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**SENATE BILL 5649**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Dhingra and Pedersen

1 AN ACT Relating to crimes of sexual assault; amending RCW  
2 9A.44.060; reenacting and amending RCW 9A.04.080; and creating a new  
3 section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** Social service agencies providing support  
6 to victims of sexual assault have long known that sexual assault  
7 crimes are among the most underreported of all types of crime.  
8 According to the department of justice, only two hundred thirty out  
9 of every one thousand sexual assaults are reported to police. In the  
10 wake of the recent #MeToo movement, this fact has become clear to the  
11 broader public.

12 The statute of limitations restricts a prosecutor's ability to  
13 hold perpetrators accountable when reports of crime are delayed.  
14 There are many different reasons why victims of sexual assault delay  
15 or even choose to never report the crime that has been committed  
16 against them. Advances in the field of neurobiology have demonstrated  
17 how sexual assault trauma and trauma responses may contribute to  
18 delayed victim reporting. Sometimes the victim is in a relationship  
19 with the perpetrator - an employer, parent, teacher, or some other  
20 person with supervisory power over the victim - causing the victim to  
21 believe that further harm will come to them if they report the crime.

1 Further, technological and scientific advances in investigation,  
2 collection, documentation, and preservation of evidence have advanced  
3 law enforcement and prosecutorial abilities to investigate and  
4 prosecute these older cases. Realizing this, policymakers across the  
5 country have reevaluated and amended statutes of limitation to extend  
6 the allowable time to prosecute sexual assault crimes.

7 It is generally true that the longer a victim waits to report a  
8 crime, the more difficult it will be for the case to be successfully  
9 prosecuted. However, the statute of limitations should not prohibit  
10 prosecution for these heinous offenses when there is adequate  
11 evidence. Extending or eliminating the statute of limitations in  
12 these cases is imperative to provide access to justice for victims,  
13 hold perpetrators accountable, and enhance community protection.

14 **Sec. 2.** RCW 9A.04.080 and 2017 c 266 s 9, 2017 c 231 s 2, and  
15 2017 c 125 s 1 are each reenacted and amended to read as follows:

16 (1) Prosecutions for criminal offenses shall not be commenced  
17 after the periods prescribed in this section.

18 (a) The following offenses may be prosecuted at any time after  
19 their commission:

20 (i) Murder;

21 (ii) Homicide by abuse;

22 (iii) Arson if a death results;

23 (iv) Vehicular homicide;

24 (v) Vehicular assault if a death results;

25 (vi) Hit-and-run injury-accident if a death results (RCW  
26 46.52.020(4));

27 (vii) Rape in the first degree (RCW 9A.44.040) if the victim is  
28 under the age of sixteen;

29 (viii) Rape in the second degree (RCW 9A.44.050) if the victim is  
30 under the age of sixteen;

31 (ix) Rape of a child in the first degree (RCW 9A.44.073);

32 (x) Rape of a child in the second degree (RCW 9A.44.076);

33 (xi) Rape of a child in the third degree (RCW 9A.44.079);

34 (xii) Sexual misconduct with a minor in the first degree (RCW  
35 9A.44.093);

36 (xiii) Custodial sexual misconduct in the first degree (RCW  
37 9A.44.160);

38 (xiv) Child molestation in the first degree (RCW 9A.44.083);

39 (xv) Child molestation in the second degree (RCW 9A.44.086);

1 (xvi) Child molestation in the third degree (RCW 9A.44.089); and  
2 (xvii) Sexual exploitation of a minor (RCW 9.68A.040).

3 (b) Except as provided in ~~((e))~~ (a) of this subsection, the  
4 following offenses may not be prosecuted more than twenty years after  
5 its commission:

6 (i) Rape in the first degree (RCW 9A.44.040);

7 (ii) Rape in the second degree (RCW 9A.44.050); or

8 (iii) Indecent liberties (RCW 9A.44.100).

9 (c) The following offenses ~~((shall))~~ may not be prosecuted more

10 than ten years after ~~((their))~~ its commission:

11 (i) Any felony committed by a public officer if the commission is  
12 in connection with the duties of his or her office or constitutes a  
13 breach of his or her public duty or a violation of the oath of  
14 office;

15 (ii) Arson if no death results;

16 ~~(iii) ((A) Violations of RCW 9A.44.040 or 9A.44.050 if the rape~~  
17 ~~is reported to a law enforcement agency within one year of its~~  
18 ~~commission.~~

19 ~~(B) If a violation of RCW 9A.44.040 or 9A.44.050 is not reported~~  
20 ~~within one year, the rape may not be prosecuted more than three years~~  
21 ~~after its commission;~~

22 ~~(iv) Indecent liberties under RCW 9A.44.100(1)(b); or~~

23 ~~(v)) Rape in the third degree (RCW 9A.44.060);~~

24 (iv) Attempted murder; or

25 ~~((vi))~~ (v) Trafficking under RCW 9A.40.100.

26 ~~((c) Violations of the following statutes, when committed~~  
27 ~~against a victim under the age of eighteen, may be prosecuted up to~~  
28 ~~the victim's thirtieth birthday: RCW 9A.44.040 (rape in the first~~  
29 ~~degree), 9A.44.050 (rape in the second degree), 9A.44.073 (rape of a~~  
30 ~~child in the first degree), 9A.44.076 (rape of a child in the second~~  
31 ~~degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083~~  
32 ~~(child molestation in the first degree), 9A.44.086 (child molestation~~  
33 ~~in the second degree), 9A.44.089 (child molestation in the third~~  
34 ~~degree), 9A.44.100(1)(b) (indecent liberties), 9A.64.020 (incest), or~~  
35 ~~9.68A.040 (sexual exploitation of a minor).)~~

36 (d) A violation of any offense listed in this subsection (1)(d)  
37 may be prosecuted up to ten years after its commission or, if  
38 committed against a victim under the age of eighteen, up to the  
39 victim's thirtieth birthday, whichever is later:

40 (i) RCW 9.68A.100 (commercial sexual abuse of a minor);

1 (ii) RCW 9.68A.101 (promoting commercial sexual abuse of a  
2 minor); (~~or~~)

3 (iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse  
4 of a minor); or

5 (iv) RCW 9A.64.020 (incest).

6 (e) The following offenses (~~shall~~) may not be prosecuted more  
7 than six years after (~~their~~) its commission or (~~their~~) discovery,  
8 whichever occurs later:

9 (i) Violations of RCW 9A.82.060 or 9A.82.080;

10 (ii) Any felony violation of chapter 9A.83 RCW;

11 (iii) Any felony violation of chapter 9.35 RCW;

12 (iv) Theft in the first or second degree under chapter 9A.56 RCW  
13 when accomplished by color or aid of deception;

14 (v) Theft from a vulnerable adult under RCW 9A.56.400; or

15 (vi) Trafficking in stolen property in the first or second degree  
16 under chapter 9A.82 RCW in which the stolen property is a motor  
17 vehicle or major component part of a motor vehicle as defined in RCW  
18 46.80.010.

19 (f) The following offenses (~~shall~~) may not be prosecuted more  
20 than five years after (~~their~~) its commission: Any class C felony  
21 under chapter 74.09, 82.36, or 82.38 RCW.

22 (g) Bigamy (~~shall~~) may not be prosecuted more than three years  
23 after the time specified in RCW 9A.64.010.

24 (h) A violation of RCW 9A.56.030 (~~must~~) may not be prosecuted  
25 more than three years after the discovery of the offense when the  
26 victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

27 (i) No other felony may be prosecuted more than three years after  
28 its commission; except that in a prosecution under RCW 9A.44.115, if  
29 the person who was viewed, photographed, or filmed did not realize at  
30 the time that he or she was being viewed, photographed, or filmed,  
31 the prosecution must be commenced within two years of the time the  
32 person who was viewed or in the photograph or film first learns that  
33 he or she was viewed, photographed, or filmed.

34 (j) No gross misdemeanor may be prosecuted more than two years  
35 after its commission.

36 (k) No misdemeanor may be prosecuted more than one year after its  
37 commission.

38 (2) The periods of limitation prescribed in subsection (1) of  
39 this section do not run during any time when the person charged is  
40 not usually and publicly resident within this state.

1 (3) In any prosecution for a sex offense as defined in RCW  
2 9.94A.030, the periods of limitation prescribed in subsection (1) of  
3 this section run from the date of commission or one year from the  
4 date on which the identity of the suspect is conclusively established  
5 by deoxyribonucleic acid testing or by photograph as defined in RCW  
6 9.68A.011, whichever is later.

7 (4) If, before the end of a period of limitation prescribed in  
8 subsection (1) of this section, an indictment has been found or a  
9 complaint or an information has been filed, and the indictment,  
10 complaint, or information is set aside, then the period of limitation  
11 is extended by a period equal to the length of time from the finding  
12 or filing to the setting aside.

13 **Sec. 3.** RCW 9A.44.060 and 2013 c 94 s 1 are each amended to read  
14 as follows:

15 (1) A person is guilty of rape in the third degree when, under  
16 circumstances not constituting rape in the first or second degrees,  
17 such person engages in sexual intercourse with another person:

18 (a) Where the victim did not consent as defined in RCW  
19 9A.44.010(7), to sexual intercourse with the perpetrator (~~and such~~  
20 ~~lack of consent was clearly expressed by the victim's words or~~  
21 ~~conduct,~~) ; or

22 (b) Where there is threat of substantial unlawful harm to  
23 property rights of the victim.

24 (2) Rape in the third degree is a class C felony.

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