
Public Safety Committee

SB 5649

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

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

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Eliminates or extends the statute of limitations for certain felony sex offenses.• Modifies the offense of Rape in the third degree.

Hearing Date: 3/19/19

Staff: Omeara Harrington (786-7136).

Background:

Statutes 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, the statute of limitations for certain specified felony offenses has been extended to five years, six years, or 10 years, and there is no limit on the time within which a prosecution must commence for the crime of Murder and various other crimes that result in death.

Statutes of Limitations 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:

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.

Offense	Statute of Limitations	
	Victim is Under Age 18	Victim is Over Age 18
Rape in the first and second degrees	Victim's 30th birthday	10 years (if reported within 1 year); or 3 years (if not reported within 1 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	Later of Victim's 30th birthday or 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 third degree; Indecent Liberties; and Sexual Misconduct with a Minor in the first degree.

The statutes of limitations 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 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 affect cases in which the statute of limitations has already expired.

Rape in the Third Degree.

The crime of Rape in the third degree is a class C felony. 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 property rights of the victim.

"Consent" is defined in the criminal code provisions governing Rape and other sex offenses as meaning 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.

Summary of Bill:

Statutes of Limitations.

The statute of limitations is eliminated for the following offenses, allowing a prosecutor to bring charges at any time after the commission of the offense:

- Rape in the first and second degrees if the victim is under the age of 16;
- Rape of a Child in the first, second, and third degrees;
- Child Molestation in the first, second, and third degrees;
- Sexual Misconduct with a Minor in the first degree;
- Custodial Sexual Misconduct in the first degree; and
- Sexual Exploitation of a Minor.

The statute of limitations is extended to 20 years for Rape in the first and second degrees if the victim is 16 year or older, and for Indecent Liberties.

For Rape in the third degree, the statute of limitations is extended to 10 years. The statute of limitations for Incest is extended to 10 years, or the victim's thirtieth birthday if committed against a victim under the age of 18, whichever is later.

Rape in the Third Degree.

The crime of Rape in the third degree is modified by removing the language requiring that a victim's lack of consent was clearly expressed by the victim's words or conduct. Accordingly, 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 property rights of the victim.

The underlying statutory definition of "consent" applicable to sex offenses remains, requiring that, at the time of the act of sexual intercourse or sexual contact, there was a lack of actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.