



Statutes of Limitations for Criminal Offenses

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A statute of limitations is a law that specifies the maximum length of time allowed for a victim or prosecutor to initiate legal proceedings. Such a statute may apply in either criminal or civil cases. This *issue brief* provides an overview of criminal statutes of limitations, including exceptions, recent changes to sex crime prosecution time frames, and laws specific to Colorado.

Background

The general purpose of statutes of limitations is to encourage the swift and efficient prosecution of crimes. Further, these laws are designed to ensure convictions occur using either physical evidence or eyewitness testimony that has not deteriorated or become less reliable over time.

All 50 states currently have criminal statutes of limitations, varying in both type of crime and length of time to report a crime and press charges. Generally, violent crimes have a longer statute of limitations, and with some crimes, such as murder, there are no statutes of limitations at all. Misdemeanor offenses, in contrast, often have a short window, such as 18 months, in which to bring charges against an alleged perpetrator.

Calculating Statutes of Limitations

A number of factors come into play when calculating a statute of limitations. The first step is to identify the crime and its level of severity. Different crimes have different statutes of limitations, with some crimes not having any and others having short windows. The

next step is to determine a date. Statutes of limitations generally begin on the date a crime was committed, or upon discovery of the criminal act, depending upon the crime and circumstance.

Statutes of limitations do not include the time it takes to try a case in a court of law as long as charges were brought within the prescribed time period. After the statutes of limitations have passed or expired, criminal charges may no longer be filed against a given suspect or defendant.

A judge, however, has the discretion to rule on disputes about a start date, as well as exceptions that allow for the clock to pause and begin again at a later date.

Tolling. Tolling is a legal term that refers to allowing statutes of limitations to be legally suspended in certain instances so that charges may be pressed after the expiration date. Tolling essentially pauses or stops the clock during this time and restarts it after an event takes place that changes the situation.

Numerous events or circumstances will toll a statute of limitations, depending upon the jurisdiction. In Colorado, criminal statutes of limitations are tolled when the offender is absent from the state. In these cases, the time period is tolled for the duration the defendant is absent for up to five years.¹

Sex Crimes

In recent years, the statutes of limitations for sex crimes have been increasingly reexamined by state

¹Section 16-5-401 (2), C.R.S.

legislatures across the country. Lawmakers are taking into consideration that sexual assault remains one of the more underreported crimes and that many victims do not reveal their abuse until decades later, well past the statutes of limitations for many sex-related crimes. The emergence of DNA evidence that remains intact indefinitely has also played a part in allowing more time to prosecute sex crimes.

State lawmakers have acknowledged these changing conditions by either abolishing statutes of limitations altogether for sex crimes, extending prosecution deadlines, creating a DNA exception, or some combination thereof.

No statute of limitations. Seven states (Kentucky, Maryland, North Carolina, South Carolina, Virginia, West Virginia, and Wyoming) have no statute of limitations for felony sex crimes. Other states, such as Colorado, have taken a more limited approach and removed them entirely only for felony sex crimes involving children.

Extension of prosecution deadlines. Since 2002, more than half of the states have amended their prosecution deadlines so victims have more time to pursue criminal cases. In 2016, Colorado extended

the statute of limitations for felony sexual assault from 10 to 20 years

DNA exceptions. A DNA exception allows for the tolling of a statute of limitations in cases where a perpetrator is later identified through DNA evidence. For example, more than two dozen states, including Colorado, keep the prosecution window open when there is DNA evidence and other reporting requirements are met. Specifically, Colorado law waives the statute of limitations if the identity of the defendant is determined through DNA, and the offense (other than sex offenses against children) has been reported to a law enforcement within ten years after the commission of the offense.

Retroactive application. The U.S. Supreme Court ruled in 2003 that states may not retroactively remove criminal statutes of limitations to make it easier to prosecute sex abuse cases.

Colorado Statutes of Limitations

The following provides a summary of Colorado’s statutes of limitations for various felony and misdemeanor offenses. Exceptions may apply in certain circumstances.

**Table 1
Criminal Statutes of Limitations in Colorado**

Statutes of Limitations	Crime
None	Murder, kidnapping, treason, any sex offense against a child, and any forgery regardless of the penalty provided. This also applies to attempt, conspiracy, or solicitation to commit murder, kidnapping, treason, forgery or any sex offense against a child.
6 years	Actions pursuant to the Colorado Antitrust Act of 1992, such as monopolization and bid-rigging, with the statute of limitations clock starting when the act of complained of occurred.
5 years	Vehicular homicide, leaving a scene of an accident that resulted in death, and criminal violations of the Colorado Commodity Code. The statutes of limitations run upon discovery of the criminal act or upon commission of the offense, respectively.
3 years	All other felonies; clock begins upon the commission of the offense.
1 year	Class 1 and 2 misdemeanor traffic offenses; clock begins upon the discovery of the criminal act.
18 months	Misdemeanors; clock begins upon discovery of the criminal act.
6 months	Petty offenses; clock begins upon discovery of the criminal act.

Source: Section 16-5-401, C.R.S.