

**DATE:** August 28, 2008  
**FROM:** Shannon Hinchcliffe  
**TO:** Sentencing Guidelines Commission Ad Hoc Statute of Limitations Committee  
**RE: OVERVIEW: STATUTES OF LIMITATIONS FOR SEX OFFENSES**

This memorandum was developed for the purpose of presenting background information to the Ad Hoc subcommittee which is tasked with examining the current status of Washington's statutes of limitations for sex offenses. It is not meant to endorse or advocate for a specific position rather, it is to collect information for members. Nor is the following list exhaustive of the possible options available to members or legislators. Public testimony on this issue is scheduled to be taken on September 26, 2008, at the Washington State Criminal Justice Training Center from 9:00 a.m. to 12:00 p.m.

#### **I. Statute of Limitations Background.**

Most states have enacted statutes which limit the time in which crimes can be prosecuted. These time limits are referred to as "Statutes of Limitations." Once the statute of limitations has expired, it becomes an absolute bar to prosecution.

In recent years, there have been efforts to eliminate statutes of limitations for sex offenses generally and child sex offenses specifically. These movements are often based on the premise that victims have been hurt and scarred for a lifetime and criminals should not escape punishment. There are practical considerations, however, that complicate this approach.

Some states have no statute of limitations on felony offenses, no statute of limitations on sex offenses, no statute of limitations on child sex offenses or extended statute of limitations for sex offenses. Several states have also chosen to enact statutes which toll (extend) the statute of limitations based on DNA identification. There is a large spectrum of options and commentary from states regarding sex offense statute of limitations. This memo will give a brief overview of sex offense statutes of limitation in Washington and other states, and the various arguments for and against sex offense statutes of limitation.

#### **II. Washington State's Sex Offense Statute of Limitations. (Table-1)**

Washington has no statute of limitations for murder, homicide by abuse, and arson, vehicular homicide or hit-and-run injury accident if it results in death. For felonies committed by public officers in official duty, and arson, the statute of limitations is ten years.

In comparison to other states, Washington's approach to statutes of limitations on sex offenses is highly individualized. Many states extend the statutes of limitation for all sex offenses or all sex offenses against children. Washington extends the statutes of limitation for various lengths of time based on types of sex offenses and age of the victim.

- For 1<sup>st</sup> and 2<sup>nd</sup> Degree Rape, if it is reported within a year, the statute of limitations is ten years. If it is not reported within a year, and the victim is 14 or older, the statute of limitations is three years.
  - If the victim is under 14 and it is reported within a year, it may be prosecuted up to three years after the victim's 18<sup>th</sup> birthday or ten years after the offense, whichever is later.
  - If the victim is under 14 and it is not reported within a year, the statute of limitations is three years from the victim's 18<sup>th</sup> birthday or seven years from the offense, whichever is later.
- For Rape of a Child, 1<sup>st</sup> and 2<sup>nd</sup> degree Child Molestation, 1<sup>st</sup> and 2<sup>nd</sup> degree Incest, Indecent Liberties, the statute of limitations is three years after the victim's 18<sup>th</sup> birthday or seven years after the offense, whichever is later.
- For all other sex offenses the statute of limitations are three years. These include 3<sup>rd</sup> degree Rape of a Child, 3<sup>rd</sup> degree Child Molestation, 1<sup>st</sup> degree Sexual Misconduct with a Minor, Indecent Liberties where perpetrator is in a position of authority, other Indecent Liberties, and Criminal Trespass against Children.

Most other felonies have a three year statute of limitations in Washington. In 1989, the Washington State Legislature declared a "state of emergency" in child sexual abuse actions and added language which clarified the statute of limitations language.<sup>1</sup> In 1993, the legislature extended the statute of limitations for rape to what they are today, ten years for victim's who report the offense within a year and additional time for minor victims. RCW 9A.04.080(1)(b)(iii).

In 2006, the legislature enacted the DNA tolling provision to the statute.<sup>2</sup> Originally, the bill was introduced as tolling the statute on *all felonies* when DNA made an identification match. Testimony was presented supporting and opposing the bill. Arguments for the bill identified it as an answer to identifying criminals long after their initial crime was committed. Opponents of the bill explained that while DNA evidence will be available, the defendant's ability to locate witnesses that can remember events and to conduct discovery will be hindered.<sup>3</sup> Ultimately, a substitute bill was submitted for a tolling of sex offenses only.

The language states: "In any prosecution for a sex offense as defined in RCW 9.94A.030, the periods of limitation prescribed in subsection (1) of this section 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 testing, whichever is later." RCW 9A.04.080(3). This means that even if the statute of limitations for individual sex offenses have expired, DNA can, in effect, start the clock over for one year once the identity of a suspect is known.

---

<sup>1</sup> Laws of 1989, ch. 317, §3.

<sup>2</sup> Laws of 2006, ch. 132, §1.

<sup>3</sup> Washington State Senate Bill Report SB 5042.

### III. Data Compiled From Other States. (Table-2)

The majority of states that limit the time within which criminal prosecutions must be brought extend the time for sex offenses and sex offenses against children.<sup>4</sup>

- 7 states<sup>5</sup> have no statute of limitations for any felony.
- 17 states<sup>6</sup> specifically have no statutes of limitations for the most aggravated forms of rape, sexual abuse, and sexual assault.
- 7 states<sup>7</sup> and federal law have no statute of limitations on child sex abuse.
- 10 states<sup>8</sup> allow prosecutions of child sex abuse for at least 20 years after the victim's 18<sup>th</sup> birthday.
- 12 states toll statute of limitations until child victim turns "of age."<sup>9</sup>
- Besides Washington, 22 states have DNA tolling provisions.<sup>10</sup>

States have also come up with unique requirements which can extend or toll the statute of limitations. Most states have reporting requirements which require the victim to report the crime to law enforcement within a certain period of time. The time varies from 72 hours to five years.

A few states also require corroborating evidence with the allegation in order to extend the statute of limitations,<sup>11</sup> and few states requires DNA be processed within a certain period of time or start the statute of limitations from when the state is in possession of DNA (due diligence requirements).<sup>12</sup>

---

<sup>4</sup> National Center for Victims of Crime,

<http://www.ncvc.org/ncvc/main.aspx?dbName=DocumentViewer&DocumentAction=ViewProperties&DocumentID=32466&UrlToReturn=http%3a%2f%2fwww.ncvc.org%2fncvc%2fmain.aspx%3fdbName%3dAdvancedSearch>, viewed August 13, 2008.

<sup>5</sup> Kentucky, Maryland, North Carolina, South Carolina, West Virginia, Wyoming, and Virginia.

<sup>6</sup> Alabama, Alaska, Connecticut, Delaware, Idaho, Indiana, Kentucky, Louisiana, Michigan, Missouri, Nebraska, New Jersey, New York, Rhode Island, South Dakota, Texas (if DNA exists), and Vermont.

<sup>7</sup> Alabama (under 16), Alaska (against minor), Colorado (under 15), Maine (under 16 + specific offenses), Mississippi (specific offenses), Nebraska (under 16 + specific offenses) Utah, Federal (under 18 + broad definition of "abuse").

<sup>8</sup> Connecticut, Illinois, Louisiana, Massachusetts, Missouri, New Hampshire, Ohio, Pennsylvania, Tennessee, Wisconsin.

<sup>9</sup> Arkansas (18), Colorado (at 28 for some offenses), D.C. (21), Florida (18), Georgia (from 16 or when reported), Hawaii (18), Kansas (see table), Louisiana (18), New Mexico (18 or when reported), New York (18), North Dakota (15), Texas (18).

<sup>10</sup> Arkansas, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Montana, New Jersey, New Mexico, Oklahoma, Oregon, Pennsylvania, Texas, Utah, Wisconsin.

<sup>11</sup> California, Delaware, and Kansas.

<sup>12</sup> California requires that "...biological evidence collected in connection with the offense is analyzed for DNA type no later than two years from the date of the offense." Cal. Penal Code §§803(g)(1)(2006), New Jersey requires that the statute of limitation start to run once the state has possession of the DNA evidence.

## IV. Some Policy Discussions.

### A. Arguments For and Against Statutes of Limitations.

Originally, arguments regarding statutes of limitation focused on notions fairness and the most reliable evidence. Time and staleness became the enemy of an effective prosecution and prosecutions are very hard on the victims. DNA has remedied some of those evidentiary problems, but not all. In recent years, the focus of the debate has changed and centered around the forensic tool of DNA testing.<sup>13</sup> Arguments in support of extending or abolishing statutes of limitations for sex offenses generally include:

- Sex offenders pose a continuing threat to society.<sup>14</sup>
- Terrible and lifelong impact of sexual assault on victims.<sup>15</sup>
- No deterrence for future crimes if offenders are allowed to wait out the clock.
- Victims live in fear until their offender is captured/arrested/tried/convicted.

Arguments for keeping the statutes of limitation include:<sup>16</sup>

- In the interest of fairness, a prosecution should be based on recent—and more reliable—evidence.<sup>17</sup>
- Statutes of limitations encourage law enforcement and prosecutors to act in a timely fashion in apprehending and bringing wrongdoers to justice.
- Statutes of limitations grant repose (closure) to a wrongdoer, which may be appropriate when a focus on the past does not serve current interests.
- Statutes of limitations foster...a more stable and forward-looking society.”As time goes by, society’s interest in retribution may lessen, and it is more appropriate to focus the state’s attention on dealing with recent criminal activity.

---

<sup>13</sup>See DiFonzo, James Herbie *In Praise of Statutes of Limitations in Sex Offense Cases*, 41 Hous. L. Rev. 1205, 1209 (2004).

<sup>14</sup>Statement of Susan Herman, Executive Director, National Center for Victims of Crime, Before the U.S. Senate Judiciary Committee Subcommittee on Crime and Drugs at <http://www.ncvc.org/ncvc/main.aspx?dbName=DocumentViewer&DocumentAction=ViewProperties&DocumentID=32826&UrlToReturn=http%3a%2f%2fwww.ncvc.org%2fncvc%2fmain.aspx%3fdbName%3dAdvancedSearch>. (viewed on August 22, 2008).

<sup>15</sup> DiFonzo, at 1210.

<sup>16</sup> *Id.*

<sup>17</sup> Criminal Statute of Limitations Information Brief, Minnesota House of Representatives, June 2007, *citing* Robinson, Paul H., *Criminal Law Defenses*, 462 (1984).

Overview: Sex Offense Statutes of Limitation

pg. 4

August 28, 2008

- Evidence rebutting assertions of criminal conduct become a casualty of the clock, making successful prosecution much more difficult.

Most states that have extended criminal statutes of limitations have done so specifically for sex offenses and/or sex offenses against children. Reasons for states extending or abolishing statutes of limitations for sex offenses against children include:<sup>18</sup>

- Power imbalance between child victims and the adult perpetrators.
- Child victims are more easily intimidated by offenders. The position of authority occupied by the perpetrator also enables the offender to confuse the child, by both assuring the child that the sexual conduct is not wrongful, and/or threatening the child with terrible consequences if he or she discloses the activity. This makes reporting of offenses very unlikely.
- Child victims may be too young to know how or what to report.
- States also recognize that child victims may suffer memory repression or severe psychological trauma from the nature of the offense. They may even be unaware of the fact that a crime has been committed against them.

#### B. Are Statutes of Limitations Still Relevant in the Age of DNA?

Washington State, like many other states, has included DNA testing as a statutory reason to toll the statute of limitations in sex offense cases. This provision has had several effects. First, it allows prosecutors and victims more time to prosecute offenders in some cases. Second, it allows prosecutors to issue “John Doe” warrants. That is, they may issue warrants against an identifiable DNA profile for an individual even if the person’s name is unknown.<sup>19</sup>

With the technological advances that DNA brings, are statutes of limitations still relevant? Yes. Besides the traditional notion of fairness, a more tangible reason to retain statutes of limitations exists; the possibility of erroneous conviction. The idea that DNA has made statutes of limitations irrelevant, or worse, impediments to justice ignores both the possibility of forensic error and human corruption.<sup>20</sup> Although DNA can be an incredibly accurate forensic tool, faulty collection procedures, cross-contamination possibilities, and false positives are still problematic.<sup>21</sup>

---

<sup>18</sup> National Center for Victims of Crime, at <http://www.ncvc.org/ncvc/main.aspx?dbName=DocumentViewer&DocumentAction=ViewProperties&DocumentID=32466&UrlToReturn=http%3a%2f%2fwww.ncvc.org%2fncvc%2fmain.aspx%3fdbName%3dAdvancedSearch>. (viewed on August 22, 2008).

<sup>19</sup> Elizabeth Joyce, *Pursuing the Power of DNA: Forensic DNA’s Impact on Crime Victims and Their Advocates*, National Center for Victims of Crime, Winter/Spring 2003.

<sup>20</sup> DiFonzo, *supra* note 13 at 1265.

<sup>21</sup> *Id.* at 1220 and 1223.

### C. Would Victims Benefit From the Elimination of a Limitations Period?

There is significant anecdotal evidence of sexual assault victims who have been devastated by the defense of the statute of limitations.<sup>22</sup> However, it is unclear in Washington how many prosecutions have been barred by the current time limitations. With the DNA tolling provision, some of these problems may be remedied.

For crime victims, the issues of participating in a criminal prosecution of an old case are complicated. Often, victim's circumstances and their outlook on the case may have changed since the crime.<sup>23</sup> For example, the victim may be in a relationship and have chosen not to tell his or her partner about a sexual assault or molestation. When faced with the prospect of a criminal trial, the victim may fear media coverage or have fears for their personal safety. There is insufficient research data to determine whether the commencement of prosecution specifically, helps victims. The legal system's effect on the victim has been referred to as the "second injury" or "second wound."<sup>24</sup>

Some advocates for rape victims worry that prosecuting sexual assault cases years later may force victims who have put the past behind them to re-live the trauma.<sup>25</sup> This includes subjecting them to rigorous cross-examination and credibility attacks. The recent adoption of DNA tolling statutes and lengthy extensions or abolishment of statute of limitations in some states, has changed the landscape for sexual assault advocates and victims. Because they are relatively recent, there have been no comprehensive studies on the actual victim impact as a result of these changes.

---

<sup>22</sup> See generally Joyce, *supra* note 19.

<sup>23</sup> *Id.*

<sup>24</sup> DiFonzo at 1275 citing Martin Symonds, The "Second Injury to Victims, Evaluation and Change: Services for Survivors, 1980, at 36, 36-8.

<sup>25</sup> DiFonzo, *supra* note 19, at 1271 citing Francie Latour, *Revisited Rapes, Reawakened Trauma: DNA Testing Worries Victims' Advocates*, Boston Globe, May 28, 2000, at B1.

Sex Offense Statutes of Limitations for United States

Table - 2

State	Code	Description of Statutes of Limitation (SOL)	DNA toll prosecution?
Alabama	Ala. Code § 15-3-5(a)(4) & 15-3-1 (2006).	<ul style="list-style-type: none"> <li>• Case law holds that SOLs for felony offenses do not apply to rape.<sup>1</sup></li> <li>• No SOL for sex offenses with victim under 16.</li> <li>• 3 years for other felonies including 1<sup>st</sup> and 2<sup>nd</sup> degree sodomy, sexual torture, 1<sup>st</sup> degree sexual abuse, sexual abuse of a child less than 12 years old, and incest.</li> </ul>	No.
Alaska	Alaska Stat. § 12.10.010 (2006).	<ul style="list-style-type: none"> <li>• No SOL for any sex offense against a minor.</li> <li>• No SOL for felony sex abuse of a minor, 3<sup>rd</sup> and 4<sup>th</sup> degree sexual assault and almost any sexual assault.</li> <li>• 5-10 years for other felonies.</li> </ul>	No.
Arizona	Ariz. Rev. Stat. § 13-107(A)&(B) (2006).	<ul style="list-style-type: none"> <li>• No SOL for violent sexual assault, sexual conduct with someone under 15.</li> <li>• 7 years for all other felony sex offenses including sex abuse.</li> </ul>	No specific mention of DNA; however, <ul style="list-style-type: none"> <li>• The period of limitation does not run for a serious offense as defined in section 13-604 during any time when the identity of the person who commits the offense or offenses is unknown.<sup>2</sup></li> </ul>

<sup>1</sup> Ex parte Beverly, 497 So.2d 519,529, (Ala. 1986).

<sup>2</sup> Ariz. Rev. Stat. § 13-107(E) (2006).

Arkansas	Ark. Code. Ann. § 5-1-109(b)(1)(B) & (H) (2006).	<ul style="list-style-type: none"> <li>• 6 years for class Y and A felonies (for example: Rape, 1<sup>st</sup> degree Sexual Assault.)</li> <li>• 3 years for class B, C, D felonies (for example: Sexual indecency with a child, indecent exposure, 2<sup>nd</sup>, 3<sup>rd</sup> and some 4<sup>th</sup> degree sex assault, engaging children in sexually explicit conduct for use in visual or print medium).</li> <li>• For sex offenses, if the victim was under 18 at the time, the offense was not previously reported, and the SOL would not have expired from victim's 18<sup>th</sup> birthday, it can still be prosecuted.</li> </ul>	DNA tolls prosecution for 15 years for Rape only. <sup>3</sup>
California	Cal. Penal Code §§799-803.6 (2006).	<ul style="list-style-type: none"> <li>• 6 years for offenses punishable by 8 or more years in prison (for example, Rape, Sodomy).</li> <li>• 3 years for offenses punishable by imprisonment (for example other sex offenses).</li> <li>• Before the victim's 28<sup>th</sup> birthday if victim of a sex offense is under 14.</li> <li>• A criminal complaint may be filed within one year of a report to a law enforcement agency by a person of any age alleging that he or she, while under the age of 18 years, was the victim of a listed sex offense AND the SOL has expired, the crime involved substantial sexual conduct, independent evidence which corroborates the allegation.</li> </ul>	<p>Yes.</p> <ul style="list-style-type: none"> <li>• 1 year from the date identity is established by DNA. Applies to sex offenses and other offenses <u>IF</u> the offense was committed prior to January 1, 2001, and biological evidence collected in connection with the offense is analyzed no later than January 1, 2004, or the offense was committed on or after January 1, 2001, and biological evidence collected in connection with the offense is analyzed for DNA type no later than two years from the date of the offense.<sup>4</sup></li> </ul>

<sup>3</sup> Ark. Code. Ann. § 5-1-109(a)(1)(B) (2006).

<sup>4</sup> Cal. Penal Code §§803(g)(1) (2006).

Colorado	Colo. Rev. Stat. § 16-5-401(1)(a) (2006).	<ul style="list-style-type: none"> <li>• No SOL for sex offenses or attempt, conspiracy, or solicitation of sex offenses against a child under 15.<sup>5</sup></li> <li>• If the victim is over 15 but under 18, the SOL does not run until the victim's 28<sup>th</sup> birthday, when the offense includes sexual assault or felony unlawful sexual contact.</li> <li>• Other sex offense felonies generally 10 years.<sup>6</sup> *There are several statutory conditions which extend these SOLs.</li> </ul>	<p>Yes, for most sex offenses and any criminal attempt, conspiracy, or solicitation to commit, if:</p> <ul style="list-style-type: none"> <li>• the offense was reported and</li> <li>• the identity is determined by DNA within 10 years after the offense, there shall be no limit on the period of time during which a person may be prosecuted.</li> </ul>
Connecticut	Conn. Gen. Stat. § 54-193a (2006).	<ul style="list-style-type: none"> <li>• No SOL for some 1<sup>st</sup> degree sexual assault and aggravated sex assault 1<sup>st</sup> degree charges.</li> <li>• 30 years from the date the victim turns 18 or five years from the date the victim notifies law enforcement, whichever is earlier for a class A felony, involving sexual abuse, sexual exploitation or sexual assault of a minor.</li> <li>• 5 years for other felonies.</li> </ul>	<p>Yes, the SOL is tolled for 20 years for sex offenses if:</p> <ul style="list-style-type: none"> <li>• the victim notified law enforcement within 5 years and</li> <li>• identity has been established by DNA.</li> </ul>

<sup>5</sup> Colo. Rev. Stat. 18-3-411.

(1) As used in this section, "unlawful sexual offense" means enticement of a child; sexual assault when the victim at the time of the commission of the act is a child less than fifteen years of age; sexual assault in the first degree, when the victim at the time of the commission of the act is a child less than fifteen years of age; sexual assault in the second degree, when the victim at the time of the commission of the act is a child less than fifteen years of age, or when the victim is less than fifteen years of age and the actor is at least four years older than the victim; unlawful sexual contact, when the victim at the time of the commission of the act is a child less than fifteen years of age; sexual assault in the third degree, when the victim at the time of the commission of the act is a child less than fifteen years of age; sexual assault on a child; sexual assault on a child by one in a position of trust; aggravated incest, sexual exploitation of a child; procurement of a child for sexual exploitation; indecent exposure; soliciting for child prostitution; pandering of a child; procurement of a child; keeping a place of child prostitution; pimping of a child; inducement of child prostitution; patronizing a prostituted child, class 4 felony internet luring of a child; internet sexual exploitation of a child; or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).

<sup>6</sup> Colo. Rev. Stat. §16-5-401(6).

Sex Offense Statutes of Limitations for States.

Table – 2

Page 3 of 15

Delaware	Del. Code Ann. Tit. 11 § 205 (2006).	<ul style="list-style-type: none"> <li>• No SOL for sex offenses or attempt, solicitation and conspiracy to commit sex offenses.</li> <li>• No prosecution of sex offenses shall be based upon the memory of the victim that has been recovered through psychotherapy unless there is some evidence of the corpus delicti independent of such repressed memory.</li> </ul>	N/A. However, Delaware uses DNA to toll SOLs on all felony crimes for 10 years. <sup>7</sup>
District of Columbia	D.C. Code Ann. § 23-113(a)(2) & (3) (2006).	<ul style="list-style-type: none"> <li>• 15 years for 1<sup>st</sup> and 2<sup>nd</sup> Degree Sexual Abuse &amp; 1<sup>st</sup> and 2<sup>nd</sup> Degree Child Sexual Abuse.</li> <li>• 10 years for other sex offenses.</li> <li>• SOL in several child sex offenses does not start until the victim is 21 years old.<sup>8</sup></li> </ul>	No.
Florida	Fla. Stat. Ann. §775.15 (2006).	<ul style="list-style-type: none"> <li>• SOL for sexual battery<sup>9</sup> does not start until victim turns 18 or when the violation is reported (whichever is earlier).</li> <li>• No SOL if the offense is 1<sup>st</sup> or 2<sup>nd</sup> degree sexual battery, and the offense is reported within 72 hours.</li> <li>• No SOL if it is 1<sup>st</sup> degree sexual battery and victim was under 18.</li> <li>• Other sex offense SOL's for those over 18 considered less serious are 3-4 years.</li> </ul>	Yes. Any time after the date identity is established by DNA. <sup>10</sup>
Georgia	Ga. Code Ann. § 17-3-1 (2006).	<ul style="list-style-type: none"> <li>• 15 years for forcible rape.</li> <li>• 7 years for felonies committed against people under 18.</li> <li>• If victim under 16, SOL does not run until victim is 16 or reported to law enforcement (whichever is earlier).<sup>11</sup></li> <li>• If victim is 65 or older (for any crime) SOL does not run</li> </ul>	Yes. Prosecution can happen anytime after DNA establishes identity for kidnapping, rape, aggravated child molestation, aggravated sodomy, aggravated sexual battery.

<sup>7</sup> Del. Code Ann. tit. 11 § 205(i) (2006).

<sup>8</sup> D.C. Code Ann. § 23-113(d)(2) (2006).

<sup>9</sup> The definition of sexual battery is similar to Washington's definition of "sex offense." See Fla. Stat. Ann. §779.011 (2006).

<sup>10</sup> Fl. Stat. Ann. 775.15(15)(a) & (16)(a) (2006).

<sup>11</sup> Ga. Code Ann. §13-3-2.1 (2006).

		until crime reported then SOL is if 15 years from date of offense. <sup>12</sup>	
Hawaii <sup>13</sup>	Haw. Rev. Stat. § 701-108 (2006).	<ul style="list-style-type: none"> <li>• 3-6 years for sex offenses.</li> <li>• SOL is tolled for any sex offenses or child abuse during any time when the victim is alive and under 18 years of age.</li> </ul>	Yes, if the test is performed within the prescribed SOL period, then it adds 10 yrs to the SOL period.
Idaho	Idaho Code § 19-4 (2006).	<ul style="list-style-type: none"> <li>• No SOL for Rape (which includes sex with women under 18), Male rape and Sex abuse of a child.<sup>14</sup></li> <li>• 5 years for other felonies.<sup>15</sup></li> </ul>	No.

Illinois	720 Ill. Comp. Stat. 5/3-6 (2006).	<ul style="list-style-type: none"> <li>• 10 years for criminal sexual assault, aggravated criminal sexual assault, or aggravated criminal sexual abuse, <u>if the victim reported</u> within 3 years.</li> <li>• Within 20 years after the child victim attains 18 years of age, when victim is under 18, in prosecutions for criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or aggravated criminal sexual abuse or a prosecution for failure of a person who is required to report an alleged or suspected commission of any required offenses.</li> <li>• Within one year of the victim turning 18 for any offense of sexual conduct or sexual penetration when victim and defendant are family members.</li> <li>• Within one year of the victim turning 18. or 3 years after the offense for child pornography, indecent solicitation</li> </ul>	No.
----------	------------------------------------	--	-----

<sup>12</sup> Ga. Code Ann. §13-3-2.2 (2006).

<sup>13</sup> Statutory commentary explains Hawaii's policy considerations, specifically that evidence turns stale, and that the current SOL's are more liberal than they first were. Hawaii originally had a 2 yr. SOL on murder.

<sup>14</sup> Idaho Code § 19-401 (2006).

<sup>15</sup> Idaho Code § 19-402 (2006).

		<p>of a child, soliciting for a juvenile prostitute, juvenile pimping or exploitation of a child</p> <ul style="list-style-type: none"> <li>• Within one year after the discovery of the offense by the victim for sexual conduct or sexual penetration, where the defendant was within a professional or fiduciary relationship with the victim.</li> </ul>	
Indiana	Ind. Code § 35-41-4-2 (2008).	<ul style="list-style-type: none"> <li>• Anytime before the victim turns 31 for child molesting, vicarious sexual gratification, child solicitation, child seduction, incest.</li> <li>• No SOL for class A felonies (such as forcible rape, forcible deviate conduct, some child molestation).</li> <li>• 5 years for other felonies.</li> </ul>	<p>A prosecution for a sex offense felony that would otherwise be barred can be brought within one year after the earlier of:</p> <ul style="list-style-type: none"> <li>• The state first discovers evidence sufficient to charge the offender with the offense through DNA analysis; or</li> <li>• could have discovered evidence sufficient to charge the offender through DNA analysis by the exercise of due diligence.</li> </ul>
Iowa	Iowa Code § 802.2 & 802.2A (2006).	<ul style="list-style-type: none"> <li>• Within 10 years after the victim turns 18 for sexual abuse in the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> degree, incest, counselor or school therapist where victim is under 18.</li> <li>• 10 years for any other sexual abuse in the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> degree.</li> <li>• 3 years for other felonies.</li> </ul>	<p>Yes.</p> <ul style="list-style-type: none"> <li>• Within 3 years of being identified by DNA.<sup>16</sup></li> </ul>

<sup>16</sup> Iowa Code § 802.10.

Kansas	Kan. Crim. Proc. Code Ann. §21-3106 (2006).	<p>5 years for sex offenses. The SOL does not start if two of the following factors are present:</p> <ul style="list-style-type: none"> <li>(i) The victim was a child under 15 years of age at the time of the crime;</li> <li>(ii) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted a crime;</li> <li>(iii) the victim was prevented from making the offense known to law enforcement authorities and</li> <li>(iv) there is substantially competent expert testimony indicating the victim psychologically repressed such witness' memory of the fact of the crime, and substantial corroborating evidence can be produced in support of the allegations.<sup>17</sup></li> </ul> <ul style="list-style-type: none"> <li>• With above factors, prosecution must start before victim turns 28.</li> </ul>	<p>Yes,</p> <ul style="list-style-type: none"> <li>• Within 1 year of being identified by DNA.<sup>18</sup></li> </ul>
Kentucky	Ky. Re. Stat. Ann. §500.50(1) (2006).	No SOL on felonies.	N/A
Louisiana	La. Code Crim. Proc. Ann. art. 572 (2006).	<ul style="list-style-type: none"> <li>• No SOL for forcible rape.</li> <li>• 30 years for most sexual offenses when the victim is under 18.</li> <li>• SOL starts running when the victim turns 18.<sup>19</sup></li> </ul>	<p>Yes,</p> <ul style="list-style-type: none"> <li>• Within 3 years of establishing identity via DNA, if SOL has expired.</li> </ul>
Maine	Me. Rev. Stat. Ann. tit. 17-A§8 (2006).	<ul style="list-style-type: none"> <li>• No SOL for incest, unlawful sexual contact, sex abuse of a minor, rape, gross sexual assault if victim is under 16.</li> <li>• 3-6 years for all other felonies.</li> </ul>	No.

<sup>17</sup> Kan. Crim. Proc. Code Ann. 21-306(5)(f).

<sup>18</sup> Kan. Crim. Proc. Code Ann. 21-30621-3106(3)(a)

<sup>19</sup> La. Code Crim. Proc. Ann. art. 571.1.

Maryland	Md. Code Ann., Cts. & Jud. Proc. §§5-106(b), 107 (2006).	No SOL for misdemeanors with imprisonment (they are called felonies in Washington).	N/A.
Michigan	Mich. Stat. Ann. § 767.24 (2006).	<ul style="list-style-type: none"> <li>• No SOL for criminal sexual conduct in the 1st degree.</li> <li>• 6 years for other felonies.</li> <li>• 10 years. or when the victim turns 21 yrs. old, whichever is later, if victim was under age 18 for any degree of sexual conduct or assault with intent to commit sexual conduct or any sexually abusive activity or material to minor.</li> </ul>	<p>Yes.</p> <ul style="list-style-type: none"> <li>• If DNA evidence obtained: no SOL until offender identified, then 10 years. after identification or when victim turns 21, whichever is later.</li> </ul>
Massachusetts	Mass. Gen Laws. Ch. 277 § 63 (2006).	<ul style="list-style-type: none"> <li>• 27 years for indecent assault and battery against child under 14, or mentally retarded, sex abuse to a child, rape of a child, rape and abuse of a child, assault of child.</li> <li>• 15 years for rape, or assault with intent to rape.</li> <li>• 10 years for incest.</li> <li>• 6 years for other offenses.</li> </ul>	<p>No.</p> <ul style="list-style-type: none"> <li>• If victim is under 16, then SOL commences when victim is 16 or the violation is reported to law enforcement, whichever is earlier.</li> </ul>
Minnesota	Minn. Stat § 628.26	<ul style="list-style-type: none"> <li>• 9 yrs. or if victim under 18 yrs. of age, within 3 yrs of reporting the offense to the authority for criminal sexual conduct from 1st degree (includes stat. rape offenses, forcible rape, accomplices to,) <sup>20</sup> to the 4<sup>th</sup> degree (includes mentally retarded, therapist-patient, clergy, positions of authority generally) and familial sexual abuse.</li> <li>• 3 years for all others felonies.</li> </ul>	<p>Yes.</p> <ul style="list-style-type: none"> <li>• If DNA evidence collected and capable of testing: any time after offense is reported.</li> </ul>
Mississippi	Miss. Code Ann. § 99-1-5 (2006)	<ul style="list-style-type: none"> <li>• No SOL for rape, felonious abuse or battery of a child, touching or handling a child for lustful purposes as described in sexual battery of a child or exploitation of children.</li> <li>• 2 years for other felonies.</li> </ul>	No.

<sup>20</sup> Minn. Stat § 609.342.

Missouri	Mo. Rev. Stat. § 556.036 (2006).	<ul style="list-style-type: none"> <li>• No SOL for forcible rape, attempted forcible rape, forcible sodomy, attempted forcible sodomy.</li> <li>• 20 yrs after the victim reaches 18<sup>21</sup> for unlawful sexual offenses involving person under 18 yrs. old:</li> <li>• 3 years for other felonies.</li> </ul>	No.
Montana	Mont. Code Ann. § 45-1-205 (2006).	<ul style="list-style-type: none"> <li>• 10 years or 10 yrs from victim turning 18 for sexual assault, sexual intercourse without consent, and some degrees of incest.</li> <li>• 5 years or 5 years from victim turning 18 for indecent exposure, deviate sex conduct and some incest.</li> <li>• 5 years for other felonies.</li> </ul>	Yes. <ul style="list-style-type: none"> <li>• Within one year of establishing identity by DNA.<sup>22</sup></li> </ul>
Nebraska	Neb. Rev. Stat. § 29-110 (2006).	<ul style="list-style-type: none"> <li>• No SOL for sexual assault 1<sup>st</sup> or 2<sup>nd</sup> degree, sexual assault of a child 2<sup>nd</sup> or 3<sup>rd</sup> degree, or sexual assault of a child first degree, sexual assault 3<sup>rd</sup> degree when victim is under 16.</li> <li>• Child abuse, debauching a minor, or other certain sex offenses when the victim is under sixteen years of age at the time of the offense (a) unless the indictment for such offense is found by a grand jury within seven years next after the offense has been committed or within seven years next after the victim's sixteenth birthday, whichever is later, or (b) unless a complaint for such offense is filed before the magistrate within seven years next after the offense has been committed or within seven years next after the victim's sixteenth birthday, whichever is later.</li> <li>• 3 years for other felonies.</li> </ul>	No.

<sup>21</sup> Mo. Rev. Stat. § 556.037.

<sup>22</sup> Montana 45-1-205(9).

Nevada	Nev. Rev. Stat. 171.083 (2006).	<ul style="list-style-type: none"> <li>• 4 years for sexual assault.</li> <li>• By the time he/she is 21 yrs. old or 28 yrs. old if "does not discover or reasonably should not have discovered" he was a victim for sexual abuse of a child.</li> <li>• 3 years for other felonies.</li> </ul>	If the victim of a sexual assault files a report within 4 years, there is no SOL.
New Hampshire	N.H. Rev. Stat. Ann. § 625:8 (2006).	<ul style="list-style-type: none"> <li>• 6 years for sex offenses.</li> <li>• Within 22 yrs. of victim's 18th birthday for sexual assault, incest, and related offenses.</li> </ul>	No.
New Jersey	N.J. Stat. Ann. § 2C:1-6 (2008).	<ul style="list-style-type: none"> <li>• No SOL for sexual assault offenses.</li> <li>• When victim was under 18 then five years of them turning 18 or within two years of the discovery of the offense by the victim, whichever is late for criminal sexual contact, and endangering welfare of children,</li> </ul>	Yes. <ul style="list-style-type: none"> <li>• SOL starts running when the State is in possession of both physical evidence and the DNA or fingerprint evidence necessary to establish identity.<sup>23</sup></li> </ul>
New Mexico	N.M. Stat. Ann. § 30-1-8 (2006).	<ul style="list-style-type: none"> <li>• 5-6 years for sex offenses.</li> <li>• SOL do not start on child abuse, criminal sexual penetration, and criminal sexual contact with a minor until the victim attains the age of eighteen or the violation is reported to a law enforcement agency, whichever occurs first.</li> </ul>	Yes. <ul style="list-style-type: none"> <li>• When DNA evidence is available and suspect has not been identified for criminal sexual penetration,<sup>24</sup> time period won't run until a DNA profile is matched with a suspect<sup>25</sup></li> </ul>

<sup>23</sup> N.J. Stat Ann. § 2C:1-6(c) (2008).

<sup>24</sup> Criminal sexual penetration statute includes 1<sup>st</sup> through 4<sup>th</sup> degree offenses, which includes any form of penetration on the victim. 30-9-11.

<sup>25</sup> N.M. Stat. Ann. § 30-1-9.2 (2006).

New York	N.Y. Crim. Proc. Law § 30.10 (2006).	<ul style="list-style-type: none"> <li>• No SOL for class A felony, 1<sup>st</sup> degree rape, or criminal sexual act in the 1<sup>st</sup> degree, or 1<sup>st</sup> degree aggravated sexual abuse or course of sexual conduct against a child in the first degree.</li> <li>• 5 years for other felonies.</li> </ul>	<p>No.</p> <ul style="list-style-type: none"> <li>• For purposes of a prosecution involving a sexual offense committed against a child less than 18, for incest in the 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> degree committed against a child less than 18, or use of a child in a sexual performance SOL shall not begin to run until the child has reached the age of 18 or the offense is reported to a law enforcement agency whichever occurs earlier.<sup>26</sup></li> </ul>
North Carolina	N. C. Gen. Stat. ch. 15	No SOL for any felony.	N/A
North Dakota	N.D. Cent. Code § 29-04 (2006).	<ul style="list-style-type: none"> <li>• 7 years for gross sexual imposition.<sup>27</sup></li> <li>• 3 years for all other sex offenses.</li> <li>• If the victim was under 18, it must be commenced within 7 years or, if the victim failed to report the offense within this limitation period, within three years after the offense was reported to law enforcement authorities.</li> </ul>	<p>No.</p> <ul style="list-style-type: none"> <li>• If the victim of a sex offense is under the age of fifteen, the SOL does not begin to run until the victim is fifteen.</li> </ul>
Ohio	Ohio Rev. Code Ann. § 2901.13 (2006).	<ul style="list-style-type: none"> <li>• 20 years for rape, sexual battery, unlawful sexual conduct with a minor, felonious assault, or conspiracy or attempt to commit any of the above.</li> </ul>	No.

<sup>26</sup> N.Y. Crim. Proc. Law §30.10(3)(f) (2006).

<sup>27</sup> Gross Sexual Impositions is comparable to Rape 1<sup>st</sup> Degree . N.D. Cent. Code § 12.1-20-03 (2006).

Oklahoma	Okla. Stat. tit. 22, § 152 (2008).	<ul style="list-style-type: none"> <li>12 years for rape or forcible sodomy; lewd or indecent proposals or acts against children crimes involving minors in pornography, sodomy.</li> <li>If the victim notifies law enforcement within the 12 year time period, there is no SOL.</li> <li>3 years for other felonies.</li> </ul>	<p>Yes.</p> <ul style="list-style-type: none"> <li>Within 3 years. of identity through DNA.</li> </ul>
Oregon	Or. Rev. Stat. § 131.125 (2006).	<ul style="list-style-type: none"> <li>6 years for sexual felonies including criminal mistreatment sexual abuse in 1st and 2nd degree, rape, sodomy, incest, sexual abuse, promoting or compelling prostitution.</li> <li>If victim was under 18 years old - anytime before victim turns 30 yrs. old, or within 12 years after the offense was reported, whichever occurs first;</li> <li>3 years for other felonies.</li> </ul>	<p>Yes.</p> <ul style="list-style-type: none"> <li>In a prosecution for rape in the first or second degree, sodomy in the first or second degree, unlawful sexual penetration in the first or second degree or sexual abuse in the first degree may be commenced within 25 years after the commission of the crime if the defendant is identified after the period by DNA.</li> </ul>
Pennsylvania	18 Pa.C.S.A. § 108 42 5551-5554	<ul style="list-style-type: none"> <li>12 years for major sex offenses.</li> <li>2 years for all other sex offenses.</li> <li>For all sex offenses, if the victim was under 18<sup>th</sup>, prosecution must commence by 50<sup>th</sup> birthday.</li> </ul>	<p>Yes.</p> <ul style="list-style-type: none"> <li>Within one year of establishing identity.</li> </ul>
Rhode Island	R.I. Gen. Laws § 12-12-17 (2008)	<ul style="list-style-type: none"> <li>No SOL for rape, 1<sup>st</sup> degree sexual assault, 1st degree child molestation sexual assault, 2nd degree child molestation sexual assault, or conspiracy to any of the above.</li> <li>3 years for other felonies.</li> </ul>	No.
South Carolina		No SOL for any prosecutions.	N/A

South Dakota	S.D. Codified Laws § 23A-42-1 (2006).	<ul style="list-style-type: none"> <li>• No SOL on Class A, B, or C felonies.</li> <li>• No SOL for Rape 1<sup>st</sup> degree.</li> <li>• Forcible rape, rape of incapacitated or incapable person, or victim is at least 13, less than 16 and perp is 3 yrs older – before the victim becomes 25 or within seven years of the crime whichever is longer.</li> <li>• 7 years for other sex offenses including incest, and child pornography.</li> </ul>	No.
Tennessee	Tenn. Code Ann. § 40-2-101 (2006).	<ul style="list-style-type: none"> <li>• 15 years for aggravated rape, rape of a child, other class A felonies.</li> <li>• 8 years for rape, aggravated sexual battery, and other Class B felonies.</li> <li>• 4 years for aggravated statutory rape and other Class C or Class D felonies.</li> <li>• 2 years for sexual battery, mitigated statutory rape, some solicitation of a minor, or other Class E felonies.</li> <li>• Any offense committed against a child prior to July 1, 1997, shall commence no later than the date the child attains the age of majority or within four (4) years after the offense, whichever occurs later provided that an offense punishable by life imprisonment has no SOL.</li> <li>• Any offense committed against a child after July 1, 1997, for shall commence no later than the date the child reaches 21 provided that if the provisions of subsection a or b are longer, they may prevail.</li> <li>• After June 20, 2006, an offense against a child (aggravated rape, rape, statutory rape, rape of a child, incest) may be prosecuted up to 25 years from the date the child turns 18.</li> </ul>	No.

Sex Offense Statutes of Limitations for States.

Table – 2

Page 13 of 15

Texas	Art. 12.01 (2008).	<ul style="list-style-type: none"> <li>• No SOL for sexual assaults<sup>28</sup> if there is DNA.</li> <li>• 10 years for sexual assault, indecency with a child.</li> <li>• 5 years for other sex offenses.</li> <li>• If the victim of the assault was under 18, then ten years from the victim's 18<sup>th</sup> birthday.</li> </ul>	Yes, if during the investigation DNA was collected and test results identify defendant (than no SOL).
Utah	Utah Code Ann. § 76-1-301 (2006).	<ul style="list-style-type: none"> <li>• No SOL for rape, rape of a child; object rape; object rape of a child; forcible sodomy; sodomy on a child; sexual abuse of a child; aggravated sexual abuse of a child; or aggravated sexual assault.</li> <li>• Within 8 years after the offense is committed, if within four years after its commission the offense is reported to a law enforcement agency for forcible sexual abuse-.</li> </ul>	Yes. <ul style="list-style-type: none"> <li>• Within 1 year of identification by DNA.</li> </ul>
Vermont	Vt. Stat. Ann. tit. 13 § 4501 (2006).	<ul style="list-style-type: none"> <li>• No SOL for aggravated sexual assault</li> <li>• 6 years for sexual assault, lewd and lascivious conduct, sexual exploitation of children.</li> <li>• Prosecutions for sexual assault, lewd and lascivious conduct and lewd or lascivious conduct with a child, alleged to have been committed against a child 16 years of age or under, shall be commenced within the earlier of the date the victim attains the age of 24 or six years from the date the offense is reported, and not after. For purposes of this subsection, an offense is reported when a report of the conduct constituting the offense is made to a law enforcement officer by the victim.</li> <li>• 3 years for other felonies.</li> </ul>	No.
Virginia	Va. Code Ann. § 19.2-8 (2006).	<p>No SOL for felonies (some exceptions).</p> <ul style="list-style-type: none"> <li>• 5 years for unlawful filming or videotaping of a minor (felony).</li> </ul>	

<sup>28</sup> "Sexual Assault" is similar to the term "Sex Offense" in Washington State, it includes different types of sex offenses.

West Virginia	W. Va. Code § 61-11-9 (2006).	No SOL for felonies.	N/A
Wisconsin	Wis. Stat. § 939.74 (2008).	<ul style="list-style-type: none"> <li>• Before victim turns 45 for sexual assault of a child, intentional great bodily harm of a child, causing, sexual exploitation, incest, enticement of, or solicitation for prostitution of a child.</li> <li>• Before victim turns 26 for intentional bodily harm of a child, reckless bodily harm, or failure to act to prevent bodily harm, causing mental harm.</li> <li>• 6 years for other felonies.</li> </ul>	<p>Yes.</p> <ul style="list-style-type: none"> <li>• Within one year of identity, if the state collected the DNA within the SOL.</li> <li>• There are additional provisions that toll the SOL depending on the specific sex offense.</li> </ul>
Wyoming	<i>Hogan v. State</i> , 908 P.2d 925, 931 (Wyo. 1995).	No SOL.	N/A
Federal	18 USCS § 3283	No SOL that would otherwise preclude prosecution for an offense involving the sexual or physical abuse, or kidnaping, of a child under the age of 18 years shall preclude such prosecution during the life of the child.	