The following summary highlights many of these practices.

## Prevention

All three (arch)dioceses have comprehensive child protection policies in place, and observe stringent screening measures to ensure a safe environment for the children in our care:

- All employees and volunteers with substantial contact with children undergo mandated criminal background checks through either fingerprinting or electronic background checks. Since 2002, the Archdiocese of Baltimore alone has conducted more than 137,000 screenings. Similarly the Archdiocese of Washington has conducted 111,258 screenings since 2003, and the Diocese

of Wilmington has screened more than 21,000 individuals.

- All employees and volunteers with substantial contact with children are required to participate in training regarding the prevention, recognition, and reporting of suspected child abuse.

- All students participate in age-appropriate abuse prevention education. More than 42,000 children participate annually in the Archdiocese of Baltimore and more than 38,000 in the Archdiocese of Washington.

## LEARN MORE

For more detailed information, consult the (arch)diocesan websites:

- **Archdiocese of Baltimore**

*Office of Child and Youth Protection*  
**www.archbalt.org**

- **Archdiocese of Washington**

*Child Protection Office*  
**www.adw.org**

- **Diocese of Wilmington**

*Charter for the Protection of Children*  
**www.cdow.org**



## Accountability

The three (arch)dioceses are committed to maintaining vigilant oversight of our institutions, employees and volunteers, and employ both internal and external measures to uphold strict standards of accountability:

- Every incident of suspected child abuse is reported immediately to civil authorities, even if the survivor is currently over the age of 18 or the perpetrator is deceased.
- Anyone credibly accused of suspected child abuse is immediately and permanently removed from ministry or employment, regardless of whether civil authorities pursue a criminal prosecution.
- The (arch)dioceses undergo an independent audit of their child protection policies and practices annually to ensure compliance with the Charter for the Protection of Children. All three dioceses have been found to be in full compliance every year.
- The (arch)diocesan child protection policies and abuse allegations are also supervised by independent review boards whose members include many non-Catholics.
- The (arch)dioceses maintain a hotline or publicly provide the contact information of a victims assistance coordinator so that survivors or others can promptly report abuse and receive immediate pastoral care.

## Transparency

While current Maryland law requires immediate reporting of any incident of suspected child abuse, the three (arch)dioceses have taken action that goes far beyond the requirements of the law to be open and honest about cases of abuse within our institutions:

- In addition to reporting suspected abuse to civil authorities, the three (arch)dioceses publicize the names of individuals credibly accused of child sexual abuse through parish or school communications and actively encourage other potential survivors to come forward.
- In 2002 the Archdioceses of Baltimore and

Washington led the nation by publicly disclosing the names of priests who had been credibly accused of abuse since the 1950s.

- The Diocese of Wilmington also posts a list of credibly accused abusers on its website.
- The three (arch)dioceses also provide a public report of the annual child protection audit conducted by an independent reviewer.

## Healing/Reconciliation

In spite of the passage of time and the stringent procedures now in place to ensure the safety of children, we must never forget the pain of our actions and inactions or the damage that they caused. The pain caused to the survivors of sexual abuse can never be erased, but the Church remains committed to doing all we can to alleviate their suffering and that of their families.

- The three (arch)dioceses voluntarily offer any survivor who comes forward free counseling with a therapist of his or her choosing for as long as it is needed. The (arch)diocese often offers assistance to other family members as well.
- The bishops in each (arch)diocese also offer to meet with each survivor, and to extend a personal and sincere apology for the harm they have suffered.
- Regardless of the requirements of law, the (arch)dioceses have provided compensation to survivors through negotiated settlements.
- The Archdiocese of Baltimore has provided more than \$8.4 million in settlements since the 1980s through insurance-designated funds, and \$3.6 million in counseling and assistance to survivors and their families.
- The Archdiocese of Washington has provided \$2 million in settlements and assistance since 2003, and \$7.5 million since its founding.
- After the state of Delaware passed a law temporarily lifting the statute of limitations for filing civil suits involving child sexual abuse, the Diocese of Wilmington was forced to spend tens of millions of dollars in attorneys' fees and to eliminate millions of dollars in support the Diocese provided to community outreach and its schools.

# **EXHIBIT 25**





ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

**Testimony to the House Judiciary Committee  
Re: House Bill 642  
Child Sexual Abuse - Statute of Limitations and Required Findings  
February 23, 2017**

**Statement of Information**

The Maryland Catholic Conference represents the mutual public policy interests of the three dioceses serving Maryland, including the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington. We offer this testimony as informational background regarding House Bill 642, which we neither support nor oppose.

At the outset, we wish to acknowledge the tremendously painful and emotional nature of the issue of child sexual abuse, the courage of those who advocate for changes in the law regarding the civil statute of limitations for cases involving child sexual abuse, and our sorrow for all those who have suffered this travesty through contact with anyone involved with the Catholic Church. Regardless of the measures now in place in our institutions to prevent child sexual abuse from ever taking place again, and the very low incidence of current abuse in our institutions, we recognize these measures cannot erase or excuse the terrible harms incurred in the past.

We continue to maintain, however, that the current extension of the statute to seven years past the age of majority (age 25) is an established, fair, and agreed upon resolution, and that there is no need to change the current law. That being said, as currently written, House Bill 642 reflects positive changes from past legislation introduced to change the existing statute of limitations – bills that the Church has consistently opposed.

First and foremost, unlike past bills that only target private institutions, House Bill 642 takes some steps to reduce the law's inequitable treatment of public and private institutions, in recognition of the fact that the incidence of child sexual abuse is by no means limited to private institutions. While caps on damages against public institutions would still remain, this bill would at least remove onerous notice requirements and very short limitations periods that apply only to claims against public institutions. It is patently unfair to hold private institutions to a different standard of accountability and bar survivors of abuse in public institutions from the same treatment as those harmed in private institutions. House Bill 642 would reduce this disparity, thereby lessening one of the major objections the Church has raised to earlier bills.

Secondly, similar to bills introduced in the past, House Bill 642 proposes to extend the statute of limitations far beyond the period of time civil law ordinarily allows for filing a claim against a defendant. Our past opposition to such bills rests in part on the concern that such a lengthy extension of the statute of limitation undermines fairness in the judicial process. Statutes of limitations exist in order to provide a defendant a fair opportunity to gather evidence,

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House Bill 642, however, also differs significantly from past bills in that they establish distinct parameters for extending the statute, both by distinguishing between cases brought against a perpetrator and an institution, and by raising the standard of evidence necessary in order to bring a suit forward against an institution. Again, while we do not believe it is necessary to change the law, and remain concerned about the significant extension of the statute as provided in these bills, we acknowledge that the provisions included in this bill that are contingent on extending the statute at least impose a fairer application of the law than past legislative proposals.

In sum, we do not oppose House Bill 642 in its current form, since it affords private institutions the bare minimum of due process and a greater measure of parity between the treatment of public and private institutions. We would however, strongly oppose any alteration to this bill that would align it more closely with bills that have been introduced in the past. In particular, we are vigorously opposed to any amendment to House Bill 642 that would apply the bill retrospectively, allowing causes of action from the distant past to be brought forward, claims against which private institutions would be unable to reasonably defend themselves.

### **Catholic Church Child Protection Policies in Maryland**

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In addition to these reporting procedures, the Catholic Church, like many other institutions serving children, observes stringent child protection measures in all of its parishes, diocesan schools and youth programs. Our institutions provide comprehensive awareness training to educate both adults and children on how to recognize predatory behaviors, and conduct mandatory criminal background checks on all employees and volunteers who work with children. We stand ready to support any legislative measure that might come before you to promote these efforts. (*See attached summary of the Church's child protection measures.*)



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# Child Protection Policies Observed *by the* Catholic Church in Maryland

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- The (arch)diocesan child protection policies and abuse allegations are also supervised by independent review boards whose members include many non-Catholics.
- The (arch)dioceses maintain a hotline or publicly provide the contact information of a victims assistance coordinator so that survivors or others can promptly report abuse and receive immediate pastoral care.

## Transparency

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- The Diocese of Wilmington also posts a list of credibly accused abusers on its website.
- The three (arch)dioceses also provide a public report of the annual child protection audit conducted by an independent reviewer.

## Healing/Reconciliation

In spite of the passage of time and the stringent procedures now in place to ensure the safety of children, we must never forget the pain of our actions and inactions or the damage that they caused. The pain caused to the survivors of sexual abuse can never be erased, but the Church remains committed to doing all we can to alleviate their suffering and that of their families.

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- The bishops in each (arch)diocese also offer to meet with each survivor, and to extend a personal and sincere apology for the harm they have suffered.
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- The Archdiocese of Baltimore has provided more than \$8.4 million in settlements since the 1980s through insurance-designated funds, and \$3.6 million in counseling and assistance to survivors and their families.
- The Archdiocese of Washington has provided \$2 million in settlements and assistance since 2003, and \$7.5 million since its founding.
- After the state of Delaware passed a law temporarily lifting the statute of limitations for filing civil suits involving child sexual abuse, the Diocese of Wilmington was forced to spend tens of millions of dollars in attorneys' fees and to eliminate millions of dollars in support the Diocese provided to community outreach and its schools.

# **EXHIBIT 26**





ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

**Statement to the House Judiciary Committee**

**Re: House Bill 641 – Civil Actions –**

**Child Sexual Abuse – Statute of Limitation and Limitation of Damages**

**February 23, 2017**

**OPPOSE**

The Maryland Catholic Conference represents the mutual public policy interests of the three dioceses serving Maryland, including the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington. We offer this testimony in opposition to House Bill 641.

At the outset, we wish to acknowledge the tremendously painful and emotional nature of the issue of child sexual abuse, the courage of those who advocate for this legislation, and our sorrow for all those who have suffered this travesty through contact with anyone involved with the Catholic Church. Regardless of the measures now in place in our institutions to prevent child sexual abuse from ever taking place again, and the very low incidence of current abuse in our institutions, we recognize these measures cannot erase or excuse the terrible harms incurred in the past.

**Disparate treatment of public and private institutions**

There are, however, significant and legitimate reasons why passing this legislation is unwarranted and unjust. Most importantly, House Bill 641 imposes a very unfair disparity in its application to public and private institutions – the bill in fact applies *only* to private institutions. Private, religious and non-profit organizations would face dramatically greater risks of potentially devastating civil claims; as opposed to the very limited risks of such claims faced by state and local governments and public schools. This disparity and unequal treatment is profound. Survivors of child sexual abuse at the hands of government employees face enormous hurdles in civil claims because of various restrictive limitations, notice requirements, and monetary caps that exist in multiple Maryland statutes such as the Maryland Tort Claims Act. But, those restrictions, notice requirements and monetary damages caps do not apply when such a survivor sues a private, religious or non-profit organization. (*See Attachment A which lists relevant sections of current law.*)

The reason for these notice requirements is no secret: “The purpose of requiring that notice be given to the State within 1 year after incurring the injury to which the claim relates is [ ] to give the State early notice of claims against it. That early notice, in turn, affords the State the opportunity to investigate the claims while the facts are fresh and memories vivid, and, where appropriate, settle them at the earliest possible time.” *Haupt v. State*, 340 Md. 462, 470 (1995). In turn, a formal claim must be brought within three years.

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Nothing in House Bill 641 changes any of the special protections that are afforded to state and local governments. The fundamental result of the bill would be that individuals could sue private entities for unlimited damages based on allegations that occurred many decades in the past while a similarly situated individual allegedly abused in a public institution would continue to face strict time deadlines as short as 180 days and damage caps as low as \$100,000.

#### **Statutes of limitations allow for fairness in the judicial process**

The rationale for the provisions in state law such as the Maryland Tort Claims Act lead to a second compelling reason for our opposition to House Bill 641, namely that the lengthy extension of the statute of limitation proposed in the bill undermines fairness in the judicial process. Specifically, House Bill 641 would allow civil cases to be brought forward up to 32 years past the age of majority (age 50), or, for a one-year period, to be brought no matter how long ago the alleged abuse occurred, as long as the plaintiff files a "certificate of merit." The certificate merely attests that the plaintiff's lawyer has concluded that there is reasonable cause for the action, after consultation with a licensed psychiatrist or psychologist who must also attest that there is reason to believe the individual has suffered sexual abuse in the past – notably with no requirement that the abuse has any link whatsoever to the defendant.

Statutes of limitations exist in order to provide a defendant a fair opportunity to gather evidence, bring forward witnesses, and access accounts based on recent memory. The longer the statute of limitation, the more these interests are strained. This is particularly the case in the context of civil claims, where the burden of proof is less demanding than the "beyond a reasonable doubt" standard applicable in criminal cases. In civil lawsuits brought decades after an alleged event occurs, a defendant who has lost the evidence that would have supported its defense may stand little chance.

Former California Governor Jerry Brown summarized the foundations for these laws well when he vetoed a bill to suspend the statute of limitations for civil claims regarding child sexual abuse in his state:

Statutes of limitation reach back to Roman law and were specifically enshrined in English common law by the Limitations Act of 1623. Ever since, and in every state... various limitations have been imposed on the time when lawsuits may still be initiated. Even though valid and profoundly important claims are at stake, all jurisdictions have seen fit to bar actions after a lapse of years.

The reason for such a universal practice is one of fairness. There comes a time when an individual or an organization should be secure in the reasonable expectation that past acts are indeed in the past and not subject to further lawsuits. With the passage of time, evidence may be lost or disposed of, memories fade and witnesses move or die.

House Bill 641 would permit plaintiffs, for a period of one year, to bring claims based on events that are alleged to have occurred 60, 70, 80 years ago or more. Such claims would certainly be subject to overwhelming problems regarding faded memories, missing evidence, and missing or deceased witnesses.

It is important also to note that Maryland, unlike some states, has never had a statute of limitations on criminal charges of child sexual abuse. Abusers here can be prosecuted until the day they die. So, while some states have extended the period for filing civil claims as a way to compensate for existing limitations on the period for bringing criminal charges, such action is not necessary in Maryland.

### **Catholic Church Child Protection Policies in Maryland**

The Catholic Church remains committed to responding promptly to all credible allegations of sexual abuse – regardless of when they may have occurred – by 1) reporting them immediately to appropriate authorities; 2) responding to the reporter with outreach and assistance toward healing; and 3) widely publicizing notification of the allegation to affected communities. We believe this notification is essential not only to protect others from potential harm, but also to assist any other victims who may have been harmed by the identified perpetrator to seek help from available counselors and law enforcement.

In addition to these reporting procedures, the Catholic Church, like many other institutions serving children, observes stringent child protection measures in all Catholic parishes, diocesan schools and youth programs. Our institutions provide comprehensive awareness training to educate both adults and children on how to recognize predatory behaviors, and conduct mandatory criminal background checks on all employees and volunteers who work with children. We stand ready to support any legislative measure that might come before you to establish this standard of care in institutions across our state. (*See Attachment B for a summary of the Church's child protection measures.*)

For all of the above reasons, we urge an unfavorable report on House Bill 641.



**House Bill 641**

House Bill 641 would extend the statute of limitations on civil lawsuits brought by victims of child sexual abuse from seven years past the age of majority (age 25) to 32 years past the age of majority (age 50).

- The legislation impacts private institutions unfairly, because other existing laws include numerous protections for claims against state and local government agencies and programs, including public schools, the Department of Social Services (DSS), county-run recreation programs, Juvenile Justice facilities, etc. The protections for public entities against civil lawsuits are not changed by the bills.
- Thus, even if the bill passed, civil lawsuits brought against government entities for child sexual abuse still would be subject to much shorter deadlines and/or strict limits on the amount of damages that may be recovered under the Local Government Tort Claims Act, the State Government Tort Claims Act, and immunity for public school boards and their employees under the Education Article and Courts and Judicial Proceedings Article.
- For example:
  - a child abused at a state-run juvenile facility or in the care of DSS still would have to submit a written claim within one year of the event, must file suit within three years of the event, and their damages are limited to \$200,000 if the abuse occurred before October 1, 2015 or \$400,000 if it occurred after that date under the Maryland Tort Claims Act;
  - a child abused at a county recreational center must give notice within one year of the event, and damages are limited to \$200,000 if the abuse occurred before October 1, 2015 or \$400,000 if it occurred after that date under the Local Government Tort Claims Act; and
  - the liability of County school boards for tort claims, including child abuse claims involving public school teachers, is capped at \$100,000 if the abuse occurred before October 1, 2016 or \$400,000 if it occurred after that date under Maryland's Education Article and Courts and Judicial Proceedings Article.

*Continued on next page*

ATTACHMENT A (*Maryland Catholic Conference Testimony on 2017 HB 641*)

- Numerous major amendments to existing law would need to be enacted in order for public institutions to be treated the same as private institutions under these bills, including amendments to the Courts and Judicial Proceedings Article §§ 5-303, 5-304, 5-518, and 5-522; the State Government Article §§ 12-104, 12-105, and 12-106; and the Education Article §§ 4-105(d), 4-106.
- The bill does nothing for victims harmed while in the care of public institutions. If the ability to sue institutions for unlimited monetary damages decades after the event of alleged abuse actually was important to the protection of children, why would the proposed measures not provide such protection to the more than 800,000 children in Maryland public schools and the many thousands of children who interact with Maryland police, county recreation centers, the justice system, or DSS?



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# Child Protection Policies Observed *by the* Catholic Church in Maryland

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**C**hild sexual abuse is sadly a tragedy that affects every sector of society. As the Church has come to grips with the need to acknowledge and root out the scourge of child sexual abuse within our own institution, we have worked diligently to put into place stringent policies upholding the goals of prevention, accountability, transparency, and healing. The harm done to abuse survivors is a shame the Church must never forget, and never cease to work to prevent from ever happening again.

In accordance with the policies of the Charter for the Protection of Children promulgated by the U.S. Conference of Catholic Bishops in 2002, the three (arch)dioceses serving Maryland, including the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington, have long been committed to enacting and enforcing local child protection policies that go far beyond the practices required by law of all child-serving institutions in Maryland. The following summary highlights many of these practices.

## Prevention

All three (arch)dioceses have comprehensive child protection policies in place, and observe stringent screening measures to ensure a safe environment for the children in our care:

- All employees and volunteers with substantial contact with children undergo mandated criminal background checks through either fingerprinting or electronic background checks. Since 2002, the Archdiocese of Baltimore alone has conducted more than 137,000 screenings. Similarly the Archdiocese of Washington has conducted 111,258 screenings since 2003, and the Diocese

## LEARN MORE

For more detailed information, consult the (arch)diocesan websites:

- **Archdiocese of Baltimore**

*Office of Child and Youth Protection*  
**[www.archbalt.org](http://www.archbalt.org)**

- **Archdiocese of Washington**

*Child Protection Office*  
**[www.adw.org](http://www.adw.org)**

- **Diocese of Wilmington**

*Charter for the Protection of Children*  
**[www.cdow.org](http://www.cdow.org)**

of Wilmington has screened more than 21,000 individuals.

- All employees and volunteers with substantial contact with children are required to participate in training regarding the prevention, recognition, and reporting of suspected child abuse.

- All students participate in age-appropriate abuse prevention education. More than 42,000 children participate annually in the Archdiocese of Baltimore and more than 38,000 in the Archdiocese of Washington.



## Accountability

The three (arch)dioceses are committed to maintaining vigilant oversight of our institutions, employees and volunteers, and employ both internal and external measures to uphold strict standards of accountability:

- Every incident of suspected child abuse is reported immediately to civil authorities, even if the survivor is currently over the age of 18 or the perpetrator is deceased.
- Anyone credibly accused of suspected child abuse is immediately and permanently removed from ministry or employment, regardless of whether civil authorities pursue a criminal prosecution.
- The (arch)dioceses undergo an independent audit of their child protection policies and practices annually to ensure compliance with the Charter for the Protection of Children. All three dioceses have been found to be in full compliance every year.
- The (arch)diocesan child protection policies and abuse allegations are also supervised by independent review boards whose members include many non-Catholics.
- The (arch)dioceses maintain a hotline or publicly provide the contact information of a victims assistance coordinator so that survivors or others can promptly report abuse and receive immediate pastoral care.

## Transparency

While current Maryland law requires immediate reporting of any incident of suspected child abuse, the three (arch)dioceses have taken action that goes far beyond the requirements of the law to be open and honest about cases of abuse within our institutions:

- In addition to reporting suspected abuse to civil authorities, the three (arch)dioceses publicize the names of individuals credibly accused of child sexual abuse through parish or school communications and actively encourage other potential survivors to come forward.
- In 2002 the Archdioceses of Baltimore and

Washington led the nation by publicly disclosing the names of priests who had been credibly accused of abuse since the 1950s.

- The Diocese of Wilmington also posts a list of credibly accused abusers on its website.
- The three (arch)dioceses also provide a public report of the annual child protection audit conducted by an independent reviewer.

## Healing/Reconciliation

In spite of the passage of time and the stringent procedures now in place to ensure the safety of children, we must never forget the pain of our actions and inactions or the damage that they caused. The pain caused to the survivors of sexual abuse can never be erased, but the Church remains committed to doing all we can to alleviate their suffering and that of their families.

- The three (arch)dioceses voluntarily offer any survivor who comes forward free counseling with a therapist of his or her choosing for as long as it is needed. The (arch)diocese often offers assistance to other family members as well.
- The bishops in each (arch)diocese also offer to meet with each survivor, and to extend a personal and sincere apology for the harm they have suffered.
- Regardless of the requirements of law, the (arch)dioceses have provided compensation to survivors through negotiated settlements.
- The Archdiocese of Baltimore has provided more than \$8.4 million in settlements since the 1980s through insurance-designated funds, and \$3.6 million in counseling and assistance to survivors and their families.
- The Archdiocese of Washington has provided \$2 million in settlements and assistance since 2003, and \$7.5 million since its founding.
- After the state of Delaware passed a law temporarily lifting the statute of limitations for filing civil suits involving child sexual abuse, the Diocese of Wilmington was forced to spend tens of millions of dollars in attorneys' fees and to eliminate millions of dollars in support the Diocese provided to community outreach and its schools.

# **EXHIBIT 27**





ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

**February 20, 2020**

**House Bill 974 - Civil Actions – Child Sexual Abuse –  
Definition and Statute of Limitation (Hidden Predators Act 2020)**

**House Judiciary Committee**

**OPPOSE**

The Maryland Catholic Conference represents the public policy interests of the three dioceses serving Maryland, including the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington, which together encompass over one million Marylanders. We offer this testimony in opposition to House Bill 974, in its current form.

At the outset, we wish to acknowledge the tremendously painful and emotional nature of the issue of child sexual abuse, the courage of the survivors of sexual abuse who advocate for changes in the law regarding the civil statute of limitations for cases involving child sexual abuse, and our sorrow for all those who have suffered through contact with anyone involved with the Catholic Church.

It is with great reluctance that we submit this testimony in opposition to the legislation before you. We feel compelled to oppose the current version of this legislation, specifically the unconstitutional provision to open a two-year retroactive window allowing civil cases of child sexual abuse to be brought forward regardless of how long ago they are alleged to have occurred.

We have noted in connection with past legislation that eliminating the civil statute of limitations retroactively raises serious equity concerns and is particularly unnecessary in Maryland which does not have a criminal statute of limitations on child sex abuse. Maryland is one of few states that have no statute of limitations for felonies, and thus perpetrators of sexual abuse can be rooted out and victims can have their day in court at any time until the death of the perpetrator, regardless of how long ago the sexual abuse occurred.

While there is clearly no financial compensation that can ever rectify the harm done to a survivor of sexual abuse, the devastating impact that the retroactive window provision will potentially have by exposing public and private institutions - and the communities they serve - to unsubstantiated claims of abuse, cannot be ignored.

While the Catholic Church has worked to both address the past and protect the present and future, as the attached handout indicates, there are likely no words of apology; no amount of financial compensation; no assurances of current or future accountability, transparency or child protection measures that will win back the trust of many within and without the Catholic Church when it comes to the Church's past transgressions regarding childhood sexual abuse. While we recognize that our opposition to the current version of House Bill 974 risks the further erosion of that trust, we cannot in good conscience remain silent about the potential this legislation has to jeopardize the good works of so many who give of their time and efforts on behalf of the Catholic Church to reach out to those served by the Church's myriad social service, educational, health and spiritual ministries.

We urge you to consider this legislation in light of the considerations we have outlined here, and to give House Bill 974 an unfavorable report, in its current form.

# To Protect and Heal

*Child Protection & the Catholic Church in Maryland*

**Zero tolerance for abuse. Compassionate care for survivors.**



**69,000+**

clergy, teachers, employees,  
volunteers and seminarians  
background checked and trained



**Survivor Care**

payment for **counseling**, plus  
**financial support, pastoral  
and spiritual care**, and more



**96,000+**

children and youth receive  
safe environment education  
annually

**Our commitment. Our policy. Our practice.**

## Prevention

- Background checks, training and mandated reporting for clergy, teachers, employees, volunteers and seminarians
- Background checks, psychological evaluations and multi-year formation for applicants to priesthood
- Safe environment education for children and adults

## Outreach and Support for Survivors

- Support, such as payment for counseling for survivors and family members; an apology, and outreach that includes pastoral care, retreats and other resources
- Financial support for survivors

## Accountability

- Written policies covering bishops, clergy, lay people
- Zero tolerance for abuse
- Immediate reporting to and cooperation with civil authorities
- Permanent removal from ministry of credibly accused – even if there is no criminal prosecution
- Names published of credibly accused clergy
- Independent Review Boards of child protection experts
- Annual independent compliance audits plus parish/school compliance audits

*Data is for the three Catholic (arch)dioceses that serve Maryland:  
Archdiocese of Baltimore, Archdiocese of Washington, and Diocese of Wilmington. Figures are diocesan-wide, 2004-2018*

Maryland Catholic Conference  
10 Francis Street, Annapolis, MD  
410-269-1155 | 301-261-1979  
@mdcathcon | www.mdcatholic.org



# CHILD PROTECTION & SURVIVOR ASSISTANCE IN MARYLAND

## WHAT IS THE CATHOLIC CHURCH IN MARYLAND DOING TO PREVENT CHILD ABUSE?

As early as the 1980s, (arch)dioceses serving Maryland Catholics have had policies dedicated to protecting minors and supporting healing. Dioceses have child protection experts to advise on policies and practices. Since 2004, the dioceses have been audited annually and found in full compliance with national standards.

## WHAT DO THESE POLICIES REQUIRE?

Safe environment policies provide rigorous screening, prevention and accountability: background checks for clergy, teachers, seminarians, employees and volunteers; prevention education for minors and adults; mandatory reporting to civil authorities and cooperation with investigations; care for victim-survivors; Review Boards of child protection experts; and zero tolerance for abuse (permanent removal from ministry or employment for those credibly accused) regardless of whether a person is charged criminally.

Applicants to the priesthood and permanent diaconate face additional screening, including psychological assessments, background checks and regular reviews during formation.

## ARE THESE EFFORTS MAKING A DIFFERENCE?

Yes. Very few abuse incidents have been reported occurring since the adoption of stronger screening, training and stringent national standards. Researchers report allegations peaked nationally in the 1960s and 1970s (*Center for Applied Research in the Apostolate*).

## HOW DOES THE CHURCH HELP SURVIVORS?

We offer support regardless of when a person comes forward. Each person's experience is different, so dioceses seek to tailor outreach, accompaniment and services to the person's situation. Examples include paid counseling of the person's choice, pastoral care, survivor retreats, other spiritual support, and an apology.

## ARE CHURCH LEADERS HELD ACCOUNTABLE?

Yes. Everyone, including bishops, is subject to civil law and held accountable under Church law in the event of an allegation.

## ARE ABUSERS HELD ACCOUNTABLE?

Yes. Maryland is one of few states with no criminal statute of limitations for child sexual abuse. An abuser may always be held accountable by the civil authorities for his (or her) actions.

The Catholic Church imposes additional penalties, including removal from ministry and other sanctions and the (arch)dioceses also have released names of clerics with credible allegations against them.

## WHAT ARE CIVIL STATUTES OF LIMITATION?

Civil statutes of limitation allow a person to file a lawsuit for money against an individual and/or organization (such as a school, parish, or diocese) within a legally set time period. In Maryland, the statute for an allegation of child sexual abuse was extended in 2017 to age 38, a change that the Catholic dioceses supported.

Statutes exist to provide fairness because information is lost over the years and decades. The accused and witnesses may have passed away or become infirm. Statutes are particularly important with civil lawsuits because the burden of proof to pursue monetary damages is far lower than that for criminal prosecution.

## WHAT IS "WINDOW" LEGISLATION?

A "window" removes the civil statute of limitations for a period of time, usually a year, to allow lawsuits for money to be filed regardless of the passage of time. The Maryland Attorney General's office has said a "window" for abuse would be unconstitutional.

Lawsuits typically are filed not against an individual, but against an organization, such as a parish, school, hospital or diocese. These suits are difficult to respond to fairly because the allegations may date back 50 to 70 years. The person accused often is deceased and witnesses and information are no longer available.

## WOULD PUBLIC SCHOOLS BE TREATED THE SAME AS CATHOLIC SCHOOLS UNDER A WINDOW?

No. A Catholic school or parish could be sued for any amount of money, but a government agency facing the same allegation would be exempt from lawsuits or liability would be capped. For example, a victim of abuse at a public school would be precluded from suing or limited to \$100,000, depending on when the allegation occurred.

## WHY DOES THIS MATTER?

Maryland (arch)dioceses are committed to supporting survivors regardless of the law. Window legislation would not prevent future abuse nor hold accountable the people responsible. It would result in disparate treatment for victims of non-public entities and have a lasting impact on the ability of parishes, schools and ministries to serve parishioners and low-income and marginalized Marylanders who depend on our ministries.

At least 20 dioceses have declared bankruptcy in the United States. A "window" bill in Delaware led to bankruptcy: a 40% loss in financial support for Catholic Charities, the closure of two schools and a fund to assist struggling parishes and schools, a 10% loss in diocesan staff and other cuts borne by parishioners and people in need of services.

## LEARN MORE

### ARCHDIOCESE OF BALTIMORE

[www.archbalt.org/accountability](http://www.archbalt.org/accountability)  
410-547-5348  
Office of Child and Youth Protection

### ARCHDIOCESE OF WASHINGTON

[www.adw.org](http://www.adw.org) | 301-853-5328  
Office of Child and Youth Protection  
& Safe Environment

### DIOCESE OF WILMINGTON

[www.cdow.org](http://www.cdow.org) | 302-295-0668  
Office of Safe Environment &  
For the Sake of God's Children

# **EXHIBIT 28**

Document title: Advisory Board - Archdiocese of Washington

Capture URL: <https://adw.org/about-us/resources/child-protection/advisory-board/>

Page loaded at (UTC): Mon, 23 Oct 2023 14:21:10 GMT

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# Advisory Board

In July 2002, the Archdiocese of Washington established a Child Protection Advisory Board that reports directly to the archbishop. This Advisory Board has a broad mandate to:

- review Archdiocesan policies and procedures and recommend ways in which they can be strengthened, improved or modified
- oversee the implementation of the policies throughout the Archdiocese and its ministries
- assist in developing appropriate mechanisms to ensure compliance with the policies
- assess the effectiveness of victim assistance efforts by the Archdiocese and make recommendations for improvement
- review and advise on standards of conduct for those in positions of trust and on education, training and outreach programs for clergy, staff, educators and others, as well as safe environment programs for children

The five volunteer members all have particular knowledge, insight or expertise in the protection of minors, and serve three-year terms. The Board meets several times each year, has updated the Archdiocesan Child Protection Policy and publishes an annual report on Archdiocesan efforts in the area of child protection. The Advisory Board is in addition to the Archdiocesan Case Review Board, established in 1993 to assist the archbishop in assessing allegations and fitness for ministry.

## Chairman:

**Eileen Dombo, PhD, LICSW**, assistant professor, National Catholic School of Social Work, The Catholic University of America. She is former director of counseling services for the DC Rape Crisis Center and consultant for a number of victim assistance organizations. Dr. Dombo has extensive experience in counseling survivors of sexual violence and abuse, and has a private psychotherapy practice.

## Additional Members:

**Anne Hoffman, LCSW-C**, a licensed clinical social worker and retired supervisor for the sexual abuse unit of the Montgomery County Department of Health and Human Services Child Welfare Services. Since 1996, she has worked as a sex abuse investigator for the county HHS. She has been honored by the Child Welfare League of America (2000 National Child Welfare Worker Merit Award) and has given dozens of presentations and talks nationally on sexual abuse investigations, child maltreatment and sexual abuse, etc.

**J. Thomas Manger**, Montgomery County police chief. He joined law enforcement in 1977 and served for 27 years with the Fairfax County (Virginia) Police Department, eventually rising to the rank of chief of police in 1998. In 2004, he was appointed chief of police for Montgomery County (Maryland). Chief Manger has received numerous awards throughout his career, including the Silver Medal of Valor and is widely recognized for his commitment to high ethical standards for policing and enacting new policies to increase departmental accountability.

### Father Evelio Menjivar

**Michael Nugent**, Chairman of the Board of Rubber Research Elastomers, Inc. He is retired international representative for the International Brotherhood of Electrical Workers (IBEW). He is a parishioner at Holy Trinity parish in Georgetown, married and the father of two.

### Chandrai Jackson-Sanders, M.Ed

Father Evelio Menjivar

Michael Nugent, Chairman of the Board of Rubber Research Elastomers, Inc. He is retired international representative for the International Brotherhood of Electrical Workers (IBEW). He is a parishioner at Holy Trinity parish in Georgetown, married and the father of two.

Chandrai Jackson-Sanders, M.Ed

Judge Karla Smith

## Advisory Board Reports

Please click on the links below to review the Annual Child Protection Advisory Board Reports.

[JULY 1, 2021 - JUNE 30, 2022](#)

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[JULY 1, 2020 - JUNE 30, 2021](#)

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### CONTACT ADW

Phone: 301.853.4500  
Fax: 301.853.5300  
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# **EXHIBIT 29**



# The Roman Catholic Archdiocese of Washington

Archdiocesan Pastoral Center: 5001 Eastern Avenue, Hyattsville, MD 20782-3447

Mailing Address: Post Office Box 29260, Washington, DC 20017-0260

(301) 853-4500 | [adw.org](http://adw.org)

## **Annual Report from the Child Protection & Safe Environment Advisory Board July 1, 2021-June 30, 2022**

The Roman Catholic Archdiocese of Washington's Office of Child Protection & Safe Environment had a strong year implementing effective programs and initiatives to educate and empower community members on the issues of child protection and safe environment. Some important aspects of the office:

- The Roman Catholic Archdiocese of Washington has had a written Child Protection Policy for more than 30 years.
- The Office of Child Protection & Safe Environment handles both allegations and reports of child abuse as well as adult misconduct.
- The Roman Catholic Archdiocese of Washington's Child Protection & Safe Environment office conducts thorough criminal background checks on all individuals who have contact with children. Despite the challenges of the pandemic, individuals wanting to serve as employees or volunteers had the opportunity to meet with the Records Management office to complete criminal background checks. This practice requires individuals to meet virtually one-on-one with the records coordinator.
- All employees, religious, and volunteers who have contact with children in The Roman Catholic Archdiocese of Washington must complete a safe environment training session. The Child Protection & Safe Environment team offers an interactive virtual training session where individuals are able to receive this critical training from the safety of their homes or offices. This online course will continue throughout the year due to the high demand and positive feedback.
- The Roman Catholic Archdiocese of Washington provides important and current information pertaining to the Child Protection & Safe Environment Policy, as well as best practices online at [www.adw.org](http://www.adw.org).
- The Office of Child Protection & Safe Environment is a 24/7 operation where survivors and victims of abuse or misconduct can reach out and obtain support. We believe this critical support and guidance must be provided in real time.

One of the most valuable resources in The Roman Catholic Archdiocese of Washington is its Advisory Board. The board consists of one victim-survivor, a chief of police, a member of the clergy, and experts in child sexual abuse, trauma, and sexual assault. This committed group of

experts work to ensure a safe environment exists for all people. The board actively reviews the Archdiocese's programs and schools to ensure all are in compliance with the Child Protection & Safe Environment Policy. The Advisory Board is responsible for offering recommendations as well as guidance on critical reports made to the office.

In addition, the United States Conference of Catholic Bishops (USCCB) audits The Roman Catholic Archdiocese of Washington on its compliance with the U.S. Bishops' *Charter for the Protection of Children and Young People*. Auditors from a third-party independent company conduct interviews with archdiocesan staff and review records of safe environment practices, background checks, compliance monitoring, reporting abuse, adult misconduct, and healing. The audit review is on-site and involves an extremely thorough review of all past records of compliance, background checks, and reports of abuse. The Roman Catholic Archdiocese of Washington has been in full compliance with the audit every year since it began, including the 2021-2022 audit year.

There are three essential components of the Child Protection & Safe Environment Policy: accountability, transparency, and independence. Every year, the Executive Director of Child Protection & Safe Environment compiles a report for the Vicar General of the Archdiocese to present to the Child Protection Advisory Board. The Advisory Board reviews the report, recommends modifications if needed, and approves the report. The final report is widely shared with media outlets and published on the Roman Catholic Archdiocese of Washington website.

## **EDUCATION**

The Roman Catholic Archdiocese of Washington embraces the opportunity to teach all community members about the importance of keeping children safe and protected in all environments – at homes, schools, religious institutions, and communities. The Child Protection & Safe Environment Policy mandates child abuse awareness and prevention education for all adults who have contact with children or vulnerable adults, as well as age-appropriate safe-environment education for all young people. Adults working with children are appropriately trained to identify signs and symptoms of possible abuse, neglect, or assault, and make appropriate reports. All volunteers and employees who work with minors are required to be compliant with the Child Protection & Safe Environment Policy. Additionally, all volunteers, employees, and religious are mandated reporters under this important policy.

**Adult Education.** *Protecting God's Children* is the safe environment training program implemented by The Roman Catholic Archdiocese of Washington. This nationally recognized program was developed by the National Catholic Risk Retention Group/Virtus. The Office of Child Protection & Safe Environment team has proudly added supplementary training for community members. *Identifying and Responding to Child Abuse in a Virtual World* was hosted by Prince George's County Child Welfare Services throughout the year to help support families dealing with the dangers of social media and the internet.

Between July 1, 2021 and June 30, 2022:

- Ninety-one (91) *Protecting God's Children* training sessions, including nineteen (19) sessions in Spanish, were conducted via live online interactive sessions. Nine hundred twenty-five (925) individuals, including lay volunteers and new employees, religious, seminarians, and clergy were trained.

**Child Education.** The Archdiocese, under the direction of the Superintendent of Schools and the Director of Catechesis, continued to provide safe environment education for the children in archdiocesan Catholic schools and parish religious education programs. The Catholic Schools Office and the Office of Catechesis used materials developed by Virtus, the same company that provides training for adults. For the 2021-2022 school year:

- In total, 25,799 Catholic school students and children in parish religious education programs received safe environment education.

## **FINGERPRINTING AND BACKGROUND CHECKS**

The Roman Catholic Archdiocese of Washington recognizes that background checks are a crucial element in ensuring the safety of children and helping to protect them from the inappropriate actions or behaviors of others. All clergy, religious, seminarians, employees, and volunteers who may have contact with minors while working or volunteering are required to undergo state and federal criminal history record checks before they begin working or volunteering with minors.

Fingerprint results are sent to the State and Federal Bureau of Investigation (FBI) for review and alerts are sent to The Roman Catholic Archdiocese of Washington:

- 3,153 new employees, religious, seminarians, clergy and volunteers were fingerprinted.
- 383 electronic background checks were conducted on clergy, religious, employees, seminarians, and volunteers, including federal, state, district federal, and county record checks.
- The FBI sends an alert to The Roman Catholic Archdiocese of Washington within 24 hours if an individual has been arrested or charged with a crime. All individuals who are fingerprinted remain in the FBI database for continual monitoring.

## **CHILD-ABUSE ALLEGATIONS**

The Roman Catholic Archdiocese of Washington works with law enforcement and civil authorities to protect children by preventing child abuse and neglect, reporting alleged incidents of abuse or neglect, cooperating in investigations of allegations, as well as advising victims of their right to report independently and supporting their exercise of that right. Archdiocesan policy requires all archdiocesan personnel and volunteers to report any suspected abuse to civil authorities. Reporting requirements, both civil and internal, are described in The Roman Catholic Archdiocese of Washington *Child Protection & Safe Environment Policy*, which is available as a handbook and online at [www.adw.org](http://www.adw.org).

The Office of Child Protection and Safe Environment works within the community reporting obligations, and offers guidance on navigating the reporting process. Staff can be reached to hear allegations of current or past suspected abuse, and to report such allegations to civil authorities, by telephone, email, or fax 24 hours a day. Between July 1, 2021 and June 30, 2022:

- **Allegations against archdiocesan clergy in this reporting period:**  
The Roman Catholic Archdiocese of Washington's Child Protection & Safe Environment office received three allegations of sexual abuse during the 2021-2022 audit year. All three were reports of historic child sexual abuse. The allegations were immediately reported to law enforcement and therapeutic support was offered to all survivors and victims as well as family members.
- **Allegations against lay employees, contract workers and others in this reporting period:**  
There was one allegation of sexual abuse made against a lay employee during the audit year. The allegation was immediately reported to the civil authorities and the Advisory Board. The Office of Child Protection & Safe Environment fully cooperated with law enforcement throughout their investigation.

### **FINANCIAL RESOURCES FOR CHILD PROTECTION**

Between July 1, 2021 and June 30, 2022, The Roman Catholic Archdiocese of Washington paid \$373,549 in child protection and safe environment efforts. This included implementing the child protection policy and providing appropriate resources to community members. Additionally, this amount included salaries and benefits for the Office of Child Protection & Safe Environment and the Office of Employee and Volunteer Services, materials, fingerprinting and other equipment purchases and maintenance, and professional fees for the training program. The Roman Catholic Archdiocese of Washington paid \$75,000 in settlements to survivors of sexual abuse. An additional \$50,480 was spent on therapeutic services and other assistance for victims and survivors.

To ensure that all clergy, religious, seminarians, employees, and volunteers who have contact with children and vulnerable adults are compliant with Child Protection and Safe Environment requirements, the Archdiocese requires that each parish and school designate a child protection compliance coordinator. The coordinator maintains compliance records for the parish/school location so only those who are fully compliant may work or volunteer with children and the vulnerable. Coordinators have immediate online access to compliance information for their location. Child Protection coordinators are managed and supported by the Office of Child Protection & Safe Environment. Child Protection coordinators worked tirelessly through the pandemic by offering flexible hours to accommodate community members become or remain compliant. They worked from remote locations at times to monitor and maintain safe environment records. Additionally, coordinators helped support new safe environment modifications so members of the community could safely participate in parish and school activities either from home or modified locations.

### **COMMUNICATIONS**

The Office of Child Protection & Safe Environment understands the importance of outreach

to the community. The Roman Catholic Archdiocese of Washington's Communications Department robustly supports our mission of child protection & safe environment. The Roman Catholic Archdiocese of Washington website contains information about the policies and procedures outlined in the Child Protection & Safe Environment Policy. Child Protection information continues to be available through the archdiocesan newspapers in English and Spanish, archdiocesan and parish social media, church bulletins, priest/parish/school newsletters, texts, and email, as well as on parish websites. The Office of Child Protection & Safe Environment's online supplemental training series "Focus on the Child" continues to be a valuable training resource for community members. The seven-video safe environment training resource provides fundamental information that educates and empowers the broader community. The easy online access allows anyone to learn about identifying signs and symptoms of child abuse and how to report suspected abuse to civil authorities. Having this series available online proved to be a critical resource when people were at home during pandemic-required quarantine. The primary objective of the Office of Child Protection & Safe Environment is to provide vital information on child safety to the broader community regardless of religious affiliation.

The Child Protection & Safe Environment Annual Report is published each year in the Roman Catholic Archdiocese of Washington's *Catholic Standard* and *El Pregonero*. Additionally, the report is posted on the archdiocesan website.

The Roman Catholic Archdiocese of Washington website, [www.adw.org](http://www.adw.org), has several resources available under the Child Protection tab, including information about the Archdiocesan Child Protection & Safe Environment Policy and safety tips for parents regarding internet safety, cyber bullying, and sexting. It also offers "kid's guides" to bullying and healthy teen relationships. The archdiocesan website includes other important resources to help protect children and provide guidance on creating and maintaining safe environments.

Cardinal Wilton Gregory remains committed to all Child Protection & Safe Environment initiatives and programs. One of the most important events for Cardinal Gregory annually is his special Mass dedicated to victims, survivors, and their families in April during Child Sexual Abuse Prevention Month. The Cardinal offered this Mass at Our Lady of Mercy Parish and it was live-streamed so all members of the community could pray together for all affected.

## **CONCLUSION AND DIRECTION FOR THE FUTURE**

The Office of Child Protection and Safe Environment's primary objective is to educate and empower the community on ending child sexual abuse and neglect once and for all. Through The Roman Catholic Archdiocese of Washington Child Protection & Safe Environment policy, practices and protocols are extensively outlined and step-by-step guidance is offered on reporting suspected abuse. Additionally, the office is open 24 hours a day to support victims and survivors by offering a place to begin the healing process through compassion and empowerment. Team members work with parishes and schools to ensure that policies and protocols are followed.

To serve The Roman Catholic Archdiocese of Washington community better, the office was expanded to include intake of allegations of adult sexual misconduct or assault o by bishops and others in archdiocesan ministry. To report an incident of sexual abuse and related misconduct by a bishop, please contact the Catholic Bishop Abuse Reporting Service at [ReportBishopAbuse.org](http://ReportBishopAbuse.org) or call (800) 276-1562.

## **NATIONAL AUDIT**

During the reporting period of 2021-2022, The Roman Catholic Archdiocese of Washington was determined to be in full compliance with the United States Conference of Catholic Bishops (USCCB) *Charter for the Protection of Children and Young People*, enacted by the U.S. bishops in 2002. The Archdiocese has been found to be fully compliant every year since the audits were initiated.

### **Members of the Child Protection & Safe Environment Advisory Board:**

- Eileen Dombo, Ph.D., LICSW, Chair
- Anne Hoffman, LCSW-C
- Chief Thomas Manger
- Michael Nugent
- Chandrai Jackson-Sanders, M.Ed
- The Honorable Karla Smith
- Fr. Evelio Menjivar



# **EXHIBIT 30**

Document title: Who We Are - Archdiocese of Washington

Capture URL: <https://adw.org/about-us/who-we-are/>

Page loaded at (UTC): Mon, 23 Oct 2023 14:22:15 GMT

Capture timestamp (UTC): Mon, 23 Oct 2023 14:22:45 GMT

Capture tool: 10.33.1

Collection server IP: 3.216.219.0

Browser engine: Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.5359.215 Safari/537.36

Operating system: Windows\_NT (Node 16.17.1)

PDF length: 3

Capture ID: eSELFETrpRFUGmYEWRxECv

User: cseddon

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Who We Are

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## The Catholic Church in the Archdiocese of Washington

- Includes the District of Columbia and five surrounding Maryland counties of St. Mary's, Charles, Calvert, Prince George's and Montgomery
- 667,000 Catholics
- 139 parishes and missions
- Masses celebrated in more than 20 languages
- 90 Catholic schools serving 25,000 students
- Three Catholic universities – The Catholic University of America, Georgetown University and Trinity Washington University
- Awards more than \$6 million in tuition assistance to Catholic school students each year
- More than 235,000 men, women and children served by Catholic Charities each year
- MedStar Georgetown University Hospital in Washington and Holy Cross Hospitals in Silver Spring and Germantown, providing millions of dollars of charitable care each year

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## The Catholic Church in the Archdiocese of Washington

- Includes the District of Columbia and five surrounding Maryland counties of St. Mary's, Charles, Calvert, Prince George's and Montgomery
- 667,000 Catholics
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- Masses celebrated in more than 20 languages
- 90 Catholic schools serving 25,000 students
- Three Catholic universities - The Catholic University of America, Georgetown University and Trinity Washington University
- Awards more than \$6 million in tuition assistance to Catholic school students each year
- More than 235,000 men, women and children served by Catholic Charities each year
- MedStar Georgetown University Hospital in Washington and Holy Cross Hospitals in Silver Spring and Germantown, providing millions of dollars of charitable care each year

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### CONTACT ADW

Phone: 301.853.4500  
Fax: 301.853.5300  
Email Us  
Mailing Address



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[Employee Resources](#)

[FAQs](#)

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[Parish Office Only](#)

[Ethics Hotline](#)

[Catholic Bishop Abuse Reporting Service](#)

# EXHIBIT 31

**Maryland Catholic Conference\_UNFAV\_SB686.pdf**

Uploaded by: Jenny Kraska

Position: UNF

**February 23, 2023**

**Senate Bill 686 - Civil Actions – Child Sexual Abuse –  
Definition, Damages, and Statute of Limitations (The Childs Victim Act 2023)**

**Senate Judicial Proceedings Committee**

**UNFAVORABLE**

The Maryland Catholic Conference is the public policy representative of the three (arch)dioceses serving Maryland, which together encompass over one million Marylanders. Statewide, their parishes, schools, hospitals, and numerous charities combine to form our state’s second largest social service provider network, behind only our state government.

At the outset, we wish to acknowledge the tremendously painful and emotional nature of the issue of child sexual abuse, the courage of the survivors of sexual abuse who advocate for changes in the law regarding the civil statute of limitations for cases involving child sexual abuse, and our sorrow for all those who have suffered through contact with anyone involved with the Catholic Church.

We are, however, compelled to oppose the current version of the legislation before you, specifically the unconstitutional provision that seeks to open an unlimited retroactive “window” allowing civil cases of child sexual abuse to be brought forward, regardless of how long ago the alleged incidents occurred.

We have noted in connection with past legislation that eliminating the civil statute of limitations retroactively raises serious equity concerns and is particularly unnecessary in Maryland, which does not have a criminal statute of limitations for cases of child sexual abuse. Maryland is one of few states that have no statute of limitations for felonies, and thus perpetrators of sexual abuse can be held accountable, and victims can have their day in court at any time until the death of the perpetrator, regardless of how long ago the sexual abuse occurred.

Additionally, the Maryland-serving dioceses have provided millions of dollars in therapeutic counseling assistance and in direct financial payments to victims as part of their ongoing commitment to contributing to the healing of victim-survivors.

While there is clearly no financial compensation that can ever rectify the harm done to a survivor of sexual abuse, the devastating impact that the retroactive window provision will potentially have by exposing public and private institutions - and the communities they serve - to unsubstantiated claims of abuse, cannot be ignored.

We further find it unacceptable that the bill, as currently drafted, exposes private institutions to far greater financial liability than it does public ones, which enjoy numerous protections, including a damages cap nearly 50 percent lower than the cap on damages that can be recovered in cases of abuse in private institutions.

Multiple times in the past, the Catholic Church in Maryland has supported efforts to extend the age by which victim-survivors may file civil suits. As a result, Maryland has, over the years, extended the age, most recently doing so in 2017. Currently, the law in Maryland allows victims until the age of 38 to file such claims; an extension supported by the church. The MCC has been vocal in its support of prospective legislation concerning this issue given the fact that that legislation seeking to retroactively revive claims currently time-barred in Maryland is unconstitutional, as noted in several Attorney General opinions.

We urge you to consider this legislation in light of the issues we have outlined here, and to give Senate Bill 686 an unfavorable report, in its current form.



# **EXHIBIT 32**

**HB0001 - MSBA Informational Letter (2023.03.02).do**

Uploaded by: Shaoli Katana

Position: INFO



**MSBA Main Office**  
520 West Fayette Street  
Baltimore, MD 21201  
410-685-7878 | msba.org

**Annapolis Office**  
200 Duke of Gloucester Street  
Annapolis, MD 21401  
410-269-6464 | msba.org

## MEMORANDUM

To: Members of the House Judiciary Committee

From: Maryland State Bar Association (MSBA)  
Shaoli Katana, Esq., Advocacy Director

Subject: House Bill 1 - Civil Actions - Child Sexual Abuse - Definition, Damages, and Statute of Limitations (The Child Victims Act of 2023)

Date: March 2, 2023

Position: Informational Letter

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The Maryland State Bar Association (MSBA) provides this informational letter for **House Bill 1 - Civil Actions - Child Sexual Abuse - Definition, Damages, and Statute of Limitations (The Child Victims Act of 2023)**. HB 1 alters the definition of "sexual abuse" for purposes relating to civil actions for child sexual abuse to include any act that involves an adult allowing or encouraging a child to engage in certain activities; repeals the statute of limitations in certain civil actions relating to child sexual abuse; repeals a statute of repose for certain civil actions relating to child sexual abuse; provides for the retroactive application of the Act under certain circumstances; etc.

The MSBA represents more attorneys than any other organization across the State in all practice areas. MSBA serves as the voice of Maryland's legal profession. Through its Laws Committee and various practice-specific sections, MSBA monitors and takes positions on legislation of importance to the legal profession.

The MSBA strongly support the goals of the bill and is extremely sympathetic to child sexual abuse survivors seeking relief, to find justice and achieve some closure on their

abuse through open access to the civil justice system and appropriate remedies. The MSBA thanks the Legislature for its continued diligence and dialogue on this issue.

The proposed bill raises constitutional issues, particularly regarding the ability to revive civil claims after the statute of limitations has already ended. The State Bar has concerns about retroactive legislation that may diminish due process and encourages the Committee to consider additional solutions. The MSBA hopes that survivors can achieve meaningful reform without facing further legal challenges in court regarding the validity of this approach.

For additional information, please feel free to contact Shaoli Katana at MSBA at [shaoli@msba.org](mailto:shaoli@msba.org).

# EXHIBIT 33

**LAWS**  
OF THE  
STATE OF ILLINOIS  
**EIGHTY-SIXTH**  
**GENERAL ASSEMBLY**

**1990**

**PUBLIC ACT 86-1028**  
**THRU**  
**PUBLIC ACT 86-1490**

**STATE OF ILLINOIS  
OFFICE OF THE SECRETARY OF STATE**

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The Session Laws of Illinois are compiled, printed and distributed annually by the Secretary of State pursuant to Sections 30 and 31 of an Act entitled, "State Printing Contracts Act", approved April 20, 1967. (Illinois Revised Statutes, Chapter 127, Paragraphs 132.230 and 132.231.)

The text of the documents contained in this publication is printed identical to the originals on file in the Office of the Secretary of State. No attempt has been made to correct misspelled words or errors in punctuation, if any.

**GEORGE H. RYAN**  
Secretary of State

(P.O. X12160--725-4/91)

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(Printed by authority of the General Assembly of the State of Illinois.)

between the contracting parties.

(b)(1) Any organization or agent of that organization that provides pharmaceutical benefits to enrollees through contracts with pharmacies shall provide an annual period of at least 30 days during which any pharmacy licensed under the Pharmacy Practice Act of 1987 may elect to contract with the organization under the organization's terms for at least one year.

(2) If compliance with the requirements of this subsection (b) would impair any provision of a contract between an organization and any other person, and if the contract provision was in existence prior to the effective date of this amendatory Act of 1990, then immediately after the expiration of all such contract provisions the organization shall comply with the requirements of paragraph (1) of subsection (b) of this Section.

(c) The provisions of subsection (b) do not apply to:

(A) an organization which owns or controls a pharmacy and enters into an agreement or contract with that pharmacy in accordance with subsection (a); or

(B) an organization which is owned or controlled by another entity which also owns or controls a pharmacy, and the organization enters into an agreement or contract with that pharmacy in accordance with subsection (a).

(d) This Section is repealed on December 31, 1992.

Passed in the General Assembly June 27, 1990.

Approved September 7, 1990.

Effective January 1, 1991.

PUBLIC ACT 86-1346  
(House Bill No. 3707)

AN ACT to amend the Code of Civil Procedure by adding Section 13-202.2.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. The Code of Civil Procedure is amended by adding Section 13-202.2 as follows:

(Ch. 110, new par. 13-202.2)

Sec. 13-202.2. Childhood sexual abuse.

(a) In this Section:

"Childhood sexual abuse" means an act of sexual abuse that occurs when the person abused is under 18 years of age.

"Sexual abuse" includes but is not limited to sexual conduct and sexual penetration as defined in Section 12-12 of the Criminal Code of 1961.

(b) An action for damages for personal injury based on childhood sexual abuse must be commenced within 2 years of the date the person abused discovers or through the use of reasonable diligence should discover that the act of childhood sexual abuse occurred and that the injury was caused by the childhood sexual abuse, but in no event may an action for personal injury based on childhood sexual abuse be commenced more than 12 years after the date on which the person abused attains the age of 18 years.

(c) If the injury is caused by 2 or more acts of childhood sexual abuse that are part of a continuing series of acts of childhood sexual abuse by the same abuser, then the discovery period under subsection (b) shall be computed

*New matter indicated by italics - deletions by strikeout.*



from the date the person abused discovers or through the use of reasonable diligence should discover (i) that the last act of childhood sexual abuse in the continuing series occurred and (ii) that the injury was caused by any act of childhood sexual abuse in the continuing series.

(d) The limitation periods under subsection (b) do not begin to run before the person abused attains the age of 18 years; and, if at the time the person abused attains the age of 18 years he or she is under other legal disability, the limitation periods under subsection (b) do not begin to run until the removal of the disability.

(e) This Section applies to actions pending on the effective date of this amendatory Act of 1990 as well as to actions commenced on or after that date.

Passed in the General Assembly June 21, 1990.

Approved September 7, 1990.

Effective January 1, 1991.

PUBLIC ACT 86-1347  
(House Bill No. 3748)

AN ACT to amend The Illinois Public Aid Code by changing Sections 5-2 and 5-5 and adding Section 12-4.20c and by repealing Section 11-11.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. The Illinois Public Aid Code is amended by changing Sections 5-2 and 5-5 and adding Section 12-4.20c as follows:

(Ch. 23, par. 5-2)

Sec. 5-2. Classes of Persons Eligible. Medical assistance under this Article shall be available to any of the following classes of persons in respect to whom a plan for coverage has been submitted to the Governor by the Illinois Department and approved by him:

1. Recipients of basic maintenance grants under Articles III and IV.

2. Persons otherwise eligible for basic maintenance under Articles III and IV but who fail to qualify thereunder on the basis of need, and who have insufficient income and resources to meet the costs of necessary medical care, including but not limited to, all persons who would be determined eligible for such basic maintenance under Article IV by disregarding the maximum earned income permitted by federal law.

3. Persons who would otherwise qualify for Aid to the Medically Indigent under Article VII.

4. Persons not eligible under any of the preceding paragraphs who fall sick, are injured, or die, not having sufficient money, property or other resources to meet the costs of necessary medical care or funeral and burial expenses.

5. (a) Women during pregnancy, after the fact of pregnancy has been determined by medical diagnosis, and during the 60-day period beginning on the last day of the pregnancy, together with their infants and children up to 6 years of age, whose income and resources are insufficient to meet the costs of necessary medical care to the maximum extent possible under Title XIX of the Federal Social

New matter indicated by italics - deletions by strikeout.

# EXHIBIT 34

SB0505/458675/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 505  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, after "Kelley," insert "Young"; in the same line, after "Kasemeyer," insert "King"; in the same line, after "Manno," insert "Mathias"; in the same line, after "Peters," insert "Pinsky, Ramirez"; in the same line, after "Robinson," insert "Salling"; in line 5, after the semicolon insert "establishing a statute of repose for certain civil actions relating to child sexual abuse"; in the same line, after "action" insert "filed more than a certain number of years after the victim reaches the age of majority"; and in line 9, after the semicolon insert "defining a certain term; making certain stylistic changes".

AMENDMENT NO. 2

On page 2, in line 10, after "(a)" insert "(1)"; in the same line, strike the comma and substitute "THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ALLEGED PERPETRATOR" MEANS THE INDIVIDUAL ALLEGED TO HAVE COMMITTED THE SPECIFIC INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT SERVE AS THE BASIS OF AN ACTION UNDER THIS SECTION.

(3);

in the same line, strike ""sexual" and substitute "SEXUAL"; strike beginning with "AGAINST" in line 13 down through "ABUSE" in line 14; and in line 17, strike "WITHIN" and substitute "SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, WITHIN".

On pages 2 and 3, strike in their entirety the lines beginning with line 26 on page 2 through line 11 on page 3, inclusive, and substitute:

(Over)

“(C) IN AN ACTION BROUGHT UNDER THIS SECTION MORE THAN 7 YEARS AFTER THE VICTIM REACHES THE AGE OF MAJORITY, DAMAGES MAY BE AWARDED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT THE ALLEGED PERPETRATOR OF THE SEXUAL ABUSE ONLY IF:

(1) THE PERSON OR GOVERNMENTAL ENTITY OWED A DUTY OF CARE TO THE VICTIM;

(2) THE PERSON OR GOVERNMENTAL ENTITY EMPLOYED THE ALLEGED PERPETRATOR OR EXERCISED SOME DEGREE OF RESPONSIBILITY OR CONTROL OVER THE ALLEGED PERPETRATOR; AND

(3) THERE IS A FINDING OF GROSS NEGLIGENCE ON THE PART OF THE PERSON OR GOVERNMENTAL ENTITY.

(D) IN NO EVENT MAY AN ACTION FOR DAMAGES ARISING OUT OF AN ALLEGED INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE THE VICTIM WAS A MINOR BE FILED AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT THE ALLEGED PERPETRATOR MORE THAN 20 YEARS AFTER THE DATE ON WHICH THE VICTIM REACHES THE AGE OF MAJORITY.”.

AMENDMENT NO. 3

On page 4, strike beginning with “That” in line 6 down through “Act” in line 8 and substitute “That this Act may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017”; and in line 9, after “That” insert “the statute of repose under § 5-117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that

SB0505/458675/1 Judicial Proceedings Committee  
Amendments to SB 505  
Page 3 of 3

were barred by the application of the period of limitations applicable before October 1, 2017.

SECTION 4. AND BE IT FURTHER ENACTED, That'

# EXHIBIT 35

HB0642/252810/1

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 642  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after "abuse;" insert "establishing a statute of repose for certain civil actions relating to child sexual abuse;"; in the same line, after "action" insert "filed more than a certain number of years after the victim reaches the age of majority"; and in line 9, after "Act;" insert "defining a certain term; making certain stylistic changes;".

AMENDMENT NO. 2

On page 2, in line 9, after "(a)" insert "(1)"; in the same line, strike the comma and substitute "THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ALLEGED PERPETRATOR" MEANS THE INDIVIDUAL ALLEGED TO HAVE COMMITTED THE SPECIFIC INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT SERVE AS THE BASIS OF AN ACTION UNDER THIS SECTION.

(3);

in the same line, strike "'sexual" and substitute "SEXUAL"; strike beginning with "AGAINST" in line 12 down through "ABUSE" in line 13; and in line 16, strike "WITHIN" and substitute "SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, WITHIN".

On pages 2 and 3, strike in their entirety the lines beginning with line 25 on page 2 through line 11 on page 3, inclusive, and substitute:

"(C) IN AN ACTION BROUGHT UNDER THIS SECTION MORE THAN 7 YEARS AFTER THE VICTIM REACHES THE AGE OF MAJORITY, DAMAGES MAY BE AWARDED

(Over)

AGAINST A PERSON OR GOVERNMENTAL ENTITY THAT IS NOT THE ALLEGED  
PERPETRATOR OF THE SEXUAL ABUSE ONLY IF:

(1) THE PERSON OR GOVERNMENTAL ENTITY OWED A DUTY OF  
CARE TO THE VICTIM;

(2) THE PERSON OR GOVERNMENTAL ENTITY EMPLOYED THE  
ALLEGED PERPETRATOR OR EXERCISED SOME DEGREE OF RESPONSIBILITY OR  
CONTROL OVER THE ALLEGED PERPETRATOR; AND

(3) THERE IS A FINDING OF GROSS NEGLIGENCE ON THE PART OF  
THE PERSON OR GOVERNMENTAL ENTITY.

(D) IN NO EVENT MAY AN ACTION FOR DAMAGES ARISING OUT OF AN  
ALLEGED INCIDENT OR INCIDENTS OF SEXUAL ABUSE THAT OCCURRED WHILE  
THE VICTIM WAS A MINOR BE FILED AGAINST A PERSON OR GOVERNMENTAL  
ENTITY THAT IS NOT THE ALLEGED PERPETRATOR MORE THAN 20 YEARS AFTER  
THE DATE ON WHICH THE VICTIM REACHES THE AGE OF MAJORITY.”

AMENDMENT NO. 3

On page 4, strike beginning with “That” in line 6 down through “Act” in line 8 and substitute “That this Act may not be construed to apply retroactively to revive any action that was barred by the application of the period of limitations applicable before October 1, 2017”; and in line 9, after “That” insert “the statute of repose under § 5-117(d) of the Courts Article as enacted by Section 1 of this Act shall be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017.”

SECTION 4. AND BE IT FURTHER ENACTED, That”