

# Law Office of Erin Olson, P.C.

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TO: House Committee on Judiciary

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FROM: Erin K. Olson, Esq.

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**RE: HB 3582–Eliminates Civil Statutes of Limitations for Sexual Abuse and Sexual Assault**

I am an attorney in private practice. For more than 20 years, my practice has been devoted to representing and advocating for crime victims in civil and criminal cases. Many of my clients have been adults who were sexually abused as children by trusted adults, and a few have been adult survivors of sexual assault.

House Bill 3582, as introduced, would eliminate the civil statutes of limitation for child sexual abuse and adult sexual assault claims against perpetrators and non-governmental<sup>1</sup> third parties. The bill’s amendments to ORS 12.117 and ORS 12.118 would continue Oregon’s legal recognition and acknowledgment of the lasting impact of sexual abuse and assault on survivors, consistent with the national trend toward eliminating civil statutes of limitations for such claims: Nineteen states<sup>2</sup> and the federal government<sup>3</sup> have eliminated the civil statute of limitations for some or all child sexual abuse claims, and several states have done the same for adult sexual assault claims.<sup>4</sup>

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<sup>1</sup> The statute of limitations for claims against public bodies is ORS 30.275(9), which states, “Except as provided in ORS 12.120, 12.135, and 659A.875, but notwithstanding any other provision of ORS chapter 12 or other statute providing a limitation on the commencement of an action, an action arising from any act or omission of a public body or an officer, employee or agent of a public body within the scope of ORS 30.260 to 30.300 shall be commenced within two years after the alleged loss or injury.” The Oregon Supreme Court has interpreted ORS 12.117 to have limited application to claims against public bodies in that it exempts all claims based on conduct that constitutes child abuse, including claims against public bodies, from the statute of ultimate repose set out in ORS 12.115. *Sherman v. State*, 368 Or 403, 418 (2021).

<sup>2</sup> Arkansas, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida (under ages 16 and suing abuser), Illinois, Louisiana, Maine, Maryland, Minnesota (perpetrator only), Nebraska, Nevada (exceptions), New Hampshire, Utah, Vermont, and Washington. (Source: <https://childusa.org/2025-sol-tracker>, last accessed March 26, 2025)

<sup>3</sup> *Eliminating Limits to Justice for Child Sex Abuse Victims Act* (Public Law No. 117-176, enacted 9/16/2022).

<sup>4</sup> Alaska (Alaska Stat. § 09.10.065 for felony sexual assaults and trafficking), Colorado (Colo. Rev. Stat. § 13-80-103.7 – no civil SOL for any claim of sexual misconduct), Connecticut (Conn. Gen. Stat. § 52-577e for claims after the perpetrator is convicted of serious sexual assault), New Hampshire (New Hamp. Rev. Stat. Ann. 508:4-g – no civil SOL for any sexual assault or incest).

The proposed -1 amendments to House Bill 3582 would clarify the legislature's intentions regarding the scope of ORS 12.117's application to third parties. This clarity is necessary in light of trial and appellate courts' mixed rulings on the application of ORS 12.117 to those whose actions or omissions resulted in the sexual abuse and/or sexual assault, because the Oregon Court of Appeals has interpreted ORS 12.117 to require actual knowledge (as opposed to constructive knowledge) that child abuse is occurring,<sup>5</sup> and some trial courts have gone a step further and construed it to mean that the defendant must have actual knowledge that a particular child is being abused.<sup>6</sup> Under those interpretations, a third party employer who takes no action after learning that one of its employees has sexually abused numerous children in the past cannot be sued by a later-abused child under ORS 12.117. I do not believe that is what this legislative body intended when it enacted ORS 12.117 in 1989 and amended it at least three times to give victims more time.

The -1 amendment would remove the "knowingly" requirement from ORS 12.117 and ORS 12.118, and would make persons or entities who "allow[ed], permit[ted], or encourage[ed] child sexual abuse" or sexual assault to be sued at any time if those persons or entities "permit," i.e. make it possible or give an opportunity to an offender to abuse a child or sexually assault an adult, even if they do not actually know that the victim will be a particular child, as long as the other elements of the applicable claim are proven. *See Wyers v. American Medical Response Northwest, Inc.*, 360 Or 211, 222 (2016) (discussing the meaning of "permit" when used in a statute without a limiting mental state).<sup>7</sup>

Thank you for your consideration.

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<sup>5</sup> *Lourim v. Swensen*, 147 Or App 425, 444-45 (1997), *reversed on other grounds*, 328 Or 380 (1999).

<sup>6</sup> *See, e.g., Coe et al v. Providence Health & Services Oregon et al.*, Multnomah County Case No. 20CV37412, "Order on Defendant Providence Health & Services Oregon's Rule 21 Motions," p. 7 (Dec. 5, 2022) (Souede, J.); *Sapp v. Roman Catholic Archbishop*, No. CV 08-68-PK, 2008 U.S. Dist. LEXIS 33263 at \*36-38 (D. Or. Apr. 22, 2008) (Papak, M.J.)

<sup>7</sup> The Court in *Wyers* observed that the common usage of the word "permit" is not just to refer to those who actively authorize particular conduct, but "is also used to refer to an act or failure to act that has the effect of making something possible, without mention of intention as to the result. *Webster's*, for example, also provides that 'permit' can mean 'to make possible[;] \* \* \* to give an opportunity.' *Id.*; *see also American Heritage Dictionary of the English Language* 1315 (5th ed 2011) ('[t]o afford opportunity or possibility')." *Wyers*, 360 Or at 222 (interpreting ORS 124.100(5)).