



Remove Arbitrary Limits to Justice for Survivors

RAINN's Recommendations for Effective Criminal Sex Crime Statutes of Limitations

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State criminal justice systems deny justice to survivors of sexual violence by ignoring the reality of the crime and imposing arbitrary limits on their pathways to justice.

Every 68 seconds, an American is sexually assaulted; every nine minutes, authorities find evidence of child sexual abuse. More than half of these crimes are never reported to police and only 25 out of every 1,000 rapists will end up in prison.¹ Approximately 1 in 5 victims of child sexual abuse never disclose their experiences to anyone, and of those who do disclose, only 10% disclose to legal authorities.² In one study of child sexual abuse survivors, over half first disclosed at age 50 or older.³

When these survivors come forward, arbitrary time limits on justice prevent many from a day in court.

We must do better for the hundreds of women, men, and children assaulted daily. Archaic statutes of limitations shield predators and deny victims justice. **Under the current system, archaic statutes of limitations limit victims' access to justice and the state's ability to take a sexual predator off the streets.** States must reform these laws, ensuring that when survivors are ready to report, the system holds perpetrators accountable. This guide is intended to support lawmakers' efforts to do so.

¹ Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, National Crime Victimization Survey, <https://bjs.ojp.gov/document/cv23.pdf>

² Delayed Disclosure Child USA 2024 Factsheet, A Comprehensive Report on Delayed Disclosure in Cases of Child Sexual Abuse, Insights, Implications, and Pathways Forward, <https://childusa.org/wp-content/uploads/2024/06/Delayed-Disclosure-2024.pdf>

³ Delayed Disclosure Child USA 2024 Factsheet, A Comprehensive Report on Delayed Disclosure in Cases of Child Sexual Abuse, Insights, Implications, and Pathways Forward, <https://childusa.org/wp-content/uploads/2024/06/Delayed-Disclosure-2024.pdf>

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The Urgent Need for Reform

Lawmakers must balance two critical interests: protecting citizens from sexual violence and ensuring evidence availability. **Altering a criminal statute of limitations does not change, in any way, the burden of proof required to convict a defendant.** No matter whether a statute of limitation for a sex crime is five, 10, 50 years, or never, prosecutors must still provide evidence that proves guilt beyond a reasonable doubt. Statutes of limitations do not eliminate that burden nor make it easier to convict someone.

Our evolving understanding of sexual violence and its effects underscores the need for criminal statutes of limitations reform. For some, a delayed decision to report is the product of the very real and devastating physical and psychological effects of the crime. Some estimates indicate that **60–80% of child sexual assault victims wait until adulthood to disclose abuse, often citing lack of trust in the system as the reason for the delay.**⁴

We have a responsibility to create a system in which more victims choose to report because they trust the system to do something about it. This will serve states' overall public safety interests, and support efforts to hold perpetrators of sexual assault, who are often serial criminals, accountable.

As the nation's largest anti-sexual violence organization, RAINN scrutinized the national landscape of criminal statutes of limitations for sex offenses. We commend states that eliminated the statute of limitations for their most serious sex offenses. In other states that impose arbitrary deadlines, a victim who decides to report later in life, or even a few years after an incident occurs, could be prohibited from pursuing criminal justice.

⁴ Alaggia R. (2010). An ecological analysis of child sexual abuse disclosure: considerations for child and adolescent mental health. *Journal of the Canadian Academy of Child and Adolescent Psychiatry = Journal de l'Académie canadienne de psychiatrie de l'enfant et de l'adolescent*, 19(1), 32–39.
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2809444/>

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We cannot hold back prosecutors who are ready and willing to work to achieve justice for more victims and hold perpetrators accountable. States must act now to eliminate or reform their criminal statutes of limitations for serious sex offenses.

Moving Forward from an Unjust Status Quo

Outdated arguments in favor of strict, short statutes of limitations fail to reflect updates to technology and research on the impacts of sexual violence. Those include concerns about fading memories or unavailable witnesses. Modern technology offers new evidence—DNA, cell phone video, audio recordings—and constitutional rules protect against unreliable testimony.

Opponents also cite a fear that change will lead to an opening of the floodgates, inundating courts with new cases. Evidence doesn't support this. **States that have eliminated their statutes of limitations or expanded them have not seen an undue burden on the courts.** Prosecutors only pursue cases with sufficient evidence to meet the high burden of proof. Moreover, such a drain on courts is unlikely given the historically low reporting rates for sex offenses. In many situations, the cases brought involve defendants who have multiple victims who are finally able to come forward.

Eliminating Time Limitations on Prosecution is Constitutional

Legislatures set statutes of limitations as deadlines for filing actions. Historically, there was “no general statute of limitations applicable to criminal proceedings.”⁵ The United States Supreme Court observed that statutes of limitations

“are by definition arbitrary, and their operation does not discriminate between the just and the unjust claim, or the voidable and unavoidable delay. They have come into the law not through the judicial process but through legislation. They represent a public policy about the privilege to litigate. Their shelter has never been regarded as what is now called a ‘fundamental’ right or what used to be called a ‘natural’ right of the individual.”⁶

⁵ 1 Chitty, A Practical Treatise On The Criminal Law 160 (1819)

⁶ *Chase Sec. Corp. v. Donaldson*, 325 U.S. 304, 314 (1945)

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Legislatures weigh several factors when setting these arbitrary lines: the potential for lost evidence and an offender's anxiety versus a survivor's access to justice, delayed disclosure due to trauma, and the ongoing risk a perpetrator poses to the community. **Congress reexamined these factors in light of the data surrounding rape and other sexual offenses, and eliminated the statutes of limitations for many federal sexual offenses.**⁷

Removing the procedural bar of statutes of limitations does not remove substantive protections for a defendant. First, any criminal prosecution requires proof beyond a reasonable doubt. Just as a defendant may be concerned with witness memories and lost evidence, the prosecution faces the same hurdles, and those evidentiary issues may serve to defeat the high burden placed upon the state to bring charges. Second, the Constitution prohibits new laws that retroactively extend criminal statutes of limitations, if those periods have already expired.⁸ Any defendant who destroyed evidence of their innocence once the statute of limitations expired could not be prosecuted. Third, if statutes of limitations are eliminated, the defendant is still protected under the Fifth Amendment⁹ if the delay was deliberate and “it caused him actual prejudice in presenting his defense.”¹⁰ Because of the protections inherent in the criminal justice system and the Constitution, the benefits of increasing access to justice for survivors of violent crimes outweigh maintaining archaic statutes of limitations.

RAINN's Recommendations

⁷ see *United States v. Briggs*, 592 U.S. 69, 77, 141 S. Ct. 467, 473, 208 L. Ed. 2d 318 (2020)

⁸ *Stogner v. California*, 539 U.S. 607, 611 (2003)

⁹ The United States Supreme Court has held the Sixth Amendment right to a speedy trial does not apply before a defendant is “arrested and held to answer” or charges are filed.. *United States v. MacDonald*, 456 U.S. 1, 6–9 (1982)

¹⁰ *United States v. Gouveia*, 467 U.S. 180, 192 (1984)

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RAINN recommends the following to policymakers to afford survivors the best chance for justice and ensure the community is protected from sexual offenders. This is not an exhaustive list, but it highlights components of effective statutes of limitations.

We recognize that each state's code is unique and complicated. RAINN's policy department can work hand-in-hand with lawmakers and their staff to tailor these recommendations to meet each state's specific needs.

1. Eliminate criminal statutes of limitations for sex crimes.
2. Remove language that penalizes survivors who delay reporting because of the trauma or uncertainty of the criminal justice system.
3. Ensure existing statutes of limitations allow prosecution where new evidence is discovered.

Eliminate criminal statutes of limitations for sex crimes

States should eliminate any statutes of limitations for sex offenses and allow access to justice to be governed by evidence and not arbitrary time limits. While most states have eliminated murder statutes of limitations, sex crimes, which inflict lifelong harm, often remain time-barred. Sexual assault is “violence of the most personal and devastating kind, as brutal in its own right as murder...It deserves not only harsh punishment but our very best — and unswerving — effort to bring the perpetrators to justice.”¹¹

¹¹ *Should Statute of Limitations Be Abolished*, June 19, 2018, Governor Jodi Rell, <https://www.nytimes.com/2018/06/19/magazine/should-statutes-of-limitations-for-rape-be-abolished.html>

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Less than half of adult survivors reported their sexual assault to law enforcement¹² and disclosure of child sexual abuse is often delayed until adulthood.¹³ Recognizing this reality, states must provide survivors access to justice and protect communities from offenders whenever a case can be proven beyond a reasonable doubt.

Some states have eliminated statutes of limitations for sex offenses by eliminating statutes of limitations for all crimes.¹⁴ Other states have eliminated statutes of limitations for all felonies, including sex offenses.¹⁵ Exceptions can also be made to eliminate the statute of limitations for specific sex offenses. Below are examples of the different approaches states have taken.

Sample Statutory Language:

“Except as otherwise expressly provided, the prosecution of a felony is not subject to a period of limitation and may be commenced at any time.”

“A prosecution for any offense involving sexual conduct or sexual penetration, as defined by [code section] may be commenced at any time.”

“If a victim is younger than 18 years of age at the time the offense was committed, a prosecution for any sexual offense, as defined by [code section] may be commenced at any time.”

¹² Criminal Victimization, 2023. U.S. Department of Justice, Bureau of Justice Statistics.
<https://bjs.ojp.gov/document/cv23.pdf>

¹³ Alaggia, R., Collin-Vézina, D., & Lateef, R. (2019). Facilitators and Barriers to Child Sexual Abuse (CSA) Disclosures: A Research Update (2000–2016). *Trauma, Violence, & Abuse*, 20(2), 260–283. <https://doi.org/10.1177/1524838017697312>
<https://journals.sagepub.com/doi/full/10.1177/1524838017697312>

¹⁴ Wyoming and South Carolina

¹⁵ K.R.S. 500.050 (Kentucky); Md.Code Ann., Cts & Jud. Proc. § 5–106 (Maryland); N.C.Gen.Stat. § 15–1 (North Carolina); Va. Code Ann. § 19.2–8 (Virginia); W.Va. § 61–11–9 (West Virginia)

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Remove language that penalizes survivors who delay reporting because of the trauma or uncertainty of the criminal justice system

Society is learning how the physical, emotional, and psychological effects of sexual violence can influence how and when a victim reports a crime. Despite this, some states reduce the time a charge can be brought if a victim doesn't report within a set period. Conditioning access to justice on immediate reporting—experienced by a minority of survivors—fails to protect survivors or communities. This approach is not trauma-informed and must be eliminated.

Sample Statutory Language:

~~"If [sexual offense] is reported within 72 hours after its commission, the prosecution for such offense may be commenced at any time."~~

Ensure existing statutes of limitations allow prosecution where new evidence is discovered

RAINN believes that prosecution of sex crimes should occur whenever there is sufficient evidence to prove guilt beyond a reasonable doubt, regardless of how long it took to obtain or the type of evidence. As DNA advancements allowed for the identification of unknown perpetrators in recent decades, states created DNA exceptions to statutes of limitations, focusing on unknown perpetrators. These exceptions "toll" or "pause" the statutes of limitations when DNA evidence is present. These exceptions only apply when the DNA identifies the offender or if the DNA was tested at the time of the offense. However, this is not applicable when the overwhelming majority of child sexual abuse victims¹⁶ and adult sexual violence victims¹⁷ know their perpetrator.

¹⁶ Of sexual abuse cases reported to law enforcement, 93% of juvenile victims knew the perpetrator. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Sexual Assault of Young Children as Reported to Law Enforcement (2000)

¹⁷ In 2023, only 36% of rape/sexual assault victims who reported the crime to the police stated that their perpetrator was a stranger. <https://ncvs.bjs.ojp.gov/single-year-comparison/crimeType>

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As technology and investigative techniques advance, the criminal justice community recognizes DNA's broader utility—beyond just identification. DNA can corroborate victim accounts. Newly tested sexual assault kits can link investigators to previously unknown victims of the same perpetrator. Other new technologies and investigative techniques may provide crucial evidence, but cases are barred if statutes of limitations only extend for DNA identification of unknown offenders

Sample Statutory Language:

“A prosecution for [sexual offense] may be commenced at any time after it is committed if based upon forensic DNA testing”

“Notwithstanding [subsection/statute] if a prosecuting attorney obtains corroborating evidence of the crimes of [offense] after the period described in [subsection/statute], the prosecution may be commenced at any time after the commission of the crime. The corroborating evidence may include any of the following:

- (1) Physical evidence, including but not limited to a DNA sample, audio, video or other electronic recordings, text messages, telephone recordings or photographs, or business records;*
- (2) A confession, made by the defendant, to the crime the victim reported;*
- (3) An oral or written statement by the victim in temporal proximity to the commission of the crime, corroborating the victim’s report of the crime to a law enforcement agency;*
- (4) A report made by a different victim to a law enforcement agency, made either before or after the victim’s report, alleging that the defendant committed another crime of the same or similar character.”*

Next Steps:

For more information about the laws in your state, please see RAINN's state law database. For additional information about statutes of limitations generally, please

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visit RAINN's website. To schedule a call with someone on RAINN's policy team, email policy@rainn.org.