

# SENATE BILL REPORT

## SB 5817

---

---

As of February 28, 2007

**Title:** An act relating to limitation of actions for sex offenses committed against a child.

**Brief Description:** Addressing limitation of actions for sex offenses committed against a child.

**Sponsors:** Senators Marr, Roach, Franklin, Rockefeller, Kohl-Welles, Hobbs, Spanel, Swecker, McAuliffe, Kilmer, Haugen, Berkey, Murray, Pflug, McCaslin, Weinstein, Tom, Delvin, Rasmussen, Kauffman, Oemig, Kline and Keiser.

**Brief History:**

**Committee Activity:** Judiciary: 2/27/07.

---

### SENATE COMMITTEE ON JUDICIARY

**Staff:** Dawn Noel (786-7472)

**Background:** Under current law, sex offenses involving child victims cannot be prosecuted after a certain period of time following commission.

If the victim is under 14, and the rape is reported within one year of its commission, rape in the first- and second-degree may be prosecuted up to three years after the victim's 18th birthday or up to ten years after the rape, whichever is later. If the rape is not reported within one year, the rape may not be prosecuted: (1) more than three years after its commission if the victim was 14 or older; or (2) more than three years after the victim's 18th birthday or more than seven years after the rape, whichever is later, if the victim was under 14.

Violation of statutes involving the following offenses must not be prosecuted more than three years after the victim's 18th birthday or more than seven years after their commission, whichever is later: (1) rape of a child in the first degree; (2) rape of a child in the second degree; (3) child molestation in the first degree; (4) child molestation in the second degree; (5) indecent liberties (when the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless); or (6) incest.

**Summary of Bill:** Any sex offense committed against a child under the age of 18 may be prosecuted at any time after commission.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

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

**Staff Summary of Public Testimony:** PRO: The present statute diminishes the impact on the victim and on society of these types of crimes. Child sex abuse imposes tremendous costs on human services and criminal justice. This law does not apply retroactively, affect the rules of evidence, or sentencing. These victims are entitled to the belief that society does not diminish the harm they've suffered. Some date should not act as an arbitrary dividing line for them to seek justice.

Washington should make a public policy statement that no one has the right to make inappropriate sexual advances toward children. When a victim turns 45 and finally has the will to do this, we shouldn't close the courthouse doors and reward molesters. There is no statute of limitations for homicide. It shouldn't be any different for child molesters.

Eliminating the criminal statute of limitations is the cheapest and most effective law enforcement possible; no new staff, technology, or equipment is required. This is not some new untested theory or approach. We're just asking that you open the courthouse doors a little wider for those who are molested. Molesters have incentives to intimidate witnesses, threaten victims, destroy evidence, and run out the clock. Please reverse these incentives. Defense lawyers say that stale memories, dead witnesses, and stale evidence make this legislation problematic, but these are problems for the victims, who have the burden of proof. We must always err on the physical, emotional and psychological safety of children.

We should amend the civil statute of limitations, but in separate legislation, because attempting to amend the civil statute tends to bring a whole new array of opponents into the picture, and this legislation inevitably dies.

OTHER: The elimination of statutes of limitations in Washington is reserved for homicide and other crimes involving death. Issues relating to statutes of limitations are important, as they can get in the way of appropriate successful criminal prosecution. But it's not the same thing. The intentions behind this bill are good; these crimes are horrible. But the problem should focus on what would really help prosecutors, such as funding availability of professional child interviewers, and adopting a rule to mirror federal law that would permit admission in court of more of a defendant's criminal past than is currently allowed. There is concern that eliminating the statute of limitations for every single sex offense will not move the discussion forward on the issue of how to deal with sexual assault.

**Persons Testifying:** PRO: Don Brockett, Cheryl Corrigan, Mark Mains, citizens; David Clohessy, Survivors Network of those Abused by Priests; Representative John Ahearn.

OTHER: Tom McBride, Washington Association of Prosecuting Attorneys; Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs.