

HOUSE BILL REPORT

HB 2873

As Reported by House Committee On: Public Safety

Title: An act relating to making felony sex offenses a crime that may be prosecuted at any time after its commission.

Brief Description: Making felony sex offenses a crime that may be prosecuted at any time after its commission.

Sponsors: Representatives Griffey, Orwall, McCabe, Smith, Wilson, Stambaugh, Pike, Kilduff, Hayes, Muri, Gregerson, Moscoso and Dent.

Brief History:

Committee Activity:

Public Safety: 2/2/16, 2/5/16 [DPS].

Brief Summary of Substitute Bill

- Eliminates the statutes of limitations for certain felony sex offenses.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Griffey, Moscoso, Pettigrew and Wilson.

Staff: Kelly Leonard (786-7147).

Background:

A statute of limitations is a time limit for initiating prosecution after a crime is committed. Once a statute of limitations has expired, a prosecutor is barred from bringing charges against an alleged perpetrator.

Statutes of limitations vary according to the crime. Generally, simple misdemeanors must be prosecuted within one year, gross misdemeanors must be prosecuted within two years, and

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felony offenses must be prosecuted within three years of the commission of the crime. However, there are variances and exceptions.

For some felony sex offenses, the statute of limitations varies depending on the age of the victim at the time of the offense or when the offense was reported to law enforcement.

Offense	Statute of Limitations	
	Victim is Under Age 18	Victim is Over Age 18
Rape in the first and second degrees.	Victim's thirtieth birthday	10 years (if reported within one year); or 3 years (if not reported within one year)
Rape of a Child in the first, second, and third degrees.		N/A
Child Molestation in the first, second, and third degrees.		N/A
Sexual Exploitation of a Minor		N/A
Incest in the first and second degrees.		3 Years
Indecent Liberties when the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless.		10 years

For all other felony sex offenses, the statute of limitations is three years. This includes, but is not limited to: Commercial Sexual Abuse of a Minor; Custodial Sexual Misconduct in the first degree; and Promoting Commercial Sexual Abuse of a Minor.

The periods of limitation for sex offenses run from the date of commission or one year from the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid (DNA) testing or by photograph, whichever is later.

Summary of Substitute Bill:

The statutes of limitations are eliminated for certain sex offenses, allowing a prosecutor to bring charges at any time after the commission of the offense. The statutes of limitations are eliminated for the following:

- Rape in the first and second degrees;
- Rape of a Child in the first and second degrees;
- Child Molestation in the first and second degrees;
- Sexual Exploitation of a Minor;
- Commercial Sexual Abuse of a Minor;

- Custodial Sexual Misconduct in the first degree;
- Incest in the first and second degrees; and
- Promoting Commercial Sexual Abuse of a Minor.

Substitute Bill Compared to Original Bill:

The substitute bill restores the statutes of limitations for the following crimes (by removing them from the bill): Child Molestation in the third degree; Communication with Minor for Immoral Purposes; Indecent Liberties; Promoting Travel for Commercial Sexual Abuse of a Minor; Rape in the third degree; Rape of a Child in the third degree; Sexual Misconduct with a Minor in the first degree; Sexually Violating Human Remains; and Voyeurism.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a very personal issue for legislators, advocates, and the public. Sex crimes are horrific and have a lasting effect on survivors and their families. Often, perpetrators are in positions of authority over their victims, including family members and teachers. People tell their children to trust their teachers and coaches, and those same people can manipulate and abuse that trust to victimize children. It can take many years for a survivor to come forward. Sometimes it can take decades. Many survivors come forward only to find out that the statute of limitations bar prosecutions for the offenses, and law enforcement and prosecutors will not pursue investigations or charges. This is a heartbreaking injustice to everyone who has suffered at the hands of perpetrators.

Perpetrators often attack and abuse multiple victims over years. Prosecuting a perpetrator does not just provide justice for one survivor, but it stops a pattern of violence and protects more people from getting hurt. The state should empower survivors to come forward and give prosecutors the ability to file charges, even if it is for an older case.

Many states do not have statutes of limitations for some sex offenses. Washington is an outlier. While it may be difficult to prosecute older sex offenses, it is still achievable in some cases. It should not prevent prosecutors from bringing cases if they are able to prove them in court.

(Opposed) The Legislature has modified the statute of limitations several times over the years. The Sex Offender Policy Board recommended extending the statute of limitations to a victim's twenty-eighth birthday due to current research on juvenile brain development. It makes sense to give child victims more time to come forward and report crimes. However, after several years, it can be very difficult to prosecute and defend cases. The Legislature

should be careful not to create false hope for victims, as it is unlikely that changing the statute of limitations will result in different outcomes.

(Other) Modifying the statute of limitations is a difficult and important policy decision. It is important for legislators to balance the desire to open up the statute of limitations for prosecutions with the possibility that it could create false hope for survivors. Sexual assault cases are incredibly difficult to prosecute even when charges are filed the day after the crime occurs. Prosecutors rarely charge very old cases due to evidentiary issues.

Certain forensic technological advancements are making it possible for prosecutors to charge more of these cases. State law currently offers a one-year window for prosecutors to file charges in cases of DNA identification. Prosecutors can also file charges on a DNA profile for an unknown perpetrator in order to toll the statute of limitations. In cases where this evidence does not exist, eliminating the statute of limitations may create false hope. It may not be healing for a victim to go to court when there is likely to be an acquittal due to lack of evidence. It does not mean the crime did not happen.

Sexual assault survivors deserve access to justice. Prosecutors and victims' advocates can support eliminating the statute of limitations as long as there is an effort to control expectations about what changing the law can actually achieve. It is going to be rare for prosecutors to be able to prove a 30-year-old case. It is one thing to change the law, it is an entirely different thing to be faced with telling a victim it is still not possible to prove a case.

The Legislature should also examine the civil statute of limitations for bringing civil claims for damages, which is currently three years. This should be extended in addition to the criminal statute of limitations.

Persons Testifying: (In support) Representative Griffey, prime sponsor; Dinah Griffey; and Christina-Marie and Greg Wright.

(Opposed) Brad Meryhew, Washington Association of Criminal Defense Lawyers.

(Other) Andrea Piper-Wentland, Washington Coalition of Sexual Assault Programs; and Tom McBride, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.