

HOUSE BILL REPORT

SSB 5380

As Passed House:

April 1, 2009

Title: An act relating to the statute of limitations for certain crimes.

Brief Description: Addressing the statute of limitations for certain crimes.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators McCaslin and Marr).

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 3/24/09 [DP].

Floor Activity

Passed House: 4/1/09, 97-0.

Brief Summary of Substitute Bill

- Extends the statute of limitations from three to six years for the crimes of money laundering, identity theft, improperly obtaining financial information, and theft in the first or second degree when accomplished by color or aid of deception.
- Provides that the statute of limitations begins to run upon the commission or discovery of the crime, whichever occurs later, for the crimes of leading organized crime, conspiracy or attempt to use the proceeds of criminal profiteering, money laundering, identity theft, improperly obtaining financial information, and theft in the first or second degree when accomplished by color or aid of deception.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 7 members: Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Goodman, Kirby and Ross.

Staff: Lara Zarowsky (786-7123)

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.

Background:

Statutes of limitations are legislative declarations of the period within which actions may be brought on certain claims, or during which certain crimes may be prosecuted. Once a statute of limitations has expired, there is in place an absolute bar to prosecution. The period of limitation is suspended during any period in which the person charged is out of the state, or is subject to a complaint, information, or indictment related to the offense. Statutes of limitations function to encourage prosecutions based upon reasonably fresh evidence to lessen the possibility of an erroneous conviction.

Statutes of limitations vary according to the crime. In general, simple misdemeanors must be prosecuted within one year, gross misdemeanors must be prosecuted within two years, and felony offenses must be prosecuted within three years of the commission of the crime. However, the limitation period may be varied by statute, and there is no limitation on the time within which a prosecution must commence for the crimes of murder, homicide by abuse, vehicular homicide, or for the crimes of vehicular assault, hit and run injury-accident, or arson if death results.

Violations of the following crimes may not be prosecuted more than six years after their commission:

- leading organized crime; and
- conspiracy or attempt to use the proceeds of criminal profiteering.

A person is guilty of **leading organized crime** if he or she intentionally organizes, directs, supervises or finances three or more persons with the intent to engage in criminal profiteering activity. This form of leading organized crime is a class A felony. A person is also guilty of this crime if he or she intentionally incites or induces others to engage in violence or intimidation with the intent to further or promote a pattern of criminal profiteering activity. This form of leading organized crime is a class B felony.

A person is guilty of **conspiracy or attempt to use the proceeds of criminal profiteering** if he or she knowingly acquired any proceeds derived from a pattern of criminal activity and uses those proceeds to acquire any interest in real property or to establish or operate any enterprise. Use of such proceeds is a class B felony. Conspiracy to use such proceeds is a class C felony.

Violations of the following crimes may not be prosecuted more than three years after their commission:

- money laundering;
- improperly obtaining financial information;
- identity theft; and
- theft in the first or second degree.

A person is guilty of **money laundering** if he or she knowingly conducts a financial transaction with the proceeds of specified unlawful activity. Money laundering is a class C felony.

A person is guilty of **improperly obtaining financial information** if he or she makes false statements or submits forged documents to obtain or disclose a person's financial information. Improperly obtaining financial information is a class C felony.

A person is guilty of **identity theft** if he or she knowingly obtains, possesses, uses, or transfers the identity or financial information of another person with the intent to commit, aid, or abet any crime. Identity theft in the first degree is a class B felony. Identity theft in the second degree is a class C felony.

A person is guilty of **theft in the first degree** when he or she exerts unauthorized control of property or services valued at \$1,500 or more. Theft in the first degree is a class B felony.

A person is guilty of **theft in the second degree** when he or she exerts unauthorized control of property or services worth at least \$250 but not more than \$1,500. Theft in the second degree is a class C felony.

Theft may be accomplished by "**color or aid of deception**" if deception operated to bring about the obtaining of property or services.

Summary of Bill:

The statute of limitations is extended from three to six years for the crimes of:

- money laundering;
- improperly obtaining financial information;
- identity theft; and
- theft in the first or second degree, when accomplished by color or aid of deception.

The statute of limitations begins to run upon the commission or discovery of the crime, whichever occurs later, for the crimes of:

- leading organized crime;
- conspiracy or attempt to use the proceeds of criminal profiteering;
- money laundering;
- identity theft;
- improperly obtaining financial information; and
- theft in the first or second degree, when accomplished by color or aid of deception.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: 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 bill drafted by the prosecutors based on unfortunate experiences in prosecuting certain crimes. The longer it is after the fact, the harder it is for the prosecution and the defense to prove. The general default of three years doesn't work for some cases.

The most important piece of the bill is the section that adjusts the statute of limitations to be calculated based on the point of discovery of the crime, rather than when the crime was actually committed. This comes up often in the context of elder abuse cases. There may be circumstances in which the individual is dealing with other issues and doesn't realize within three years that they have had their assets stolen. In the context of theft, this bill affects only those crimes accomplished by color or aid of deception, which is a small subset of theft cases.

(Opposed) Justice delayed is justice denied. The bill stretches out the statute of limitations in two ways. First, by changing the calculation based on the point of discovery rather than the point of commission, which makes the provisions overly broad, and secondly by extending the statute of limitations from three to six years. There may be room in this bill for negotiation, but it is not refined nearly enough at this point. It is probably more difficult to defend older cases than prosecute them because a certain financial decision may not be easily explained years later when taken out of context.

Persons Testifying: (In support) Tom McBride, Washington Association of Prosecuting Attorneys.

(Opposed) Bob Cooper, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: None.