



OLR RESEARCH REPORT

April 5, 2012

2012-R-0136

CHILD SEXUAL ABUSE PROSECUTIONS

By: Sandra Norman-Eady, Director

You asked for a summary of arguments raised during the floor debate on PA 02-138 for and against extending the statute of limitations for prosecuting sex crimes with child victims. You also asked what the statutes of limitations are in other states.

SUMMARY

Among other things, PA 02-138 (An Act Concerning Sexual Assault of a Minor) extended Connecticut's statute of limitations for prosecuting sexually-based offenses with child victims from two to 30 years after the victim reaches age 18 but retained a requirement that the prosecution be within five years of the date he or she notifies any police officer or state's attorney of the crime. PA 02-138 passed both chambers without substantive debate on the pros and cons of passage. But legislators debating a similar bill in the 2001 session presented arguments for and against this change. The primary arguments in support were to protect innocent, young victims. The arguments against centered on a provision that would have applied the new period of limitations retroactively.

We examined the statutes of limitations for child sexual abuse crimes in the New England states. This report focuses on the period of limitations for child sexual abuse, which includes such offenses as unlawful sexual contact, rape, child molestation, sexual assault, and the intent to commit any of these crimes against a child under age 18.

The limitations periods vary by state and within states based on a number of factors such as the victim's age, the relationship of the offender to the victim, whether the offender remains in the state, and when the crime is reported to the police. The periods ranges from six years after commission of sexual assault or abuse of a victim between ages 16 and 18 in Maine and Vermont to no period of limitation for rape, aggravated sexual assault, and sexual abuse of a child under age 16 in Rhode Island, Vermont, and Maine, respectively. No period of limitations means the crime may be prosecuted at any time.

ARGUMENTS FOR AND AGAINST EXTENDING STATUTE OF LIMITATION IN CHILD SEXUAL ASSAULT CASES

2002 Legislative Debate: HB 5680 (PA 02-138)

With two exceptions, PA 02-138 extended the statute of limitations for prosecuting sexual abuse, sexual exploitation, or sexual assault of a minor from (1) two to 30 years after the victim reaches age 18 (i.e. until age 48) or (2) up to five years from the date the victim notifies the police or a prosecutor of the crime, whichever is earlier. The exception were that prosecutions of (1) second-degree sexual assault with a victim between ages 13 and 16 when the offender is more than two years older had to take place within five years after the crime was committed and (2) employing a minor in an obscene performance, like other class A felonies, could happen at any time. (See the table below for a summary of current law.)

Representative Michael Lawlor brought the bill out in the House. He explained each section of the bill but did not make arguments for its passage other than to state that it was not retroactive in application. No one offered arguments in opposition to the bill's passage.

2001 Legislative Debate: sHB 5654

During the House debate on sHB 5654, legislators, particularly Representatives Lawlor and Cafero, identified policy reasons for and against lengthening the statute of limitations for sexual offenses involving child victims. (When the debate took place, the bill included a provision that would make the change retroactive.)

Representative Lawlor, the bill's proponent, argued in favor of lengthening the statute of limitations. He contended that this was necessary because:

1. these crimes were not taken seriously 10-15 years ago, making children afraid to go to adults and authority figures;
2. children may not realize that the contact they were being exposed to was wrong and consequently few came forward;
3. there are cases from years ago that can still be proved, particularly with the advances made in DNA profiling; and
4. many victims who have come forward with overwhelming evidence of abuse are frustrated when law enforcement authorities are not able to do anything to bring the offender to justice.

Representative Cafero opposed the provision that would make the law retroactive. He also opposed long limitations periods. Specifically, Representative Cafero contended that it would be unfair to charge suspects long after an incident had occurred. In such situations, he asserted, those accused of child sexual offenses might be unable to prove their innocence because:

1. memories have dulled with the passage of time,
2. defense witnesses cannot be located or have passed away, and
3. circumstantial or exonerating evidence has disappeared.

Senator Eric Coleman brought the bill out in the Senate. He stated the reasons for the bill were because (1) experts on victims of child sexual assault have reported that the victims are so traumatized that it takes them a considerable period of time in order to come forward to even discuss or report these kinds of incidents.

The bill eventually died on the House calendar.

STATUTES OF LIMITATIONS IN THE NEW ENGLAND STATES

Statutes of limitations in the New England states vary considerably, but all lengthen the limitations period for prosecuting allegations of child sexual abuse. When comparing the statutes of limitations for child sexual abuse, we found a range from six years after commission of sexual assault or abuse of a victim between ages 16 and 18 in Maine and Vermont to no period of limitation for rape, aggravated sexual assault, and sexual abuse of a child under age 16 in Rhode Island, Vermont, and Maine, respectively. A number of factors contribute to the range in limitation periods such as the victim's age when the crime was

committed, the relationship of the offender to the victim, whether the offender remains in the state, and when the crime is reported to the police.

Table 1 shows the primary statutes of limitations by state in the six New England States. There may be circumstances in a state that increase the statutes of limitations. For example, in Connecticut there is no statutes of limitations for certain sexual offenses if (1) the victim reports the crime within five years of the date it is committed and (2) DNA is used to identify the offender (CGS § [54-193b](#)).

Table 1: Statutes of Limitations for Child Sexual Abuse in New England States

States	Statutes of Limitations*	Crimes Covered
Connecticut (CGS § 54-193a)	<ul style="list-style-type: none"> • 30 years after the victim reaches age 18 (i.e. until age 48) or up to five years from the date the victim notifies the police or a prosecutor of the crime, whichever is earlier 	Sexual abuse, exploitation, or assault of a minor
	<ul style="list-style-type: none"> • Within five years after the crime is committed 	Second-degree sexual assault if the victim is between ages 13 and 16 and the offender is more than three years older
	<ul style="list-style-type: none"> • No period of limitations 	<ul style="list-style-type: none"> • Employing a minor in an obscene performance • First-degree aggravated sex assault • Aggravated sex assault of a minor
Maine (MRSA 17-A § 8)	<ul style="list-style-type: none"> • No period of limitation if the victim is under age 16 • Six years after the crime is committed if the victim is over age 16 	<ul style="list-style-type: none"> • Sexual abuse of a minor • Rape or gross sexual assault • Unlawful sexual contact

Table 1 (continued)

States	Statutes of Limitations*	Crimes Covered
Massachusetts (MGLA 277 § 63)	<ul style="list-style-type: none"> No period of limitations; however, any case prosecuted more than 27 years after the crime is committed must include independent evidence that corroborates the victim's allegations. If the victim is under age 16 when the crime is committed, the 27 years is not triggered until the victim turns 16 or the crime is reported to police, whichever occurs earlier. 	<ul style="list-style-type: none"> Indecent assault and battery on a child under age 14 Rape of a child Rape and abuse of a child aggravated by age difference or when the offender is a mandated reporter Rape and abuse by a previously convicted offender Assault with intent to commit rape
New Hampshire (NH Rev. Stat. § 625:8)	<ul style="list-style-type: none"> Within 22 years of the victim's 18th birthday Within one year of discovery of the offense if evidence is destroyed or falsified, victims are tampered with, or other unlawful conduct delayed discovery 	<ul style="list-style-type: none"> Aggravated felonious sexual assault Felonious sexual assault Sexual Assault
Rhode Island (R.I. Gen. Laws §12-12-17)	<ul style="list-style-type: none"> No statutes of limitations 	<ul style="list-style-type: none"> Rape First-degree sex assault First- and second-degree molestation sex assault
Vermont (13 VSA § 4501)	<ul style="list-style-type: none"> No statutes of limitations 	<ul style="list-style-type: none"> Aggravated sex assault of a child
	<ul style="list-style-type: none"> Six years after commission 	<ul style="list-style-type: none"> Sexual Assault

Table 1 (continued)

States	Statutes of Limitations*	Crimes Covered
	<ul style="list-style-type: none">• If the victim is under age 18, when he or she turns 24 or 10 years after the crime is reported, whichever is earlier	<ul style="list-style-type: none">• Lewd and lascivious conduct• Sexual exploitation of a minor

*These are minimum periods of limitations, which may be tolled (suspended) during any period the offender is out of the state.

SN-E:ro