

HOUSE BILL REPORT

HB 1361

As Passed House
March 13, 1993

Title: An act relating to statute of limitations for sexual offenses.

Brief Description: Revising the statute of limitations for certain sex offenses.

Sponsors: Representatives H. Myers, Ballasiotes, Forner, Riley, Ludwig, Padden, Chappell, Johanson, Appelwick, Long, Tate, Vance, Roland, Pruitt, Jones, Edmondson, Campbell, Lemmon, Brough, Chandler, Wood, Horn, Quall, Miller, Sheahan, Karahalios, Silver, Flemming, Morris, Talcott, Reams, L. Johnson, Ogden, Casada and Wineberry.

Brief History:

Reported by House Committee on:
Judiciary, February 23, 1993, DP;
Passed House, March 13, 1993, 93-0.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 17 members:
Representatives Appelwick, Chair; Ludwig, Vice Chair;
Padden, Ranking Minority Member; Ballasiotes, Assistant
Ranking Minority Member; Campbell; Chappell; Forner;
Johanson; Locke; Long; Mastin; H. Myers; Riley; Schmidt;
Scott; Tate; and Wineberry.

Staff: Patricia Shelledy (786-7149).

Background: Crimes of rape in the first and second degree may not be prosecuted more than three years after the rape is committed if the victim is 14 years of age or older when the rape occurs. Rape in the first and second degree are rapes that are accomplished through the use of force or the threat of force.

When one of a number of sex offenses is committed against a child under age 14, the statute of limitations is tolled until the child turns age 18. The three-year statute of limitations begins to run on the child's 18th birthday, so the state has until the child is age 21 to prosecute certain sex crimes against the child. The law tolls the statute of limitations because younger children presumptively lack the

ability and knowledge necessary to bring forth criminal charges. In addition, most child victims are sexually abused by people who know them, which may make it harder for the children to come forward with allegations of sexual abuse.

The types of sex offenses that have an extended statute of limitations fall within three categories. First, most of the sex offenses that have a longer statute of limitations prohibit sexual intercourse or contact with a child because the child is under a certain age. Children under a certain age are statutorily presumed to be incapable of giving consent to sexual activity. Those sex offenses apply to children under age 14. The younger the child, the more serious the offense. Second, in certain circumstances, a child just like an adult may be raped by force, and a charge of rape in the first or second degree may be appropriate. If the child is under age 14 when a victim of rape in the first or second degree, the state may prosecute the case until the child is 21 years old. Third, the crime of incest may be committed against a child over or under age 14. If incest is committed against a child under age 14, the state may prosecute the case until the incest victim turns age 21.

Two concerns have been raised concerning the existing statute of limitations: First, some rapists who rape victims who are strangers to them may not be apprehended before the three-year statute of limitations expires. An example of that problem arose with the ultimate apprehension of a serial rapist who raped a number of women in their homes located in the Green Lake area of Seattle. By the time the suspect was apprehended, some of those cases could not be prosecuted. Second, incest victims, who are sexually abused by a close relative such as a father, may have greater difficulty bringing charges within the statute of limitations. The suggestion is to increase the statute of limitations for those categories of victims.

Current law imposes no requirements on victims to report offenses within a certain time period.

Summary of Bill: If a rape victim 14 years of age or older reports a crime of rape in the first or second degree within one year of its commission, the crime may be prosecuted within 10 years of its commission. If the victim fails to report the crime within one year of its commission, the statute of limitations remains the same as under current law, which is within three years of the crime's commission.

If the victim is under age 14 when a rape in the first or second degree occurs, and the rape is reported within one year of its commission, the statute of limitations expires

when the victim turns age 21 or 10 years after the commission of the rape, whichever is later. For example, if the victim was raped just before his or her 14th birthday and the rape was reported immediately, the case could be prosecuted until just before the child turned 24. If the victim under age 14 fails to report the rape within one year, the statute of limitations remains the same as under current law, which is until the child turns 21 years old.

If the victim is a victim of incest, regardless of whether the child is over or under age 14 when the incest occurs, the state may prosecute the case until the incest victim is 21 years old or until seven years have elapsed since the incest occurred, whichever is later. For example, if the incest occurred when the child was 15, the state could prosecute until the incest victim turns age 22. Under current law, the state could only prosecute the case until the child turns 18 years of age.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Many forcible rapes are committed by attacks on strangers. Although victims may report the rapes immediately, some very strong cases have not been prosecuted because the rapists were not apprehended before the statute of limitations expired. Some other serious crimes have a 10-year statute of limitations.

Testimony Against: None.

Witnesses: Mary Brown, Washington Coalition of Sexual Assault Programs (pro); Bev Emery, Office of Crime Victims Advocacy (pro); and Mike Sullivan, Washington Association of Prosecuting Attorneys (pro).