

HOUSE BILL REPORT

HB 1352

As Reported by House Committee On:
Public Safety

Title: An act relating to the statute of limitations for sexual abuse against a child.

Brief Description: Addressing the statute of limitations for sexual abuse against a child.

Sponsors: Representatives Holy, Hurst, Shea, Kristiansen, Parker, Warnick, Kochmar, Kretz, Manweller, Johnson, Rodne, Hayes, Schmick, Short, Klippert, Vick, Condotta, Overstreet and Bergquist.

Brief History:

Committee Activity:

Public Safety: 2/5/13, 2/13/13 [DPS].

Brief Summary of Substitute Bill

- Extends the statute of limitations for several criminal offenses related to sexual abuse against a minor.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Ross and Takko.

Staff: Sarah Koster (786-7303).

Background:

Criminal Period of Limitations.

Under current law, there are three tiers of statute of limitations for sex offenses.

Certain sex offenses may be prosecuted up to a victim's twenty-eighth birthday:

- Rape of a Child in the first or second degrees (RCW 9A.44.073 and 9A.44.076);

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- Child Molestation in the first, second, or third degrees (RCW 9A.44.083, 9A.44.086, 9A.44.089);
- Indecent Liberties when the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless (RCW 9A.44.100 (1)(b)); or
- Incest (RCW 9A.64.020).

Rape in the first or second degree has two different statute of limitations schemes depending on the age of the victim and whether the offense was reported within one year, if:

- it was reported within one year and the victim was under 14 years, it may be prosecuted up to the victim's twenty-eighth birthday;
- it was reported within one year and the victim was 14 years or over, it may be prosecuted up to 10 years after the offense;
- it was not reported within one year and the victim was under 14 years, it may be prosecuted up to seven years after the offense; or
- it was not reported within one year and the victim was 14 years or over, it may be prosecuted up to three years after the offense.

For all other sex offenses, the period of limitations is three years.

The period of limitations for any sex offense may run from the date of the offense or one year from the date by which the identity of the suspect is established by deoxyribonucleic acid (DNA).

Civil Period of Limitations.

Any claim or cause of action based on intentional conduct brought for recovery of damages for injury suffered as a result of childhood sexual abuse may be brought within three years after the act, three years after the victim discovered that the injury was caused by such act, or within three years of when the victim discovered that the victim reasonably should have discovered the injury was caused by such act, whichever is later.

Summary of Substitute Bill:

Criminal Period of Limitations.

The following offenses may be prosecuted up to the victim's thirtieth birthday, if the victim was under 18 years old when the offense was committed:

- Rape in the first or second degree (RCW 9A.44.040 and 9A.40.050);
- Rape of a Child in the first or second degrees (RCW 9A.44.073 and 9A.44.076);
- Child Molestation in the first, second, or third degrees (RCW 9A.44.083, 9A.44.086, 9A.44.089);
- Indecent Liberties when the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless (RCW 9A.44.100 (1)(b));
- Incest (RCW 9A.64.020); or
- Sexual Exploitation of a Minor (RCW 9.68A.040).

If the victim was over 18 years old, Rape in the first or second degrees may be prosecuted up to 10 years after the act, if the offense was reported within one year, or up to three years after the act, if the offense was not reported within one year.

All other sex offenses may be prosecuted up to three years from the date of the act.

The period of limitations for any sex offense may run from the date of the offense or one year from the date by which the identity of the suspect is established by DNA or by photograph.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) lengthens the statute of limitations for Sexual Exploitation of a Minor, to match that for other offenses relating to childhood sexual abuse; (2) allows the statute of limitations for prosecution for any sex offense to run from the date of the offense or one year from when the suspect's identity is conclusively established by DNA testing or photograph, whichever is later; and (3) removes the provisions changing the period of commencement of civil actions based on childhood sexual abuse.

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 bill simplifies the formula for calculating a criminal statute of limitations and expands the statute of limitations. It is common for children not to report crimes until they are older, for various reasons. The expansion from 28 years old to 30 years old is helpful but not too burdensome on prosecutors. Including Sexual Exploitation of a Minor is important, because it typically involves a photograph or video, so there is hard evidence which will counter any prosecution problems. This bill provides deterrence for pedophiles and benefits the 15- to 18-year-old victims who did not get the benefit of extended periods of limitations. When there is hard evidence, there should never be a limit on prosecution. Victims often do not face their history until they are adults.

(In support with concerns) The expansion of periods of limitation on the civil side should be restored to the bill. The standards for prosecution on the criminal side is rightfully quite high, but that means that victims do not necessarily have the opportunity they need for justice.

(With concerns) It is important that the bill remove the one year reporting requirement and expand the statute of limitations. Really, the statute of limitations should be eliminated, not just expanded. Child abuse can result in death.

(Opposed) It is important to have a fast and speedy resolution of these matters to address victims' needs and for fairness. Typically, sex offenses come down to a credibility determination. Every day that passes, the issue of bias is more difficult for defense attorneys. There is often hard evidence for sexual exploitation, but not for Rape of a Child or the other offenses affected. The Sex Offender Policy Board found that there were no studies which would show that extending the statute of limitations for criminal prosecution of sex crimes against children would do anything.

Persons Testifying: (In support) Representative Holy, prime sponsor; Tom McBride, Washington Association of Prosecuting Attorneys; John Ahern; Virginia Graham; Veronica Langley; and Gail Harsh.

(In support with concerns) Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs.

(With concerns) Jill Logie.

(Opposed) Larry Jefferson, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: None.