



Statutes of Limitation

Statutes of limitation (SOLs) specify the time within which a criminal prosecution or a civil action must commence or be lost. SOLs for criminal and civil actions differ. The SOL clock starts ticking at different times in different situations and can stop ticking or be suspended in some situations.

Criminal Statutes of Limitation: The SOL clock for crimes typically starts running when a crime occurs, and prosecution must commence within a specified period of time after the clock starts ticking. The SOL stops running during any time that the defendant is not a resident of Wisconsin. As you can see, there are specialized SOLs for many sex crimes. The current state of the law is as follows:

1 st Degree Sexual Assault of a Child	No SOL
Repeated Acts of SA of a same child fo 948.025(1)(a) offenses	No SOL
2 nd Degree Sexual Assault	6 years
1 st Degree Sexual Assault	6 years
3 rd Degree Sexual Assault	6 years
Causing a child to view or listen to sexual activity	6 years
Sexual exploitation by a therapist (<i>can be longer in some circumstances</i>)	6 years
4 th Degree sexual assault	3 years
Sexual intercourse with a child age 16 or over	3 years
Exposing genitals or pubic area	3 years
2 nd Degree Sexual Assault of a Child	Victim reaches age 45
Repeated acts of SA of the a child for 948.025(1)(b) offenses.	Victim reaches age 45
Sexual exploitation of a child	Victim reaches age 45
Incest with a child	Victim reaches age 45
Four of the six acts of child enticement	Victim reaches age 45
Soliciting a child for prostitution	Victim reaches age 45
Sexual assault of a student by a school staff person	Victim reaches age 45
Sexual Assault of a child placed in substitute care	Victim reaches age 45
Two of the six acts of child enticement	Victim reaches age 26

DNA Evidence: The SOL for may be extended for 2nd degree sexual assault, 2nd degree sexual assault of a child, or repeated acts of sexual assault of the same child involving fewer than three instances of 1st degree sexual assault of a child if:

1. The state obtains a DNA sample within the applicable SOL, and
2. The state, within this SOL, attempts to obtain and is unable to obtain a match or “hit” after comparing the profile to existing DNA databases.

If match or “hit” later occurs, the State has 12 months within which to commence prosecution.

If the state obtains a DNA sample for 1st degree SA before the SOL has expired and later obtains a match, prosecution may be commenced at any time.

This fact sheet was updated on April 20, 2006. It should be considered current only as of that date. This fact sheet does not constitute legal advice. For more information about WCASA or to seek help after a sexual assault, please see our website at www.wcasa.org.

Past Abuse:

Some cases of past abuse may still be prosecuted today. It is beyond the scope of this fact sheet to provide enough information to allow an exact determination of whether a SOL for past abuse currently prevents prosecution. The district attorney (DA) is the best person to ask whether the SOL has expired for a particular crime. DAs may decline prosecution even when prosecution is not barred by the SOL. Lack of evidence and a long passage of time could lead a DA to believe that a crime cannot be proven beyond a reasonable doubt.

Specialized SOLs were established for some crimes against children on July 1, 1989 that allowed prosecution until the victim reached age 21 or six years had passed since the crime, whichever was later. The legislature extended the SOL to allow prosecution until victims reached the age of 26 on April 22, 1994, until victims reached the age of 31 on June 16, 1998, and until victims reached the age of 45 on May 1, 2004. However, these changes did not extend SOLs for all of these crimes each time, and as new crimes were added to the statutes, only some of these received specialized SOLs. The most recent change in the law completely eliminated SOLs for 1st degree sexual assault, 1st degree sexual assault of a child, and one of the two acts described in the crime of repeated acts of sexual assault of the same child on April 20, 2006.

Since 1989, all of the extensions described above, including the most recent change eliminating the SOLs for some crimes, applied to all crimes for which the SOL had not expired when the new SOL went into effect. In other words, if you were the victim of a crime for which the SOL has been extended, that extension would apply if, on the day the new law went into effect, the previous SOL had not expired.

Civil Statutes of Limitations

Victims can also bring a civil action against a perpetrator for a sexual assault. In the civil court system, a sexual assault is a type of "intentional tort." Civil actions for intentional torts committed against adults must be commenced within two years of the act. Other types of claims, such as sexual harassment, have different SOLs, and victims should always consult with a private attorney to determine what types of actions may be pursued based on a particular set of facts.

SOLs for civil actions based on the sexual assault of a child are complex. The current SOLs for sexual assaults that would constitute 1st or 2nd degree sexual assault of a child, repeated acts of sexual assault of the same child, incest with a child, sexual assault of a student by school instructional staff, sexual assault of a child in substitute care, or sexual exploitation by a member of the clergy allow an action to be commenced until the victim reaches age 35. The version described above became effective on May 1, 2004 and changed the way that SOLs are calculated in these civil actions. Victims wishing to pursue a civil action based on an assault that occurred prior to May 1, 2004 should contact a private attorney to determine whether the old or new way of calculating SOLs would apply.

Victims of any age who are sexual exploited by a therapist may also have a longer time within which to file a civil action and may wish to contact a private attorney to learn about their options.

SOLs are constantly changing. Courts can also interpret SOLs in ways that limit or broaden the statutory limitation period.

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