

Memorandum of Support for the Adult Survivors Act (A.648/S.66)

We are survivors, advocates and attorneys representing survivors of sexual violence. We understand first-hand the difficulties and inequalities faced by victims of rape, sexual assault and sexual misconduct when they try to recover for injuries in civil court.

We strongly urge the legislature to pass the Adult Survivors Act (A.648/S.66) which would create a one-year window to allow adult sexual assault survivors who are unfairly time-barred to file a civil lawsuit against perpetrators and negligent institutions.

Several factors prevent sexual violence survivors from coming forward about the violent crime perpetrated against them. Survivors are disproportionately not believed by law enforcement, face cultural stigmas and victim-blaming, and emotional and psychological effects that prevent them from coming forward for years, sometime decades. This is why opening a statute of limitations for time-barred sexual violence claims will allow survivors to finally seek restorative justice.

I. RAPE IS NOT THE SAME AS OTHER CIVIL ACTIONS

Victims of sexual violence face institutional, cultural and social bias that cause delayed reporting. a

When a person seeks to recover for the injuries they sustained in a slip-and-fall incident, the individual does not face the guilt, shame, psychological and emotional harms associated with suffering a sexual assault. They do not typically face victim-shaming such as, “she must have consented to fall and break her ankle... This wasn’t really a slip-and-fall, this was just “regret slip” she wanted to slip-and-fall but now regrets it.”

Survivors of sexual violence have reported the following reasons for not reporting or a delay in coming forward:

- “I did not want my children to suffer”
- “No one will believe me”
- “I was drinking... I deserved this.”
- “He may come after me..”
- “I was too ashamed to tell anyone... I was only 19”
- “The police won’t help. They are calling it a ‘civil dispute’”

II. WOMEN OF COLOR ARE DISPROPORTIONATELY HARMED BY THE STATUTE OF LIMITATIONS

Women of color face a greater risk for sexual assault than non-Hispanic white women.¹ However, women of color are less likely to report and receive more negative responses when they report than non-Hispanic white women. Only one in every 15 black women will report being raped.²

Women of color face a variety of barriers to justice:

- Centuries of systemic racism and oppression
- Culturally-specific stereotypes sexually “promiscuous” “immoral” and “unrapeable”
- Racial biases with law enforcement and the criminal justice system
- People of color understand that the likelihood of a black man surviving police custody is low, so they do not want to report the rape
- The survivor may become the sole financial provider for the family, and unable to provide for her children.
- Women of color are disproportionately under-informed about their rights after suffering sexual violence

In a 2016 survey, over 45% of women and girls of African descent reported that, when they disclosed that they had been raped, “nothing happened.”³ Only eight percent reported that they were taken for medical care and treatment.⁴

III. INJUSTICE IN THE CRIMINAL JUSTICE SYSTEM

A broken criminal justice system has contributed to underreporting and delayed civil actions.

In 2019, only 33.9 % of victims reported the sexual assault to law enforcement.⁵ In a 165-page report released in 2018, the City of New York Department of Investigation found that, “NYPD has routinely understaffed and neglected the special victims division, negatively impacting sexual assault investigations.”⁶

¹ Sarah E. Ullman, PhD and Katherine Lorenz, PhD, *Correlates of African American Sexual Assault Survivors' Medical Care Seeking*, *Women Health*, 502–516. 2020 May-Jun; 60(5) available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7127928/>

² Washington Coalition of Sexual Assault Programs. African Americans, Advocacy Considerations. <https://www.wcsap.org/advocacy/culturally-specific/african-americans>

³ Black Women’s Blueprint. *Black Women’s Blueprint’s held the 2016 Tribunal of the Black Women’s Truth and Reconciliation Commission* (2016) <https://www.blackwomensblueprint.org/truth-commission>

⁴ *Id.*

⁵ U.S. Department of Justice, Bureau of Justice Statistics, “Criminal Victimization 2019 Bulletin.” (Table 6, pg. 8) (September 2020) available at: <https://www.bjs.gov/content/pub/pdf/cv19.pdf>

⁶ The City of New York, Dept. of Investigations, *An Investigation of NYPD’s Special Victims* https://www1.nyc.gov/assets/doi/reports/pdf/2018/Mar/SVDReport_32718.pdf

A 2015 survey found that sexual assault victims “had called police in the past only to find that police took no action, did not believe them, minimized the situation, or threatened the survivor with arrest.”⁷

Survivors of sexual assault, especially women of color, have been denied access to justice and denied recovery for the injuries that they continue to suffer. The Adult Survivors Act (A.648/S.66) will shift the costs and financial burdens of sexual assault on to the responsible parties.

We urge to pass the Adult Survivors Act (A.648/S.66) and stand with survivors.



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⁷ See American Civil Liberties Union, *Responses from the Field, Sexual Assault, Domestic Violence, and Policing*, Report (Oct. 2015), https://www.aclu.org/sites/default/files/field_document/2015.10.20_report_-_responses_from_the_field.pdf: