

California Statute of Limitations on Sexual Abuse

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What Are the California Statutes of Limitations on Sexual Abuse Crimes?

California does technically have statutes of limitations (SOL) on some of its sexual abuse crimes that require lawsuits to be brought within a certain time period. However, there are huge loopholes that usually allow most anyone to bring up a sexual abuse lawsuit even after the statute of limitations has expired.

But It is important to remember that the statute of limitations that applies is the one that was in place *at the time of the crime itself*. So while the statute of limitations may have been lengthened in the time since, if the limitation ran out, it can NOT be reactivated.

Example: A man commits an act of molestation in 1965, when there was a 3 year SOL on the crime. In 1970, the legislature removes the SOL from child molestation. The man can not still be prosecuted, because the SOL had expired before the law was changed. If the law had been changed in 1968, however, he could be prosecuted.

If you are the victim of abuse, the first thing you must decide is whether you are pursuing something criminally or civilly, as the statute of limitation is usually different between the two of them.

Civil Lawsuits for Sexual Abuse

In California, the filing of a civil claim of [sexual abuse](#) must be made within 8 years of the age of majority (meaning before your 26th birthday). However, California is one of 28 states that have adopted an extension of the statute of limitations based on the "discovery" of child sexual abuse or its effects. While nearly every state has a basic suspension of the statute of limitations while someone is a minor, many states have recently adopted these new "discovery" extensions specifically designed for cases of sexual child abuse. The discovery rule allows for civil lawsuits to go forward when they are "within three years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse.

This rule was designed to counter the problem of prosecuting molesters who's victims had repressed the memories for decades, long after the statute of limitations expired. Now, upon "discovery" of the

memories of abuse (often through therapy), a person has 3 years to file a claim.

After the Catholic Church abuse scandals, California also enacted a law that allows for lawsuits against people whom were aware of the unlawful sexual conduct by their "employee, volunteer, representative, or agent", and failed to take "reasonable steps" to prevent it. Upon his discovery of this person or entity, a plaintiff has one year to sue.

Criminal Prosecutions for Sexual Abuse

For criminal cases, a prosecutor may file a charge of [aggravated rape](#) at any time, with no limitation (in California, an aggravated rape is rape that involves a weapon, more than one person, or seriously injures the victim). Prosecution for "normal" sexual assault has a statute of limitations of six years. However, there is an exception made for DNA analysis. Since it is a relatively new technology, if a DNA test can conclusively prove the identity of a rapist, prosecution can take place within one year of the discovery.

In regards to child molestation, there has been a series of great upheavals regarding the statute of limitations in California. In the early 1990s, the legislature passed a bill that retroactively waived the statute of limitations for all crimes of child molestation, meaning even people who were previously immune to prosecution could suddenly be arrested. This law was overturned as unconstitutional by the Supreme Court in a recent case, so now the law's retroactive provision is eliminated.

What remains is a 10 year statute of limitations for child molestation. HOWEVER, the crime can also be prosecuted within one year of WHENEVER a victim tells the police (even past the 10 year mark). This sounds rather contradictory, because this means that the 10 year limitation is essentially pointless, but it is the current law of the land. The California legislature is constantly debating about this, so the law may change in the near future. You should talk to a California attorney familiar with these cases for the most up to date information.

Do I Need an Attorney?

If you are the victim of sexual abuse, a [California lawyer](#) can help you by filing a civil lawsuit against your abuser and assist you in collecting money for your damages. But time is of the essence, so talk to a lawyer today to learn whether the statute of limitations prevents you from proceeding. Also see these related articles for more information about sexual abuse issues, [Victims of Sexual Abuse](#), [Sexual Harassment Lawyers](#), [Sexual Harassment in School](#) and [Sexual Orientation Discrimination](#).

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