



State of Connecticut
DIVISION OF PUBLIC DEFENDER SERVICES

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Testimony of Christine Perra Rapillo, Chief Public Defender
Committee Bill No. 3
AN ACT COMBATTING SEXUAL ASSAULT AND SEXUAL HARASSMENT
Committee on the Judiciary – April 1, 2019

The Office of Chief Public Defender continues to oppose the elimination or drastic extension of the statute of limitations for criminal prosecutions of sexual assault offenses. Elimination of reasonable and finite terms of years will make it difficult or impossible for a criminal defendant to receive due process and a fair trial. We are also concerned that an increase in the number of sexual assault cases prosecuted will stress our agency budget, which has already been cut over the years due to the ongoing financial crisis in state government.

Existing Connecticut law on sexual assault provides a great deal of appropriate protection to very vulnerable populations. There is currently no statute of limitations for Sexual Assault in the first degree or Aggravated Sexual Assault in the first degree with a minor or for cases where DNA evidence linking someone to a crime is discovered. In situations where a minor was the victim of any other sexual assault, they have 30 years past the age of majority, that being 18 years of age, to bring charges. For adults, the current law provides a five year statute of limitations for felony sexual assault charges, again unless where DNA evidence linking someone to a crime is discovered.

Section 23 of this proposal eliminates the statute of limitations for all Class B and C felonies and subdivision (2) of subsection (a) of Section 53-21, Risk of Injury to a Minor, extends the time period for C.G.S. 53a-72a from 5 to 25 years for Class D felonies and from 1 to five years for a violation of the misdemeanor provision of C.G.S. §53a-73a.

The Office of Chief Public Defender remains concerned that this elimination and drastic extension of the statute of limitations will make it impossible for criminal accused to receive due process and a fair trial. Statutes of limitation are necessary to ensure that witnesses and

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evidence will be available to fairly defend a case. Eliminating or significantly extending the statute of limitations for sexual assault cases will make it likely that no physical evidence will exist. Instead the entire case would depend on memories of witnesses, which fade over time. After 20 or more years, an accused would find it difficult to mount any defense. Witnesses could have moved away or died and their recollection of events would be questioned because the passage of time.

A more reasonable solution would be to extend of the statute of limitations on felonies from the current five years to ten years. This would provide victims with more time to come forward but would balance the accused's right to be able to reasonably defend themselves. The Office of Chief Public Defender was on record last legislative session, indicating that doubling the current statute period to ten years for felonies would still provide an opportunity for due process and a fair trial for the accused. We remain opposed to changing the statute of limitations for misdemeanors, which by definition are less serious, minor offenses.

We recognize that combatting sexual assault is a serious and sensitive issue. This agency has worked hard to formulate other ideas that will address this important and sensitive issue but still maintain the rights of the accused. This includes extending the 30 year exception for minors to 30 years past the age of 21, instead of the age of majority, would provide more protection for young adults grappling with the after effects of a traumatic event.

The current proposal goes too far and would deprive an accused of the right to notice, due process and a fair trial. The Office of Chief Public Defender urges this committee not to support this bill but we remain available to discuss substitute language. We believe that the statutes of limitations on sexual assaults cases can be amended to provide additional protection to vulnerable citizens without fatally impairing an accused right to defend him or herself.

**Connecticut's Statutes of Limitations for Sexual Assault Offenses:
Current Law, 2019 Senate Bill 3, and 2019 Senate Bill 913**

Office of Chief Public Defender (OCPD), March 2019

Note: Highlighted bold text indicates proposed changes from current law.

Statute	Current Law	SB 3 - Sec. 23 & 24 (LCO 6271)	SB 913 - Sec. 1 (LCO 3923)
53a-70 Sexual Assault 1	<u>A felony</u> V <16: No SOL <u>B felony*</u> V 18+: 5 years V 16/17: 30 past majority/18	<u>A felony</u> V <16: No SOL <u>B felony</u> V 18+: No SOL V 16/17: No SOL	<u>A felony</u> V <16: No SOL <u>B felony*</u> V 18+: 10 years V 16/17: 30 past 21
53a-70a Aggravated Sexual Assault 1	<u>A felony</u> V <16: No SOL <u>B felony*</u> V 18+: 5 years V 16/17: 30 past majority/18	<u>A felony</u> V <16: No SOL <u>B felony</u> V 18+: No SOL V 16/17: No SOL	<u>A felony</u> V <16: No SOL <u>B felony*</u> V 18+: 10 years V 16/17: 30 past 21
53a-70b Sexual Assault – Spousal or Cohabiting	<u>B felony*</u> V 18+: 5 years V 16/17: 30 past majority/18	<u>B felony</u> V 18+: No SOL V 16/17: No SOL	<u>B felony*</u> V 18+: 10 years V 16/17: 30 past 21
53a-70c Aggravated SA – Minor	<u>A felony</u> No SOL	<u>A felony</u> No SOL	<u>A felony</u> No SOL
53a-71 Sexual Assault 2	<u>B felony*</u> V <16: 30 past majority <u>C felony*</u> V 18+: 5 years V 16/17: 30 past majority/18	<u>B felony</u> V <16: No SOL <u>C felony</u> V 18+: 5 years V 16/17: 30 past majority/18	<u>B felony*</u> V <16: 30 past 21 <u>C felony*</u> V 18+: 10 years V 16/17: 30 past 21
53a-72a Sexual Assault 3	<u>C felony*</u> V <16: 30 past majority/18 <u>D felony*</u> V 18+: 5 years V 16/17: 30 past majority/18	<u>C felony</u> V <16: 30 past majority/18 <u>D felony</u> V 18+: 25 years V 16/17: 30 past majority	<u>C felony*</u> V <16: 30 past 21 <u>D felony*</u> V 18+: 10 years V 16/17: 30 past 21
53a-72b Sexual Assault 3 – Firearm	<u>B felony*</u> V <16: 30 past majority/18 <u>C felony*</u> V 18+: 5 years V 16/17: 30 past majority/18	<u>B felony</u> V <16: No SOL <u>C felony</u> V 18+: No SOL V 16/17: No SOL	<u>B felony*</u> V <16: 30 past 21 <u>C felony*</u> V 18+: 10 years V 16/17: 30 past 21
53a-73a Sexual Assault 4	<u>D felony*</u> V <16: 30 past majority/18 <u>A misdemeanor*</u> V 18+: 1 year V 16/17: 30 past majority/18	<u>D felony</u> V <16: 30 past majority/18 <u>A misdemeanor</u> V 18+: 5 years V 16/17: 30 past majority	<u>D felony*</u> V <16: 30 past majority/18 <u>A misdemeanor*</u> V 18+: 1 year V 16/17: 30 past majority/18
53a-86 Promoting Prostitution 1	<u>B felony</u> 5 years	<u>B felony</u> No SOL	<u>B felony</u> 5 years
53-21(a)(2) Risk of Injury to Children	<u>B felony</u> V <16: 30 past majority/18	<u>B felony</u> V <16: No SOL	<u>B felony</u> V <16: 30 past majority/18

*Current law and these bills continue to work in conjunction with C.G.S. §§ 54-193a and 54-193b, which provide an alternate SOL based upon the making of a report by the victim of the assault to law enforcement or the state's attorney and, pursuant to the provisions of § 54-193b, the presence of DNA evidence.

Connecticut's Statutes of Limitations

Current as of March 2019

Sec. 54-193. Limitation of prosecution for certain violations or offenses. (a) There shall be no limitation of time within which a person may be prosecuted for (1) a capital felony under the provisions of section 53a-54b in effect prior to April 25, 2012, a class A felony or a violation of section 53a-54d or 53a-169, (2) a violation of section 53a-165aa or 53a-166 in which such person renders criminal assistance to another person who has committed an offense set forth in subdivision (1) of this subsection, (3) a violation of section 53a-156 committed during a proceeding that results in the conviction of another person subsequently determined to be actually innocent of the offense or offenses of which such other person was convicted, or (4) a motor vehicle violation or offense that resulted in the death of another person and involved a violation of subsection (a) of section 14-224.

(b) No person may be prosecuted for any offense, other than an offense set forth in subsection (a) of this section, for which the punishment is or may be imprisonment in excess of one year, except within five years next after the offense has been committed.

(c) No person may be prosecuted for any offense, other than an offense set forth in subsection (a) or (b) of this section, except within one year next after the offense has been committed.

(d) If the person against whom an indictment, information or complaint for any of said offenses is brought has fled from and resided out of this state during the period so limited, it may be brought against such person at any time within such period, during which such person resides in this state, after the commission of the offense.

(e) When any suit, indictment, information or complaint for any crime may be brought within any other time than is limited by this section, it shall be brought within such time.

Sec. 54-193a. Limitation of prosecution for offenses involving sexual abuse of minor.

Notwithstanding the provisions of section 54-193, no person may be prosecuted for any offense, except a class A felony, involving sexual abuse, sexual exploitation or sexual assault of a minor except within thirty years from the date the victim attains the age of majority or within five years from the date the victim notifies any police officer or state's attorney acting in such police officer's or state's attorney's official capacity of the commission of the offense, whichever is earlier, provided if the prosecution is for a violation of subdivision (1) of subsection (a) of section 53a-71, the victim notified such police officer or state's attorney not later than five years after the commission of the offense.

Sec. 54-193b. Limitation of prosecution for sexual assault offenses when DNA evidence available.

Notwithstanding the provisions of sections 54-193 and 54-193a, there shall be no limitation of time within which a person may be prosecuted for a violation of section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, provided (1) the victim notified any police officer or state's attorney acting in such police officer's or state's attorney's official capacity of the commission of the offense not later than five years after the commission of the offense, and (2) the identity of the person who allegedly committed the offense has been established through a DNA (deoxyribonucleic acid) profile comparison using evidence collected at the time of the commission of the offense.