



PRAESIDIUM

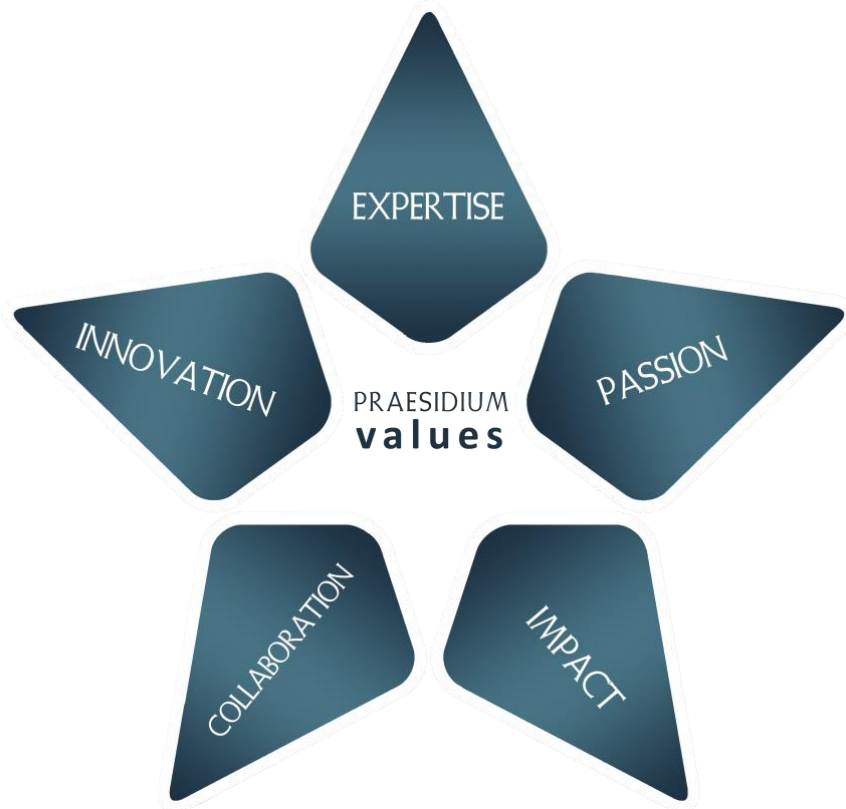
irwin siegel
agency

INSURANCE PROGRAMS & RISK MANAGEMENT

Discussion Topics

- ✓ Who is Praesidium?
- ✓ Child Protection Improvements Act
- ✓ Changing Legal Landscapes
- ✓ Scope of the Problem and Types of Abuse
- ✓ Monitoring & Supervising for Safety
- ✓ How to Respond

About Praesidium



“To help you **protect those in your care** from abuse and to help **preserve trust** in your organization.”

Nearly three decades of experience

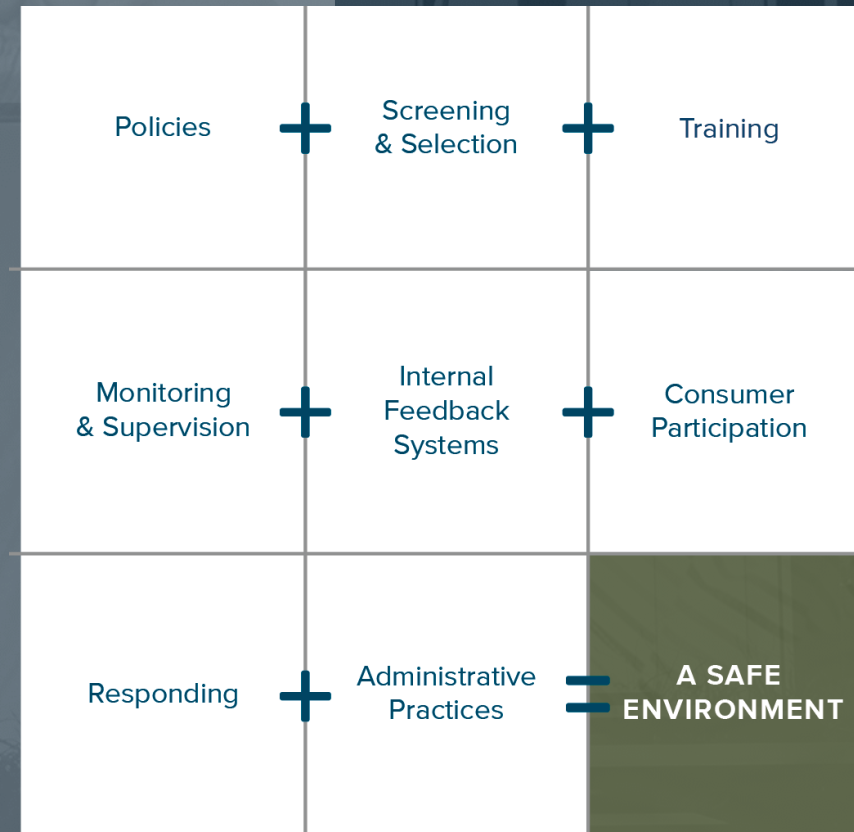
More than **4,000 clients** across diverse industries

Completed thousands of **root cause analyses**

Developed proprietary **abuse risk management model**

Offer complete range of **risk management solutions**

Praesidium Safety Equation[®]





Child Protection Improvements Act

Child Protection Improvements Act (CPIA) of 2017

- Amends the National Child Protection Act of 1993
- Prior to CPIA's passing, more than one-third of states, and programs like camps, daycares, afterschool programs, and other child-serving organizations, had limited or no access to FBI background checks
- Built on the success of the PROTECT Act's Child Safety pilot (2003-2011)
 - Provided direct access to FBI fingerprint background checks for a variety of child-serving nonprofit organizations.
 - Over 6,000 of 100,000+ background checks performed revealed individuals with criminal records of concern
 - 42% of those individuals had crimes in states other than where they were applying to volunteer – meaning that only a multi-state check would have revealed this information
 - 26% showed a different name on their record than the one they used on their job application

Child Protection Improvements Act (CPIA) of 2017

- Allows organizations serving vulnerable populations (children, elderly, individuals with disabilities) to conduct fast, accurate and affordable background checks on prospective volunteers and employees
- Grants access only – No organization is required to utilize FBI checks
- Caps the cost of FBI fingerprint background checks at \$18
- Protects privacy rights – Specifics of a criminal record cannot be disclosed without explicit consent by the applicant



Trends in Statues of Limitations and Look-Back Windows

Child Sexual Abuse Statutes of Limitations (SOL)

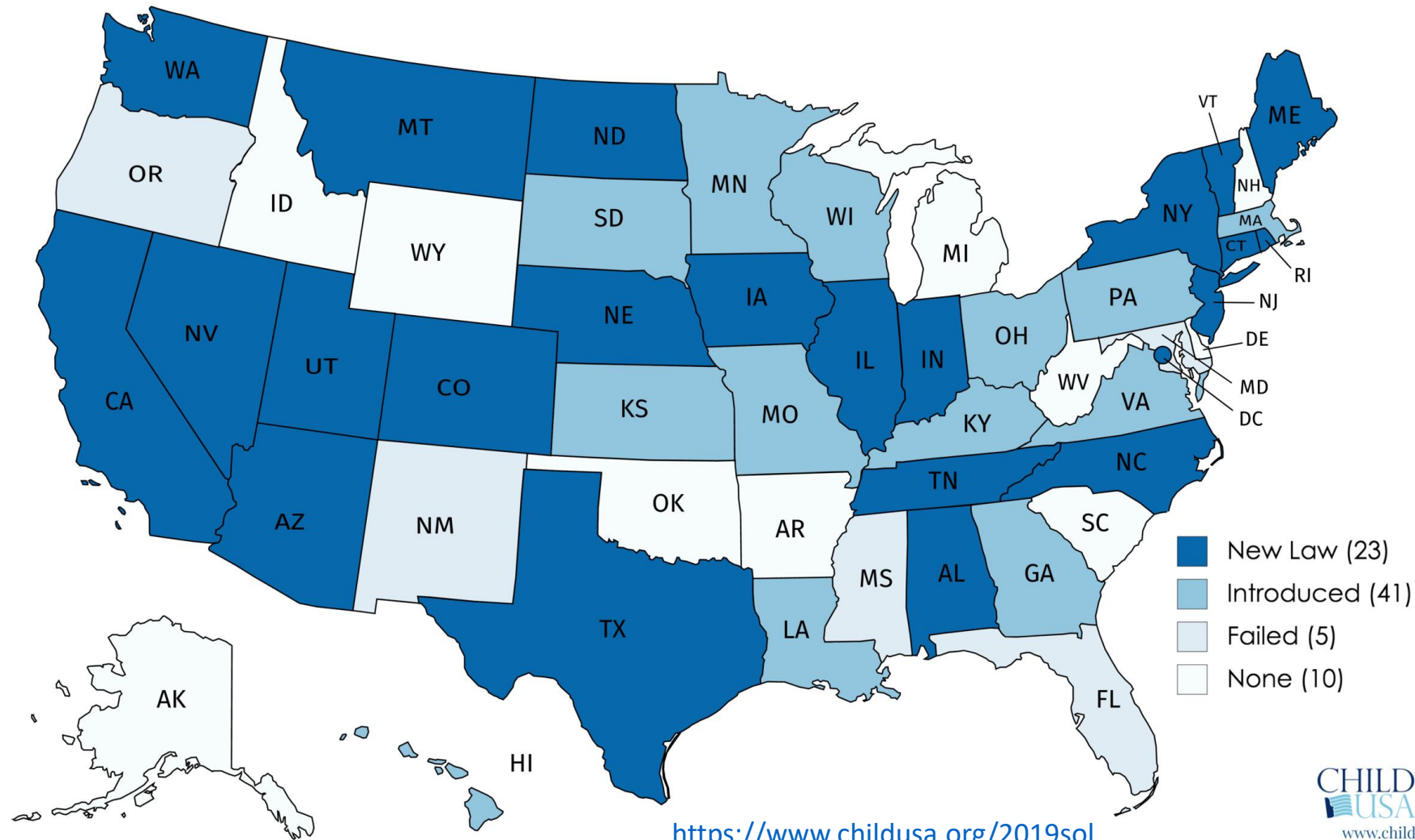
- The time in which a lawsuit is initiated by an injured person or victim
- Typically begins on the date of the occurrence that caused the injury but most states suspend SOL timelines while the person is a minor
- Extensions for filing civil actions after a SOL has expired are often granted based on the discovery rule:
 - Victims often experience delayed discovery of sexual abuse due to emotional and psychological trauma leading to repression of the memory of abuse
 - This discovery often occurs through the course of therapy later in life
 - Median age for disclosure of childhood sexual abuse is around 52-56

Trends In Changes to SOLs

- Broadening compensation for victims of sexual abuse
- Allowing larger windows of time in which victims can file civil and criminal lawsuits
- Eliminating SOLs altogether
- Look-back windows: a short time period within which victims of any age may file a civil claim, regardless of past or current SOLs

National Conference of State Legislatures: "State Civil Statutes of Limitations in Child Sexual Abuse Cases"
<http://www.ncsl.org/research/human-services/state-civil-statutes-of-limitations-in-child-sexua.aspx>

2019 Summary of Child Sexual Abuse SOLs

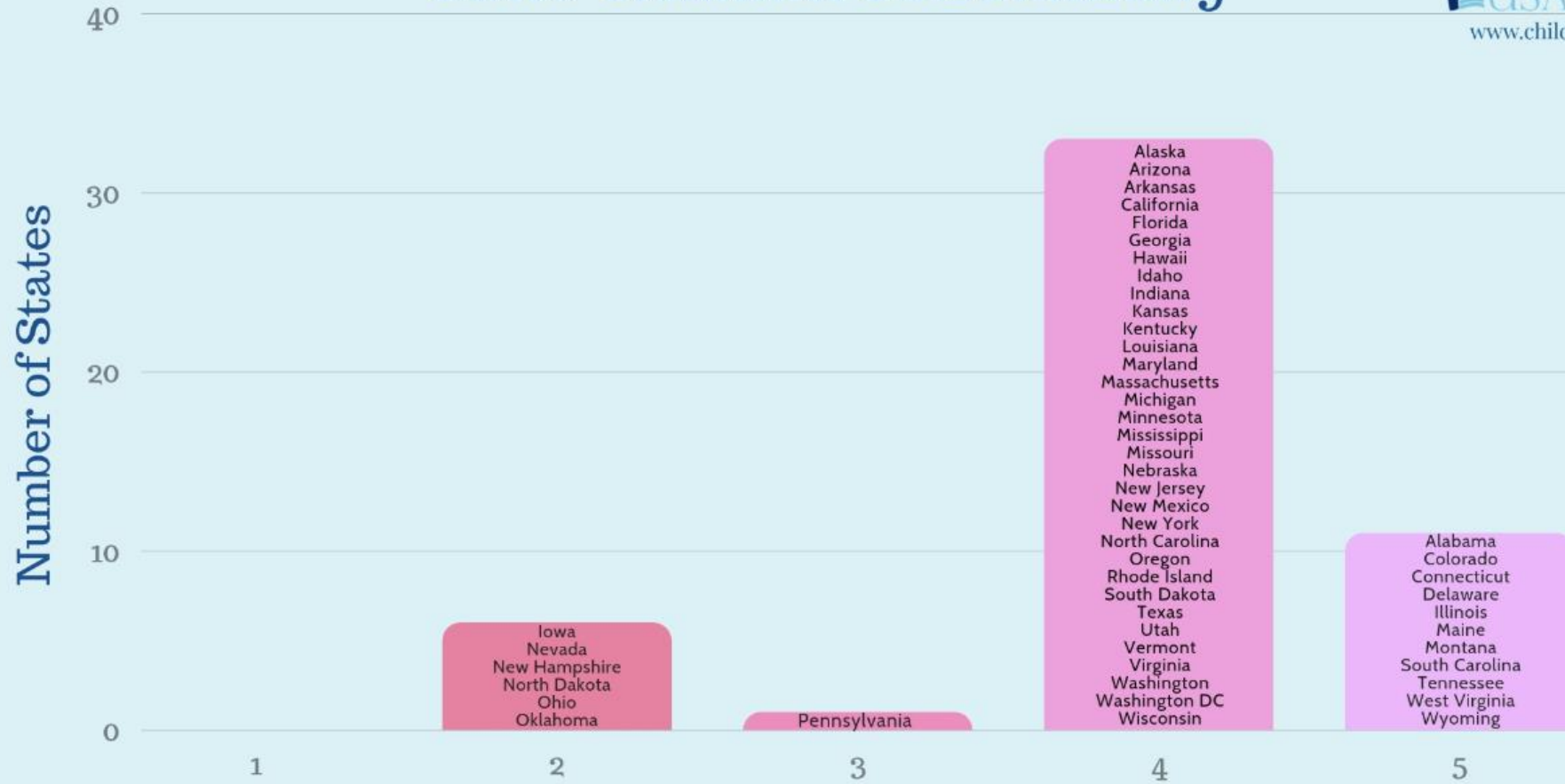


<https://www.childusa.org/2019sol>
<https://www.childusa.org/sol>

States With No Civil SOL

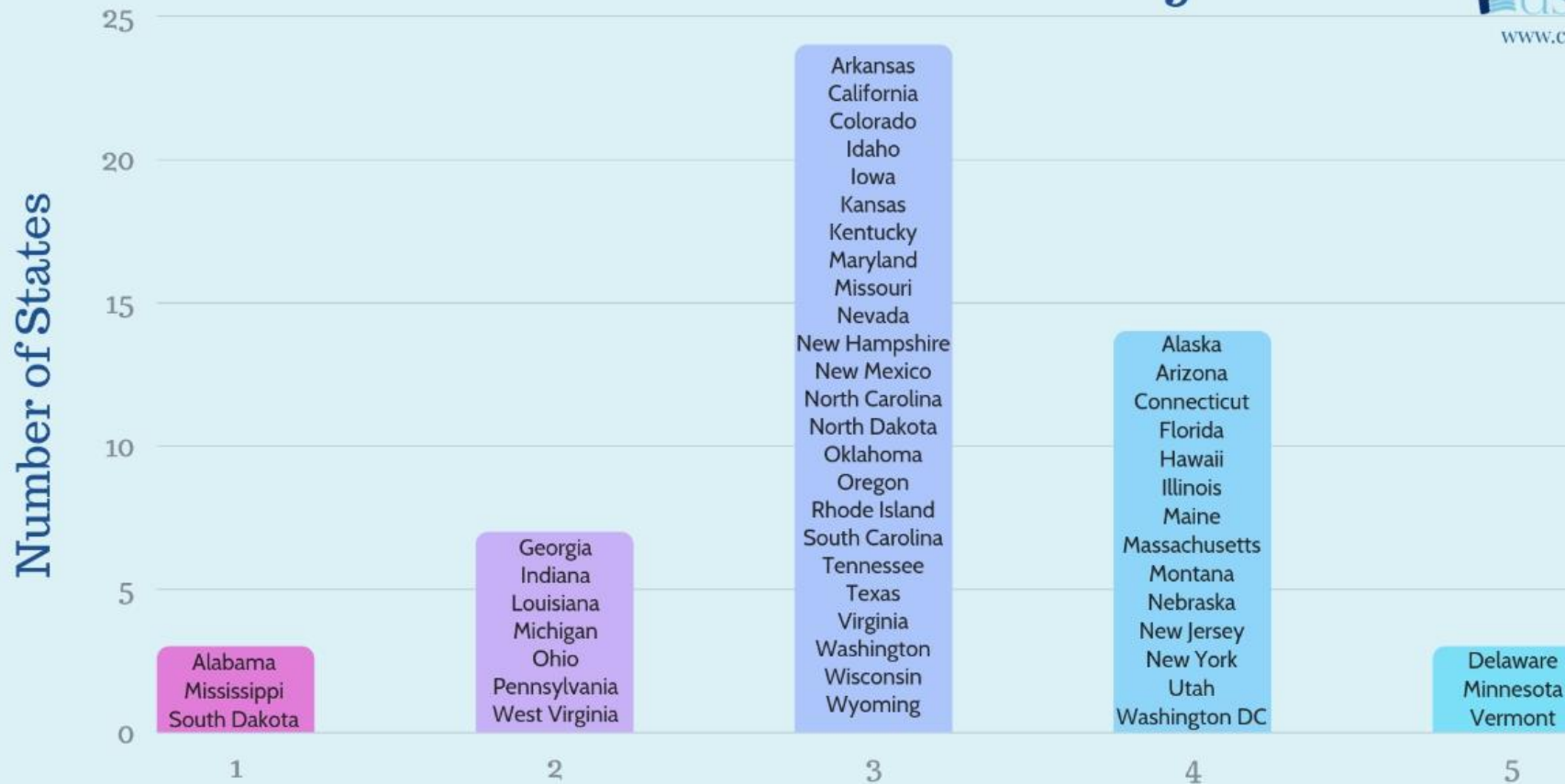
Alaska	Maine
Connecticut	Minnesota
Delaware	Nebraska
Florida	Utah
Illinois	Vermont

State Criminal SOL Ranking



The Sean P. McIlmail Statute of
Limitations Research Institute
at CHILDUSA

State Civil SOL Ranking



The Sean P. McIlmail Statute of
Limitations Research Institute
at CHILDUSA

Ranking: 1 = worst | 5 = best

SOL Revival Laws - Opening in 2019

(window for set period of time, up to certain age or fully retroactive)

Jurisdiction	Date Opens	Date Closes	Revival Law Description
Washington D.C.	May 3, 2019	May 2, 2021	2-year window: 2-year window for expired claims against perpetrators and private organizations opened on May 3, 2019. Window applies to all child sex abuse victims up to age 40 and, in some circumstances, older victims and those sexually assaulted as adults.
Montana	May 7, 2019	May 6, 2020	1-year window: 1-year window opened on May 7, 2019 for expired claims against perpetrators and private organizations.
Arizona	May 27, 2019	Dec. 31, 2020	19-month window: 19-month revival window opened on May 27, 2019 for expired claims against perpetrators and private organizations and will close on December 31, 2020.
Vermont	May 28, 2019	n/a	Revives all expired claims: Revived all expired claims against perpetrators, private organizations and government.
Rhode Island	July 1, 2019	n/a	Revives up to age 53: Revived SOL up to age 53 against perpetrator only.
New York	Aug. 14, 2019	Aug. 13, 2020	1-year window: 1-year window will open on August 14, 2019 for expired claims against perpetrators, private organizations and government.
New Jersey	Dec. 1, 2019	Nov. 30, 2021	2-year window: 2-year window will open on December 1, 2019 for expired claims against perpetrators, private organizations and government. Window applies to child sex abuse victims and those sexually assaulted as adults.

childusa.org – Sean P. McIlmail Statute of Limitations Research Institute

New York Child Victims Act

- Took effect February 14, 2019
- Expansion on time limit for victims of childhood sexual abuse to file civil lawsuits to age 55
- Criminal charges against offenders may be filed
 - Felony – until the victim turns 28 (previously age 23)
 - Misdemeanor – until the victim turns 25
- Allows one year look-back window (began Aug 14) to file claims that might have been previously barred due to expired SOLs
- Over 700 cases filed, only a small number against individuals

New Jersey

- Takes effect December 1, 2019
- Expansions on time limits for victims of childhood sexual abuse to file civil lawsuits, to whichever of the following is later:
 - Age 55 (previously age 20)
 - 7 years from discovery of the abuse (previously 2 years)
- Allows two year look-back window (beginning Dec 1) to file claims that might have been previously barred due to expired SOLs

New Jersey

- Nonprofit organizations are now retroactively liable for:
 - willful, wanton, or grossly negligent acts resulting in sexual abuse of a minor
 - Includes negligence in hiring, supervision, or retention of an employee
- Public entities no longer have immunity from sexual abuse lawsuits
 - public schools
 - not-for-profit private schools
- Class action suits not allowed – individual victims must file

California AB 1619

- Takes effect January 1, 2020
- Expansions on time limits for victims of childhood sexual abuse to file civil lawsuits, to whichever of the following is later:
 - Age 40 (previously age 26)
 - 5 years from discovery of the abuse (previously 3 years)
- Allows three year look-back window (beginning Jan 2020) to file claims that might have been previously barred due to expired SOLs
- Change in terminology from “childhood sexual abuse” to “childhood sexual assault”
 - Broadens the definition of “victim”
 - Now includes all types of inappropriate sexual conduct with a child
- If victims can prove entities tried to cover up the abuse, the court can multiply the damages by 3

Challenges

- An organization may be subject to a lawsuit even if it is currently unaware of any historical incidents
- Witnesses to abuse, perpetrators, and those who heard disclosures may be difficult to locate or may have died
- Memory recall after a significant time period
- Lack of evidence like student records, medical records, witness accounts –
The only available evidence may be the victim's statement
- Preparing for unknown potential financial responsibilities –payouts from civil claims regarding childhood sexual abuse are trending upward

Preparing Your Organization

- Know whether a complaint or allegation has ever been made against your organization and what the response was at the time
- Are there previous suits that were dismissed due to the existing SOL
- Perform an internal investigation of incidents regarding possible victims or potential suits
- Do you have proper insurance coverage
 - Have copies of all applicable policies on hand
 - Inform your carriers of any potential claims

Historical Data

- In 2002 California temporarily reopened civil SOLs for one year
 - 850 suits against the Catholic Church
 - 300 other suits against other churches and institutions, including Boy Scouts
 - Cost: Catholic dioceses paid a total of \$1.2 billion in settlements
- 2013 Minnesota passed the Child Victims Act
 - Removed the age qualification for victim to bring a childhood abuse lawsuit
 - Provided a three year look-back window
 - Over 900 hundred people sought damages for incidents
- July 1, 2017 to June 30, 2018 – the Catholic Church spent more than \$239 million related to child sexual abuse allegations
 - Roughly 75% went towards settlements and payments to survivors

Providing A Compassionate Response to Survivors

BE READY

- Designate a victim assistance coordinator, whose role may include:
 - Serve as the initial point of contact for those who come
 - Communicate the seriousness with which the organization takes any allegations
 - Explain the process moving forward and what to expect
 - Serve as a liaison between those who come forward and the organization
- Understand the dynamics of disclosure and why survivors sometimes take years to come forward
- Understand that certain aspects of the survivor's recollection of events may be fuzzy but that does not mean the survivor is not credible
- Ensure your organization's response plan includes outreach to those affected

Providing A Compassionate Response

ONCE A SURVIVOR HAS BEEN IDENTIFIED

- Offer to meet in person to listen to his/her story, or if the person does not want to meet, ask (through legal representatives):
 - What would be most helpful? How you can provide support?
 - What would he/she like to see happen as a result of coming forward?
 - ❖ Don't assume you know what he/she wants and why
- Don't be afraid to apologize
- Create a plan to offer resources + tailor the resources to fit the needs of those affected
 - i.e. connecting the individual to other community resources, facilitating counseling or pastoral assistance, designating a member of leadership to be available to listen to survivors directly
- Be clear about your state's mandated reporting requirements

Providing A Compassionate Response

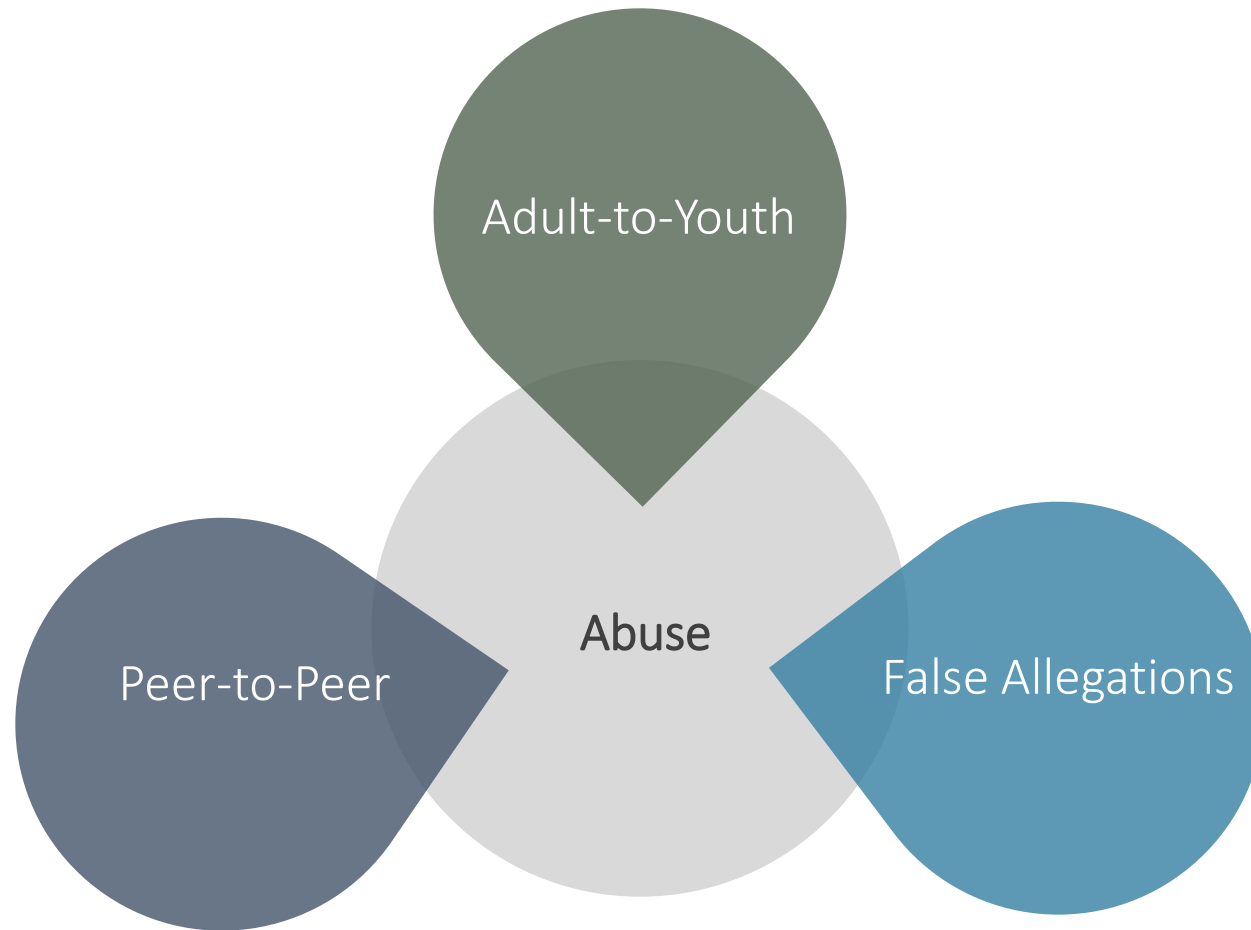
WHEN MEETING WITH A SURVIVOR

- Listen and be compassionate
- Tell the person they were right to come forward
- Avoid expressing shock or outrage
- Let the person know you believe him/her
- Assure the person the abuse was not their fault
- Avoid questions that may convey judgment or make the person feel responsible (i.e. Why did it take so long for you to report?)
- Follow reporting requirements

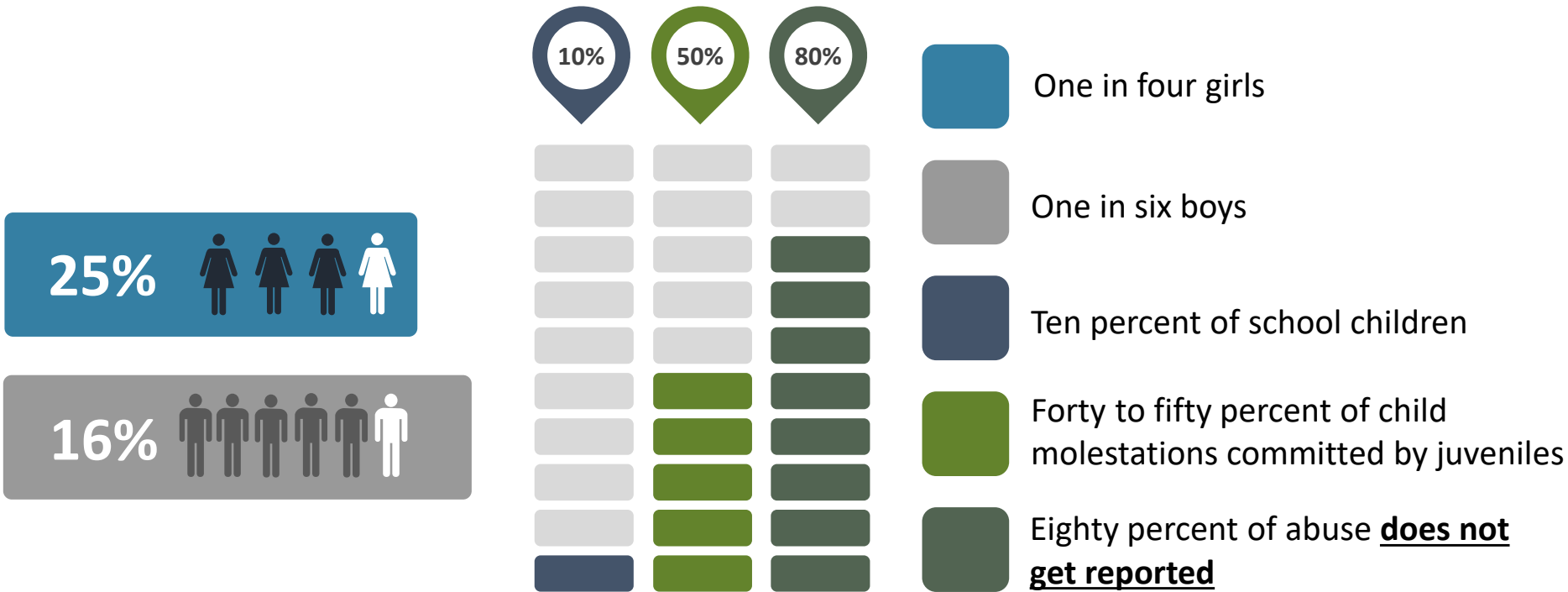


Monitoring & Supervising for Safety: Youth Serving Organizations

Types of Abuse



Scope of the Problem





Effects of Abuse On Victims

1

Psychological

2

Educational

3

Behavioral

4

Interpersonal

5

Sexual

How Peer-to-Peer Abuse Occurs

- ✓ Opportunistic offense
- ✓ Acting in the moment
- ✓ Can happen during times of stress or anger
- ✓ Peer-to-peer abuse can be prevented
 - ✓ Clear policies
 - ✓ Effective supervision



Sexual Curiosity



Sexual Abuse

Sexual Curiosity

- ✓ “Information gathering” process wherein youths look at and touch one another
- ✓ Often trying to determine appropriate gender roles
- ✓ Typically a voluntary activity occurring between peers of same age group

Sexual Abuse

✔ Criterion to be considered as follows:

- ✔ Age difference between youths
- ✔ Size difference between youths
- ✔ Developmental difference between youths
- ✔ Intellectual difference between youths
- ✔ Difference in status of peer group
- ✔ Type of sexual activity
- ✔ Amount of force or coercion
- ✔ Reactions of youth involved
- ✔ One-time occurrence or repetitive

When Peer-to-Peer Abuse Happens

Situations and Activities with increased risk include:

- ✓ Bathroom and shower time
- ✓ Changing clothes
- ✓ Mixed age groups together
- ✓ Free time
- ✓ Periods of transition
- ✓ When youth supervise youth
- ✓ *Truth or Dare* style games
- ✓ Swimming
- ✓ In isolated areas
- ✓ Off-site events
- ✓ Bedtime/overnight trips



Supervision of High-Risk Situations

Monitoring Unstructured Times

Four types of unstructured times require special attention:

- ✓ Free Time
- ✓ Transitions
- ✓ Large Groups
- ✓ Transportation

Mixed Age Groups

- ✓ If possible, the age span between youth in the same group should be no more than two years.
- ✓ Be mindful of physical, emotional, and social maturity differences and watch for conflicts that may arise.
- ✓ Keep an eye on the interactions between older and younger youth to ensure no one gets picked on or teased.

Eliminate Isolated Areas

- ✓ Designate isolated areas as off-limits except with adequate supervision.
- ✓ Walk through isolated areas to make sure only authorized individuals use them.
- ✓ Lock unused rooms and closets.
- ✓ Keep window blinds raised and remove anything from windows or doors that block the view.
- ✓ Use signs to designate areas that are off limits to athletes.

******Remember, adult offenders need access, privacy, and control to abuse youths.***

Take away privacy in isolated areas to increase safety. ***

Off-Site Events

- ✓ Be well prepared!
- ✓ Know what athletes you are responsible for and account for them at all times.
- ✓ Promptly report anyone who is missing.
- ✓ Keep an eye out for potentially isolated locations (remote areas of a park, unused banquet rooms, public restrooms, etc.).
- ✓ Watch for suspicious individuals.

Bedtime & Overnight

- ✔ Strictly enforce room check procedures.
- ✔ Coaches should not be permitted to stay in the same hotel rooms as athletes even if a parent is also staying the room.
- ✔ Keep things professional by avoiding physical contact or not discussing your personal life or sexually oriented topics.
- ✔ Do not watch movies or television with youth in private spaces.

Showers & Locker Rooms

- ✓ Ensure adult is nearby
- ✓ Stand outside shower area, listen to what's going on, and let the participants know you are there by talking to other participants.
- ✓ Avoid changing, using the bathroom, or taking showers at the same time or in the same area as athletes.

Create a Monitoring System

Step 1: Identify architectural and facility risk.

Step 2: Determine a system for monitoring these areas.

Step 3: Determine a method for documentation of monitoring.

Step 4: Create a method to review this documentation.

Multiple Ways to Supervise

- Determine how frequently authorized areas should be monitored by staff
- Zone monitoring: assign staff specific supervision responsibilities over authorized areas
- Require staff to record when they monitor authorized areas – this may be accomplished by using checklists
- Leadership's supervision of staff and facilities:
 - Supervising sites you do not normally visit
 - Spontaneous drop-ins
 - Scheduled meetings

Daily Practices for Decreasing Abuse Risks



- ✓ Structured activities at all times
- ✓ Maintain approved ratios
- ✓ Line-of-sight supervision
- ✓ Follow guidelines for affection
- ✓ Maintain “zero tolerance”
- ✓ Staff behavior sets the tone
- ✓ Document and report policy violations
- ✓ Respond to incidents of adult-to-youth sexual abuse and youth-to-youth sexual activity/abuse

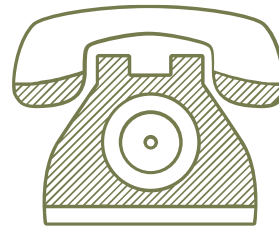
Responding Quickly

- ✓ Address problems immediately with the youth and with your supervisor
- ✓ Communicate with parents
- ✓ Document areas of concern
- ✓ Discuss issues with staff
- ✓ Develop a monitoring/safety plan

When to Report

If you suspect → REPORT

When you, in the scope of your employment,
reasonably suspect that a child has been abused or neglected.



Maintain a Culture of Safety



**Standards
are clear**



**Standards
are enforced**



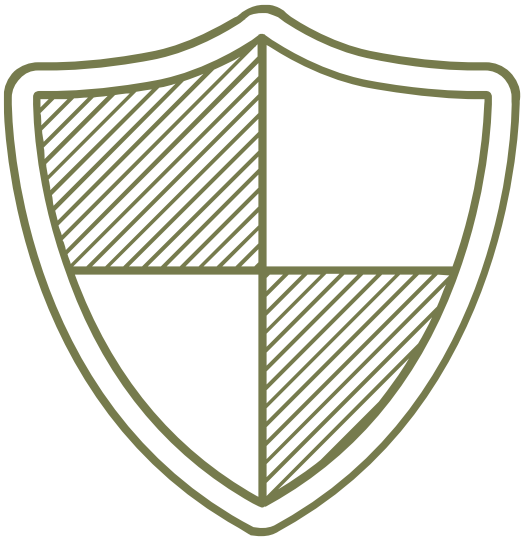
**Everyone knows
safety is part of
their job**



**Everyone takes
warning signs
seriously**



**Everyone reports
their concerns**



Online Abuse Prevention Training
Armatus Learn to Protect



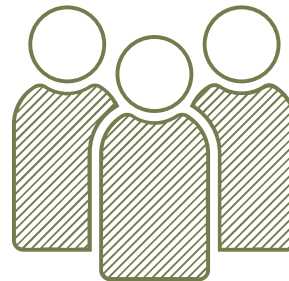
**Discounted
Background Checks**



**Educational Webinars
and Safety Bulletins**



Model Policies



**On-Site Consultation
and Training**



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INSURANCE PROGRAMS & RISK MANAGEMENT

ISA offers an array of Praesidium services
at either free or discounted rates.

For more information contact the
Risk Management Division at

(800)622-8272

or visit

www.isa-risk.com

KEEP IN TOUCH

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