

# SENATE BILL REPORT

## SB 5832

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As of February 20, 2009

**Title:** An act relating to allowing the prosecution of sex offenses against minor victims until the victim's twenty-eighth birthday if the offense is listed in RCW 9A.04.080(1) (b)(iii)(A) or (c).

**Brief Description:** Allowing the prosecution of sex offenses against minor victims until the victim's twenty-eighth birthday if the offense is listed in RCW 9A.04.080(1) (b)(iii)(A) or (c).

**Sponsors:** Senators Kohl-Welles, Stevens and Marr; by request of Sentencing Guidelines Commission.

**Brief History:**

**Committee Activity:** Judiciary: 2/18/09.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Lidia Mori (786-7755)

**Background:** Statutes of limitation are legislative enactments that prescribe the periods within which actions may be brought on certain claims or during which certain crimes may be prosecuted. Once the statutes of limitation have expired, they become an absolute bar to prosecution. It is widely agreed that the foremost rationale for statutes of limitation is the desirability of requiring that prosecutions be based upon reasonably fresh evidence so as to lessen the possibility of an erroneous conviction.

Some states have no statutes of limitation on felony offenses, no statutes of limitation on sex offenses, including child sex offenses, and some states have extended statutes of limitation for sex offenses. Washington has different statutes of limitation for different sex offenses and they vary based on the age of the victim.

Rape in the first degree and second degree when the victim is under 14 years of age at the time of the rape and the rape is reported to a law enforcement agency within one year of its commission, may be prosecuted up to three years after the victim's eighteenth birthday or up to ten years after the rape's commission, whichever is later. Rape of a child in the first or second degree, child molestation in the first or second degree, statutory rape in the first or second degree, and indecent liberties when the person is incapable of consent due to mental

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incapacitation or physical helplessness may not be prosecuted more than three years after the victim's eighteenth birthday or more than seven years after commission of the offense, whichever is later. Statutory rape in the first and second degree were repealed in 1988.

In 2006 the Washington Legislature amended the law to include a DNA tolling provision. In any prosecution for a sex offense, defined in RCW 9.94A.030, the periods of time set out in statute pertaining to when an offense may be prosecuted run from the date of commission of the offense or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later.

**Summary of Bill:** Rape in the first degree and second degree when the victim is under 14 years of age at the time of the rape and the rape is reported to a law enforcement agency within one year of its commission may be prosecuted up to the victim's twenty-eighth birthday. Rape of a child in the first, second, and third degree, child molestation in the first, second, and third degree, and incest may be prosecuted up to the victim's twenty-eighth birthday.

**Appropriation:** None.

**Fiscal Note:** Requested on February 4, 2009.

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

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

**Staff Summary of Public Testimony:** PRO: It makes sense to go the way the federal law has and get rid of statutes of limitation for sex offenses. Victims of abuse feel shame and isolation, and they think they brought it on themselves. Twenty-eight is actually a pretty early age for the person to come forward and speak the truth. Pedophiles focus on secrecy and keeping the child quiet. By removing the opportunity to avoid prosecution and wait out the clock, it is not feeding the pedophiles compulsion. The Sentencing Guidelines Commission (SGC) has spent quite a bit of time working on this issue. Very sincere people have been involved and they have a lot of knowledge about this area. States vary extensively on this subject but there is one ribbon of consistency. The child needs to be independent of the family and household before he or she can come forward. These are often interfamily cases. If there's any consistency it seems to be that most states have 28 as the age. The SGC will continue to work on this issue. It has long been held by the Washington Coalition of Sexual Assault Programs that a ten-year extension to age 28 makes sense, given where we are technologically.

**Persons Testifying:** PRO: Beth Bollinger, Jean Soliz Conklin, SGC; Lonnie Johns Brown, Washington Coalition of Sexual Assault Programs.