



# OLR RESEARCH REPORT

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## STATUTE OF LIMITATIONS IN CHILD SEXUAL ABUSE CASES

By: James Orlando, Associate Analyst

You asked about the criminal and civil statutes of limitations for child sexual abuse, specifically regarding abuse that occurred in 1971. The Office of Legislative Research is not authorized to issue legal opinions and this report should not be considered as one.

### SUMMARY

The criminal statute of limitations has likely run out for sexual abuse occurring in 1971. At that time, the general statute of limitations for felonies was five years. In 1976, the General Assembly passed a law (PA 76-35) specifying that there was no limitation for prosecuting Class A felonies, and the Connecticut Supreme Court later held that this applied to prior crimes for which the statute of limitations had not already expired when the 1976 law took effect (*State v. Skakel*, 276 Conn. 633 (2006)). However, sexual assault was not a Class A felony in 1971, so this extension of time to prosecute Class A felonies would not apply to sexual abuse from that year.

As explained below, current law provides a longer criminal statute of limitations for childhood sexual abuse (e.g., for most crimes that are not Class A felonies, the state can prosecute the offender up to 30 years after the victim reaches age 18 or up to five years after the victim reports the crime, whichever is earlier). However, these longer limitation periods do not apply to crimes from 1971, as the most recent amendment ([PA 02-138](#)) to this law specified that it only applied prospectively.

Another law provides that there is no statute of limitations for certain sexual offenses (not just those with minors as victims) 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](#)). Yet it does not appear that this law could be used to prosecute a sexual assault crime from 1971, as the statute of limitations for such crimes had expired before this law took effect.

The civil statute of limitations generally gives victims of sexual abuse, sexual assault, or sexual exploitation 30 years after they reach age 18 (i.e., until their 48<sup>th</sup> birthday) to file a personal injury action based on the crime ([CGS § 52-577d](#)). However, there is no limitation on bringing a personal injury action to recover damages caused by sexual assault when the party legally at fault for the injury is convicted of first-degree sexual assault or first-degree aggravated sexual assault for such action ([CGS § 52-577e](#)).

It is also important to note that statutes of limitations can be tolled (suspended) in certain situations, thus giving a person additional time to file a lawsuit or the state additional time to prosecute a case. For example, the statute can be tolled in civil cases if the liable party fraudulently concealed the existence of the cause of action from the victim ([CGS § 52-595](#)). The determination of whether the statute of limitations has been tolled in a particular case requires a legal opinion which our office cannot give.

### **CRIMINAL STATUTE OF LIMITATIONS FOR SEXUAL ABUSE**

By law, there is no statute of limitations for Class A felonies ([CGS § 54-193](#)). The following Class A felonies involve child sexual abuse or related actions, and can be prosecuted at any time:

1. first-degree sexual assault when force or the threat of force is used and the victim is under age 16 ([CGS § 53a-70\(a\)\(1\)](#));
2. first-degree sexual assault with a victim under age 13 when the offender is more than two years older ([CGS § 53a-70\(a\)\(2\)](#));
3. first-degree aggravated sexual assault when the victim is under age 16 ([CGS § 53a-70a](#));
4. aggravated sexual assault of a minor ([CGS § 53a-70c](#)); and
5. employing a minor in an obscene performance ([CGS § 53a-196a](#)).

Otherwise, the statute of limitations for childhood sexual abuse is generally 30 years after the victim reaches age 18, or up to five years from the date he or she notifies the police or a prosecutor of the crime, whichever is earlier. In cases of second-degree sexual assault where the victim is at

least age 13 but under 16 and the offender is more than three years older, the case must be prosecuted within five years after the crime was committed ([CGS § 54-193a](#)). As described above, this statute was last amended in 2002 ([PA 02-138](#)), and that act specified that its changes to the statute of limitations applied only prospectively.

### ***Limitations Period and DNA Evidence***

The law also provides that there is no statute of limitations for certain sexual offenses if the (1) victim reports the crime within five years of the date it is committed and (2) offender's identity is established through DNA using evidence collected at the time of the offense ([CGS § 54-193b](#)). This provision applies to first-degree sexual assault, aggravated first-degree sexual assault, sexual assault in a spousal or cohabiting relationship, second-degree sexual assault, third-degree sexual assault, and third-degree sexual assault with a firearm.

It does not appear that this provision could apply to a crime committed in 1971. When this provision was first enacted in 2000 ([PA 00-80](#)), it allowed a prosecution for these crimes up to 20 years after the offense, if the above conditions were met. [PA 00-80](#) specified that it applied retroactively.

The provision was amended in 2007, removing the 20-year limit and allowing prosecutions at any time if the conditions were met ([PA 07-4](#), June Spec. Sess.). The 2007 amendment did not specify if it was retroactive or prospective only.

In 2006, the Connecticut Supreme Court overruled earlier opinions and held that in the absence of a contrary indication of legislative intent, changes to criminal statutes of limitations apply retroactively with respect to offenses for which the limitation period had not expired when the new law took effect (*State v. Skakel*, 276 Conn. 633 (2006)).

If the 2007 amendment to [CGS § 54-193b](#) is presumed to be retroactive under *Skakel*, it would only apply retroactively regarding offenses for which the previous statute of limitations had not already expired when the amendment took effect. As noted above, in 1971, all sexual assault felony crimes would have been subject to the general five-year statute of limitations. Thus, the statute of limitations for any of these crimes would likely have run long before the 2007 amendment to [CGS § 54-193b](#), unless there were circumstances permitting the tolling of the statute.

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