

Trauma Doesn't Expire:

Extending the Civil Statute of Limitations for Childhood Sexual Abuse

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Courts, Corrections & Justice Committee

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Civil SOL for Childhood Sexual Abuse in Context



- **As research into the impact of childhood sexual abuse (CSA) became more prominent in the 1970s and 1980s,** it became evident that traditional SOL's for "personal injury" were inadequate for CSA claims.

- In 1993, New Mexico was a leader in creating a specific statute for these injuries that received broad bipartisan support. It increased the civil sol for CSA to a survivors 24th birthday or within three years the survivor knew or had reason to know resulting in injury. **NM has not changed its civil SOL in 33 years. Now making us one of the worst states for Civil SOL for survivors of childhood sexual abuse.**

Why is the civil statute of limitations for childhood sexual abuse different than other statutes of limitation?

- Dating back to the 19th century, psychologists began to research and acknowledging the severity of psychological injury associated with surviving childhood sexual abuse.
- Our understanding of memory repression and disclosure has shifted throughout the years.

Timeline & Social Context

17 years

1991 — Anita Hill testifies against SCJ Thomas

1993 — NM establishes civil SOL for childhood sexual abuse

1993 — Epstein buys Zorro Ranch

1995 — The Archdiocese of Santa Fe attempts to repeal civil SOL for childhood sexual abuse

2012 — Attempt to extend Civil SOL

2017 — Amended Civil SOL re: disclosure to med providers

2017 — Me Too Movement gains traction after Weinstein allegations

2018 — Christine Blasey Ford testifies against SCJ Kavanaugh

2022 — Attempt to reform Civil SOL: age repeal + retroactivity for private entities

2025 — Attempt to reform Civil SOL to the age of 58 or within 3 years of reporting.

2026 — Attempt to reform Civil SOL Civil SOL to age 58 or within 3 years of reporting. 3 year look back window for public + private actors. Compensation fund.

2026 — Epstein Files Transparency Act

2027 — Current Legislation

Accountability & Protecting Children

Survivors of childhood sexual abuse are more likely to be revictimized.

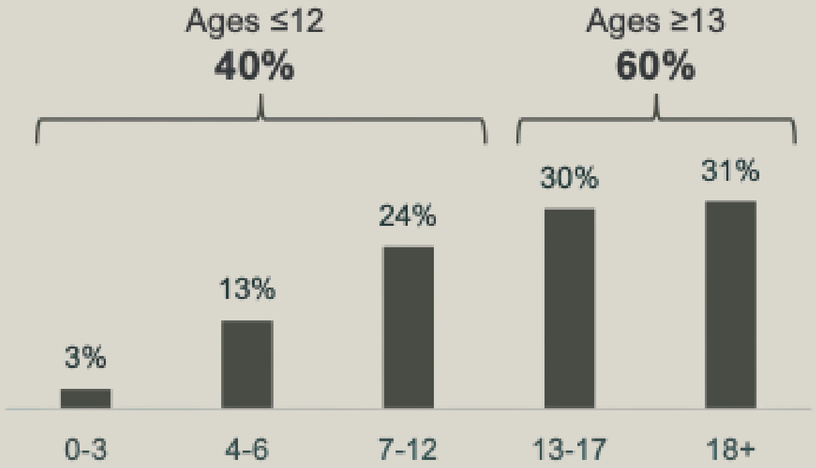
"The percentage of women who were raped as children or adolescents and also raped as adults was more than two times higher than the percentage among women without an early rape history." [i]

New Mexico students who had been forced to have sexual intercourse were:

- 5 times as likely to attempt suicide in the past year
- Almost 3 times as likely to engage in non-suicidal self-injury
- 2 times as likely to binge drink
- 4 times as likely to be current cocaine users[iii]

Age of Victimization

New Mexico Crime Victimization Report, (2024)



New Mexico students who said they would not be continuing their education after high school were twice as likely to have also experienced sexual violence in the last 12 months than students who did plan on continuing their education.[ii]

[i] (The National Intimate Partner and Sexual Violence Survey, 2010) [ii] Youth Risk & Resiliency Survey, 2017
[iii] 2015 NM-YRRS Results: Sexual Violence vol. 4 no. 3

What We Know About Extensions

- The extension of the civil SOL in New Mexico **would not be unprecedented**. 19 states, 3 territories, and the federal government have eliminated the civil SOL for some or all CSA claims without overwhelming their court systems. Many states are also introducing elimination and revival bills.

- The number of claims reflect how many children are being sexually assaulted. **This epidemic should be our focus**, not the cost. Taxpayers are footing the bill because of the burden on social services, educational systems, law enforcement, the penal system, and the healthcare system, among others.

- The statute of limitations for child sexual abuse cases should be different because **these cases are unlike any other tort**. Without organizational accountability, taxpayers and the state are left to pay for the lifetime costs of child sexual abuse.

- Every survivor says the same thing—**"I just don't want this to happen to another child."** It is not about the money; using the muscle of the civil law is the best avenue to hold institutions accountable. Institutions must be forced; they do not change because we ask them nicely—they change when they are in danger of losing something, i.e., financial status, reputation, etc.

Current Data

Without prevention efforts, it is estimated that 1 in 8 children may be at risk of sexual abuse before age 18. [1]



*Gender-based estimates approximate 20-25% of girls and 5-10% of boys in the US may be at risk of child sexual abuse without prevention efforts. [2]

19 states, 3 territories, and the federal gov. have eliminated the civil SOL in whole or in part

AK, AR, CA, CO, DE, FL, GU, IL, LA, MD, ME, MN, MP, NE, NH, NV, OR, US, UT, VI, VT, WA

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JURISDICTIONS

30 states and 3 territories have revived expired claims since 2002

AL, AR, AZ, CA, CO, CT, DC, DE, GA, GU, HI, IA, IN, KS, KY, LA, MA, MD, ME, MI, MN, MP, MT, NC, NH, NJ, NV, NY, OH, OR, RI, UT, VT, WV

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JURISDICTIONS

Types of SOL Extension & Revival Laws:

- Age Extension:
  - Extends the SOL prospectively for Child Sexual Abuse claims.
- Elimination:
  - Removes the SOL prospectively for Child Sexual Abuse claims.
- Window:
  - Provides a temporary period to file previously time-barred claims retroactively.
- Age Extension with Revival:
  - Extends the SOL to a certain age and revives previously expired claims for those under the capped age.
- Permanent Window:
  - Permanently extends or eliminates the SOL for previously time-barred claims with a window that never closes.
- Narrow Window:
  - A window to file claims only against specific defendants (i.e., Larry Nassar or Boy Scouts of America).
- Elimination with a Permanent Window:
  - The “zero-tolerance” policy on child sexual abuse. Anyone who sexually abuses a child or causes a child to be sexually abused will be liable prospectively and retroactively.

Other States' Data



*These numbers are based on the data most recently available. It is possible that more lawsuits have been filed than the ones accounted for.

State	Year	Population	Number of lawsuits filed or number of victims who filed claims	Percent of population that filed lawsuits under revival window
California	2019	39,355,309	14,000	0.0356%
Louisiana	2021	4,618,189	≥500	≥0.0108%
Maryland	2023	6,265,347	3500	0.0559%
Massachusetts	2014	7,154,084	≥550	≥0.0077%
Michigan	2018	10,127,884	332	0.0033%
Minnesota	2013	5,830,405	~1000	~0.0172%
New Hampshire	2020	1,415,342	≥1100	≥0.0777%
New Jersey	2019	9,548,215	≥300	≥0.0031%
New York	2019	20,002,427	10,857	0.0543%
Oregon	2009	4,273,586	≥450	≥0.0105%

Goals of Civil SOL Windows for Child Sexual Abuse:

1. Identify hidden child predators and the institutions that endangers children to the public, shielding other children from future abuse
2. Shift the cost of abuse from the victims and taxpayers to those who caused it
3. Prevent further abuse by educating the public about the prevalence, signs, and impact of child sex abuse so that it can be prevented in the future

Childhood Sexual Abuse in NM

Last year, this legislature eliminated the criminal statute of limitations for childhood sexual assault.

- Forty-nine states, or 98%, six territories, and the federal government have amended their criminal and civil CSA SOLs since January 2002 [ii]

The **average age** at which survivors of child sexual abuse disclose their abuse for the first time **is 52.**[ii]



Fifty-four percent (54%) of respondents reported having been either raped or sexually assaulted within their lifetime: Over 1.1 million New Mexicans. [i]

"68% never received any professional help."[i]

Of those, 40% were 12 or younger at the first incident.[i]

[i] New Mexico Crime Victimization Report pg 36, 42 (2024) [ii] CHILD USA, Delayed Disclosure Factsheet, p. 3 (2024)

Financial Impact



Survivors

- Costs to survivors include:
  - Legal
  - Counseling/therapy
  - Loss of employment and earnings
  - Medical bills
  - Housing
  - Intangible costs (i.e., quality of life)

Sexual assault: 49% reported significant problems at work or school.[i]

Rape: 60% reported significant problems at work or school.[i]

The State & Taxpayers

- Child sexual abuse may be costing the US upward of $9.3 billion dollars a year. [ii]

- Cost on all systems (educational, social services, medical, law enforcement, penal etc.)

Prevention

- It would require an additional $3 million dollars for a total of $5 million to provide sexual violence prevention courses to every student in NM, one time in middle school & one time in high school.

[i] New Mexico Crime Victimization Report, p. 30, (2024) [ii] Letourneau, Brown, Fang, Hassan, & Mercy (2018)

2027 Legislation



Extension

- Age of 24 → age of 58
- Keep: or 3 years after disclosure to a medical provider in the context of receiving care, whichever is later.

Prospective

- Scenario 1: Claims that are not time-barred
- Scenario 2: Abuse that occurs after the passage of the bill

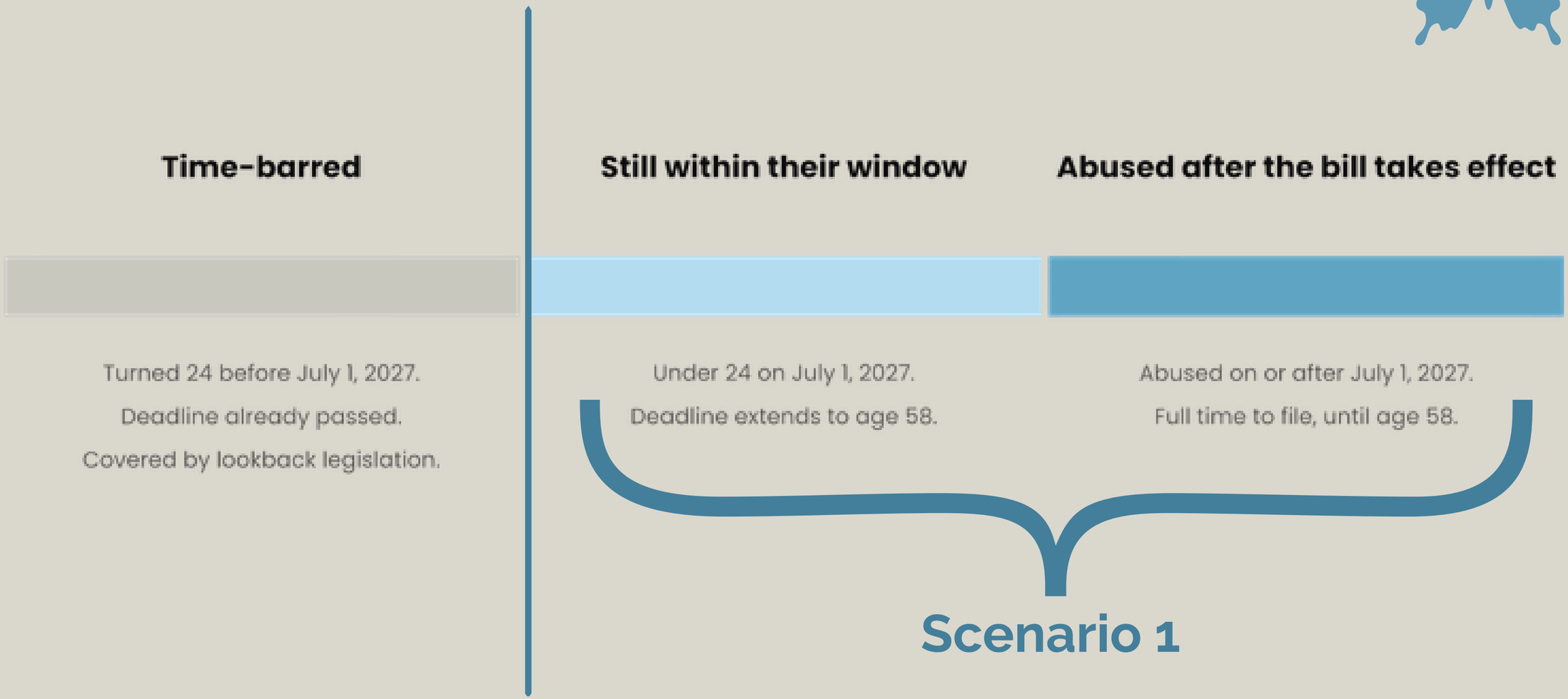
Public & Private

- Private individual actors and institutions
- Recovery being discussed for public entities

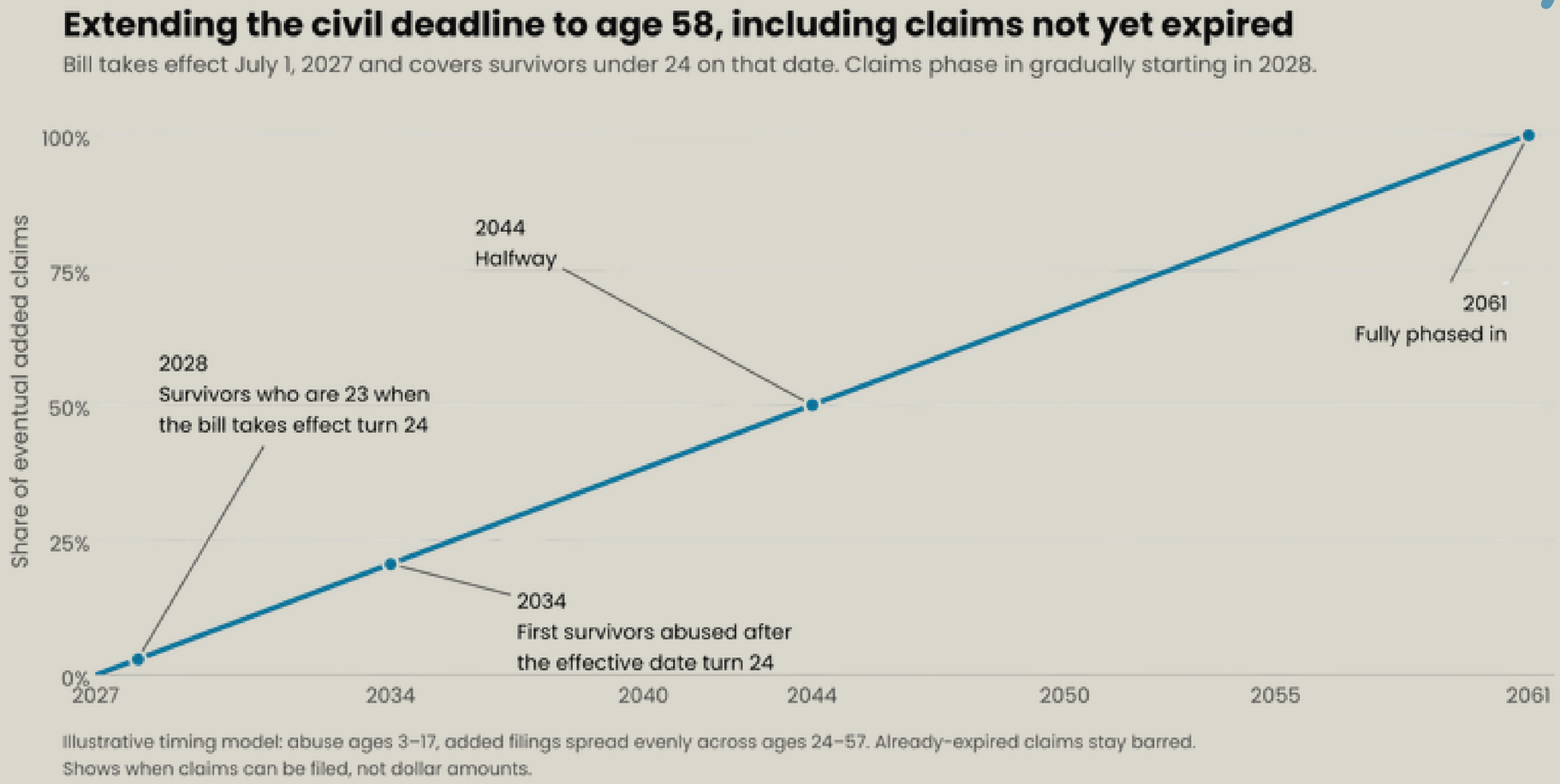
Notification & Waiver

- New waiver of sovergn immunity.
- Notice is being discussed

Who will the bill cover?

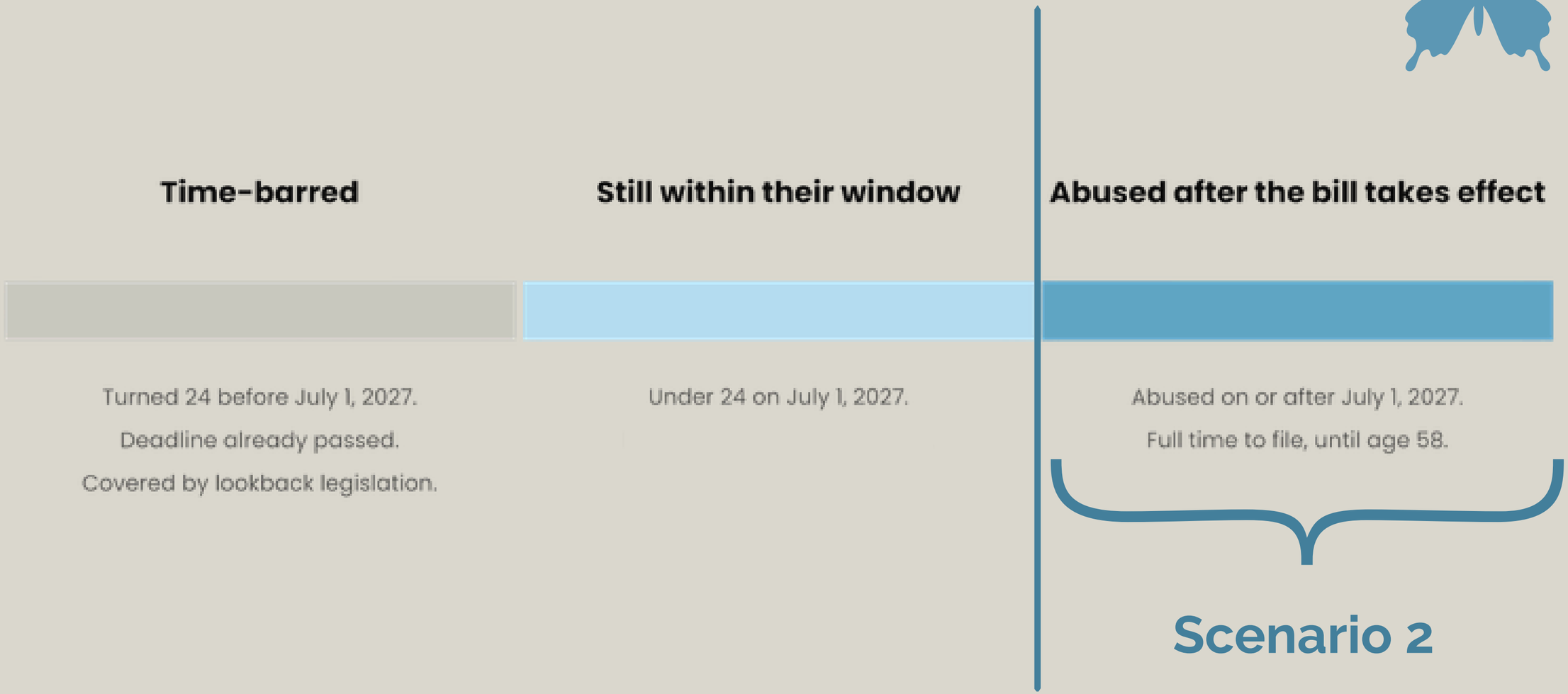


Timeline & Forecasting

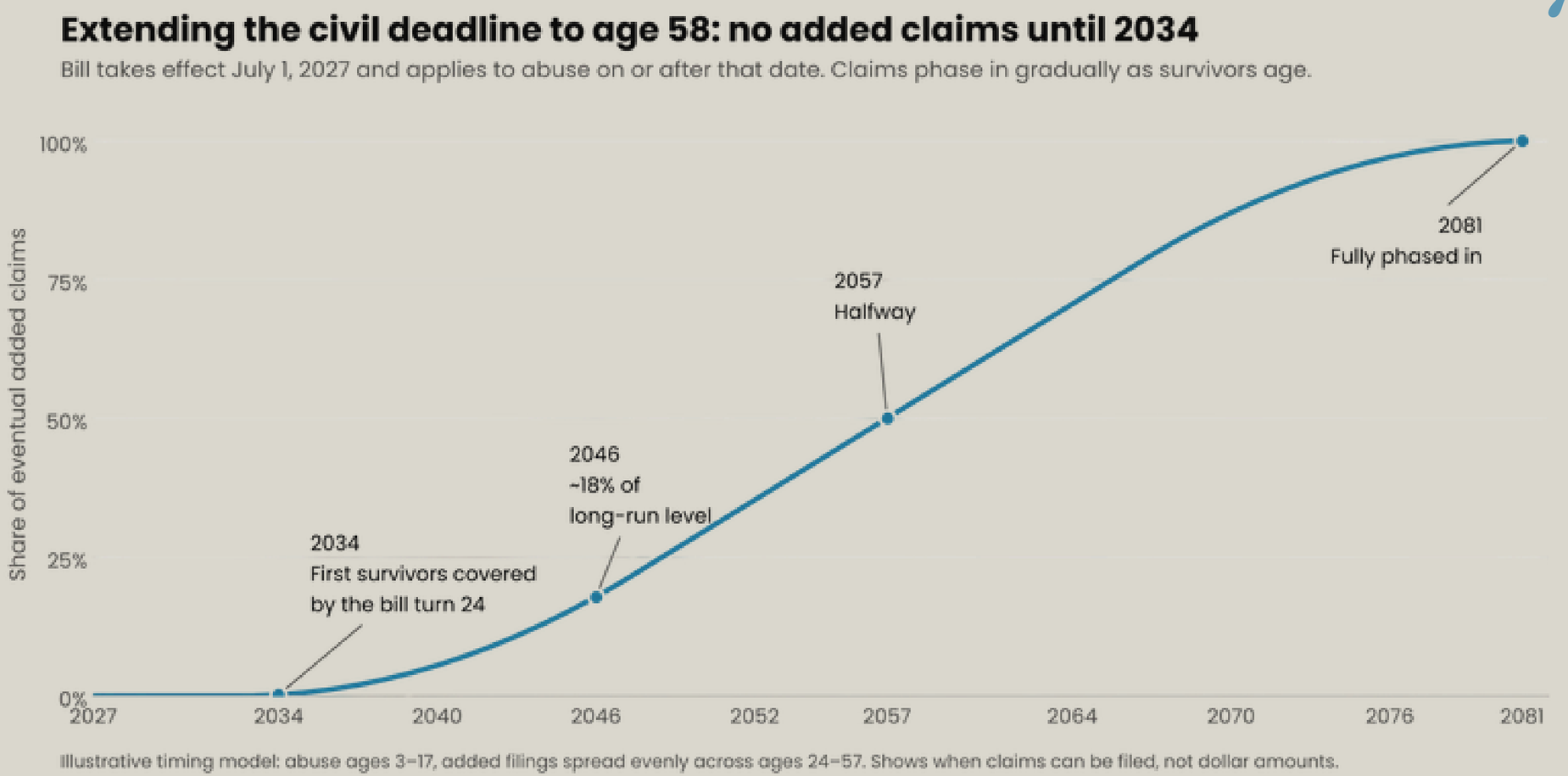


Scenario 1: extension includes survivors whose SOL has not run under current law

Who will the bill cover?



Timeline & Forecasting



Scenario 2: extension includes only those who experience abuse after bill takes effect

Science & Common Law

The need for a seperate statute.

Scientific understanding of childhood SA and delayed disclosure has led NM to have it's own section of law to address the issue. In relation to public entities being included and the intersection with the Tort Claims Act, common law and other current statutes support our piece of legislation as a stand alone statute.

Campos v. Murray (2006)

- Court held that a two-year statute of limitations within the NM Tort Claims Act violated an 8-year-old's due process rights in their case addressing childhood sexual abuse.

Luboyeski v. Hill (1994)

- The Supreme Court considered whether the Tort Claims Act overrides the Human Rights Act and shields a public entity from discrimination liability. It answered: "We hold that it does not." Additionally, for any tort for which immunity has been waived under the Tort Claims Act, the exclusive remedy provision does not foreclose the possibility that the legislature also waived immunity under another act, and we conclude that this is exactly what happened."

Civil Rights Act (2021)

- It says the state shall not have sovereign immunity for itself or any public body within the state for claims under that Act.
- It sets its own three-year deadline and its own notice-of-claim rule.
- It never amends Chapter 41, Article 4, never cites the Tort Claims Act, and never uses "notwithstanding." It stands entirely on its own.



Justice for survivors.
Protection for children.
All avenues for remedy.

NM SEXUAL ASSAULT Helpline

Call. Text. Chat. 24/7

1-844-NMSAHLP | 1-844-667-2457

NMSAHELP.ORG