

# FINAL BILL REPORT

## SB 5649

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Synopsis as Enacted

**Brief Description:** Adjusting the statute of limitations for sexual assault.

**Sponsors:** Senators Dhingra, Pedersen, Palumbo, Saldaña, Das, Wilson, C., Frockt, Keiser and Kuderer.

**Senate Committee on Law & Justice**  
**House Committee on Public Safety**

**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.

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.

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*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 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.

Rape in the Third Degree. In the context of rape and other sex offenses, "consent" means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

A person commits rape in the third degree when, under circumstances not constituting rape in the first or second degrees, such person engages in sexual intercourse with another person:

- where the victim did not consent to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim's words or conduct; or
- where there is threat of substantial unlawful harm to the property rights of the victim.

Rape in the third degree is a class C felony and a seriousness level V offense.

**Summary:** Statutes of Limitations. Statutes of limitations for specified sex offenses are modified as outlined below.

No statute of limitations:

- 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.

Twenty years from commission of the crime:

- rape in the first or second degree—victim over age sixteen; and
- indecent liberties.

Ten years from commission of the crime:

- rape in the third degree.

Ten 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 of the crime:

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

Rape in the Third Degree. Rape in the third degree is modified by removing the language requiring that lack of consent was clearly expressed by the victim's words or conduct. Instead, a person commits rape in the third degree when, under circumstances not constituting rape in the first or second degrees, such person engages in sexual intercourse with another person:

- where the victim did not consent to sexual intercourse with the perpetrator; or
- where there is threat of substantial unlawful harm to the property rights of the victim.

**Votes on Final Passage:**

Senate	48	0
House	94	1

**Effective:** July 28, 2019