Statutes of Limitation on Crimes Against Children



What is a statute of limitation?

A statute of limitation (SOL) is the maximum amount of time one has to bring a criminal charge or a lawsuit from the time of injury or criminal action. SOLs vary from state to state and from claim to claim. It may be different for specific crimes and the clock may begin running at differing times, usually either from the time of injury or from the time of discovery of the injury or action.

Why are statutes of limitation important in child sex abuse cases?

Research shows that most people who experience sexual abuse in childhood do not disclose until well into adulthood. Therefore, narrow statutes of limitation can prevent the punishment of perpetrators on the criminal side and prevent redress on the civil side.

CRIMINAL LAW

Purpose: crime and punishment

Suit origin: the government

Plaintiff: the government

Standard of proof: beyond a reasonable

doubt

CIVIL LAW

Purpose: accountability and compensation

Suit origin: a private party

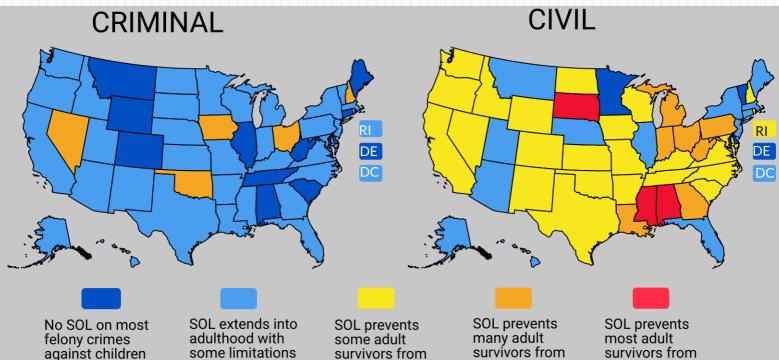
Plaintiff: alleged victim

Standard of proof: a preponderance of

evidence

Civil and Criminal cases are not mutually exclusive. Both can be brought for the same act.

Statutes of Limitation in the States



against children

survivors from seeking justice seeking justice

seeking justice

Retroactive Revision of Statutes of Limitation

Criminal

The SOL <u>cannot</u> be suspended to retroactively apply to cases for which it has already passed. Once a statute of limitations expires, a perpetrator cannot be criminally charged.

Civil

The SOL <u>can</u> be suspended retroactively at the will of the legislature. "Window Legislation" is one way in which a legislature may suspend the civil SOL.

"Window Legislation"

Allows for the filing of civil suits despite a civil statute of limitation having previously expired. "Windows" may be limited to a specific period of time, subject to plaintiff age limitations, restricted to certain defendants, or even suspended indefinitely.

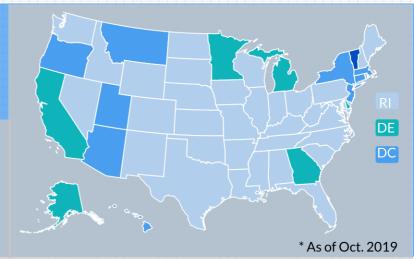
Total retroactive civil SOL repeal (VT)

Window currently open with limitations (AZ, CT,HI, MA, MT, NJ, NY, OR, UT, VT, DC)

OR

Prior window has expired (CA, DE, GA, HI, MI, MN)

No Civil SOL window



State Civil Window Highlights

As of 2019 all expired claims against perpetrators, private and government organizations were revived indefinitely

AZ 19 month window 5/27/19 - 12/31/20 against perpetrators, private organizations and government organizations

As of 2002, retroactively eliminated in cases with felony convictions. All others revived until victim age 48

For the 3rd time, extended a 2-year window against perpetrators and private institutions. Window closes 4/24/20

As of 2014, revived civil claims against perpetrators only, for victims up to age 53

1-year window opend 5/7/19 for claims against perpetrators and private organizations

2-year window opened 12/1/19 for claims against perpetrators, private organizations, and government organizations

1-year window opened 8/14/19 for claims against perpetrators, private organizations, and government organizations

As of 2010, retroactively revived claims against perpetrators and private organizations for victims up to age 40

As of 2016, revived civil claims for victims up to age 53

2-year window opened 5/3/19 for victims up to age 40 against perpetrators and private organizations

In 2003, opened a 1-year window against private organizations only

In 2007 opened 2-year window vs. private and govt. orgs; and a 2010, 2-year window vs. certain health care providers

GA In 2015, opened a 2-year window against perpetrators only

In 2018, opened a 90-day window for claims against Larry Nassar only

In 2013, opened a 3-year window for claims against perpetrators and private organizations

In 2016, opened a 3-year window for claims against perpetrators only

Conclusion

A statute of limitation is an arbitrary barrier to justice for survivors of child abuse. Lack of legal recourse deters survivors from disclosing, thereby empowering perpetrators and perpetuating abuse. The SOL landscape is rapidly evolving, but challenges remain, particularly on the civil side. Civil SOL reform and retroactive window legislation may be the best path to combating and preventing systemic institutional child abuse. SOL reform requires state by state effort. Child advocates should monitor and support SOL reform in their respective states.