

CERTIFICATION OF ENROLLMENT

SENATE BILL 5649

66th Legislature
2019 Regular Session

Passed by the Senate February 20, 2019
Yeas 48 Nays 0

President of the Senate

Passed by the House April 10, 2019
Yeas 94 Nays 1

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5649** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5649

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Senators Dhingra, Pedersen, Palumbo, Saldaña, Das, Wilson, C.,
Frocht, Keiser, and Kuderer

Read first time 01/25/19. Referred to Committee on Law & Justice.

1 AN ACT Relating to crimes of sexual assault; amending RCW
2 9A.44.060; reenacting and amending RCW 9A.04.080; and creating a new
3 section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** Social service agencies providing support
6 to victims of sexual assault have long known that sexual assault
7 crimes are among the most underreported of all types of crime.
8 According to the department of justice, only two hundred thirty out
9 of every one thousand sexual assaults are reported to police. In the
10 wake of the recent #MeToo movement, this fact has become clear to the
11 broader public.

12 The statute of limitations restricts a prosecutor's ability to
13 hold perpetrators accountable when reports of crime are delayed.
14 There are many different reasons why victims of sexual assault delay
15 or even choose to never report the crime that has been committed
16 against them. Advances in the field of neurobiology have demonstrated
17 how sexual assault trauma and trauma responses may contribute to
18 delayed victim reporting. Sometimes the victim is in a relationship
19 with the perpetrator - an employer, parent, teacher, or some other
20 person with supervisory power over the victim - causing the victim to
21 believe that further harm will come to them if they report the crime.

1 Further, technological and scientific advances in investigation,
2 collection, documentation, and preservation of evidence have advanced
3 law enforcement and prosecutorial abilities to investigate and
4 prosecute these older cases. Realizing this, policymakers across the
5 country have reevaluated and amended statutes of limitation to extend
6 the allowable time to prosecute sexual assault crimes.

7 It is generally true that the longer a victim waits to report a
8 crime, the more difficult it will be for the case to be successfully
9 prosecuted. However, the statute of limitations should not prohibit
10 prosecution for these heinous offenses when there is adequate
11 evidence. Extending or eliminating the statute of limitations in
12 these cases is imperative to provide access to justice for victims,
13 hold perpetrators accountable, and enhance community protection.

14 **Sec. 2.** RCW 9A.04.080 and 2017 c 266 s 9, 2017 c 231 s 2, and
15 2017 c 125 s 1 are each reenacted and amended to read as follows:

16 (1) Prosecutions for criminal offenses shall not be commenced
17 after the periods prescribed in this section.

18 (a) The following offenses may be prosecuted at any time after
19 their commission:

20 (i) Murder;

21 (ii) Homicide by abuse;

22 (iii) Arson if a death results;

23 (iv) Vehicular homicide;

24 (v) Vehicular assault if a death results;

25 (vi) Hit-and-run injury-accident if a death results (RCW
26 46.52.020(4));

27 (vii) Rape in the first degree (RCW 9A.44.040) if the victim is
28 under the age of sixteen;

29 (viii) Rape in the second degree (RCW 9A.44.050) if the victim is
30 under the age of sixteen;

31 (ix) Rape of a child in the first degree (RCW 9A.44.073);

32 (x) Rape of a child in the second degree (RCW 9A.44.076);

33 (xi) Rape of a child in the third degree (RCW 9A.44.079);

34 (xii) Sexual misconduct with a minor in the first degree (RCW
35 9A.44.093);

36 (xiii) Custodial sexual misconduct in the first degree (RCW
37 9A.44.160);

38 (xiv) Child molestation in the first degree (RCW 9A.44.083);

39 (xv) Child molestation in the second degree (RCW 9A.44.086);

1 (xvi) Child molestation in the third degree (RCW 9A.44.089); and
2 (xvii) Sexual exploitation of a minor (RCW 9.68A.040).

3 (b) Except as provided in ~~((e))~~ (a) of this subsection, the
4 following offenses may not be prosecuted more than twenty years after
5 its commission:

6 (i) Rape in the first degree (RCW 9A.44.040);

7 (ii) Rape in the second degree (RCW 9A.44.050); or

8 (iii) Indecent liberties (RCW 9A.44.100).

9 (c) The following offenses ~~((shall))~~ may not be prosecuted more

10 than ten years after ~~((their))~~ its commission:

11 (i) Any felony committed by a public officer if the commission is

12 in connection with the duties of his or her office or constitutes a

13 breach of his or her public duty or a violation of the oath of

14 office;

15 (ii) Arson if no death results;

16 ~~(iii) ((A) Violations of RCW 9A.44.040 or 9A.44.050 if the rape~~
17 ~~is reported to a law enforcement agency within one year of its~~
18 ~~commission.~~

19 ~~(B) If a violation of RCW 9A.44.040 or 9A.44.050 is not reported~~
20 ~~within one year, the rape may not be prosecuted more than three years~~
21 ~~after its commission;~~

22 ~~(iv) Indecent liberties under RCW 9A.44.100(1)(b); or~~

23 ~~(v)) Rape in the third degree (RCW 9A.44.060);~~

24 (iv) Attempted murder; or

25 ~~((vi))~~ (v) Trafficking under RCW 9A.40.100.

26 ~~((c) Violations of the following statutes, when committed~~
27 ~~against a victim under the age of eighteen, may be prosecuted up to~~
28 ~~the victim's thirtieth birthday: RCW 9A.44.040 (rape in the first~~
29 ~~degree), 9A.44.050 (rape in the second degree), 9A.44.073 (rape of a~~
30 ~~child in the first degree), 9A.44.076 (rape of a child in the second~~
31 ~~degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083~~
32 ~~(child molestation in the first degree), 9A.44.086 (child molestation~~
33 ~~in the second degree), 9A.44.089 (child molestation in the third~~
34 ~~degree), 9A.44.100(1)(b) (indecent liberties), 9A.64.020 (incest), or~~
35 ~~9.68A.040 (sexual exploitation of a minor).)~~

36 (d) A violation of any offense listed in this subsection (1)(d)

37 may be prosecuted up to ten years after its commission or, if

38 committed against a victim under the age of eighteen, up to the

39 victim's thirtieth birthday, whichever is later:

40 (i) RCW 9.68A.100 (commercial sexual abuse of a minor);

1 (ii) RCW 9.68A.101 (promoting commercial sexual abuse of a
2 minor); (~~or~~)

3 (iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse
4 of a minor); or

5 (iv) RCW 9A.64.020 (incest).

6 (e) The following offenses (~~shall~~) may not be prosecuted more
7 than six years after (~~their~~) its commission or (~~their~~) discovery,
8 whichever occurs later:

9 (i) Violations of RCW 9A.82.060 or 9A.82.080;

10 (ii) Any felony violation of chapter 9A.83 RCW;

11 (iii) Any felony violation of chapter 9.35 RCW;

12 (iv) Theft in the first or second degree under chapter 9A.56 RCW
13 when accomplished by color or aid of deception;

14 (v) Theft from a vulnerable adult under RCW 9A.56.400; or

15 (vi) Trafficking in stolen property in the first or second degree
16 under chapter 9A.82 RCW in which the stolen property is a motor
17 vehicle or major component part of a motor vehicle as defined in RCW
18 46.80.010.

19 (f) The following offenses (~~shall~~) may not be prosecuted more
20 than five years after (~~their~~) its commission: Any class C felony
21 under chapter 74.09, 82.36, or 82.38 RCW.

22 (g) Bigamy (~~shall~~) may not be prosecuted more than three years
23 after the time specified in RCW 9A.64.010.

24 (h) A violation of RCW 9A.56.030 (~~must~~) may not be prosecuted
25 more than three years after the discovery of the offense when the
26 victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

27 (i) No other felony may be prosecuted more than three years after
28 its commission; except that in a prosecution under RCW 9A.44.115, if
29 the person who was viewed, photographed, or filmed did not realize at
30 the time that he or she was being viewed, photographed, or filmed,
31 the prosecution must be commenced within two years of the time the
32 person who was viewed or in the photograph or film first learns that
33 he or she was viewed, photographed, or filmed.

34 (j) No gross misdemeanor may be prosecuted more than two years
35 after its commission.

36 (k) No misdemeanor may be prosecuted more than one year after its
37 commission.

38 (2) The periods of limitation prescribed in subsection (1) of
39 this section do not run during any time when the person charged is
40 not usually and publicly resident within this state.

1 (3) In any prosecution for a sex offense as defined in RCW
2 9.94A.030, the periods of limitation prescribed in subsection (1) of
3 this section run from the date of commission or one year from the
4 date on which the identity of the suspect is conclusively established
5 by deoxyribonucleic acid testing or by photograph as defined in RCW
6 9.68A.011, whichever is later.

7 (4) If, before the end of a period of limitation prescribed in
8 subsection (1) of this section, an indictment has been found or a
9 complaint or an information has been filed, and the indictment,
10 complaint, or information is set aside, then the period of limitation
11 is extended by a period equal to the length of time from the finding
12 or filing to the setting aside.

13 **Sec. 3.** RCW 9A.44.060 and 2013 c 94 s 1 are each amended to read
14 as follows:

15 (1) A person is guilty of rape in the third degree when, under
16 circumstances not constituting rape in the first or second degrees,
17 such person engages in sexual intercourse with another person:

18 (a) Where the victim did not consent as defined in RCW
19 9A.44.010(7), to sexual intercourse with the perpetrator (~~and such~~
20 ~~lack of consent was clearly expressed by the victim's words or~~
21 ~~conduct~~); or

22 (b) Where there is threat of substantial unlawful harm to
23 property rights of the victim.

24 (2) Rape in the third degree is a class C felony.

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