

# SENATE BILL REPORT

## ESHB 1155

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As of February 19, 2018

**Title:** An act relating to making felony sex offenses a crime that may be prosecuted at any time after its commission.

**Brief Description:** Making felony sex offenses a crime that may be prosecuted at any time after its commission.

**Sponsors:** House Committee on Public Safety (originally sponsored by Representatives Griffey, Orwall, Klippert, McCabe, Kraft, Caldier, Muri, Bergquist, Stanford, Fitzgibbon, McDonald, Doglio and Macri).

**Brief History:** Passed House: 3/06/17, 90-8; 2/08/18, 87-11; 2/08/18, 90-8.

**Committee Activity:** Law & Justice: 2/19/18.

### Brief Summary of Bill

- Eliminates the statute of limitations for Rape of a Child in the first degree and Child Molestation in the first degree.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Shani Bauer (786-7468)

**Background:** Statutes of Limitation. 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 limitation 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, the statute of limitations for certain specified felony offenses has been extended to five years, six years, 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.

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Statutes of Limitation for Sex Offenses. For some felony sex offenses, the statute of limitations varies depending on the age of the victim at the time of the offense or when the offense was reported to law enforcement.

Offense	Statute of Limitations	
	Victim is Under Age 18	Victim is Over Age 18
Rape in the first and second degrees	Victim's thirtieth birthday	10 years (if reported within one year) OR 3 years (if not reported within one year)
Rape of a Child in the first, second, and third degrees		N/A
Child Molestation in the first, second, and third degrees		
Sexual Exploitation of a Minor		
Incest in the first and second degrees		3 Years
Indecent Liberties when the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless		10 years
Commercial Sexual Abuse of a Minor; Promoting Commercial Sexual Abuse of a Minor; Promoting Travel for Commercial Sexual Abuse of a Minor	10 years	N/A

For all other felony sex offenses, the statute of limitations is three years. This includes, but is not limited to: Custodial Sexual Misconduct in the first degree; Rape in the first degree; Sexual Misconduct with a Minor in the first degree; and Sexually Violating Human Remains. The periods of limitation for sex offenses run from the date of commission or one year from the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid—DNA—testing or by photograph, whichever is later.

Applicability of Changes to Statutes of Limitation. 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.

A person is guilty of Rape of a Child in the first degree when the person has sexual intercourse with another who is less than 12 years old and not married to the perpetrator and the perpetrator is at least 24 months older than the victim. A person is guilty of Child Molestation in the first degree when the person has, or knowingly causes another person under the age of 18 to have, sexual contact with another who is less than 12 years old and not married to the perpetrator and the perpetrator is at least 36 months older than the victim. Both crimes are Class A felonies.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Striking Amendment):** The statute of limitations for Rape of a Child in the first degree and Child Molestation in the first degree is eliminated.

**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 on Proposed Striking Amendment:** PRO: For a first step in eliminating the statute of limitations for sex offenses, starting with our children is a good start. The people who perpetrated these crimes should have to look over their shoulder for the rest of their lives. Survivors of sexual assault have many reasons for delayed reporting. Rape does not end after the physical assault and is not the hardest step. The aftermath of reporting is a difficult process which may involve multiple questionings by authorities on why a victim waited to report. When a victim finally realizes that a crime was committed or has the courage to come forward, it is often too late to hold the perpetrator accountable. Victims of sexual abuse deserve better.

One out of four girls and one out of six boys are sexually abused. The vast majority of children who were abused never report and it often takes years to realize what happened to them. Eight states have either extended or eliminated the statute of limitations. For justice we must end the statute of limitations for this unspeakable crime. Victims carry the wounds of these crimes for a lifetime. They should have the opportunity to bring their perpetrators to justice.

OTHER: Ten years ago the prosecutors would have argued against the elimination of the statute of limitations for sex crimes because of the difficulty of prosecuting the case. With advances in technology, it is difficult to take a very old case, but not impossible and the ability to prosecute a very old case is better than it was in the past. The focus on Rape of a Child 1 and Child Molestation 1 is appropriate. The time period for a preschool aged child to come forward can be significant. At some point the statute of limitation for civil consequences for sexual abuse should be addressed.

**Persons Testifying:** PRO: Representative Dan Griffey, Prime Sponsor; Lisa D. Blume, citizen; Mary Dispenza, Northwest Leader for SNAP (Survivors Network of Those Abused by Priests); Dinah Griffey, citizen; Donna Campbell, citizen; Jana Peterson, citizen; Christina-Marie Wright, citizen; Andrea Piper-Wentland, Washington Coalition of Sexual Assault Programs; Megan Freney, citizen; Lisa Flotlin, citizen; Naomi Evans, citizen.

OTHER: Tom McBride, Washington Association of Prosecuting Attorneys.

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