

IN THE SUPREME COURT OF MARYLAND

No. 54, September Term, 2025
SCM-REG-0054-2025

BOARD OF EDUCATION FOR WICOMICO COUNTY,

Appellant,

v.

RHONDA B. STURM,

Appellee.

ON WRIT OF CERTIORARI
from the Appellate Court of Maryland
Civil Case Number C-22-CV-25-197
(Hon. Kevin F. Arthur, Laura S. Ripken, Anne K. Albright, JJ.)

**BRIEF OF AMICI CURIAE ENOUGH ABUSE, PUBLIC JUSTICE, THE
AMERICAN ASSOCIATION FOR JUSTICE, AND THE MARYLAND
ASSOCIATION FOR JUSTICE IN SUPPORT OF APPELLEE**

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CORPORATE DISCLOSURE STATEMENT

No amicus has a parent corporation, and no publicly held company owns 10% or more of the stock of any amicus.

CONSENT

All parties consent to the filing of this amicus brief.

STATEMENT OF INTERESTS OF AMICI CURIAE

Amici curiae are national organizations that advocate for survivors of sexual abuse and other victims of wrongful conduct. Each has significant experience working with child sexual abuse victims, including many who were silenced for decades by the very institutional dynamics this brief describes.

Enough Abuse is the nation's oldest citizen-based child advocacy organization, with more than six decades of experience advancing protections for vulnerable children. Through its Children's Justice Campaign, Enough Abuse works nationwide to reform statutes of limitation for child sexual abuse, participating directly in legislative efforts that resulted in elimination and revival statutes in more than thirty states and at the federal level, including Maryland's Child Victims Act of 2023.

Public Justice is a national public interest advocacy organization that fights against abusive corporate practices, the assault on civil rights and liberties, and the destruction of earth's sustainability. Through its Students' Civil Rights Project, Public Justice represents students who have experienced sexual abuse in school settings, including survivors who did not disclose until adulthood. Its Access to Justice Project litigates cases involving procedural barriers to courts, including statutes of limitation and sovereign immunity. Public Justice has filed amicus briefs across the country, including in this Court, supporting the constitutionality of statutes allowing child sexual abuse survivors to seek justice even when their claims would otherwise be time-barred.

The American Association for Justice (“AAJ”) is the world’s largest plaintiff trial bar, with members in the United States, Canada, and abroad. AAJ members represent plaintiffs in personal injury actions, employment rights cases, consumer cases, and other civil actions, including actions arising from child sexual abuse.

The Maryland Association for Justice, Inc. (“MAJ”) is a specialty bar association comprised of attorneys that represent Marylanders who have been injured by the wrongful conduct of others. MAJ has a vital interest in all laws affecting the civil justice system, especially laws granting immunity from liability.

Through their combined experience in litigation, policy advocacy, and empirical research, amici understand that meaningful access to the civil courts is essential — both to provide survivors a path to justice and to deter the institutional failures that allow abuse to persist. For these reasons, amici respectfully submit this brief pursuant to Maryland Rule 8-511(a)(2) in support of Appellee.¹

SUMMARY OF ARGUMENT

The Maryland Constitution guarantees every citizen a remedy for injury to their person. *See* Md. Const. Decl. of Rts. Art. 19. Yet for many survivors of child sexual abuse in Maryland’s public schools, that guarantee has proven illusory. For decades, Maryland’s statutes of limitation (“SOLs”) expired long before survivors could understand, process, or safely disclose the abuse they endured—let alone bring suit against their abusers. Patterns

¹ No party’s counsel authored this brief in whole or in part. No party or party’s counsel contributed money intended to fund its preparation or submission.

of abuse remained hidden, and responsible institutions largely avoided civil accountability. The General Assembly enacted the Child Victims Act of 2023 (“CVA”), ch.5, 2023 Md. Laws, to correct that injustice by restoring survivors’ access to the courts.

Against that backdrop, the Board asks this Court to adopt an interpretation of the CVA that would deny retroactive application to pre-1971 claims, arguing that school boards were then immune from suit, and that survivors therefore lacked a legally cognizable cause of action. That argument should be rejected for four independent reasons.

First, the CVA reflects decades of scientific research demonstrating that child sexual abuse survivors frequently delay disclosure and that institutional dynamics in school settings make disclosure especially difficult. Legislatures nationwide, including in Maryland, have acted on this understanding by passing revival laws to restore access to justice for survivors whose claims were extinguished by unreasonably short SOLs.

Second, the Board’s reliance on pre-1971 “immunity” mischaracterizes that doctrine. The pre-1971 limitation was a funds-availability constraint rooted in trust-law principles, not a constitutional prohibition on liability. County boards of education have been authorized to “sue and be sued” since 1865, and that legal capacity has persisted notwithstanding the statutory limitations that have, at times, restricted the mechanisms for enforcing judgments. *See Katz v. Wash. Suburban Sanitary Comm’n*, 284 Md. 503, 507 (1979).

Third, the text, structure, and legislative history of the CVA confirm that the General Assembly intended the statute to reach historical claims against all institutional defendants, including school boards. The CVA’s operative language is sweeping and unqualified,

permitting “any action” otherwise time-barred to be filed “at any time.” 2023 Md. Laws ch.5, §3; Md. Code Ann., Cts. & Jud. Proc. §5-117(b).

Fourth, Article 19 of the Maryland Declaration of Rights requires that any ambiguity in the CVA be resolved in favor of survivors’ rights to open courts and meaningful remedies, a substantive constraint on how this Court interprets remedial legislation.

Across the country, thirty-one states and three U.S. territories have enacted revival statutes or lookback windows for child sexual abuse claims, and the vast majority apply them to public institutions, including public school boards. *See* The Children’s Justice Campaign, Enough Abuse, <https://enoughabuse.org/get-vocal/childrens-justice-campaign/> (updated Sept. 2025) [hereinafter *Civil SOL Revival Window/Legislation*] (featuring an interactive map of civil SOL reforms throughout the United States). Maryland’s CVA is squarely within this national consensus.

It would be a profound irony—and a direct contradiction of the CVA’s purpose—to hold that the survivors whose experiences most clearly demonstrated the need for reform are the very individuals such reform cannot reach.

ARGUMENT

I. THE CVA RESPONDS TO THE WELL-DOCUMENTED CRISIS OF INSTITUTIONAL CHILD SEXUAL ABUSE AND THE SCIENCE OF DELAYED DISCLOSURE

The General Assembly enacted the CVA in response to decades of empirical research establishing that child sexual abuse is pervasive in institutional settings,

particularly schools, and that survivors face profound barriers to timely disclosure. Those realities are essential context for interpreting the statute’s scope.

A. Schools Are the Primary Institutional Site of Child Sexual Abuse

Child sexual abuse is a crisis of staggering proportions. Research estimates that approximately 1 in 4 girls and 1 in 13 boys experience sexual abuse before age eighteen. See Gwenlian Moody et al., *Establishing the International Prevalence of Self-Reported Child Maltreatment: A Systematic Review by Maltreatment Type and Gender*, 18(1164) BMC Pub. Health 1, 5 (2018); Marije Stoltenborgh et al., *A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence Around the World*, 16(2) Child Maltreatment 79, 84–87 (2011). In Maryland, sexual abuse accounts for nearly one-third (32.8%) of all reported child abuse and neglect cases—more than triple the national rate of 10.1%. Admin. for Children & Families, U.S. Dep’t of Health & Human Servs., *Child Maltreatment 2021*, 45 tbl. 3-8 (2022), <http://acf.gov/cb/report/child-maltreatment-2021> (detailing the number of victims by their category of maltreatment).

Schools are where children most frequently experience institutional abuse. A federal study estimates that more than 4.5 million students experience sexual misconduct by a school employee between kindergarten and twelfth grade. Carolyn A. Shakeshaft, U.S. Dep’t of Educ., *Educator Sexual Misconduct: A Synthesis of Existing Literature* 17, 24 (2004) [hereinafter *Shakeshaft*]. This figure reflects a systemic pattern in which school officials allow predatory teachers to quietly resign and secure employment elsewhere—a practice referred to as “passing the trash.” Billie-Jo Grant et al., *Passing the Trash: Absence*

of State Laws Allows for Continued Sexual Abuse of K-12 Students by School Employees, 28(1) J. Child Sex Abuse 84, 87–89 (2019). Despite the scale of harm, only about 6% of incidents are formally reported, and only 1% result in meaningful investigation. *See id.* at 88; Shakeshaft, et al., *supra*, at 26–30.

B. Survivors of School-Based Abuse Face Distinct and Significant Barriers to Disclosure

Research establishes that child sexual abuse victims are traumatized in ways that profoundly impact the timing of disclosure. As children, victims frequently remain silent out of fear of retaliation, family disruption, or involvement with authorities. *See* Delphine Collin-Vézina et al., *A Preliminary Mapping of Individual, Relational, and Social Factors that Impede Disclosure of Childhood Sexual Abuse*, 43 Child Abuse & Neglect 123, 125–28 (2015). Victims may also struggle to disclose due to shame, self-blame, and gender-based stereotypes or stigma regarding victimization. Ramona Alaggia et al., *Facilitators and Barriers to Child Sexual Abuse (CSA) Disclosures: A Research Update (2000–2016)*, 20 Trauma Violence Abuse 260, 279 (2019).

These barriers are compounded by neurobiological effects. Childhood trauma alters brain development and disrupts the neural systems governing memory, language, and stress regulation. *See* Vincent J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 14 Am. J. Preventive Med. 245, 251–55 (1998).

In school settings, these barriers are particularly acute. The educator-student relationship involves a profound power imbalance—educators control grades, discipline,

and a child's social standing. When a child *does* come forward, that child is frequently met with disbelief or institutional self-protection—a dynamic scholars describe as “institutional betrayal.” See Carly P. Smith & Jennifer Freyd, *Institutional Betrayal*, 69 *Am. Psychologist* 575, 575–87 (2014).

It is therefore unsurprising that the vast majority of victims delay disclosure by at least twenty years. Patrick J. O’Leary & James Barber, *Gender Differences in Silencing Following Childhood Sexual Abuse*, 17 *J. Child Sexual Abuse* 133, 138 (2008). Approximately 1 in 5 victims never disclose. Katherine McGuire & Kamala London, *A Retrospective Approach to Examining Child Abuse Disclosure*, 99 *Child Abuse & Neglect* 104263 (2020); see also Bette L. Bottoms et al., *Abuse Characteristics and Individual Differences Related to Disclosing Childhood Sexual, Physical, and Emotional Abuse and Witnessed Domestic Violence*, 31 *J. Interpersonal Violence* 1308 (2016).

The General Assembly enacted the CVA in recognition that survivors like Ms. Sturm could not reasonably have come forward earlier, and that a legal system conditioning access to justice on a timeline that trauma itself makes impossible to meet fails to provide the remedy Maryland’s Constitution promises. That constitutional promise — embodied in Article 19 of the Maryland Declaration of Rights, which guarantees every person injured a remedy by the course of law — independently requires that the CVA be interpreted to reach the claims at issue here, as discussed in Section IV, *infra*.

C. The CVA Advances Maryland’s Compelling Interest in Child Protection

Protecting children from sexual abuse is “a governmental objective of surpassing importance.” *See Maryland v. Craig*, 497 U.S. 836, 852 (1990); *see also Packingham v. North Carolina*, 582 U.S. 98, 107 (2017). The CVA advances that objective in three ways. First, it facilitates identification of previously unknown predators and the institutions that shielded them. The prolonged latency period before disclosure affords perpetrators and institutions a critical window to evade accountability—often by transferring offending employees, failing to document complaints, and discrediting victims. *See, e.g., Shakeshaft et. al, supra*, at 27-32. Serial perpetrators frequently accumulate dozens of victims over many years. *See Michelle Elliott et al., Child Sexual Abuse Prevention: What Offenders Tell Us*, 19 *Child Abuse & Neglect* 579, 582–84 (1995) (finding 7% of offenders committed offenses against between 41 and 450 children, with delays of up to 36 years between first offense and conviction). The CVA helps bring to light long-concealed abuse and the institutional failures that permitted it to continue unchecked.

Second, revival statutes promote public awareness and institutional reform by illuminating perpetrators’ methods and exposing long-concealed misconduct through civil litigation. *See Shakeshaft et. al, supra*, at 32–36. The resulting transparency has led to strengthened reporting requirements and prevention protocols. *See generally* Off. Of the Att’y Gen. Commonwealth of Mass., *The Sexual Abuse of Children in the Roman Catholic Archdiocese of Boston*, 86-87 (2003), <https://www.mass.gov/doc/the-sexual-abuse-of-children-in-the-roman-catholic-archdiocese-of-boston/download>.

Third, the CVA equitably shifts *some* of the substantial economic costs of abuse from victims and the public to those responsible for the harm. The estimated lifetime societal cost of child sexual abuse cases occurring in a single year exceeds \$9.3 billion, with the average cost per nonfatal female victim estimated at \$282,734. Xiangming Fang et al., *The Economic Burden of Child Maltreatment in the United States and Implications for Prevention*, 36 Child Abuse & Neglect 156, 160–62 (2012). Before the CVA, culpable institutions rarely bore these costs; survivors and the public absorbed them through healthcare expenditures, lost productivity, and social services.

These three public policy purposes are mutually reinforcing and can be realized only if the CVA applies to all institutions that enabled abuse, including public school boards, regardless of when the abuse occurred.

II. THE PRE-1971 LIMITATION ON SCHOOL BOARD LIABILITY WAS A REMEDIAL CONSTRAINT UPON THE AVAILABILITY OF FUNDS, NOT A CONSTITUTIONAL BAR TO SUIT

The Board contends that because it purportedly enjoyed “full sovereign immunity” prior to 1971, “no claim existed” and thus nothing remained for the CVA to revive. Opening Br. 26. That argument holds only if pre-1971 immunity extinguished the underlying cause of action rather than merely barring the remedy. It did not. Sovereign immunity restricts available relief, it does not negate the underlying wrong. *See Rios v. Montgomery County*, 386 Md. 104, 131 n.13 (2005). To avoid that problem, the Board attempts to recast Article VIII, §3’s fiscal appropriations constraint as a structural prohibition on liability, bootstrapping a funding restriction into a freestanding immunity

doctrine. This Court should reject that move. The pre-1971 doctrine did not eliminate causes of action or elevate school board immunity to constitutional status; it operated as a remedial constraint tied to the availability of funds to satisfy judgments — one that may not have reached county-raised funds at all. *See* Appellee’s Br. 39, 41–44.

A. Article VIII, §3 Preserved but Did Not Elevate the Pre-1971 Doctrine to Constitutional Status Because It Limited the Remedy, Not the Right

Maryland has long recognized that a valid waiver of governmental immunity requires two components— (1) legislative authorization to sue, and (2) a lawful means of satisfying any resulting judgment. *Katz v. Wash. Suburban Sanitary Comm’n*, 284 Md. 503, 507 (1979). This principle traces to the earliest school board immunity cases. *See Weddle v. Bd. of Educ.*, 94 Md. 334, 344 (1902) (holding that tort recovery was unavailable because there was “no power given the boards of school commissioners to raise money for the purpose of paying damages”).

The first component, authorization to sue, has existed since 1865 when the General Assembly provided that county boards of education “shall be capable to sue and be sued.” Md. Laws, Educ., ch.4, §2 (1865). That “clear” and “unqualified” waiver of sovereign immunity remains in force today. *Brooks ex rel. Wright v. Hous. Auth. of Balt. City*, 411 Md. 603, 622 (2009); *see also* Md. Code Ann., Educ. § 3-104(b)(2) (2026). The legislature reinforced that waiver through §5-518(c), providing that “a county board of education may not raise the defense of sovereign immunity to any claim” under a specified monetary threshold. *Bd. of Educ. of Balt. Cnty. v. Zimmer-Rubert*, 409 Md. 200, 207 (2009).

The only element historically absent was a lawful funding mechanism to satisfy judgments. The limitation was not the product of a constitutional prohibition on suit, but of the practical inability to pay a judgment. *See Weddle*, 94 Md. at 343–45. Moreover, this practical limitation may not have extended to county-raised revenues, which were arguably not “school funds of the state” subject to the Article VIII restriction. *See Appellee’s Br.* 39, 41-44. It was therefore fiscal rather than constitutional, and remedial rather than substantive.

Maryland courts have consistently framed the pre-1971 limitation in fiscal terms, focusing on the absence of funds to pay judgments and not the absence of an underlying wrong. *See, e.g., Dean v. Bd. of Educ. of Cecil Cnty.*, 74 Md. App. 323, 328 (1988); *Bd. of Educ. of Prince George’s Cnty. v. Alcrymat Corp.*, 258 Md. 508, 513–14 (1970); *Weisner v. Bd. of Educ. of Howard Cnty.*, 237 Md. 455, 459–60 (1965).

At common law, school boards entrusted with the custody of children owe duties of reasonable care to protect those children from foreseeable harm. *See Restatement (Second) of Torts* §§ 317, 320 (1965). Those duties do not depend on whether the legislature has provided a funding mechanism to satisfy judgments. That distinction is dispositive—because the pre-1971 doctrine limited only the remedy while leaving the underlying right intact, the CVA did not create a new cause of action. It removed a legislatively imposed barrier to recovery and restored the ability to enforce rights that had always existed.

B. The 1971 Waiver and This Court’s Remedial-Rights Jurisprudence Confirm the Doctrine’s Legislative Character

If Article VIII, §3 had imposed an irreducible constitutional bar to suit against school boards, the General Assembly could not have validly altered that rule. But the General Assembly did precisely that in 1971. *See* Md. Laws ch. 548, §1 (1971). Maryland courts have accepted the validity of that waiver for more than fifty years. *See Bd. of Educ. of Balt. Cnty. v. Zimmer-Rubert*, 409 Md. 200, 214–19 (2009); *Bd. of Educ. of Worcester Cnty. v. BEKA Indus., Inc.*, 190 Md. App. 668, 703–04 (2010).

Sovereign immunity in Maryland is a doctrine “[g]rounded in ancient common law,” *Condon v. State*, 332 Md. 481, 491 (1993), not a constitutional entitlement, and “any direct or implied diminution of the doctrine falls within the authority of the General Assembly.” *Stern v. Bd. of Regents*, 380 Md. 691, 700 (2004).

This Court’s broader remedial-rights jurisprudence reinforces the point. In *Murphy v. Edmonds*, the Court upheld Maryland’s cap on noneconomic damages—a statutory limitation on recovery for claims otherwise cognizable at common law—thereby presupposing the continued existence of the underlying cause of action. 325 Md. 342, 365–70 (1992). In *Doe v. Roe*, the Court upheld the extension of the limitations period as remedial and not affecting substantive or vested rights. 419 Md. 687, 703–06 (2011). In *Roman Catholic Archbishop of Washington v. Doe*, this Court reaffirmed that limitations defenses do not vest a right to be free from suit unless reduced to judgement. 489 Md. 514, 549–58 (2025).

The Board likewise has no vested right in the continuation of its pre-1971 immunity. A statutory defense does not vest pre-suit unless it has been “so substantially relied upon that retroactive divestiture would be manifestly unjust.” *Allstate Ins. Co. v. Kim*, 376 Md. 276, 298 (2003). The Board identifies no concrete reliance interest sufficient to make accountability manifestly unjust. A generalized expectation that favorable law will remain unchanged is not the reliance interest Maryland law protects.

C. The CVA Supplied the Precise Funding Mechanism the Historical Cases Required

Once the pre-1971 doctrine is properly understood as a remedial constraint, not a constitutional bar, the CVA’s operation becomes straightforward. The General Assembly did exactly what *Katz* and earlier school board cases required—it supplied both authorization to proceed and a lawful means of satisfying judgments. The CVA amended Courts and Judicial Proceedings §5-518 to establish a distinct damages cap for sexual abuse claims against school boards, amended Education Article §4-105 to require corresponding insurance coverage, and declared that such insurance constitutes a valid educational expense. *See* 2023 Md. Laws ch. 5, §1; Md. Code Ann., Cts. & Jud. Proc. §5-518(b)(2)(ii), (c)(2); Md. Code Ann., Educ. §4-105(a)(2), (b)(1)(i).

To the extent the Board is correct that county funds constituted “school funds of the state,” the CVA answered the precise objection the Board identified in *Weddle* by providing a lawful funding mechanism from which judgments can be satisfied without diverting funds dedicated to educational purposes. The Board’s bootstrapping argument thus fails at every level. Article VIII, §3 is a fiscal constraint, not an immunity provision.

The pre-1971 limitation was a common-law remedial barrier, not a constitutional prohibition on the existence of claims. And the CVA supplied the very funding mechanism whose absence historically prevented recovery, leaving no constitutional obstacle to the revival of Ms. Sturm’s claim.

II. THE CVA’S TEXT, STRUCTURE, AND LEGISLATIVE HISTORY ESTABLISH RETROACTIVE APPLICATION TO ALL SCHOOL BOARD CLAIMS

The Board’s contention that the CVA does not extend to pre-1971 claims cannot be reconciled with the statutory scheme the General Assembly enacted. The CVA is not merely a revision to a limitations period, it is a comprehensive framework that permits survivors to bring claims “at any time,” applies retroactively to previously time-barred claims, establishes a distinct damages cap for school boards, requires corresponding insurance, and designates that insurance a valid educational expense. *See* 2023 Md. Laws ch. 5, §§1–3. Each element of this framework points in the same direction, and each forecloses the Board’s proposed carve-out.

A. The CVA’s Operative Language Is Sweeping and Unqualified

As amended by the CVA, Courts and Judicial Proceedings § 5-117(b) now provides that:

“Notwithstanding any other provision of law, including 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 of sexual abuse that occurred while the victim was a minor may be filed at *any time*.”

Md. Code Ann., Cts. & Jud. Proc. § 5-117(b) (emphasis added). That language is unqualified. It does not distinguish between public and private defendants, does not carve out school boards, and does not limit the statute’s reach to abuse occurring after any particular date. The phrase “or any other law” is the kind of comprehensive residual clause legislatures use to displace every otherwise applicable barrier to suit. *See Lockshin*, 412 Md. at 275–76 (giving effect to broad statutory language rather than judicially narrowing it); *Archbishop*, 489 Md. at 521, 524 (stating the CVA “eliminated all time restrictions applicable to child sexual abuse claims,” allowing “any previously barred claim” to be brought “at any time”).

The Act’s uncodified provisions reinforce this reading. Section 2 declares 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.” 2023 Md. Laws ch.5, §2. Section 3 further provides that the Act “shall be construed to apply retroactively to revive any action that was barred” by prior limitations periods. *Id.* §3. The repeated and deliberate use of the word “any” leaves no room for the temporal limitation the Board seeks to impose. Maryland courts may “neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute.” *Lockshin*, 412 Md. at 275.

The clarity of this language is underscored by what the CVA repealed. The 2017 statute expressly prohibited retroactive revival of previously barred claims. *See* 2017 Md. Laws ch.12, §§2–3. The CVA removed that restriction and replaced it with the opposite

directive—a legislative reversal that this Court has already recognized as intentional and significant. *See Archbishop*, 489 Md. at 527–30 (tracing the legislative progression from prohibition to mandate of retroactive revival).

B. The Statutory Framework Linking §5-117, §5-518, and §4-105 Confirms the Act Reaches School Boards

Perhaps the most powerful evidence of legislative intent lies in the CVA’s coordinated amendments to the statutes governing school-board liability and insurance. Before the CVA, §5-518 capped school-board liability at \$400,000. *See* 2016 Md. Laws ch.680. The CVA created an entirely separate framework for child-sexual-abuse claims. As amended, §5-518 provides that when a county board’s liability “arises from a claim of sexual abuse, as defined in §5-117,” the board may assert sovereign immunity only above \$890,000. Md. Code Ann., Cts. & Jud. Proc. §5-518(b)(2)(ii), (c)(2). The statute thus ties the school-board damages cap directly to §5-117, the same provision allowing claims to be filed “at any time.”

The General Assembly’s simultaneous amendment of Education Article §4-105 is equally telling. That provision now requires each county board to maintain liability insurance of at least \$890,000 per occurrence for sexual-abuse claims and declares that insurance a “valid educational expense.” Md. Code Ann., Educ. § 4-105(a)(2), (b)(1)(i).

These companion provisions confirm that the legislature anticipated CVA claims against school boards— a legislature does not mandate insurance against liabilities it does not intend to impose — and directly address the Board’s funding concern by designating such insurance as a valid educational expense. This designation resolves any remaining

question about funding authority, including to the extent the Board is correct that pre-existing county revenues were unavailable for this purpose. *See* Appellee’s Br. 39. 41-44.

This Court’s decision in *Zimmer-Rubert* forecloses the Board’s attempt to narrow these provisions. There, the Court held that §5-518’s reference to “any claim” could not be judicially restricted to exclude categories of claims the legislature had not excluded. 409 Md. at 214–19. The same reasoning applies here with equal force. Nor does the canon of strict construction of sovereign-immunity waivers aid the Board. That principle prevents courts from *inferring* a waiver from ambiguous text; it does not permit courts to *contract* an unambiguous waiver by inserting limitations the legislature chose to omit. *See Magnetti v. Univ. of Md.*, 402 Md. 548, 565 (2007).

If school boards were categorically exempt from CVA claims arising from pre-1971 abuse, the Act’s amendments to §5-518 and §4-105 would do little work for precisely the historical claims that prompted the statute’s retroactive design. Maryland courts consistently avoid interpretations that produce such unreasonable or illogical results. *See Consol. Constr. Servs., Inc. v. Simpson*, 372 Md. 434, 457–58 (2002); *Doe v. Catholic Relief Servs.*, 484 Md. 640, 652–53 (2023). The only coherent reading of the CVA is that it applies to school boards regardless of when the abuse occurred.

C. Legislative Action Before and After the CVA Confirms Application to Historical Claims

Three additional considerations drawn from the broader legislative record confirm this reading of the CVA.

First, when the General Assembly raised the school-board damages cap in 2016, it expressly limited that amendment to “actions filed on or after October 1, 2016.” 2016 Md. Laws ch.680, §2. No comparable prospective-only language appears in the CVA. When the legislature includes limiting language in one enactment but omits it in a related statute, courts presume the omission was intentional. *See Lockshin*, 412 Md. at 281; *Allstate*, 376 Md. at 291–92. The same inference follows from the CVA’s remedial character, which supports retroactive application. *See Langston v. Riffe*, 359 Md. 396, 406–08 (2000); *Foor v. Juvenile Servs. Admin.*, 78 Md. App. 151, 162-63 (1989) (finding the absence of prospective-only language, in contrast to prior related enactments, was strong evidence of retroactive intent).

Second, in upholding the CVA’s retroactive application, this Court observed that the General Assembly “could have more closely tailored its solution, such as by maintaining heightened proof requirements or lower damages caps applicable to older claims.” *Archbishop*, 489 Md. at 574–75. That observation is intelligible only if the Court understood the CVA’s damages framework to reach claims predating 1971.

Third, in 2025, the General Assembly prospectively reduced the damages cap for certain previously time-barred claims filed on or after June 1, 2025. *See* 2025 Md. Laws ch.104, §1; Md. Code Ann., Cts. & Jud. Proc. §5-518(c)(2)(ii). That legislation necessarily presupposes that the CVA’s original caps applied to historical claims. A legislature does not amend liability limits for claims it believes were never cognizable in the first place.

IV. ARTICLE 19 REQUIRES THAT ANY AMBIGUITY IN THE CVA BE RESOLVED IN FAVOR OF SURVIVORS' ACCESS TO JUSTICE

Even if this Court were to conclude that the CVA leaves some uncertainty about its application to claims arising from abuse in public schools before 1971, Maryland's Constitution supplies the governing interpretive principle. Article 19 of the Maryland Declaration of Rights guarantees meaningful access to the courts and requires that statutory ambiguity be resolved in favor of preserving remedies for legal injuries.

A. The Board's Interpretation Would Deny a Remedy to a Class of Survivors in Violation of Article 19

Article 19 provides that every person injured in her person or property "ought to have remedy by the course of the Law of the Land and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay." Md. Const. Decl. of Rts. art. 19. Article 19 protects two closely related principles: the right to a remedy for legal injury and the right to meaningful access to the courts. *Murphy v. Edmonds*, 325 Md. 342, 365 (1992).

The Board's interpretation of the CVA would produce a result fundamentally incompatible with that guarantee. Under the Board's theory, survivors of childhood sexual abuse could pursue civil remedies if the abuse occurred in a private institution, but not if the abuse occurred in a public school before 1971. The result would be the creation of an entire class of injuries for which the law provides no civil remedy.

That result is especially troubling in the context of compulsory public education. Children attending Maryland's public schools had no meaningful choice about where they

would be educated or which adults would exercise authority over them during the school day. If the Board’s interpretation were accepted, those same students—who were legally required to attend the institutions responsible for their supervision—would uniquely be denied access to the courts when those institutions failed to protect them.

Nothing in Article 19 suggests the Constitution requires such a result. To the contrary, Maryland courts have long recognized that statutes should not be interpreted in a manner that extinguishes access to judicial remedies where a reasonable alternative interpretation preserves that access. *See Johnson v. State*, 274 Md. 536, 541 (1975). At minimum, if the CVA leaves any uncertainty about its application to pre-1971 claims against school boards, Article 19 requires that ambiguity to be resolved in favor of preserving survivors’ ability to pursue a remedy. The canon of constitutional avoidance independently compels the same result — where one interpretation of a statute raises serious constitutional concerns and another does not, courts must adopt the construction that avoids the constitutional difficulty. *See Clark v. Martinez*, 543 U.S. 371, 381 (2005). The Board’s reading would create an Article 19 problem that the CVA’s plain text avoids.

B. The Board’s Insurance and Funding Arguments Do Not Limit the CVA’s Valid Waiver of Immunity

The Board attempts to justify its interpretation by invoking concerns about insurance and funding. Those concerns do not transform the CVA’s remedial framework into a constitutional impossibility; they are matters of implementation, not limits on legislative authority.

The General Assembly addressed those concerns directly by pairing the CVA’s revival provisions with a defined damages cap and a mandatory insurance requirement for county boards of education. *See* 2023 Md. Laws ch.5, §1; Md. Code Ann., Cts. & Jud. Proc. §5-518(b)(2)(ii), (c)(2); Md. Code Ann., Educ. §4-105(a)(2), (b)(1)(i). Moreover, the Board’s premise that no public funds were available to satisfy pre-1971 judgments is itself contested. As Appellee argues, county-raised revenues were arguably never subject to the Article VIII restriction on “school funds of the state,” and thus may have been available to satisfy tort judgments even before the CVA’s enactment. *See* Appellee’s Br. 39, 41-44.

Nor is the Board correct that claims arising from historical abuse are inherently uninsurable. Claims-made insurance policies are triggered by the timing of the claim, not the date of the underlying conduct. *See Sherwood Brands, Inc. v. Great Am. Ins. Co.*, 418 Md. 300, 322 (2011). Insurers routinely manage exposure to prior conduct through retroactive dates and prior-acts coverage provisions. *See Nat’l Cycle, Inc. v. Savoy Reinsurance Co.*, 938 F.2d 61, 65 (7th Cir. 1991). That such coverage may carry increased cost does not diminish the legislature’s authority to authorize liability or to require that it be insured.

More fundamentally, the Board’s fallback argument—that sovereign immunity persists if a school board fails to comply with § 4-105’s insurance mandate—would invert the statute. Under that theory, a board could defeat the CVA simply by purchasing inadequate insurance, or none at all, thereby converting a compliance obligation into an immunity-restoring loophole. Maryland law does not permit a governmental entity to nullify a statutory waiver through its own inaction. The Board's position is further

undermined by the distinction between purchasing insurance — which §4-105 expressly authorizes as a valid educational expense — and satisfying judgments from county funds that may never have been subject to the Article VIII restriction in the first place. *See* Appellee's Br. 39, 41-46; *see also Davis v. Bd. of Educ. for Prince George's Cnty.*, 222 Md. App. 246, 275 (2015) (explaining that a board of education that has no insurance gets no benefit from the §5-518 sovereign immunity cap). Likewise, the Board cannot invoke Article VIII selectively. The Board has already expended public funds defending this litigation at every level of the courts. Yet this Court has made clear that governmental entities are not relieved of the obligation to defend claims merely because reliance on a waiver statute may ultimately prove misplaced. *See Jett v. State*, 316 Md. 248, 263 (1989).

At bottom, the Board's position reduces to a policy objection—that civil liability for historical abuse may impose financial burdens on public institutions. That argument is properly directed to the legislature, not the judiciary. The General Assembly considered those concerns and addressed them through a calibrated framework that includes a defined damages cap. Article 19 does not permit courts to convert such policy concerns into a categorical denial of remedy for the very class of survivors the statute was enacted to protect.

V. MARYLAND'S APPLICATION OF THE CVA TO PUBLIC SCHOOL BOARDS IS CONSISTENT WITH THE NATIONAL LANDSCAPE

The national landscape of child sexual abuse revival legislation has expanded dramatically over the past two decades. As of 2026, thirty-one states and three U.S. territories have revived expired civil SOLs, and twenty states, two U.S. territories, and the

federal government have eliminated civil SOLs for child sexual abuse claims entirely. *See* Civil SOL Revival/Window Legislation, *supra*. Two features consistently recur across this body of legislation. First, legislatures that revive otherwise time-barred claims ensure those claims may proceed against public entities, including school systems. Second, where revival statutes create fiscal exposure for governmental defendants, states address those concerns through ordinary legislative tools rather than categorical immunity.

Maryland’s CVA reflects this design, placing the State squarely within the mainstream of revival-law frameworks nationwide.

A. Revival Statutes Across the Country Reach Public School Systems

States have taken different approaches, but the result is consistent: revival statutes apply to public school systems without limitation. Some jurisdictions accomplish this through express statutory waivers. New York’s Child Victims Act combined its revival window with amendments eliminating notice-of-claim and procedural barriers that had previously shielded public entities, including school districts. *See* 2019 N.Y. Laws ch. 11, §§5–8; N.Y. Educ. Law §3813(2). Courts have consistently applied those provisions to permit claims against public school districts to proceed. *See, e.g., S.H. v. Diocese of Brooklyn*, 205 A.D.3d 180, 190–91, 167 N.Y.S.3d 55, 63 (2d Dep’t 2022).

New Jersey similarly amended the Tort Claims Act to remove governmental immunity for sexual abuse claims while amending the Charitable Immunity Act for parallel treatment of public and private institutions. *See* N.J. Stat. Ann. §59:2-1.3 (providing that “[n]othing in [the Tort Claims Act] shall be construed to grant immunity” for claims arising

from sexual abuse of a minor); *see also* N.J. Stat. Ann. §2A:53A-7.4. Earlier this month, the New Jersey Supreme Court held that these amendments eliminated public school districts' Tort Claims Act immunities and permitted vicarious liability for employees' sexual abuse of students, even for conduct occurring outside the scope of employment. *Hornor v. Upper Freehold Reg'l Bd. of Educ.*, No. 089973, 2026 WL 681390 (N.J. Mar. 11, 2026).

Other states achieve this through statutory structure. For example, California's Assembly Bill 218 created a revival window while exempting childhood sexual abuse claims from the Government Claims Act's claim-presentation requirement. *See* 2019 Cal. Stat. ch.861, §3; Cal. Gov't Code § 905(m).

Still other jurisdictions apply general revival provisions to all institutional defendants without carving out public school systems. *See* Haw. Rev. Stat. §657-1.8 (2024); Colo. Rev. Stat. §13-80-103.7 (2024). Regardless of the mechanism, revival statutes consistently reach public school systems.

B. Courts Have Consistently Upheld the Constitutionality of Revival Statutes against Public School Systems

The case law interpreting revival statutes reflects several principles bearing on the Board's arguments. SOLs are procedural devices, not vested substantive rights, and legislatures may revive previously time-barred civil claims where doing so serves compelling public interests. *See, e.g., Doe v. Hartford Roman Cath. Diocesan Corp.*, 317 Conn. 357, 430 (2015); *Sliney v. Previte*, 473 Mass. 283, 294–95 (2015); *Archbishop*, 489 Md. at 568.

Where legislatures revive claims while modifying governmental liability frameworks, courts interpret those statutes as applying to public defendants. No court has held that pairing a revival window with an express waiver of immunity was ultra vires or constitutionally impermissible.

Courts have also consistently rejected the argument that fiscal consequences of revival statutes render them unconstitutional. In *West Contra Costa v. Superior Court*, the California Court of Appeal upheld retroactive liability against a public school district, rejecting the district's argument that the retroactive waiver of the claim presentation requirement created an unconstitutional "gift of public funds." 98 Cal. App. 5th at 1262–7. The Court held that the legislation did not create new substantive liability but merely removed a procedural barrier to claims for which liability had long existed, and that, even assuming the gifts clause applied, the legislature's determination that providing accountability for childhood sexual abuse survivors served a public purpose was entitled to deference. *Id.*

In sum, the national precedent does not support a categorical limitation on liability for sovereign agents.

C. Funding Historical Claims Is a Legislative Question, Not a Constitutional Barrier

The Board's argument rests on the premise that the absence of historical insurance coverage renders revival liability constitutionally impossible. That premise is incorrect. Across jurisdictions, states treat the funding of historical claims as a matter of legislative policy, not constitutional limitation, and public entities manage revival-window exposure

through a range of well-established fiscal tools including self-insurance, risk-pool participation, appropriations, borrowing authority, and fiscal-oversight frameworks. *See* Fiscal Crisis & Mgmt. Assistance Team, *Childhood Sexual Assault: Fiscal Implications for California Public Agencies* 15–17 (2025); *see also* Tex. Civ. Prac. & Rem. Code Ann. §16.0045 (expanding state risk-pool system simultaneously with enactment of revival statute in 2025).

Maryland’s \$890,000-per-claimant cap is itself a fiscal management tool, creating defined, financeable liability for each claim. The subsequent enactment of HB 1378, reducing the cap for certain claims to \$400,000, further demonstrates the legislature’s ongoing engagement with the fiscal dimension of CVA liability. *See* 2025 Md. Laws ch.104, §1.

No state that has applied its revival statute to public school systems has experienced the catastrophic consequences opponents predict. School districts in New York, New Jersey, California, Texas, and elsewhere continue to operate and educate children while satisfying tort obligations. The fiscal challenges are real, but they are management challenges, not constitutional bars.

CONCLUSION

For the foregoing reasons, the Court should reject the Board’s interpretation, which would deny relief to the very survivors the CVA was enacted to protect. The General Assembly removed longstanding procedural and fiscal barriers to accountability, and

nothing in Maryland law permits those barriers to be restored through judicial construction.

The judgment below should be affirmed.

Respectfully submitted,



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CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8-112

This brief contains 6,485 words, excluding the parts exempted by Rule 8-503. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.

RULE 8-504(a)(8) STATEMENT OF FONTS

This brief was printed utilizing a proportionally spaced font. The body and footnotes are printed in Times New Roman, 13 Point.

CERTIFICATE OF SERVICE

I, Bruce M. Plaxen, CERTIFY that, on this 26th day of March 2026, the foregoing Brief of Amici Curiae was filed electronically and served electronically by the MDEC system on all persons entitled to service.



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