

H. 7200: A Bill That Would Revive Time-Barred Claims
Testimony of Cary Silverman
On Behalf of the American Tort Reform Association
Before the Rhode Island House Judiciary Committee
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On behalf of the American Tort Reform Association (ATRA), thank you for the opportunity to submit this testimony regarding H. 7200, which would retroactively revive time-barred lawsuits against schools, nonprofit organizations, youth groups, sports leagues, daycare centers, and others alleging that they did not do enough to protect children from sexual abuse decades ago.

I am a partner in a national law firm, Shook, Hardy & Bacon L.L.P. and serve as counsel to ATRA, a broad-based coalition of businesses, municipalities, associations, and professional firms that promote fairness, balance, and predictability in civil litigation.

Sexual abuse of a child is abhorrent. Those who commit such acts should be prosecuted and survivors of abuse should have a reasonable time to file a lawsuit against those who are responsible. We respect the advocacy of the sponsors as well as the courage of survivors who may come forward to support it. ATRA commends the Committee for considering steps to help survivors of abuse.

As we have testified on earlier proposals, ATRA is concerned with the approach taken by this bill and the troubling precedent it would set by abandoning a core element of the civil justice system – a finite statute of limitations – which allows judges and juries to evaluate liability when evidence is available. The proposed legislation casts aside the statute of limitation and revives time-barred claims no matter how long ago an organization’s alleged negligent conduct occurred during a two-year window.

Reviving Time-Barred Claims is Problematic for Organizations

When the legislature prospectively extends a statute of limitations, organizations are put on notice. They can, going forward, keep meticulous records of the safeguards they put in place to protect children, carefully record any concerns raised and how they responded, document their employment decisions, and save those records *forever*. In the age of electronic data storage, that can be done.

But when the legislature revives time-barred claims it means that organizations will not have saved paper records from that era, indicating how they screened or trained employees, received reports, or investigated concerns. These records will have been discarded long ago under standard document retention policies. It also means that organizations will not have witnesses available. A supervisor who was 40 years old in 1980 and might recall whether there was any reason to suspect someone was a perpetrator or what safeguards the organization had in place at the time would be 86 years old today. In claims going back further, both the perpetrator and any staff may no longer be alive.

An organization cannot go back in time to keep records, purchase more insurance, or even decide not to operate in an area knowing that it might be sued between July 1, 2026 and June 30, 2028 for how its previous staff hired, supervised, or trained employees in the 1960s, 1970, or 1980s. This is not how the civil justice system is supposed to operate – for any type of civil action.

Given the loss of records and witnesses, and nature of these revived lawsuits, organizations will have no choice but to settle the cases, even if they had no knowledge of the abuse and were responsible in how they operated. The impact on nonprofit organizations, public entities, and businesses will be extraordinary and may jeopardize programs and services they provide today.

The Approach Taken in H. 1700 is Extreme

While about half of states have passed legislation reviving time-barred childhood sexual abuse claims in some form, the Committee should be aware that H. 7200 is extreme, as it revives time-barred negligence claims with no constraints at all during a two-year window.

For example, Massachusetts, Georgia, and Michigan,¹ like Rhode Island earlier, limited revivers to claims against the perpetrator of the abuse, recognizing the problems with evaluating negligence after decades have passed. Arizona, Oregon, Utah (invalidated), and West Virginia revived claims only against organizations alleged to have engaged in criminal conduct or that knew of the abuse but failed to act. Other states extended the statute of limitations and applied the new period retroactively, rather than reviving claims going back indefinitely. Colorado (also invalidated) and Maryland set a maximum amount of damages that could be recovered in revived lawsuits. H. 7200 contains none of these provisions.

Reviving Time Barred Claims is Likely Unconstitutional

Rhode Island precedent indicates that reviving time-barred claims is unconstitutional. After the legislature extended the statute of limitations for childhood sexual abuse claims against perpetrators in 1993, the Rhode Island Supreme Court ruled in *Kelly v. Marcantonio* that:

Although it is permissible for the General Assembly to enlarge an already existing action limitation period that would be applicable to causes of action thereunder not already time-barred without offending any vested substantive right of the parties, the amendment to art. I, sec. 2, precludes legislation with retroactive features, permitting revival of an already time-barred action that would impinge upon a defendant's vested and substantive rights and would offend a defendant's art. 1, sec. 2, due process protections.²

The Court concluded that “our State Constitution bars the retroactive application of [the statute of limitations for childhood sexual abuse] to claims already time-barred by the statute of limitations in effect prior to the effective date” of legislation adopting a lengthier period.³

In taking this approach, the Rhode Island Supreme Court recognized that it followed the “great preponderance” of state appellate courts.⁴ That remains true today. In fact, since 2020, four states have struck down similar legislation attempting to revive time-barred childhood sexual

¹ The Michigan law was tailored to revive only claims of victims of a convicted criminal, Dr. Larry Nasser. Mich. Public Act 183 (S.B. 872) (2018).

² *Kelly v. Marcantonio*, 678 A.2d 873, 883 (R.I. 1996).

³ *Id.* at 884. In *Houllahan v. Gelineau*, 296 A.3d 710 (R.I. 2023), the Rhode Island Supreme Court reaffirmed the legislature's intent, under the 2019 law, to revive claims only against perpetrators. Since the Court dismissed the action on those grounds, it had no need to again rule on the constitutionality of reviving time-barred claims.

⁴ *Kelly*, 678 A.2d at 884.

abuse claims, including Maine,⁵ Colorado,⁶ Kentucky,⁷ and Utah.⁸ As the Maine Supreme Court observed in its January 2025 decision, reviving time-barred claims “contravenes centuries of our precedent.” While it may be tempting to disregard constitutional safeguards in this context, as the Colorado Supreme Court unanimously ruled, “there is ‘no public policy exception’ to the ban on retrospective laws.”

Rhode Island Should Learn from the Experience of Other States

The experience of other states demonstrates that the number of revived claims often far exceeds predictions and has had unintended consequences.

Maryland adopted reviver legislation in 2023, which the state’s high court upheld in a split 4-3 decision. Within two years, even with damage limits not included in the Rhode Island legislation, the Maryland law created a \$3.5 billion liability hole for the state, which was projected to rise as high as \$34 billion over time, not including litigation costs.⁹

At the time the Maryland Department of Legislative Services conducted its analysis in early March 2025, about 4,000 revived claims had already been filed against the state.¹⁰ About two months later, that figure reportedly had risen to 6,000 lawsuits.¹¹ The latest reports indicate 12,000 revived lawsuits filed against the state alone.¹² These claims date as far back as the 1960s.¹³ This huge sum does not account for the unanticipated liability facing nonprofit organizations and businesses throughout the state.

Even the sponsor of Maryland’s Child Victims Act, himself an abuse survivor, was taken aback by the number of lawsuits filed and the amount they sought, blaming attorneys “that want to capitalize on Maryland’s pain.”¹⁴ In response, in 2025, he supported legislation amending Maryland’s 2023 reviver law to avoid “bankrupting the state” by cutting the maximum award permitted in revived claims by more than half effective June 1, 2025.¹⁵ That legislation, which became law, also clarified that the damage limits apply per claim, rather than per incident, and

⁵ *Dupuis v. Roman Catholic Bishop of Portland*, No. BCD-23-122, 2025 ME 6 (Me. Jan. 28, 2025).

⁶ *Aurora Pub. Schs. v. A.S.*, 531 P.3d 1036, 1048-49 (Colo. 2023).

⁷ *Thompson v. Killary*, 683 S.W.3d 641, 648 (Ky. 2024) (“[O]ur jurisprudence presents nearly 200 years of protection for those possessing a statute of limitations defense.”).

⁸ *Mitchell v. Roberts*, 469 P.3d 901, 903, 913 (Utah 2020) (unanimously holding the principle that the legislature violates due process by retroactively reviving a time-barred claim is “well-rooted in our precedent,” “confirmed by the extensive historical material,” and has been repeatedly reaffirmed for “over a century”).

⁹ *Fiscal and Policy Note*, Third Reader – Revised, H.B. 1378 (Md. 2025).

¹⁰ *Id.*

¹¹ Luke Parker, *Victims Decry Lower Caps on Abuse Claims*, Baltimore Sun, Apr. 28, 2025.

¹² Bryan P. Sears, *Moore’s Budget Fixes Current Deficit, But Leaves Analysts Pessimistic About Future*, Maryland Matters, Jan. 27, 2026.

¹³ Ashley Paul, *Maryland Bill Aims to Limit Settlement Money for Victims of Abuse in Juvenile Detention Centers*, CBS News, Apr. 6, 2025.

¹⁴ Parker, *supra* (quoting Del. C.T. Wilson).

¹⁵ For revived claims against public entities, Maryland reduced its maximum payment from \$890,000 to \$400,000. For private entities, Maryland reduced a limit on noneconomic damages from \$1,500,000 to \$700,000. See Ian Round, *Facing Budget Deficit and Thousands of Sex Abuse Claims, Lawmakers Consider Bill to Limit Liability*, Maryland Matters, Mar. 27, 2025; Madeleine O’Neill, *Maryland’s Child Victims Act Could See Changes as State Faces Billion-dollar Liability*, Baltimore Banner, Mar. 3, 2025.

limited contingency fees in all childhood sexual abuse cases to 20% of a settlement or 25% of a judgment.¹⁶

The Committee should also consider California's experience. Since California revived claims during a three-year window that opened in 2020, "school districts and other public entities have spent billions defending against the rush of lawsuits the law made possible."¹⁷ As a result of the reviver law, Los Angeles County entered two settlements, \$4 billion for 11,000 people who allege abuse inside county-run detention facilities and foster homes (April 2025) and \$828 million to settle 414 claims alleging abuse in other county facilities for children (October 2025).¹⁸ The Los Angeles settlements are expected to impact the county, its taxpayers, and its services for decades.¹⁹

The *Los Angeles Times* has reported that county officials "expressed anger . . . at the 2020 change, saying the law was poorly crafted and left the county hemorrhaging billions."²⁰ The paper also reported, "Many counties and school districts have similarly decried the change to the statute of limitations, which they say forced them to fight decades-old cases without records," as they threw out older records of minors for privacy reasons.²¹ The "unprecedented wave of litigation" against public schools in California, some dating back to the 1950s, "has upended school budgets, drained district coffers, triggered cuts to programs, threatened cost-of-living increases for teachers and even contributed to layoffs."²²

There is even an ongoing investigation into whether recruiters and law firms paid people to file fraudulent lawsuits against Los Angeles County, knowing that the county had committed billions of dollars to settle claims that it could not verify.²³

Now, as in Maryland, California "[l]awmakers are trying to deal with the sticker shock."²⁴ School leaders have called upon the legislature to revisit the law, "highlight[ing] the impossible position school districts are in defending themselves against claims from decades past when the accused and witnesses are often dead and documents long gone."²⁵ The author of California's reviver law supports "proposals to place caps on attorneys' fees and other rollbacks of the law, claiming that some 'unscrupulous attorneys' were exploiting it as a 'feeding frenzy.'"²⁶

¹⁶ H.B. 1378 (Md. 2025).

¹⁷ Eric He, *California's Sex Abuse Law Caused a 'Feeding Frenzy.' Lawmakers Can't Find a Fix*, Politico, Sept. 12, 2025.

¹⁸ Rebecca Ellis, *L.A. County to Pay Out an Additional \$828 Million for Victims of Alleged Sexual Abuse*, L.A. Times, Oct. 17, 2025.

¹⁹ See Vivian Ho, *Los Angeles County Plans Historic \$4 Billion Payout for Sex Abuse Claims*, Wash. Post, Apr. 5, 2025.

²⁰ Rebecca Ellis, *L.A. County to Investigate Sex Abuse Settlement*, L.A. Times, Oct. 7, 2025.

²¹ *Id.*

²² Matt Hamilton, *A Long-Overdue Reckoning with Child Sex Abuse of the Past is Straining California's Classrooms Today*, L.A. Times, Dec. 19, 2025.

²³ Rebecca Ellis, *In the Biggest Sex Abuse Settlement in U.S. History, Some Claim They Were Paid to Sue*, L.A. Times, Oct. 2, 2025.

²⁴ Eric He, *California's Sex Abuse Law Caused a 'Feeding Frenzy.' Lawmakers Can't Find a Fix*, Politico, Sept. 12, 2025.

²⁵ *Id.*

²⁶ *Id.*

As the Maryland and California experiences show, the number of lawsuits following reviver laws often exceeds predictions. That also occurred in New York, where proponents of that state’s 2019 reviver law predicted 2,000 to 3,000 lawsuits would be filed.²⁷ In just two years, lawyers filed nearly 11,000 revived claims against a wide range of individuals and organizations.²⁸ New York is only now beginning to attempt to calculate the “multiple billions” that state and local governments will eventually pay to settle revived lawsuits and figure out how those costs will be covered and impact the state.²⁹ Nonprofit agencies that provide services to hundreds of thousands of families statewide are reportedly in danger of collapse.³⁰ In response, legislators introduced a bill to establish a \$200 million fund, financed by taxpayer dollars, to bail out public school districts and voluntary foster care agencies that face crippling liability from revived claims.³¹ As the bill analysis notes, “due to the age of some filed claims, there are many cases in New York where no insurance coverage can be discovered.” The fund is needed, the bill justification says, “to allow public school districts and voluntary foster care agencies who would otherwise be forced to close or severely cut services.”³²

An Unsound Precedent for the Future

Finally, as we have expressed in previous sessions, ATRA is concerned with the precedent this bill sets for other types of civil claims. Tort law, by its very nature, deals with horrible situations – accidents resulting in serious injuries that have a dramatic impact on a person’s life, negligence in the workplace or a defective product that leads to a person’s death, and diseases contracted through exposure to toxic substances, for example. Yet, every type of civil claim, no matter how tragic the injury or offensive the alleged conduct, must be brought within a certain period to protect the ability of courts to decide claims when evidence is available. It is never easy for a lawyer to tell a client that the time to sue has passed. If Rhode Island revives time-barred claims here, others will understandably seek similar treatment. That is not a sound path, for the reasons discussed.

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Thank you for the opportunity to submit this testimony and considering ATRA’s concerns as you address this difficult and important issue.

²⁷ Gloria Gonzales, *Insurers Try to Measure Exposure to Childhood Sex Abuse Claims*, Bus. Ins., Aug. 20, 2019 (quoting Marci Hamilton, founder and CEO of Child USA).

²⁸ Jay Tokasz, *Nearly 11000 Child Victims Act Lawsuits Filed in New York State*, Buffalo News, Sept. 26, 2021 (citing Office of Court Administration statistics).

²⁹ Ryan Whalen, *N.Y. Comptroller: Audit of Child Victims Act Governmental Liability Isn’t Feasible*, Spectrum News 1, Apr. 17, 2025.

³⁰ Susanti Sarkar, *As Survivors Seek Justice, New York Child Welfare Agencies Face the Costs of Decades-Old Sexual Abuse Lawsuits*, The Imprint, Feb. 19, 2024.

³¹ S. 3149 / A. 1891 (N.Y. 2025).

³² *Id.*