

MAKE ELIMINATION OF STATUTE OF LIMITATIONS FOR FIRST DEGREE CSC RETROACTIVE

Phone: (517) 373-8080
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House Bill 4231 as introduced
Sponsor: Rep. Holly Hughes
Committee: Criminal Justice
Complete to 5-4-15

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Under the bill, there would be no statute of limitations for first-degree criminal sexual conduct committed against a person less than 18 years of age, regardless of when the crime was committed.

Prior to May 2, 2001, first-degree criminal sexual conduct (CSC) had a six-year statute of limitations (SOL). This meant that charges had to be brought against an alleged perpetrator within six years of the date of the crime. If the perpetrator left the state for a period of time, then that time would not be counted to fulfill the six-year period (thus the statute of limitations would be "tolled" or stopped and the six-year period would be extended).

In 2001, Public Act 6, among other things, eliminated the statute of limitations for first-degree CSC. However, this only applied to crimes for which the six-year period had not yet expired as of the May 2, 2001, effective date. Crimes for which the six-year period, including any extensions, had already expired were not prosecutable under Public Act 6.

House Bill 4231 amends Section 24 of Chapter VII of the Code of Criminal Procedure to eliminate the six-year statute of limitations for first-degree CSC committed against a person less than 18 years of age for crimes committed before May 2, 2002.

Specifically, the bill says that an indictment for a violation of first-degree CSC committed against an individual less than 18 years of age may be found and filed at any time, regardless of whether the extension or tolling, as applicable of the limitations period provided in Section 24 has expired at the time the extension or tolling took effect.

MCL 767.24

[Note: More than a decade ago, the U.S. Supreme Court ruled, in a 5-4 decision, that a law could not extend a criminal statute of limitations after the existing limitations period had expired in order to allow a prosecution to go forward that previously had been barred because the time to do so had run out. Allowing that, the justices reasoned, would be a violation of Article I of the U.S. Constitution (the *Ex Post Facto* Clause), which prohibits a government from enacting statutes with "manifestly unjust and oppressive" retroactive effects. *Stogner v California*, 123 S Ct 2446 (2003)]

FISCAL IMPACT:

If it were possible to remove the statute of limitations for the crime of 1st-degree CSC against a victim younger than 18 years of age for offenses for which the statute of limitations had expired (before Public Act 6 of 2001 eliminated the statute of limitations going forward for all 1st-degree CSC crimes), then the bill could increase costs on the state's correctional system. Information is not available on the number of persons that might be convicted under the provisions of the bill. New felony convictions would result in increased costs related to state prisons, county jails, and state parole supervision. The average cost of prison incarceration in a state facility is roughly \$34,800 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole supervision average about \$3,800 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

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