

# HOUSE BILL REPORT

## HB 1231

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**As Reported by House Committee On:**  
Public Safety

**Title:** An act relating to the statute of limitations for certain felony sex offenses.

**Brief Description:** Modifying the statute of limitations for certain felony sex offenses.

**Sponsors:** Representatives Griffey, Orwall, Irwin, Klippert, Kraft, MacEwen, Macri, Eslick, Caldier, Walen, Chambers and Dent.

**Brief History:**

**Committee Activity:**

Public Safety: 1/22/19, 1/31/19 [DPS].

<p><b>Brief Summary of Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Eliminates or extends the statute of limitations for certain felony sex offenses.</li></ul>
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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Davis, Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Appleton, Graham, Griffey, Lovick, Orwall, Pellicciotti and Pettigrew.

**Staff:** Omeara Harrington (786-7136).

**Background:**

Statutes of Limitations.

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, the statute of limitations for certain specified felony offenses has been extended to five years, six years, or 10 years, and there is no limit on the time within which a prosecution must commence for the crime of Murder and various other crimes that result in death.

Statutes of Limitations for Sex Offenses.

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 30th birthday	10 years (if reported within 1 year); or 3 years (if not reported within 1 year)
Rape of a Child in the first, second, and third degrees		N/A
Child Molestation in the first, second, and third degrees		
Sexual Exploitation of a Minor		
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
Commercial Sexual Abuse of a Minor; Promoting Commercial Sexual Abuse of a Minor; Promoting Travel for Commercial Sexual Abuse of a Minor	Later of Victim's 30th birthday or 10 years	N/A

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

The statutes of limitations 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.

Applicability of Changes to Statutes of Limitations.

When the Legislature enacts an amendment increasing a criminal statute of limitations period, the new limitation period applies to all crimes not yet time barred on the effective date of the change. However, a legislative change to lengthen a statute of limitations does not affect cases in which the statute of limitations has already expired.

### **Summary of Substitute Bill:**

The statute of limitations is eliminated for the following offenses, allowing a prosecutor to bring charges at any time after the commission of the offense:

- Rape in the first and second degrees if the victim is under the age of 16;
- Rape of a Child in the first, second, and third degrees;
- Child Molestation in the first, second, and third degrees;
- Sexual Misconduct with a Minor in the first degree;
- Custodial Sexual Misconduct in the first degree; and
- Sexual Exploitation of a Minor.

The statute of limitations is extended to 20 years for Rape in the first and second degrees if the victim is 16 year or older, and for Indecent Liberties.

For Rape in the third degree, the statute of limitations is extended to 10 years. The statute of limitations for Incest is extended to 10 years, or the victim's thirtieth birthday if committed against a victim under the age of 18, whichever is later.

### **Substitute Bill Compared to Original Bill:**

The provisions eliminating the statute of limitations for the crimes of Child Molestation in the first degree and Rape of a Child in the first degree are retained.

Provisions are added that eliminate the statute of limitations for: Rape in the first and second degrees if the victim is under the age of 16; Rape of a Child in the second and third degrees; Child Molestation in the second and third degrees; Sexual Misconduct with a Minor in the first degree; Custodial Sexual Misconduct in the first degree; and Sexual Exploitation of a Minor. The statute of limitations is extended to 20 years for Rape in the first and second degrees if the victim is 16 years or older, and for Indecent Liberties. The statute of limitations is extended to 10 years for the crime of Rape in the third degree. The statute of limitations for Incest is extended to 10 years, or the victim's thirtieth birthday if committed against a victim under the age of 18, whichever is later.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 1, 2019.

**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) One in five women and one in 71 men will experience sexual violence in their lifetime. Felony sex crimes are the most heinous crimes. People have survived horrible abuse, to the point that some survivors believe the person they were before the assault no longer exists. There is guilt associated with not reporting and knowing that others have been

victimized by the same person. Offenses can cause major life interruptions, such as having to drop out of school. In some families, multiple generations have experienced abuse. It is difficult for survivors to report, and when they do, some are told that the statute of limitations prevents the case from being pursued. Time should be allowed for survivors to report and for perpetrators to be brought to justice in furtherance of community safety.

It is time to end the statute of limitations on felony sex crimes. It does not make sense to say, as a state and a society, that if a person can get away with an offense for a certain period of time, it is okay. The offender is still an offender, and the victim is still a victim after that time. Currently, perpetrators may get away with offenses by building stress within their victims, resulting in delayed reporting. Washington has some of the most complicated and shortest statute of limitations laws. This bill has been pursued before, and many people are left disappointed every year when it fails. Survivors need this change.

(Opposed) The cases at issue here may involve juvenile-on-juvenile sexual assault. If the case is then brought up later, after the assailant is an adult, he or she will be tried and convicted as an adult rather than as a juvenile. This is unfair when the crime was committed by a juvenile. It is questionable whether the court system can trust old evidence. The current statute of limitations for these offenses is appropriate.

**Persons Testifying:** (In support) Representative Griffey, prime sponsor; Andrea Piper-Wentland, Washington Coalition of Sexual Assault Programs; David Ward, Legal Voice; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

(Opposed) Neil Beaver, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

**Persons Signed In To Testify But Not Testifying:** None.