



**Statute of Limitations for Sexual Crimes  
Against Minors**  
September 29, 2015

---

# Overview



- Study Authorization
- Background
- Analysis
- Review of Surrounding States
- Policy Option

# Study Authorization



- Senate Bill 1253 (SB 1253) was introduced by Senator Creigh Deeds during the Regular Session of the 2015 General Assembly.
- The bill was left in the Senate Finance Committee, and a letter was sent to the Crime Commission requesting that the bill be reviewed.

# Background



- Senate Bill 1253 would increase the statute of limitations for certain misdemeanor sex offenses to be prosecuted, if the victim was a minor at the time of the offense.
  - Currently, the statute of limitations for all of these misdemeanors is one year.
- Under the bill, the statute of limitations would be increased to “no later than one year after the victim reaches majority.”

# Background



- The crimes that would have their statutes of limitations increased would be:
  - Va. Code § 18.2-64.2 (Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial/posttrial offender);
  - Va. Code § 18.2-67.4 (Sexual battery);
  - Va. Code § 18.2-67.4:1 (Infected sexual battery);
  - Va. Code § 18.2-67.4:2 (Sexual abuse of a child under 15);
  - Va. Code § 18.2-67.5 (Attempted sexual battery); and,
  - Va. Code § 18.2-370.6 (Lascivious kissing the mouth of a child under 13).



- In Virginia, there is no statute of limitations for prosecuting felony crimes.
- In general, the statute of limitations for a misdemeanor crime in Virginia is one year, per Va. Code § 19.2-8.



- There are a limited number of exceptions to the one year statute of limitations for misdemeanors in Virginia, which are listed in Va. Code § 19.2-8:
  - Petit larceny (5 years);
  - Attempt to produce an abortion (2 years);
  - Practicing law without a license ( 2 years after discovery);
  - Placing children for adoption without a license (1 year after the adoption petition is filed);



- Exceptions to the one year statute of limitations for misdemeanors, continued:
  - Committing fraud in connection with the Virginia Unemployment Compensation Act (3 years);
  - Discharge, dumping or emission of toxic substances (3 years);
  - Building Code violations under Va. Code § 36-106 (1 year after discovery, if discovery occurs within 2 years of date of initial occupancy);





- Exceptions to the 1 year statute of limitations for misdemeanors, continued:
  - Violating any professional or occupational license requirements (1 year from discovery, but no later than 5 years from date of offense);
  - Any professional licensure requirement imposed by a locality (1 year from discovery, but no later than 5 years from date of offense);
  - Malfeasance in office (2 years);
  - Violations of Virginia's Condominium Act (3 years);
  - Illegal sale or purchase of wild animals (3 years);



- Exceptions to the 1 year statute of limitations for misdemeanors, continued:
  - Tax evasion (3 years, unless a longer period is otherwise prescribed);
  - Cruelty to non-agricultural animals (5 years);
  - Unlawfully taking a nude photo of another (5 years);
  - Violations of the Campaign Finance Disclosure Act (1 year from discovery, but no later than 3 years from date of offense);



- Exceptions to the 1 year statute of limitations for misdemeanors, continued:
  - A violation of the Computer Crimes Act, or involving identity theft (the earlier of: 1 year from discovery, or 5 years from the date of the offense);
  - Falsifying patient medical records (3 years); and,
  - Desertion of a spouse or child or neglect or refusal to provide support and maintenance for a spouse or child (no time limitations).

# Analysis



- Statutes of limitations for criminal prosecutions represent a balancing between the needs to ensure justice is done, and the right of a defendant to have a prompt resolution of his case and to be able to access and present evidence on his behalf.
- The statute of limitations is tolled if a person has fled from justice or concealed himself to avoid arrest.

# Analysis



- The United States Supreme Court has noted statutes of limitations “protect individuals from having to defend themselves against charges when the basic facts may have become obscured by the passage of time and to minimize the danger of official punishment because of acts in the far-distant past.”
- They also noted that this may “have the salutary effect of encouraging law enforcement officials promptly to investigate suspected criminal activity.”
  - Toussie v. United States, 397 U.S. 112, 114-115 (1970).

# Surrounding States



- A review of the statutes of limitations for misdemeanors in surrounding states reveals:
  - Tennessee has a 1 year limit for practically all misdemeanors;
  - West Virginia has a 1 year limit for all misdemeanors, except perjury, which is 3 years;
  - North Carolina has, in practice, a 2 year limit for all misdemeanors;

# Surrounding States



- A review of the statutes of limitations for misdemeanors in surrounding states, continued:
  - Maryland has a 1 year statute of limitations for misdemeanors, with many exceptions, one of which is: “Misdemeanor sexual abuse of a student by one in authority,” which is 3 years;
  - Kentucky has a 1 year statute of limitations for all misdemeanors, EXCEPT, for misdemeanors involving the sexual abuse of minors, prosecution must be brought within 5 years after the victim attains the age of 18.

# Policy Option



- Should the statute of limitations for certain misdemeanor sex offenses, where the victim is a minor, be increased from 1 year to no later than 1 year after the victim turns 18 years of age?





# Discussion