IN THE MICHIGAN SUPREME COURT
Appeal from the Michigan Court of Appeals
GADOLA, C.J., and BORRELLO and PATEL, JJ.

SHANNON BLACKMAN,

Plaintiff-Appellee/Cross-Appellant,

v.

TYLER DAVID MILLWARD,

Defendant-Appellant/Cross-Appellee.

Supreme Court No. 167867
Court of Appeals No. 367240
Calhoun County Circuit Court
LC Case No. 2019-2623-DS

Anna M. Moss (P74040)
Co-Counsel for Plaintiff/Cross-Appellant
Legal Services of South Central Michigan
123 W. Territorial Rd.
Battle Creek, MI 49015
amoss@lsscm.org

Megan A. Reynolds (P69967)
Co-Counsel for Plaintiff/Cross-Appellant
Michigan Poverty Law Program
15 South Washington Street, Suite 202
Ypsilanti, Michigan 48197
mreynolds@mplp.org

Tyler David Millward
In Propria Persona
Central Michigan Correctional Facility
MDOC Prisoner # 569068
320 Hubbard St.
St. Louis, MI 48880

AMICUS CURIAE BRIEF OF THE RAPE, ABUSE & INCEST NATIONAL NETWORK ("RAINN")

Sarah E. Waidelich (P80225)
Honigman LLP
315 E. Eisenhower Parkway, Suite 100
Ann Arbor, MI 48108
Tel: (734) 418-4200
swaidelich@honigman.com

Andrew M. Pauwels (P79167)
Shannon C. Duggan (P83211)
Benjamin J. VanderWerp (P84614)
Honigman LLP
660 Woodward Avenue
Detroit, MI 48226
Tel: (313) 465-7000
apauwels@honigman.com
sduggan@honigman.com
bvanderwerp@honigman.com

Counsel for Amicus Curiae *The Rape, Abuse & Incest National Network*

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

CASES

STATUTES

OTHER AUTHORITIES

INDEX OF APPENDICES

Appendix	Description/ Title
Appendix A	OTIS report detailing Defendant-Appellant's criminal convictions.
Appendix B	*An Analysis of Sexual Grooming in Cases of Child Sexual Abuse* by Educators by Elisabeth L. Jeglic.
Appendix C	*The Sexual Grooming Scale – Victim Version: The Development and Pilot Testing of a Measure to Assess the Nature and Extent of Child Sexual Grooming* by Georgia Winters and Elisabeth L. Jeglic.
Appendix D	Department of Justice 2023 National Crime Victimization Survey.
Appendix E	*Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident and Offender Characteristics* by Howard N. Snyder.
Appendix F	*Waiting to Tell: Factors Associated with Delays in Reporting Sexual Violence* by Lahiz P. Tavarez.
Appendix G	Department of Justice – Female Victims of Sexual Violence Statistics from 1994-2010.
Appendix H	*"I Thought I'm Better off just trying to put this behind me" – a contemporary approach to understanding why women decide not to report sexual violence* by Dominic Wilmott.
Appendix I	*5 Reasons Why Victims Wait to Disclose That They Were Sexually Assaulted* by Shara Kaszovitz.
Appendix J	*Delayed reporting of sexual assault is no reason to discredit the accuser* by David Schwartz.
Appendix K	*Age Differences Between Sexual Partners in the United States* by Jacqueline E. Darroch.
Appendix L	*Now Sixteen Could Get You Life: Statutory Rape, Meaningful Consent, and the Implications for Federal Sentence Enhancement* by Lewis Bossing.
Appendix M	*Leaving an Abusive Partner: An Empirical Review of Predictors, the Process of Leaving, and Psychological Wellbeing* by Deborah K. Anderson and Daniel G. Saunders.
Appendix N	*Why Does He Do That? Inside the Minds of Angry and Controlling Men* by Lundy Bancroft.

Appendix	Description/ Title
Appendix O	*Retraumatized in Court* by Negar Katirai.
Appendix P	*Reasons for Not Reporting Among Sexual Assault Survivors Who Seek Medical Forensic Exams: A Qualitative Analysis* by Goodman-Williams, Volz, and Fishwick.

QUESTIONS PRESENTED FOR REVIEW

(1) Whether an action to revoke an acknowledgement of parentage based upon a claim that the child was conceived as a result of nonconsensual sexual penetration, MCL 722.1445(2), is subject to the limitations period set forth in MCL 722.1437(1)?

The trial court answered: Yes, but Plaintiff had met the burden to warrant extending the statute of limitations under MCL 722.1443(12)(e).

The Court of Appeals answered: No

Plaintiff-Appellee/Cross-Appellant answers: No

Defendant-Appellant/Cross-Appellee answers: Yes

***Amicus Curiae* answers: No**

(2) Whether the Calhoun Circuit Court erred by refusing to conduct a fact-finding hearing to determine whether the child was conceived as a result of nonconsensual sexual penetration and, if so, the requirements of such a hearing. See MCL 722.1445(2).

The trial court answered: No

The Court of Appeals answered: Yes

Plaintiff-Appellee/Cross-Appellant answers: No

Defendant-Appellant/Cross-Appellee answers: Yes

***Amicus Curiae* answers: No**

STATEMENT OF INTEREST OF *AMICUS CURIAE*

The Rape, Abuse & Incest National Network ("RAINN") submits this *amicus curiae* brief to the Michigan Supreme Court in *Blackman v. Millward*. RAINN is a national nonprofit: the largest anti-sexual violence organization in the country. It is a leading authority on sexual violence. Over the past three decades, RAINN has helped over 5 million survivors and their loved ones. RAINN operates the National Sexual Assault Hotline. It works with universities and schools nationwide to educate students about sexual violence prevention, prosecution, and recovery. It helps maintain the Laws in Your State database, the most up-to-date source of information for students, lawmakers, and others seeking to understand sexual violence laws. RAINN coordinates with state and federal entities to develop law and policy to make communities safer and support survivors. It also partners with corporations to build safer communities, educate the public, and advocate for survivors.[1]

RAINN sought leave to file an *amicus curiae* brief on March 10, 2025, which the Court granted on March 12, 2025. After the Court directed the clerk to schedule oral argument and ordered supplemental briefings from the parties, RAINN requested an extension of time to file its *amicus curiae* brief so that it could consider the parties' supplemental briefs and appropriately tailor its own brief accordingly. The Court granted the extension of time, setting the new deadline to file as June 20, 2025. Following an extension of time to file granted to the Mother-Appellee, RAINN requested the deadline to file be moved to 21 days after the Mother-Appellee filed her brief, which the Court granted. The Mother-Appellee filed her supplementary brief on

---

[1] Pursuant to MCL 7.312(H)(5), RAINN states that no counsel for a party authored this brief in whole or in part, no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief, and no person other than RAINN or its counsel made any such monetary contribution.

July 22, 2025, and in accordance with the Court's orders, this set the deadline for RAINN to file its *amicus curiae* brief no later than August 12, 2025.

With this brief, RAINN seeks to advance its interest in and commitment to protecting survivors of sexual violence and ensuring perpetrators are brought to justice. When the Court of Appeals refused to read a statute of limitations period into MCL 722.1445(2), it applied proper principles of statutory interpretation that should be affirmed by this Court. And this statutory interpretation properly recognizes the legislature's adoption of a policy that reflects the realities of sexual abuse: very few victims ever come forward to report their abuse, and those that do often do so a long time after the abuse. This fact is particularly true here, where the victim Mother-Appellee was a minor student at the time of her abuse and impregnation by a teacher at her school. An affirmance by this Court that the limitations period of MCL 722.1437(1) does not apply to MCL 722.1445(2) will implement the sound intent of the legislature.

RAINN also respectfully requests that this Court vacate the portion of the Court of Appeals' decision that remanded for an invasive and traumatic fact-finding hearing as to the precise date and circumstances of the child's conception. The Defendant-Appellant abused the trust placed in him by parents in the State of Michigan when he groomed, sexually abused, and impregnated the Mother-Appellee, a vulnerable minor who was a student at his school. To this day, the Defendant-Appellant continues to ignore and minimize the severity of his crimes, framing his actions as "consensual," but merely "statutorily prohibited." Sexual relations with a minor student are "statutorily prohibited"—that is, **illegal**— because the legislature has determined that the minor student cannot legally consent. The power dynamic and abuse does not evaporate simply because the predator's actions come to light and he is forced to resign.

For these reasons, and as further explained herein, RAINN respectfully requests that the Court affirm the Court of Appeals' decision regarding the lack of limitations period in MCL 722.1445(2) and vacate the portion of the Court of Appeals decision remanding for a fact-finding hearing.

I. INTRODUCTION

This case involves every parent's nightmare: a teacher, trusted to care for and educate society's most precious resource—its children—betrays that trust to groom, isolate, abuse, and eventually impregnate a minor student. When his crimes begin to come to light, he is forced to resign. Undeterred, he continues with his abuse and even expands his crimes to include witness intimidation. Confronted with overwhelming evidence of his criminal conduct, he eventually pleads guilty to nonconsensual sexual penetration of the minor student and witness tampering and is sentenced to years in prison. But the nightmare does not end there: from his prison cell where he is serving time for his (admitted) crimes, he files a motion to further traumatize the survivor of his abuse, seeking to force her to allow co-parenting time with the child he fathered.

RAINN believes it is critical for the Court to rule in favor of the victim in this case, the Mother-Appellee. First, this Court should affirm the Court of Appeals' holding that the Mother-Appellee's motion to revoke the affidavit of parentage was timely. Michigan legislative policy, as reflected in the statutory language, dictates that sexual predators should not have parental rights to children they father through sexual violence. The legislature wisely recognized the realities of sexual abuse and elected not to include a limitations period for a mother's right to bring an action to revoke an affidavit of parentage for a child conceived by nonconsensual sexual penetration. RAINN urges this court to enforce the legislature's statutory scheme and to affirm the Court of Appeals' holding as to timeliness.

Second, RAINN respectfully requests that this Court vacate the portion of the Court of Appeals' decision remanding for an additional fact-finding hearing regarding the date of conception. Regardless of the exact date of conception, the sexual penetration that led to conception was nonconsensual where the relationship arose from Defendant-Appellant's abuse of a minor student and during Defendant-Appellant's (admitted) ongoing campaign of witness

intimidation. These critical facts were proven beyond a reasonable doubt in criminal cases against Defendant-Appellant in three different jurisdictions. The trial court did not clearly err in concluding that the child was conceived from nonconsensual sexual penetration, and this Court should vacate the Court of Appeals' holding that would allow Defendant-Appellant to continue exerting control over the survivor of his abuse through an invasive and burdensome fact-finding hearing that will only retraumatize her.

For these reasons and as further stated herein, RAINN respectfully requests that this Court (1) affirm the Court of Appeals' holding that the limitations period of MCL 722.1437(1) does not apply to MCL 722.1445(2), and (2) reverse the Court of Appeals' decision remanding for an additional fact-finding hearing as to whether the child was conceived as a result of nonconsensual sexual penetration.

II. STATEMENT OF FACTS

The following key facts are undisputed. Defendant-Appellant was a high school science teacher at Athens High School in Athens, Michigan. Mother-Appellee was a student at his school. In the summer of 2017[2], Defendant-Appellant committed at least three criminal sexual conduct crimes against the Mother-Appellee, for which he eventually pled guilty. At the time of these offenses, the Mother-Appellee was only 16 years old; Defendant-Appellant was 28 years old.

Early in 2018, Defendant-Appellant's crimes began to come to light. On February 12, 2018, Defendant-Appellant was forced to resign from the school after law enforcement opened a criminal investigation. Defendant-Appellant's criminal activity did not slow down after his resignation, however. Between February 20, 2018 and November 1, 2018, he further victimized

[2] June 14, 2017, July 1, 2017, and July 30, 2017. *See, e.g.*, OTIS Report (**Appendix A**).

Mother-Appellee through witness intimidation, for which he also eventually pled guilty. It is also undisputed that he continued to have sexual relations with the minor victim-Mother-Appellee after his resignation.

On November 14, 2018, Defendant-Appellant was arrested on charges of criminal sexual conduct and witness intimidation and has been incarcerated ever since. After pleading guilty to these crimes, he was convicted and eventually sentenced to 7-20 years in prison. *E.g.*, OTIS Report (**Appendix A**).

The child at the center of this case was born on December 12, 2018, when the Mother-Appellee was just 17 years old. Defendant-Appellant has been continuously incarcerated for his crimes since before the child's birth.

On March 17, 2023, Defendant-Appellant filed a Motion Regarding Parenting Time, requesting the Calhoun County Circuit Court "to order one telephone call per week and one video visit per calendar month" with the child while he remained in prison. Mother-Appellee, at the time representing herself, filed a timely response to the motion on April 17, 2023, in which she opposed Defendant-Appellant's motion for parenting time. In her response, Mother-Appellee stated that "I was a victim in a crime and this child resulted out of this crime…", that "I was very young when this started and as I get older, I understand, it is not in the child's best interest to know his father", and that "I cut contact with this [Defendant-Appellant's] family months ago to better our lives and for [the child] and I's [sic] mental well-being." *See* Plaintiff's Cross Application for Leave to Appeal at pg. 4.

Upon obtaining legal counsel, Mother-Appellee filed an affirmative motion under MCL 722.25(2), 722.27a(4), and 722.1445(2) seeking the revocation of Defendant-Appellant's parentage of the child. A hearing was held on May 8, 2023, where the trial court granted Mother-

Appellee's motion to revoke Defendant-Appellant's parentage of the child. Upon reconsideration of the motion, the trial court once again found in favor of Mother-Appellee.

Defendant-Appellant then filed an appeal with the Court of Appeals. The Court of Appeals held that the limitations period of MCL 722.1437 does not govern motions filed pursuant to MCL 722.1445(2), but vacated and remanded to the trial court to conduct an evidentiary hearing as to whether the child was conceived as the result of nonconsensual sexual penetration. Defendant-Appellant filed an application for leave to appeal before this Court, and Mother-Appellee followed with a timely cross-appeal.

On April 4, 2025, this Court ordered the Clerk to schedule oral argument on the applications, and directed the parties to file supplemental briefs in accordance with MCR 7.312(E).

III. ARGUMENT

A. The Court of Appeals Correctly Found that the Mother-Appellee was Allowed to Bring an Action to Revoke her Abuser's Acknowledgement of Parentage Without Reference to a Timeframe

The Court of Appeals correctly found that the limitations period of MCL 722.1437 does not apply to MCL 722.1445(2). RAINN respectfully requests that this Court affirm that finding.

1. The Legislature's Decision to Omit a Limitations Period Reflects the Realities of Sexual Abuse and is Wise Public Policy

Defendant's request to ignore the statutory scheme and read in a three-year limitations period would further exacerbate an already endemic issue: severe underreporting of sexual abuse in the United States. The reasons for this underreporting are many but include fear of retribution and a lack of punishment for the abuser. It can take a long time, if ever, for a survivor to step forward and bring a claim of sexual abuse. The legislature's omission of a limitations period for these claims recognizes this reality.

The Legislature's decision to intentionally omit a limitations period in MCL 722.1445 reflects a wise public policy decision that acknowledges the realities of sexual abuse and victim reporting. The Court should not ignore these realities when considering Defendant's request to read in a limitations period.

a. The Absence of a Limitations Period in the Statute Reflects the Realities of Sexual Abuse: Perpetrators Groom their Victims Over Time, and Reporting Can be Delayed

Sexual grooming is "the manipulative behavior[] employed by a perpetrator to gain the cooperation" of an individual and avoid detection. *See* Elizabeth L. Jeglic, *An Analysis of Sexual Grooming in Cases of Child Sexual Abuse by Educators*, 170 CHILD. & YOUTH SERVS. 1, 2 (2025) (analyzing grooming in child sexual abuse by educators) (**Appendix B**). Sexual grooming can occur in any relationship where there is a significant power disparity. It most commonly takes the form of an adult manipulating and influencing a minor to gain perceived consent for sexual activity, with teacher-student relationships being fertile grounds for predators engaging in sexual grooming. The most common abuse dynamic for those who experience educator sexual misconduct is a female student and a male educator. *Id.* Research shows that most predatory educators target vulnerable students, use technology to establish contact, engage in inappropriate touching, isolate the child, and continue the abuse with bribes, emotional manipulation, drugs, threats, and more. *Id.* at 3. Unfortunately, and as with other forms of sexual abuse, sexual grooming is thought to be greatly underreported, with some studies showing that **only 10% of individuals** who experience sexual misconduct formally report it. *Id.*

Sexual grooming is not a sudden event. It takes time to gain trust and manipulate the victim to the perpetrator's will, often months or even years. Researchers have identified dozens of behaviors perpetrators use to groom students and have identified five distinct stages of grooming that occur over time.

The first stage is victim selection. Perpetrators identify lonely, isolated, troubled, or needy minors. *See* Georgia M. Winters & Elizabeth L. Jeglic, *The Sexual Grooming Scale – Victim Version: The Development and Pilot Testing of a Measure to Assess the Nature and Extent of Child Sexual Grooming*, 17 VICTIMS & OFFENDERS 919, 921 (2022) (**Appendix C**). They identify minors who are not close to their parents or lack supervision. They focus on minors who lack confidence. *Id.*

The second stage is gaining access and isolation. Perpetrators involve themselves in organizations serving youth. *Id.* They manipulate a family to gain access to the child. They find opportunities to be alone with their target and exclude adults. *Id.*

The third stage is trust development. The perpetrator spends time building their relationship with the minor. *Id.* They are charming; they give compliments. *Id.* The perpetrator offers rewards and provides special privileges to their target. *Id.*

The fourth stage is desensitization to sex and contact. The perpetrator asks the minor about their sexual experience. *Id.* They use inappropriate sexual language and make dirty jokes. *Id.* They teach the minor about sex and may share pornography. *Id.* Increasingly, the perpetrator uses sexual touching. *Id.*

The fifth stage is maintenance. The perpetrator tells the minor to keep it secret. They threaten abandonment and family break-ups. The perpetrator makes the child feel responsible. All the while, the perpetrator reassures the child with bribes and "I love you's." *Id.*

These stages do not unfold overnight, and the abusive relationship that results does not dissipate overnight. In this case, Defendant-Appellant's grooming and abusive relationship certainly did not disappear the moment he resigned. The Michigan Legislature's intentional

omission of a limitations period for MCL 722.1445(2) claims correctly recognizes the realities of these abusive relationships.

b. Reading a Limitations Period Into MCL 722.1445(2) Would Further Limit A Victim's Ability to Seek Justice for Sexual Abuse

With victims already hesitant to report cases of rape and sexual assault, and often taking years to do so if they do report, the Michigan Legislature was wise to omit a limitations period from MCL 722.1445(2). Improperly reading a limitations period into MCL 722.1445(2), as Defendant-Appellant urges, would unfairly limit victims' ability to obtain justice, undermining the statutory protections put in place by the legislature. Further, this could have a chilling effect on reporting of sexual assault in general as many victims will see this as confirmation that reporting sexual assault will not lead to any meaningful change or consequences. In an already fraught reporting environment, the Court should not further disincentivize the reporting of sexual assault, particularly where the legislative scheme says otherwise.

Sexual assault and abuse are already severely underreported, with roughly only 46% of cases reported to authorities. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, National Crime Victimization Survey, 2023 (2024) (**Appendix D**). This number is even lower when, as in this case, the victim is a minor, with up to 90% of cases involving children going unreported to authorities. Snyder, *Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident and Offender Characteristics*, National Center for Juvenile Justice, NCJ 182990 (2000) (**Appendix E**).

Victims are often hesitant to report sexual assault for several different reasons, and in most cases end up either not reporting or delay their reporting for years or months after the fact. Tavarez, Lahiz P., *Waiting to Tell: Factors Associated with Delays in Reporting Sexual Violence*, CUNY Academic Works (2021) (**Appendix F**). Many victims fear that reporting the

assault will not result in any action taken by authorities and instead will lead to retaliation by the perpetrator. *E.g.*, Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Female Victims of Sexual Violence, 1994-2010 (2013) (**Appendix G**). Victims also often struggle with feelings of shame, guilt, and uncertainty, which lead them not to report sexual assault. And victims often do not report sexual assault because they know the perpetrator and feel uncomfortable turning the perpetrator in to authorities, especially when they lack trust in the criminal justice system. Wilmott, Dominic, *"I Thought I'm Better off just trying to put this behind me" – a contemporary approach to understanding why women decide not to report sexual violence*, 35 THE JOURNAL OF FORENSIC PSYCHIATRY & PSYCHOLOGY 85 (2023) (**Appendix H**). Often, even when victims do come forward and report their assault, they do so months or years after the incident occurred, namely due to the same fears and stigmas that lead victims not to report assault at all. *See, e.g.*, Kaszovitz, Shara, *5 Reasons Why Victims Wait to Disclose That They Were Sexually Assaulted*, Jan. 25, 2018 (**Appendix I**).; *see also* David Schwartz, *Delayed reporting of sexual assault is no reason to discredit the accuser*, Sept. 27, 2018 (**Appendix J**).).

c. The Absence of a Limitations Period Accounts for Circumstances in Which the Victim Must Use MCL 722.1445 as a Shield

The Court should not lose sight of an important fact in this case: ***Defendant-Appellant*** initiated these proceedings to force parenting/ visitation time, and Mother-Appellee filed a motion to revoke the AOP in response. Her story follows a familiar pattern for young victims of sexual abuse: as they age, they begin to have a better understanding of the relationship, recognize it for the abuse that it was, and seek to distance themselves from their abuser (and, in this case, his family). As she explained to the trial court: "I was very young when this started and as I get older, I understand, it is not in the child's best interest to know his father. [The child] should not

have to carry this weight of his fathers [sic] actions, and crime..." and that "I cut contact with this family months ago to better our lives and for [the child] and I's [sic] mental well-being." *See* Plaintiff's Cross Application for Leave to Appeal at pg. 4. The legislature's decision to forego a limitations period for actions brought under MCL 722.1445 recognizes this reality.

The lack of a limitations period is also important in allowing victims of nonconsensual sexual penetration to use MCL 722.1445 as a shield in response to motions or actions like those brought by Defendant-Appellant here. Otherwise, there would be a deeply unfair disparity: an abuser like Defendant-Appellant could wait out the three-years statute of limitations period and then file a motion demanding parenting time, and in response, the victim would not have recourse to MCL 722.1445. That is largely what happened here: 4.5 years after the child was born, Defendant-Appellant filed his motion demanding visitation and parenting time. Yet he argues that Mother-Appellee is time-barred from raising MCL 722.1445 in response.

Further, Defendant-Appellant's interpretation of MCL 722.1445 would open the door for even the most violent rapists and sexual predators to seek custody of children conceived during the commission of their crimes. This cannot be what the legislature intended. MCL 722.1445 was enacted to protect victims and their children, not for the benefit of convicted sexual abusers. It was entirely appropriate for the legislature to forego a limitations period for this provision, and the Court should not disturb that judgment by reading one in.

2. The Court of Appeals' Decision Applied Proper Principles of Statutory Interpretation and Should be Affirmed

Not only do public policy considerations support the absence of a limitations period for claims brought under MCL 722.1445(2), this interpretation is also supported by well-established principles of statutory interpretation.

When interpreting a statute, the Court's "primary goal is to ascertain and give effect to the Legislature's intent." *Rouch World, LLC v. Dept. of Civ. Rights*, 510 Mich. 398, 410; 987 NW2d 501 (2022). Here, it is important that MCL 722.1445(2) was enacted as part of Michigan's version of the Rape Survivor Child Custody Act ("RSCCA"). The Court of Appeals properly recognized that the Legislature's intent in enacting the RSCCA was "to allow sexual assault survivors to terminate the parental rights of their offenders." *Blackman v. Milward*, 2024 Mich. App. LEXIS 8738, at *10 (Mich. App. 2024).

The purpose behind RSCCA is markedly different from the other actions specified by the Revocation of Parentage Act (e.g., MCL 722.1437 et seq) ("ROPA"). Specifically, ROPA authorizes actions (within the limitations period) for (1) an order determining that the genetic father is not the child's father (MCL 722.1438); (2) an order to set aside a determination where paternity was determined based on the affiliated father's failure to participate in court proceedings (MCL 722.1439); and (3) an order to determine parentage where the child was born out of wedlock (MCL 722.1441). None of these were intended "to allow sexual assault survivors to terminate the parental rights of their offenders." *Blackman v. Milward*, 2024 Mich. App. LEXIS 8738, at 10.

Additionally, in each of MCL 722.1438, MCL 722.1439, and MCL 722.1441, the legislature **explicitly** provided a limitations period for the action. *See, e.g.*, MCL 722.1438 (requiring that action be filed within 3 years after the child's birth or within 1 year after the date that the genetic father was established as a child's father); MCL 722.1439 (requiring that motion be filed within 3 years after the child's birth or within 1 year after the date of the order of filiation); MCL 722.1441 (setting various time periods that must apply for various

determinations). This statutory structure supports the Court of Appeals' finding that no limitations period applies to MCL 722.1445(2) for at least two reasons.

First, applying the general limitations period of MCL 722.1437 to other sections would render the explicit limitations periods in MCL 722.1438, MCL 722.1439, and MCL 722.1441 redundant. It is a settled rule that a statutory interpretation that renders language redundant is disfavored. *See, e.g.*, *Grimes v. Mich. Dep't of Transp.*, 475 Mich. 72, 89-90 (2006) ("When interpreting statutes, we must give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.") (internal quotations omitted).

Second, the fact that the Legislature elected to include an express limitations period in these other sections, but to omit one from MCL 722.1445, clearly shows that the omission in Section 1445 was intentional. And in such circumstances, "when language is included in one section of a statute but omitted from another section, it is presumed that the drafters acted intentionally and purposely in their inclusion or exclusion. The courts may not read into the statute a requirement that the Legislature has seen fit to." *Book-Gilbert v. Greenleaf*, 302 Mich. App. 538, 541-42; 840 N.W.2d 743 (2013) (quotation marks and citation omitted).

Public policy considerations, the intent behind the RSCCA and Section 1445, and well-established principles of statutory interpretation all support the Court of Appeals' finding that the limitations period set forth in MCL 722.1437(1) does not apply to Section 1445. This Court should affirm that finding.

B. An Additional, Invasive Fact-Finding Hearing is Not Necessary to Determine that the Child was Conceived as a Result of Nonconsensual Sexual Penetration

Defendant-Appellant argues that the child's conception was "consensual" because it (allegedly) occurred on or about March 15, 2018, just a few weeks after he resigned as his

victim's teacher. According to Defendant-Appellant, the sexual penetration that he admits was legally nonconsensual prior to February 12, 2018 became instantly consensual the second he resigned. Under this argument, because his status as teacher/ not a teacher at the moment of penetration is dispositive of whether the penetration was "consensual," the trial court must subject the victim-Mother-Appellee to a new fact-finding hearing to determine the exact date of penetration and conception.

Defendant-Appellant is wrong, and RAINN urges this Court to reverse the Court of Appeals' decision mandating such a hearing. RAINN does not dispute that a fact-finding hearing is required by MCL 722.1445(2). But in this case, a hearing *was* held and a judge *did* make findings of fact, rendering an additional evidentiary hearing unnecessary. Thus, the trial court did not clearly err; instead, it recognized the realities of the abusive relationship in this case and the commonsense fact that the abuse did not cease at the moment of Defendant-Appellant's resignation. This is particularly true where Defendant-Appellant admitted to a continuing campaign of witness intimidation for months after his resignation, an important fact considered by the trial court and never addressed by Defendant-Appellant on appeal.

1. Defendant-Appellant's Abuse of the Victim Mother-Appellee was Legally Nonconsensual as a Matter of Law

Defendant-Appellant's criminal activity in this case—impregnating a vulnerable, minor student—shocks the conscience. But his utter lack of remorse and audacious refusal to recognize the criminality of his behavior goes even further.

The foundational underpinning of Defendant-Appellant's excuses and arguments in this case is that the criminality of his sexual relationship with a 16-year-old student was a mere technicality. He argues that "[t]he only aspect of Tyler and Shannon's relationship that rendered their relationship illicit was Tyler's employment as a teacher at the Athens High School that

Shannon attended." Defendant-Appellant's Amended Brief on Appeal, p. 12. He further asserts that this relationship was "wholly consensual," just merely "statutorily prohibited." *Id.* at 14.

The proper term for "statutorily prohibited" is **illegal.** Defendant-Appellant's sexual relationship with a minor student was **illegal** because the legislature, reflecting the will of the people of this State, determined that a minor student **legally cannot consent** to sexual penetration with a teacher.

The legislature's determination that sexual relations between a teacher and a minor student are nonconsensual rightly recognizes the realities of such relationships. The power disparity between a teacher and student renders the child vulnerable to sexual coercion. Contrary to Defendant-Appellant's argument that the sexual relations were "wholly consensual," just merely "statutorily prohibited," research has long shown that such sexual activity is truly nonconsensual, as the survivor lacks a realistic ability to say no. *See, e.g.*, Jacqueline E. Darroch et al., *Age Differences Between Sexual Partners in the United States*, 31 FAM. PLAN. PERSP. 160, 160 (1999) (**Appendix K**) ("When adolescents younger than 18 are involved with men who are substantially older than they are, differences between partners in such factors as maturity, life experience, social position, financial resources and physical size may make such relationships inherently unequal, and the young women may therefore be vulnerable to abuse and exploitation by their partners."). This power disparity becomes even greater in the case of a minor who is vulnerable and/or suffers financial instability, as economic coercion can lead a minor to engage in sex with an adult as a way to secure financial security. *See* Lewis Bossing, *Now Sixteen Could Get You Life: Statutory Rape, Meaningful Consent, and the Implications for Federal Sentence Enhancement*, 73 N.Y.U. L. Rev. 1205, 1239 (1998) (**Appendix L**) ("such evidence of economic coercion weighs heavily towards a determination that meaningful consent was not present in the sexual activity in question"

and that "society in general still fears that minors will be coerced into sexual activity through economic inducements.")

In this case, the Calhoun County Circuit Court "could conclude" that Mother-Appellee was "laboring under duress" and that she was pressured by Defendant-Appellant and his family to "normalize" Defendant-Appellant's criminal behavior, with Defendant-Appellant and his family going as far as pressuring Mother-Appellee to marry him. *Blackman v. Millward*, Case No. 2019-2623 at pg. 4-5 (Mich. Cir. Ct. 2023). Defendant-Appellant cannot show that the Circuit Court clearly erred in its determination that Defendant-Appellant placed Mother-Appellee under duress and that he exploited her vulnerabilities for his own gain.

2. The Post-Resignation Relationship, and Defendant-Appellant's Witness Intimidation, was a Continuation of the Abusive, Nonconsensual Relationship

Defendant-Appellant contends that his sexual relations with a vulnerable 16-year-old after his resignation as her teacher were consensual because they were no longer "statutorily prohibited." But Defendant-Appellant's resignation from the school ***was not*** about his relationship with Mother-Appellee: ***it was about his relationship with the school.*** The perverse power dynamics that contributed to the legislature's prohibition on teacher-student relationships did not evaporate the instant he resigned. Indeed, it was only through his position at the school that he was granted access to Mother-Appellee. The continuation of the relationship post-resignation was the continuation of an illegal and nonconsensual relationship that was carefully cultivated by Defendant-Appellant.

Further, the continuance of the relationship even after it was discovered by school officials and authorities is unfortunately not surprising, as it is often extremely difficult for a victim to break off the relationship. Victims struggling with financial dependence, lack of shelter, and potential negative police responses find it far more difficult to break out of an abusive relationship, even if

they recognize that the relationship is abusive. Anderson, Deborah K., and Daniel G. Saunders, *Leaving an Abusive Partner: An Empirical Review of Predictors, the Process of Leaving, and Psychological Wellbeing* 4 TRAUMA, VIOLENCE, AND ABUSE 161 (2003)(**Appendix M**). Victims who are isolated from their families and friends also find it particularly difficult to leave an abusive relationship as they do not feel that they have enough social support around them. Bancroft, Lundy, *Why Does He Do That? Inside the Minds of Angry and Controlling Men.* New York: Berkley (2002) (**Appendix N**).

Here, the Calhoun County Circuit Court correctly concluded that Mother-Appellee was "laboring under duress" and that she was pressured by Defendant-Appellant and his family to "normalize" Defendant-Appellant's criminal behavior. Mother-Appellee provided evidence to the circuit court that she was emotionally manipulated by Defendant-Appellant and his family to cover up his crimes, and that the emotional manipulation continued after Defendant-Appellant resigned from his position as a teacher. This is further supported by Defendant-Appellant's guilty plea for witness intimidation for his attempts to prevent Mother-Appellee from cooperating while authorities were investigating his CSC crimes.

Thus, the trial court did not clearly err in determining that the exact date of conception—even if it did occur shortly after Defendant-Appellant's resignation—was not dispositive to the determination that the sexual penetration was nonconsensual.

3. Mandating an Additional and Unnecessary Evidentiary Hearing Would Allow Defendant-Appellant to Re-Traumatize the Survivor of his Abuse

In considering Defendant-Appellant's request for an invasive fact-finding hearing to determine the exact date he impregnated the then-16-year-old victim, this Court should not lose sight of the trauma such a hearing is likely to inflict on the victim. Court proceedings can be extremely stressful for victims of any crime, but especially for sexual assault victims *See, e.g.*,

Katirai, Negar, *Retraumatized in Court*, 62 ARIZONA LAW REVIEW 81 (2020) (**Appendix O**) (noting that court proceedings often force survivors to be ridiculed or intimidated by the offender or the offender's counsel and that survivors often describe the trial process as emotionally intrusive.) Survivors, often suffering from PTSD and other trauma related mental disorders, are forced to sit in the same room as the individual who assaulted them and are often asked to relive and describe the details of the crime. *Id.* And to make matters worse for the survivor, counsel for the rapist may call into question the survivor's version of the events and attempt to discredit the survivor in whatever way counsel can, which further exacerbates feelings of anxiety and stress. *Id*. Indeed, the trauma of court proceedings is a major factor in the low reporting rates for sexual abuse crimes. *See, e.g.*, Goodman-Williams, Volz, and Fishwick, *Reasons for Not Reporting Among Sexual Assault Survivors Who Seek Medical Forensic Exams: A Qualitative Analysis*, 39 JOURNAL OF INTERPERSONAL VIOLENCE 1905 (2024) (**Appendix P**) (testimony from rape survivor's stating that "a huge fear of being in court and having a lawyer try to make it sound like my fault" and that "involving myself in a criminal investigation this early in my processing period may compromise my degree of control over this situation") .

For purposes of determining guilt in a criminal proceeding or liability in a civil proceeding, this is often an unfortunate but necessary part of the process that victims must deal with. However—and as in this case—when a rapist has *already pled guilty* to CSC and witness intimidation, the trial court did not err by foregoing another such proceeding.

4. The Fact-Finding Hearing Required by MCL 722.1445(2) Does Not Require a "Best Interests of the Child" Finding

The statutory scheme under which Mother-Appellee properly sought to revoke Defendant-Appellant's acknowledgement of parentage for nonconsensual sexual penetration—MCL 722.1445(2)—does not require the trial court to consider the best interests of the child in

connection with the fact-finding hearing. Indeed, the language of the statute is mandatory: once the mother proves by clear and convincing evidence that the child was conceived as a result of nonconsensual sexual penetration, the court ***must*** do one of the listed actions (including revoking an AOP). *See* MCL 722.1445(2) ("the court ***shall*** do 1 of the following") (emphasis added). The statute does not contemplate an additional consideration of the best interests of the child.

Elsewhere, Michigan law makes abundantly clear that courts "***shall not***" grant custody or parenting time to an "offending parent" who has been convicted of criminal sexual conduct or other similar, serious crimes. *See* MCL 722.25[3]. The effect of these laws was to eliminate the requirement for a best interest determination where a parent has been convicted of certain serious crimes, like Defendant-Appellant in this case. Stated another way, the Michigan legislature has already determined that it is in the best interest of the child to ***not*** allow custody or parenting time with a criminal parent in circumstances such as these.

The legislature's clear intent in foregoing consideration of the child's best interests during the fact-finding hearing of MCL 722.1445(2) is evidenced in yet another way: the legislature created an explicit exception to this scheme. MCL 722.1445(3) states that subsection

---

[3] MCL 722.25(2) & (3): (2) Notwithstanding other provisions of this act, if a child custody dispute involves a child who is conceived as the result of acts for which 1 of the child's biological parents is convicted of criminal sexual conduct as provided in sections 520a to 520e and 520g of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520e and 750.520g, or a substantially similar statute of another state or the federal government, or is found by clear and convincing evidence in a fact-finding hearing to have committed acts of nonconsensual sexual penetration, the court ***shall not*** award custody to that biological parent. This subsection does not apply to a conviction under section 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d. This subsection does not apply if, after the date of the conviction, or the date of the finding in a fact-finding hearing described in this subsection, the biological parents cohabit and establish a mutual custodial environment for the child.

(3) An offending parent is not entitled to custody of a child described in subsection (2) without the consent of that child's other parent or guardian.

(2) does not apply in only one circumstance: "if, after the date of the alleged nonconsensual sexual penetration," "the biological parents cohabit and establish a mutual custodial environment for the child." If the exception applies, that is, if the parents cohabit and establish a mutual custodial environment for the child, Subsection (2) does not apply.

Here, there is no dispute that MCL 722.1445(3) does **not** apply. Defendant-Appellant has been in prison for his crimes against Mother-Appellee since before the child was born; there has never been a "mutual custodial environment" for the child. Accordingly, the fact-finding hearing required by MCL 722.1445(2) does not require a determination of the child's best interests, and the trial court in this case did not err by declining to consider them.

C. Defendant-Appellant's Constitutional Argument Should Fail

Defendant-Appellant argued in his supplemental brief that MCL 722.1445(2) is unconstitutional. Specifically, he argues that MCL 722.1445 violates his due process rights because it allows termination of parental rights "without any showing of parental unfitness whatsoever." Defendant-Appellant's June 17, 2025 Supplemental Br. at 31.

RAINN does not believe that Defendant-Appellant properly raised this issue in the lower courts, and therefore believes it may be waived. But even if the Court elects to address this issue, Defendant-Appellant should lose on the merits.

Defendant-Appellant's constitutional argument is premised on a foundationally **incorrect** assertion. He argues that as the biological father, he has a constitutional right to legal parental rights that cannot be overcome without a showing of unfitness and a best interests finding. **The U.S. Supreme Court, and others, have repeatedly held just the opposite**. For example, in *Michael H. v. Gerald D.*, the U.S. Supreme Court rejected the logic argued by Defendant-Appellant here: "that if [the father] had begotten [the child] by rape, that fact would in no way affect his possession of a liberty interest in his relationship with [the child]." *Michael H. v.*

Gerald D., 491 U.S. 110, 124 n.4 (1989). And in an earlier decision, the Court considered *Stanley v. Illinois* (the same decision relied upon by Defendant-Appellant here) to hold that "the mere existence of a biological link does not merit equivalent constitutional protection." *Lehr v. Robertson*, 463 U.S. 248, 261 (1983) (distinguishing "the developed parent-child relationship that was implicated in *Stanley*"); *see also Stanley v. Illinois*, 405 U.S. 645 (1972).

In *Pena v. Mattox*, a case involving statutory rape, then-Chief Judge Posner rejected almost the exact argument advanced by Defendant-Appellant here. *See Pena v. Mattox*, 84 F.3d 894, 900 (7th Cir. 1996). In that case, the rape was a misdemeanor; the assailant was 19 while the victim was 15; and the assailant was not the victim's teacher. *See id.* Yet the court still found that the assailant had "no constitutionally protected interest in the offspring of his relationship with [the victim.]" *Id.* at 899. It recognized the finding of *Lehr* and other authorities that "[i]t is not the brute biological fact of parentage, but the existence of an actual or potential relationship that society recognizes as worthy of respect and protection, that activates the constitutional claim." *Id.* Finally, Judge Posner recognized that specifically in the circumstance where a child is fathered through a criminal act, no constitutional rights (other than procedural rights as a criminal defendant) apply:

> [N]o court has gone so far as to hold that the mere fact of fatherhood, consequent upon a criminal act that our society does take seriously and that is not cemented (whoever's fault that is) by association with the child, creates an interest that the Constitution protects in the name of liberty. The plaintiff's counsel conceded in response to a question at argument that had Amanda's child been conceived as the result of a violent rape, the rapist would have acquired no constitutional right to interfere with the adoption of the child or otherwise to assert a parent's rights. We think it equally plain that had Ruben been 40 years old and Amanda 12 when she became pregnant by him, the Constitution would not have entitled him to assert a parental right. The criminal does not acquire constitutional rights by his crime other than the procedural rights that the Constitution confers on criminal defendants. Pregnancy is an aggravating circumstance of a sexual offense, not a mitigating circumstance. The criminal should not be rewarded for having committed the aggravated form of the offense by receiving parental rights which he may be able to swap for the agreement of the victim's family not to press criminal charges.

Id. at 900 (also noting "[t]he maxim that a wrongdoer shall not profit from his wrong is deeply inscribed in the Anglo-American legal tradition").

This logical conclusion is not limited to federal jurisprudence; it is consistent with Michigan law as well. For example, in *Hauser v. Reilly*, the Michigan Court of Appeals held:

> It is true that both parents and children have a due process liberty interest in their family life. *In re Clausen*, 442 Mich. 648, 686, 502 N.W.2d 649 (1993). The protected interest, however, is in the family life, not in the mere biological link between parent and child. A rapist has a biological link with a child conceived by that rape. If we held that a mere biological link would ensure a father of a liberty interest in the rights to a relationship with the child, the rapist would be entitled to due process protections. See *Michael H., supra* 491 U.S. at 124, n. 4, 109 S.Ct. at 2342 n. 4 (opinion of Scalia, J.).

212 Mich. App. 184, 189 (Mich. App. 1995). *Hauser* specifically rejected the notion that a rapist—like Defendant-Appellant here—has a liberty interest in the rights to a relationship with the child that entitles him to due process protections.

Even if the court ignores the Defendant-Appellant's illegal sexual conduct, a biological link does not confer a constitutional right without a "substantial" relationship with the child, which is a relationship that involves "the daily supervision, education, protection, or care of the

child." *Lehr v. Robertson*, 463 U.S. 248, 267 (1983). Defendant-Appellant's infrequent calls from prison do not create a substantial relationship.

The two cases that Defendant-Appellant relies upon—*Stanley v. Illinois* and *In re Sanders*—both dealt with fathers who were ***not*** convicted sexual abusers, and who ***had*** established relationships with the child. *see Stanley*, 405 U.S. 645 (1972); *see In re Sanders*, 495 Mich. 394 (2014). Neither case is analogous to the facts in the present case, and they cannot overcome the numerous cases (including the above) holding that a mere biological link does ***not*** establish constitutional rights, particularly for a father convicted of sexual misconduct.

Defendant-Appellant fathered a child with a 16-year-old student at his school. He has been imprisoned for this crime for the entire life of the child to date. The "brute biological fact" of Defendant-Appellant's parentage does not activate any constitutional claim, and this last-ditch argument should be rejected.

IV. CONCLUSION

For these reasons, RAINN respectfully requests that the Court affirm the Court of Appeals' holding that the motion to revoke the affidavit of parentage was timely and reverse the judgment of the Court of Appeals remanding for an additional fact-finding hearing.

Respectfully submitted,

/s/ Sarah E. Waidelich
Sarah E. Waidelich (P80225)
Honigman LLP
315 E. Eisenhower Parkway, Suite 100
Ann Arbor, MI 48108
Tel: (734) 418-4200
swaidelich@honigman.com

Andrew M. Pauwels (P79167)
Shannon C. Duggan (P83211)

Benjamin J. VanderWerp (P84614)
Honigman LLP
660 Woodward Avenue
Detroit, MI 48226
Tel: (313) 465-7000
apauwels@honigman.com
sduggan@honigman.com
bvanderwerp@honigman.com

Dated: August 12, 2025

Counsel for Amicus Curiae *The Rape, Abuse & Incest National Network*

WORD COUNT CERTIFICATION

I certify that, pursuant to MCRs 7.212(B)(1), 7.312(A), and 7.312(H)(3), this brief contains 7,162 countable words.

IN THE MICHIGAN SUPREME COURT
Appeal from the Michigan Court of Appeals
GADOLA, C.J., and BORRELLO and PATEL, JJ.

SHANNON BLACKMAN,

Plaintiff-Appellee/Cross-Appellant,

v.

TYLER DAVID MILLWARD,

Defendant-Appellant/Cross-Appellee.

Supreme Court No. 167867
Court of Appeals No. 367240
Calhoun County Circuit Court
LC Case No. 2019-2623-DS

Anna M. Moss (P74040)
Co-Counsel for Plaintiff/Cross-Appellant
Legal Services of South Central Michigan
123 W. Territorial Rd.
Battle Creek, MI 49015
amoss@lsscm.org

Megan A. Reynolds (P69967)
Co-Counsel for Plaintiff/Cross-Appellant
Michigan Poverty Law Program
15 South Washington Street, Suite 202
Ypsilanti, Michigan 48197
mreynolds@mplp.org

Tyler David Millward
In Propria Persona
Central Michigan Correctional Facility
MDOC Prisoner # 569068
320 Hubbard St.
St. Louis, MI 48880

PROOF OF SERVICE

I hereby certify that on August 12, 2025, I electronically filed the foregoing document, along with the Certificate of Service, using the MiFILE e-filing system which will send notification of such filing to all registered counsel of record. I further certify that a copy of the as-filed document, and this Certificate of Service, is being served on Defendant-Appellant/ Cross-Appellee (acting *in propria persona*) at the addresses listed above and below:

Dawn Rombaugh
3821 Minges Rd. South
Battle Creek, MI 49015
269-903-1497
dawnrombaugh@gmail.com

/s/ Sarah E. Waidelich
Sarah E. Waidelich (P80225)