

SENATE BILL REPORT

SHB 1231

As of March 28, 2019

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: House Committee on Public Safety (originally sponsored by Representatives Griffey, Orwall, Irwin, Klippert, Kraft, MacEwen, Macri, Eslick, Caldier, Walen, Chambers and Dent).

Brief History: Passed House: 3/06/19, 89-7.

Committee Activity: Law & Justice: 3/28/19.

Brief Summary of Bill

- Eliminates or extends statutes of limitations for several sex offenses.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Shani Bauer (786-7468)

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 within two years, and felony offenses within three years of the commission of the crimes.

However, the statute of limitations for certain specified felony offenses has been extended to five, six, or ten years. There is no limit on the time within which a prosecution must be commenced for the crime of murder, and various other crimes in which a death results, including homicide by abuse, arson, vehicular homicide, vehicular assault, and hit-and-run.

Statutes of Limitations for Sex Offenses. The statutes of limitations for some felony sex offenses vary depending on the age of the victim at the time of the offense or when the offense was reported to law enforcement.

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.

The statute of limitations is the victim's thirtieth birthday if the victim was under the age of eighteen at the time of commission for the following offenses:

- rape in the first or second degree;
- rape of a child in the first, second, or third degree;
- child molestation in the first, second, or third degree;
- sexual exploitation of a minor;
- indecent liberties when the person is incapable of consent due to mental defect or incapacity; and
- incest in the first or second degree.

The statute of limitations is ten years from commission of the crime for:

- rape in the first or second degree if reported within one year of the crime; and
- indecent liberties when the person is incapable of consent due to mental defect or incapacity.

The statute of limitations for all other sex offenses is three years from the commission of the crime.

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 impact cases in which the statute of limitations has already expired.

Summary of Bill: Some statutes of limitations for specified sex offenses are modified.

There is no statute of limitations for:

- rape in the first or second degree when the victim is under age sixteen;
- rape of a child in the first, second, or third degree;
- sexual misconduct with a minor in the first degree;
- custodial sexual misconduct in the first degree;
- child molestation in the first, second, or third degree; and
- sexual exploitation of a minor.

The statute of limitations is 20 years from commission of the crimes of rape in the first or second degree, when the victim over age sixteen; and indecent liberties.

The statute of limitations is 10 years from commission of the crime of rape in the third degree.

The statute of limitations is 10 years from commission of the crime or up to the victim's thirtieth birthday if the victim was under the age of eighteen at the time of commission for the crimes of:

- incest;
- commercial sex abuse of a minor—current statute; and
- promoting or promoting travel for commercial sex abuse of a minor—current statute.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: This is a good compromise that eliminates the statute of limitations for crimes committed against those who are victimized the most. We have a particular duty to protect young people and give law enforcement the best chance of prosecuting crimes against them. These perpetrators are serial in nature and often continue to victimize other children.

This is a priority bill due to the impact that sexual violence has on victims and the community as a whole. Survivor after survivor has come before you to tell you about the difficulties in making a report. Many come forward only to hear the unfortunate news that the clock has run out.

There are many changes and compromises in this bill from where it started years ago. We cannot keep asking survivors to tell their stories over and over. There has been some criticism that eliminating the statute of limitations will impact persons who committed crimes as juveniles. Those issues apply equally to homicide and other offenses. That issue can be addressed more globally in a separate forum. In circumstances such as these, prosecutors can exercise discretion and often treat the case similarly to how it would have been treated when the perpetrator was a juvenile.

The passage of time does not excuse sexual violence. We continue to encourage survivors to report their crime as soon as possible. With modern changes in technology, there is the possibility of having reliable evidence even years later.

CON: This legislation will have unintended consequences. A survivor may be getting counseling years later. As a mandatory reporter, the counselor must report the crime. Prosecuting these actions many years later may not be good for anyone.

Persons Testifying: PRO: Representative Dan Griffey, Prime Sponsor; Andrea Piper, Wentland, Washington. Coalition of Sexual Assault Programs; David Ward, Legal Voice; James McMahan, Washington Association Sheriffs & Police Chiefs; Russell Brown, citizen, Washington Association of Prosecuting Attorneys; Dinah Griffey, Mom.

CON: Paul Strophy, Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: No one.