POLICY BRIEF

The Need for a National Child Victims Act (NCVA): Standardizing statute of limitations for child sexual abuse

Fall 2019

Summary

Child sexual abuse is a traumatic event that can take years to overcome, yet many individuals are not able to report the crimes against them once they have been able to process the trauma later in life. Each state has specific policies and guidelines regarding the statute of limitations for reporting sexual abuse, which can lead to confusion. The National Child Victims Act (NCVA) would seek to create a federal policy that is the same for all states and allows all individuals who have been harmed by child sexual abuse to achieve justice for the crimes committed against them.

Introduction

Child sexual abuse is a very significant concern for individuals of all ages. In the United States of America in 2017, over 674,000 children were victims of maltreatment; 56,416 of those children were victims of sexual abuse. In addition, an estimated 1,720 children died of abuse and neglect during that time period.[1] Child sexual abuse can have lasting effects physically, mentally, and emotionally on the child as he/she ages into adulthood. Victims of child sexual abuse are four times more likely to develop symptoms of drug abuse and/or experience post-traumatic stress disorder (PTSD), and three times more likely to have a major depressive episode as an adult.[2] Prolonged child sexual abuse is also "related to delinquency, drug use, and other problem behaviors" in the victims throughout adulthood.[3]

For many victims, the psychological symptoms of the abuse may not manifest until later in their lives, and they may have difficulty processing the abuse. Thus, a large amount of child sexual abuse victims may not be capable of or ready to report the abuse until adulthood.[4] Although it is important to report crimes regardless of when it happened, 12.9 out of 1,000 victims over the age of 12 years old in 2018 did not report the crime to authorities.[5] Perpetrators of sexual assault and rape have higher recidivism rates, and are more likely to repeat their crimes.[6] If sexual crimes are not reported, the offender is likely to repeat the crime and more individuals could be harmed. Multiple state policies exist regarding the statute of limitations for reporting child sexual abuse, but each state has different requirements and limitations. The National Child Victims Act (NCVA) would create a federal policy that would allow victims of child sexual abuse to report the crimes against them later in life.

Examples of Current Policies

Currently, there is no federal statute of limitations regarding child sexual abuse, and the policies vary significantly among each state. Out of the 50 states, 46 do not have any statute of limitations for criminal charges, if enough evidence is provided, and 10 states do not have any statute of limitations for civil charges.[7] The states with the broadest statute of limitations for child sexual abuse are Delaware and Vermont, and the states with the narrowest statute of limitations are Ohio and Pennsylvania. Below are three examples of different state policies regarding child sex abuse statutes of limitations:

New York raised their statute of limitations within their state with the Child Victims Act of 2019. The statute of limitations now states that an individual who is a victim of child sexual abuse can report the abuse until he/she is 28 years old to seek felony indictment for their offender, which has increased from the previous age of 23 years old. Victims can also file civil cases regarding child sexual abuse until they are 55 years old within a one-year window.[8] It is beneficial for victims to be able to file civil claims against their abusers until

the age of 55 years old to provide ample time for victims to process their trauma. However, it would be more advantageous for victims to have a longer period of timer to pursue criminal charges.

California amended their civil statute of limitations in 2017. This abolished the statute of limitations without preconditions. Prior to this amendment, the statute of limitations was until the victim is 26 years old. In addition, if a psychological injury or illness from the crime was discovered later in life, the victim could pursue legal action up until three years after the discovery of the injury.[9] The abolishment of the statute of limitations altogether seems propitious, but can actually be harmful to innocents who may be the defendants. The statute of limitations is in place to protect due process and those who may be falsely condemned.

Hawaii amended their civil statute of limitations to extend the ability for victims of child sexual abuse to pursue civil suits until the age of 40 years old and provides a 10-year delayed discovery rule.[10] The delayed discovery rule allows the victim to file a civil suit against his/her perpetrator up to 10 years after he/she has been discovered to have psychological injury or illness by a licensed psychologist, therapist, mental health counselor, or clinical social worker at any stage of the victims life.[11] The provision of a 10-year delayed discovery rule allows time for the victim to process through the trauma of the abuse and to file civil charges against the perpetrator. This is beneficial to the victims without jeopardizing the possible innocence of defenders.

Recommendations

The proposed National Child Victims Act (NCVA) would create a federal policy regarding statute of limitations for reporting child sexual abuse. It would allow victims to report the child sexual abuse crimes until the age of 52 years old in order to seek felony indictment for the perpetrator. The victim would also have up to 10 years, during any time in his/her life after he/she has been discovered to have a psychological trauma related to the crime, to be able to file civil suits against the offender. The statute of limitations was chosen based on social work values and psychological principles and theories of trauma, as well as research on the average age of reporting and benefits and risks of different state policies.

The NCVA would allow victims of child sexual abuse to process their emotions at any time in their lives and move on by obtaining closure. It would incorporate multiple state policies to provide a federal policy that would be the same for every state, which would help decrease confusion during the event where reporting the crime was necessary. We recommend a federal statute of limitations for child sexual abuse victims to achieve justice and closure for those who have experienced childhood sexual trauma, to allow healing and decrease recidivism.

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[1] U.S. Department of Health & Human Services (2019). *Child Maltreatment Report 2017*. https://www.acf.hhs.gov/sites/default/files/cb/cm2017.pdf

[2] Zinzow, H.M., Resnick, H.S., McCauley, J.L., Amstadter, A.B., Ruggiero, K.J., & Kilpatrick, D.G. (2012). Prevalence and risk of psychiatric disorders as a function of variante rape histories: Results from a national survey of women. *Social Psychiatry and Psychiatric Epidemiology, 47(6)*, 893-902. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4096823/

[3] U.S. Department of Health & Human Services (2019). *Child Maltreatment Report 2017.* https://www.acf.hhs.gov/sites/default/files/cb/cm2017.pdf

[4] American Psychological Association Ethics Office (2002). Reporting past abuse, part II: Experts weigh in on the ethical dilemma posed in the May Monitor. *Ethic Rounds, 33(7)*. https://www.apa.org/monitor/julaug02/ethics

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[7] Child USA (2019). 2019 summary of child sexual abuse statutes of limitations (SOLs): Introduced, signed into law and state laws by category. https://www.childusa.org/2019sol/#a

[8] Child Victims Act of 2019, New York S. 2440, 238th Cong. (2019).

[9] Lewis & Llewellyn (2018). How to calculate statute of limitations for sexual abuse in California. https://sexualabuselawfirm.com/blog/how-to-caluclate-statute-of-limitations-for-sexual-abuse-in-california/

[10] S.B. 1035, SD1 (H.I. Stat. 2019).

[11] Stand. Com. Rep. No. 831 (2019).