

# HOUSE BILL REPORT

## ESSB 5810

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### As Reported by House Committee On:

Public Safety  
Appropriations

**Title:** An act relating to adding attempted murder to the list of offenses that may not be prosecuted more than ten years their commission.

**Brief Description:** Adding attempted murder to the list of offenses that may not be prosecuted more than ten years their commission.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senator Padden).

**Brief History:**

**Committee Activity:**

Public Safety: 3/14/17, 3/27/17 [DP];  
Appropriations: 4/1/17, 4/4/17 [DP].

### Brief Summary of Engrossed Substitute Bill

- Extends the statute of limitations for Attempted Murder from three to 10 years.

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## HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** Do pass. Signed by 11 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Chapman, Griffey, Holy, Orwall, Pettigrew and Van Werven.

**Staff:** Kelly Leonard (786-7147).

**Background:**

Murder. A person is guilty of Murder in the first degree when:

- with a premeditated intent to cause the death of another person, he or she causes the death of such person or of a third person;

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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.*

- under circumstances manifesting an extreme indifference to human life, he or she engages in conduct which creates a grave risk of death to any person, and thereby causes the death of a person; or
- he or she commits or attempts to commit the crime of Robbery in the first or second degree, Rape in the first or second degree, Burglary in the first degree, Arson in the first or second degree, or Kidnapping in the first or second degree, and in the course of or in furtherance of such crime or in immediate flight therefrom, he or she, or another participant, causes the death of a person other than one of the participants.

A person is guilty of Murder in the second degree when:

- with intent to cause the death of another person but without premeditation, he or she causes the death of such person or of a third person; or
- he or she commits or attempts to commit any felony, including assault, other than those included in Murder in the first degree, and, in the course of and in furtherance of such crime or in immediate flight therefrom, he or she, or another participant, causes the death of a person other than one of the participants.

Murder in the first degree is a class A felony and seriousness level XV offense, and Murder in the second degree is a class A felony and seriousness level XIV offense.

Attempt. An inchoate offense, also referred to as an anticipatory offense, is a type of crime completed by taking a punishable step towards the commission of another crime. The inchoate offenses are Attempt, Solicitation, and Conspiracy.

A person is guilty of Attempt if, with intent to commit a specific crime, he or she does any act which is a substantial step toward the commission of that crime.

A conviction of Attempt is a class A felony when the crime attempted is Murder in the first or second degree. Under the Sentencing Reform Act, the sentence range for Attempt is determined by taking the range for the completed crime and multiplying it by 75 percent.

Statute 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 felony offenses must be prosecuted within three years of the commission of the crime. However, there are many exceptions for specified crimes.

Murder in the first and second degree do not carry a statute of limitations, meaning they can be prosecuted at any time after their commission. Inchoate offenses, including Attempt, are subject to the general statute of limitations. Attempted Murder, a felony, has a statute of limitations of three years.

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### **Summary of Bill:**

The statute of limitations for Attempted Murder is extended to 10 years.

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**Appropriation:** None.

**Fiscal Note:** Requested on March 27, 2017.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) Attempted Murder can be just as heinous as Murder offenses, with the only difference being the survival of the intended victim. However, Attempted Murder currently has a three year statute of limitations and Murder does not have one at all. This bill is a compromise, as some proponents would like to see the statute of limitations for Attempted Murder eliminated. Ten years is a reasonable middle ground. This bill has an emergency clause to address a pending case in Whatcom County, as the extension of the statute of limitations will only apply to this case if the bill passes while the window of prosecution is still open. The particular case involved a violent Attempted Murder for hire. The slayer took his own life, but the person who hired him is still at large. The additional time will allow prosecutors to file charges when he or she is identified.

(Opposed) The bill undermines the reason that statutes of limitations exist. The statute of limitations promotes prompt investigations and prosecutions. Removing or reducing the statute of limitations for one offense creates a slippery slope for other offenses. Even for Attempted Murder, there should be limits on the timeframe in which prosecutions can be brought, especially because the offense involves a broad range of conduct. It can include a range of assaults not resulting in death. Additional time does not guarantee a successful identification or prosecution. The longer a prosecution takes, the less likely it is there will be a prompt and fair trial.

**Persons Testifying:** (In support) Senator Padden, prime sponsor; and David McEachran, Whatcom County Prosecuting Attorney's Office.

(Opposed) Elisabeth Smith, American Civil Liberties Union of Washington.

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

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass. Signed by 29 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; Bergquist, Buys, Cody, Condotta, Fitzgibbon, Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Manweller, Nealey, Pettigrew, Pollet, Sawyer, Schmick, Senn, Springer, Stanford, Sullivan, Taylor, Tharinger, Volz and Wilcox.

**Minority Report:** Do not pass. Signed by 2 members: Representatives MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Vick.

**Staff:** Rachelle Harris (786-7137).

**Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Public Safety:**

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) It is very rare for prosecutors to need longer than three years to prosecute attempted murder. This bill was brought by the Whatcom County prosecutor, and it represents a unique case. There is actual evidence in this instance that an extension of the statute of limitations is necessary. The current three-year statute of limitations is the default, but it was never a thoughtful choice on the part of the Legislature. This bill will put attempted murder more in line with other heinous crimes like rape. The court has ruled that extensions of statutes of limitations are acceptable, as long as they are not retroactive, and this bill satisfies that condition.

(Opposed) None.

**Persons Testifying:** Tom McBride, Washington Association of Prosecuting Attorneys.

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