MN HOUSE RESEARCH

Statutes of Limitations in Criminal Cases

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Overview

Statutes of limitations require the state to start a prosecution within a certain amount of time. Nothing requires states or the federal government to adopt statutes of limitations, but governments typically adopt them to protect individuals from being charged with old crimes where evidence may be unreliable and to encourage law enforcement and prosecutors to take swift action. In deciding whether to adopt or amend a statute of limitations, lawmakers balance those concerns with the other goals of public safety—including holding people accountable for their actions and preventing the commission of future crimes.

This publication provides information on the way statutes of limitations work, how lawmakers historically designed limitations, the legislative authority to change statutes of limitations, the current limitations under Minnesota law, recent legislative history, and policy considerations for lawmakers.

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A Deadline to Begin Prosecution

When a person breaks a law, the government can investigate the crime, charge the person, and force the person to go to court to face the charges. Without a limit written into the law, the government can prosecute the person at any time after the person broke the law.[1] But governments in the United States typically limit their own power by setting a deadline to begin

[1] See, *State v. Hamel*, 643 A.2d 953, 955 (N.H. 1994) ("At the outset, we note that there is no such thing as a common law criminal statute of limitations.").

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a prosecution.[2] Those limits are as old as the first federal criminal laws. When the first United States Congress passed the first set of criminal laws, it included a section requiring that prosecution for most of the crimes begin within either two or three years.[3] States, including Minnesota, have similar laws.[4]

Deadlines to begin a prosecution are called statutes of limitations.

Policy Purposes and Concerns

To address concerns about a potential abuse of government power, the founders proposed the Bill of Rights.[5] Those amendments included specific protections for criminal defendants such as the right to remain silent, the right to due process, the right to a speedy trial, the right to a jury, the right to confront witnesses, and the right to the assistance of counsel.[6] While there are no constitutional limitations on when a government can prosecute someone for an offense, statutes of limitations serve the similar purpose of protecting individuals from the power of the government.[7]

Courts have noted that statutes of limitations promote several policy goals. The U.S. Supreme Court stated that limitations are "designed to protect individuals from having to defend themselves against charges when the basic facts may have become obscured by the passage of time."[8] They also reduce the risk that a person will be punished "because of acts in the far-distant past" and encourage law enforcement and prosecutors to investigate crimes promptly.[9] Minnesota courts have identified the same goals:

> Under Minnesota law, the purpose of a statute of limitation is threefold: (1) to protect defendants from defending themselves against crimes when the facts "may have become obscured"; (2) to minimize the danger of official punishment for acts in the distant past; and (3) to encourage law enforcement to properly investigate suspected criminal activity.[10]

[2] 21 Am. Jur. 2d Criminal Law § 241 ("Statutes of limitations in criminal cases are considered acts of grace, or a surrendering by the sovereign of its right to prosecute.").

[3] Crimes Act of 1790; 1 Stat. 119 § 32 (1790).

[4] Minn. Stat. § 626.84.

[5] "[A] bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse, or rest on inference." Letter from Thomas Jefferson to James Madison, December 20, 1787. Available: https://founders.archives.gov/documents/Jefferson/01-12-02-0454.

[6] U.S. Const. amends. V and VI.

[7] See, 21 Am. Jur. 2d Criminal Law § 241.

[8] *Toussie v. United States*, 397 U.S. 112, 114 (1970).

[9] *Id*., at 115.

[10] *State v. Carlson*, 845 N.W.2d 827, 833 (Minn. App. 2014).

In addition, some have argued that statutes of limitations avoid punishing individuals who have proven that they rehabilitated themselves by remaining law abiding for long periods of time.[11]

However, there are several potential concerns about statutes of limitations. Some argue that they encourage criminal activity by reducing the likelihood that a person who commits a crime will be punished.[12] In addition, the evidence and facts in each case will be unique. While evidence may have disappeared and memories may have faded in one situation, the evidence may be more reliable in another case. A statute of limitations does not allow for any flexibility in cases where such reliable evidence exists. Similarly, scientific and technological advancements such as DNA testing may extend the time in which evidence remains reliable, and legislatures may not adjust statutes to account for those changes.

The most significant concern with statutes of limitations relates to the seriousness of an offense. While the policies justifying statutes of limitations apply equally to minor offenses and serious offenses, the federal government and every state treat those offenses differently.[13] Almost every state excludes murder from any statute of limitations, and the majority of states exclude other serious offenses such as sexual assault, arson, and human trafficking.[14]

Limits on Legislative Authority to Change Statutes of Limitations

Creating, amending, or eliminating statutes of limitations are policy decisions for legislatures to make.[15] However, there are limits on making changes that apply to crimes committed in the past.

Both the U.S. and Minnesota Constitutions prohibit laws that make acts committed in the past illegal if they were legal when committed. This applies to laws that create a new crime and to the elimination of a defense to that conduct. Those laws are known as e*x post facto* laws.[16] In 2003, the U.S. Supreme Court concluded that a law extending limitations periods that is "enacted after prior limitations periods" expire is an e*x post facto* law.[17]

This means that the legislature cannot expand the limitations period in a way that reopens the possibility that the person will be charged with the crime. If a person committed a crime with a limitations period of three years and four years have passed, any change in the limitations

[11] Note*, The Statute of Limitations in Criminal Law: A Penetrable Barrier to Prosecution*, 102 U. Pa. L. Rev. 630, 634 (1954).

[12] *Id*.

[13] Robinson, Paul H.; Kussmaul, Matthew; Stoddard, Camber; Rudyak, Ilya; and Kuersten, Andreas, "The American Criminal Code: General Defenses," *Journal of Legal Analysis* (2015).

[14] *Id*.

[15] See, 22A Corpus Juris Secundum, Criminal Procedure and Rights of Accused § 589.

[16] For more on ex post facto laws, see House Research, *Prohibition Against Ex Post Facto Laws*, July 2024.

[17] *Stogner v. California*, 539 U.S. 607, 610 (2003).

period cannot apply to that person. But, if the limitations period is three years and only two years have passed, the legislature can extend the limitations period to four (or more) years and that change would apply to the person.

In summary, the legislature can establish or reduce limitations periods without any restriction. The legislature can eliminate or extend limitations periods for crimes committed in the future. But if the legislature wants to extend or eliminate a limitations period that applies to a crime committed in the past, that change can only apply in cases where the limitations period has not expired.

Starting and Pausing the Clock

In most cases, it is easy to identify when the statute of limitations begins and ends. The limitations period typically begins when the crime is over. Courts refer to this as the crime being complete.[18] It ends when the time limit expires. If a person hits someone, the statute of limitations under Minnesota law begins as soon as the assault ends and runs for three years.

Some offenses are considered continuing offenses. Those offenses are not necessarily committed with one particular act; they are offenses that involve an ongoing course of conduct. For example, child abandonment[19] and possessing stolen property[20] are continuing offenses. Other offenses such as embezzlement, conspiracy, and nuisance might also qualify as continuing offenses.[21] When an offense is continuing, the statute of limitations begins running on the latest date, and it does not matter if it began on a date outside the limitations period.[22]

In cases where the statute of limitations does apply, several factors can pause the time. This is known as "tolling." In general, a limitations period is tolled when a person moves out of the state. While some jurisdictions require a showing that the person left the state with the intent to avoid arrest, that is not required in every jurisdiction.[23] Under Minnesota law, the limitations period is tolled in the following three situations:

- for any period of time during which the defendant was not an inhabitant of or usually resided within the state;
- for any period during which the alleged offender participated under a written agreement in a pretrial diversion program relating to that offense; or

[18] *Toussie v. United States*, 397 U.S. 112, 115 (1970).

[19] *State ex rel. Sargent v. Tahash*, 160 N.W.2d 139 (Minn. 1968).

[20] *State v. Lawrence*, 312 N.W.2d 251, 253 (Minn. 1981).

[21] Note*, The Statute of Limitations in Criminal Law: A Penetrable Barrier to Prosecution*, 102 U. Pa. L. Rev. 630, 641 (1954).

[22] See, 21 Am. Jur. 2d Criminal Law § 248.

[23] *Matter of Assarsson*, 687 F.2d 1157, 1162 (8th Cir. 1982).

- for any period of time during which physical evidence relating to the offense was undergoing DNA analysis unless the defendant demonstrates that the prosecuting or law enforcement agency purposefully delayed the DNA analysis process in order to gain an unfair advantage.[24]

Current Limitations Periods

Current criminal statutes of limitations periods are codified in Minnesota Statutes, section 628.26.

Crime	Criminal Statute of Limitations
Any crime resulting in the death of the victim	**No** statute of limitations
Kidnapping (Minn. Stat. § 609.25)	**No** statute of limitations
Labor trafficking (Minn. Stat. § 609.282) **if the victim was under the age of 18**	**No** statute of limitations
Criminal sexual conduct (first, second, third, or fourth degree), sex trafficking, or sexual extortion (Minn. Stat. §§ 609.322, 609.342 to 609.345, 609.3458)	**No** statute of limitations
Arson in the first degree (Minn. Stat. § 609.561)	**Ten years** after commission of offense
Certain crimes related to fraudulent acts (Minn. Stat. ch. 80A, or a rule adopted or order issued under that chapter, made as provided in section 80A.75; Minn. Stat. §§ 508.80; 609.465; 609.52, subd. 2, para. (a), cl. (4); 609.53; or 609.645)	**Seven years** after commission of offense
Bribery of or by a public official (Minn. Stat. § 609.42, subd. 1, cls. (1) and (2))	**Six years** after commission of offense
Medical assistance fraud or theft (Minn. Stat. §§ 609.467 and 609.52, subd. 2, para. (a), cl. (3), item (iii))	**Six years** after commission of offense

[24] Minn. Stat. § 626.84, paragraphs (l) to (n).

Crime	Criminal Statute of Limitations
Certain thefts, identity theft, check forgeries, credit card frauds, and financial exploitation of vulnerable adults (where value of property or services stolen exceeds $35,000, and for identity theft, if eight or more victims were involved) (Minn. Stat. §§ 609.2335; 609.52, subd. 2, para. (a), cl. (3), items (i) and (ii), (4), (15), and (16); 609.631; 609.821; 609.527)	**Five years** after commission of offense
Hazardous and infectious waste crimes, except violations relating to false material statements, representations, or omissions (Minn. Stat. § 609.671)	**Five years** after commission of offense
Arson in the second or third degree (Minn. Stat. §§ 609.562 and 609.563)	**Five years** after commission of offense
Interference with privacy (Minn. Stat. § 609.746)	**Three years** after commission of offense or **three years** after the offense was reported to law enforcement authorities
All other crimes	**Three years** after commission of offense

Section 628.26 has been amended numerous times over the years. The different amendments to the law have different enactment clauses that vary the application of the statute. In some cases, the amendments only apply to crimes committed after the change became effective. In others, the changes applied to violations where the previous limitation had not expired.

Legislative History

The following information summarizes changes to the criminal statute of limitations from 1989 through 2026.

1989–Criminal sexual conduct cases involving minors. In 1989, the legislature added a unique feature to the limitations period for child sex abuse to allow prosecution long after the offense occurred if the victim did not report the offense within the usual limitations period. This feature was added out of concern that many child sex abuse victims either repress their memories of the offense, are afraid to talk about it, or do not understand until adulthood that the behavior was unlawful. The legislature provided that, in these cases, the offense could be charged anytime within two years after the offense was reported to law enforcement, but not after the victim reached 25 years of age.[25]

[25] Laws 1989, ch. 290, art. 4, § 17.

1991–Criminal sexual conduct case involving minors. The 1991 Legislature extended the limitations period that applies to criminal sexual conduct against a victim under age 18 from two years to three years after the offense was reported to law enforcement authorities and struck language stating that the indictment or complaint could not occur after the victim reached 25 years of age. The legislature also provided a separate seven-year limitations period to criminal sexual conduct offenses against a victim 18 years of age or older.[26]

1993–Extension of application of tolling provision for when a defendant is absent from state. In 1993, the legislature provided that *all* limitations periods must exclude any time period during which the defendant was not an inhabitant of or usually resident within the state; prior to this change, the tolling provision applied only to offenses subject to the three-year limitations period.[27]

1994–Diversion program participants. In 1994, the legislature added the tolling provision for the time period during which the offender is involved in a diversion program related to the offense.[28]

1995–Criminal sexual conduct; tolling of limitations period during DNA analysis. In 1995, the limitations period for criminal sexual conduct offenses was increased from seven to nine years. Also, the legislature added the tolling provision for the time period during which evidence is under DNA analysis.[29]

2000–Elimination of limitations period for crimes resulting in the death of the victim, kidnapping, and criminal sexual conduct cases where DNA evidence exists. The 2000 Legislature eliminated the statute of limitations for any crime resulting in the death of the victim and for kidnapping. Prior to this change, the only crime that did not have a statute of limitations was murder. The legislature also eliminated the statute of limitations for first- through third-degree criminal sexual conduct offenses if physical evidence is collected and preserved that is capable of being tested for its DNA characteristics. The legislature retained the existing limitations periods for criminal sexual conduct offenses in which such evidence is not collected and preserved.[30]

2005–Labor trafficking. The 2005 Legislature created the crime of labor trafficking. In doing so, the legislature provided that there was no statute of limitations for labor trafficking if the victim was a minor, and a six-year limitations period applies if the victim was an adult.[31]

2009–Criminal sexual conduct when the victim is a minor; financial exploitation of a vulnerable adult. In 2009, the legislature amended an exception to the statute's general nine-

[26] Laws 1991, ch. 232, § 3.

[27] Laws 1993, ch. 326, art. 4, § 36.

[28] Laws 1994, ch. 636, art. 2, § 64.

[29] Laws 1995, ch. 226, art. 2, § 35.

[30] Laws 2000, ch. 311, art. 4, § 9.

[31] Laws 2005, ch. 136, art. 17, § 52.

year limitations period for filing a complaint alleging criminal sexual conduct against a minor. The exception had provided that if the *victim* failed to report the offense within nine years of the commission of the offense, the limitations period would be three years after any source reported the offense. The legislature struck the clause providing that the exception would only apply if the victim failed to report the offense. Accordingly, under the 2009 law, the limitations period is the later of nine years after the commission of the offense or three years after reporting of the offense.[32]

As part of an omnibus vulnerable adults bill, the legislature added financial exploitation of a vulnerable adult to paragraph (h)—providing a five-year limitations period for certain theft offenses when the amount stolen exceeds $35,000—thereby increasing the limitations period from three to five years for this offense.[33]

2015—Sex trafficking. Legislation increased the limitations period for sex trafficking offenses by adding the citation to the limitations periods applicable to criminal sexual conduct crimes. Prior to this change, sex trafficking crimes defaulted to the three-year limitations period.[34]

2016—Identity theft crimes. The 2016 Legislature extended the limitations period from three to five years for identity theft crimes involving eight or more direct victims or a combined loss of more than $35,000, placing identity theft in line with other theft crimes.[35]

2021—Criminal sexual conduct. In 2021, the legislature eliminated the statute of limitations for sex trafficking and first- through fourth-degree criminal sexual conduct. Previously, the statute distinguished between cases where the victim was a minor and those where the victim was over 18. It also had different standards for cases involving DNA evidence. The new statute of limitations applied to offenses committed on or after September 15, 2021. The legislature also created the offense of sexual extortion that year and directed that it have no statute of limitations.[36]

2023—Interference with privacy. The 2023 Legislature established a specific limitations period for the crime of interference with privacy. That offense typically involves recording or spying on a person in that person's home or a similar place where the person has an expectation of privacy. Because those offenses can sometimes be discovered long after they were committed, the limitations period is the later of three years from the date of offense or three years after

[32] Laws 2009, ch. 59, art. 5, § 20. See *State v. Krikorian*, WL 68841 (Minn. Ct. App. Jan. 8, 2008). In this case, a victim reported sexual abuse of both himself and his sister. At that time, the language of the statute provided that the "victim" must not have reported the abuse for the exception to be applicable (i.e., allowing a complaint to be filed within three years of the report). Since the victim did report within nine years of the offense, the exception did not apply, and the state was barred from prosecuting the offense because it did not file the complaint within nine years of the end of the abuse. Because the sister did not report the abuse herself, the exception applied and the state was allowed to prosecute the case because the complaint was filed within three years of the report.

[33] Laws 2009, ch. 119, § 18.

[34] Laws 2015, ch. 65, art. 6, § 21.

[35] Laws 2016, ch. 121.

[36] Laws 2021, 1st spec. sess., ch. 11, art. 4, § 29.

the offense is reported to law enforcement. The change applied to offenses committed on or after August 1, 2023, and also to crimes committed before that date if the limitations period had not expired before August 1, 2023.[37]

2025—Arson in the first degree. In 2025, the legislature extended the statute of limitations for arson in the first degree from five years to ten years. The limitations period for second- and third-degree arson did not change. First-degree arson applies when someone sets fire to a dwelling, another building when people are present and the offender knows or should know of the presence, or when the offender uses something flammable to accelerate the fire (such as gasoline). The new limitations period applies to offenses committed on or after August 1, 2025, and to cases where the prior limitations period had not expired by that date. That will generally include offenses committed on or after August 1, 2020, unless the prior limitations period had been tolled.[38]

2026—Crimes involving fraudulent acts. The 2026 Legislature extended the statute of limitations for certain crimes involving fraud to seven years. The offenses had previously been subject to a limitations period of either three or five years. The change applied to violations of:

- chapter 80A, which regulates securities;
- section 508.80, which addresses fraudulent titles to property;
- section 609.465, covering submitting a false claim to a public officer or body;
- section 609.52, subdivision 2, paragraph (a), clause (4), addressing theft by swindle;
- section 609.53, which covers the receipt of stolen property; and
- section 609.645, which addresses making a false statement related to the value of securities or property and to a false statement about a ship or airplane manifest.[39]

The legislature also replaced a reference to the previous crime of medical assistance fraud with a reference to the new version of that law that passed in 2026. The limitations period of six years did not change.[40]

Considerations for Legislators

Legislators considering changes to a statute of limitations should consider several competing policy goals. Some of those policies favor a limitations period. As time passes, evidence may disappear and memories may become less reliable. Limitations periods reduce the risk that someone will be convicted on faulty evidence. They also allow law enforcement and prosecutors to devote resources to more recent offenses and eliminate the need to store

[37] Laws 2023, ch. 52, art. 4, § 22.

[38] Laws 2025, ch. 35, art. 4, § 14.

[39] Laws 2026, ch. 97, art. 3, § 4.

[40] Laws 2026, ch. 127, art. 7, § 6.

physical and digital evidence. However, limitations periods can be inconsistent with other public safety goals.

In establishing crimes, legislatures have decided that certain conduct deserves to be punished or shows that the offender needs to be rehabilitated. Statutes of limitations create the possibility that someone can commit an offense and never be held accountable or receive an intervention. By creating the possibility that an offender can "get away with it," statutes of limitations reduce the certainty of a consequence. That can reduce the general deterrent effect of establishing a criminal penalty and can also lead someone who is not prosecuted during the limitations period to risk committing a new offense.

In considering extending or eliminating statutes of limitations, legislators should consider the following questions:

- Is the offense so serious that the importance of prosecuting an offender outweighs concerns that evidence may become less reliable?
- Does the offense involve evidence that is likely to remain reliable regardless of its age?
- Is the offense one that is likely to be discovered long after it is committed?
- Are there reasons that victims will be unlikely to report the offense immediately after it occurs?
- Does a long limitations period place unreasonable expectations on law enforcement, prosecutors, victims, and witnesses?
- Does a long limitations period require law enforcement agencies and prosecutors to devote resources to investigating and prosecuting relatively minor older offenses instead of devoting those resources to more serious and recent offenses?

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