

LD 2207

Report of the Criminal Law Advisory Commission
Pursuant to P.L. 2025, Chapter 479

TO: Senator Anne Carney
Representative Amy Kuhn
Joint Standing Committee on Judiciary

FR: Criminal Law Advisory Commission (CLAC)
c/o Laura Yustak, Chair
laura.yustak@maine.gov

RE: Public Law 2025, Chapter 479

DA: January 6, 2026

Pursuant to Section 2 of Public Law 2025, Chapter 479, An Act Extending the Statute of Limitations on Criminal Actions Involving Aggravated Sex Trafficking, the Criminal Law Advisory Commission, with the assistance of information compiled by Judiciary Committee Analysts, reviewed “the statutes of limitation in Title 17-A, section 8 pertaining to sexual offenses committed against both adult and minor victims, including...whether parity exists between the statutes of limitation established in Title 17-A, section 8, subsection 1, paragraph B and section 8, subsection 2-A, as well as whether the extended limitation periods established in these provisions should apply to any other sexual offense crimes in the State.” CLAC is submitting this report to the Judiciary Committee pursuant to Chapter 479.

17-A M.R.S. § 8, Statute of Limitations, and its Application to Sex Crimes

Amendments to 17-A M.R.S. § 8 beginning in 1991 have extended the statutes of limitations that apply to sex crimes against both children and adults. The current language of both § 8(1)(B) and § 8(2-A) constitutes expansions of the limitations periods of six years (A, B and C crimes) and three years (D and E crimes) that the Legislature had initially assigned to crimes (other than homicide crimes) when it enacted the Maine Criminal Code. P.L. 1975, c. 499 (eff. May 1, 1975). At the time of enactment of the Criminal Code, limitations periods were linked only to the seriousness of the offense by reference to the class of the crime.¹

As reflected in the current language of § 8(1)(B), the Legislature has eliminated the statutes of limitations for most sex crimes against children (meaning that prosecution can be commenced at any time, as long as the limitations period had not expired prior to the extension of the statute). These changes recognize that crimes against children are often disclosed long after the conduct at issue. Crimes are included in this category regardless of sentencing class. Thus, the severity of the crimes included in §8(1)(B) ranges from Class A to Class E.

¹ When the Legislature assigns a sentencing class to a crime, it reflects the level of seriousness ascribed to the crime. See Lund, “Introduction to the Proposed Code,” accompanying P.L. 1975, c. 499, reproduced in 17-A M.R.S.A. (Pamph. 1976, pp. xxii-xxiii).

Sub-section (2-A) applies a twenty-year statute of limitations to Class A, B, and C crimes of gross sexual assault and unlawful sexual contact, regardless of the age of the victim, and the Class A and B crimes of aggravated sex trafficking, again without regard to the age of the victim.

Other sexual assault crimes remain subject to the standard limitations period. For example, a Class D unlawful sexual contact crime against an adult victim would be subject to a three-year limitations period.

Incongruities Identified by CLAC

CLAC noted that the most recent amendment to section 8 placed the crime of aggravated sex trafficking, 17-A M.R.S. § 852, in sub-section 2-A (twenty-year SOL). These are Class A and Class B sex crimes that involve compelling adults to engage in prostitution, as well as promoting prostitution of minors or persons suffering from a mental disability. Since other serious sex crimes against minors are included in § 8(1)(B) (no limitations period), CLAC questioned the rationale of not including the version of aggravated sex trafficking against minors in § 8(1)(B) alongside other sex crimes against minors. Of particular note, and again in contrast to the treatment of aggravated sex trafficking, even less serious Class D sex crimes against children such as unlawful sexual touching are included in § 8(1)(B) (no limitations period). To be consistent with its approach to other sex crimes against children, the Legislature may consider placing aggravated sex trafficking against a minor victim within § 8(1)(B) (no limitations period).

CLAC progressed to a discussion of the reasons for there being no limitations period to prosecute most sex crimes against children. Deviation from the earlier and more strictly class-based statute of limitations recognizes that victims may not disclose conduct committed “in secret” for many years due for many reasons, including trauma, fear, power imbalances, ongoing relationship between victim and alleged offender, and tender years. We noted that some of the policy reasons for eliminating the statute of limitations with respect to young victims (delayed disclosure; seriousness of offense; vulnerability of victim) could also apply to a victim “who suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders [the victim] substantially incapable of appraising the nature of the conduct involved.” This vulnerable victim category is included not only in aggravated sex trafficking, but other sexual assault crimes as well (e.g., gross sexual assault, unlawful sexual contact, unlawful sexual touching). CLAC is not making a specific recommendation with respect to whether certain sex crimes against minors and persons with a mental disability should be subject to the same limitations period, but as we were not aware of whether the Legislature had considered this line of thought when assessing what limitations period to assign to each crime, we note it here.

CLAC also noted that commercial sexual exploitation of a minor or person with mental disability, 17-A M.R.S. § 855, is not specifically included in either § 8(1)(B) or § 8(2-A). As a Class C crime not specifically included in these extended categories, it is subject to the standard six-year limitations period outlined in § 8(2). Again, CLAC does not have the information to know whether the Legislature determined not to include commercial sexual exploitation for a particular policy reason. If not, and to be consistent with the current approach (extended limitations period for sex crimes against minors), the Legislature may wish to consider extending the statute of limitations for commercial sexual exploitation. To be consistent with the current statute, the extended period would apply only to commercial sexual exploitation against victims under 18. To continue to exclude this crime from an extended limitations period highlights a glaring inconsistency, in that

this Class C sex crime against a minor is subject to a six-year limitations period, while Class D unlawful sexual touching crimes against minors are subject to no limitations period.

General Recommendations

In the course of discussing the specific issues above, CLAC members remained aware of the complexity inherent in extending or otherwise amending limitations periods. While delayed disclosure, seriousness of offense, and victim vulnerability may support extending limitations periods, older cases are both more difficult to prove and at the same time more difficult to defend. Future legislation should take into account the seriousness of the offense (as denoted by the sentencing class) as lawmakers seek to balance these sometimes competing policy concerns.

As the Committee has recognized, revisiting and amending limitations periods bit by bit presents challenges for all persons subject to and attempting to apply the law. It becomes increasingly difficult to determine which limitations periods apply. Abstruse statutes can create confusion and unrealistic expectations for victims as well. Any future amendments should be comprehensive, with clearly identified policy goals, to avoid further piecemeal amendments.

CLAC strongly recommends that any future changes to statutes of limitations include application guidance and specific effective dates in the language of the enacted statute. Currently, application provisions are often included in unallocated language. The unallocated language may not include a specific effective date. See, e.g., P.L. 2025, C. 479, § 3. The practical effect is that anyone reading the enacted statute does not see the unallocated language (which does not appear in the Revised Statutes online) and cannot know the statute of limitations applicable to a specific crime without researching the statutory history, determining the effective date of the amendment applicable to the particular crime, and assessing whether the previous statute of limitations had expired prior to the effective date of the extension.

CLAC is available to respond to or otherwise assist the Committee and its staff with respect to future proposals the Committee may wish to pursue.

*CLAC is an advisory body established by the Legislature. 17-A M.R.S. §§ 1351-1357. It consists of 9 members appointed by the Attorney General. Current members include defense attorneys, prosecutors, Maine Bar Counsel, and a retired practitioner with experience as defense counsel, prosecutor and in court administration. In addition, three sitting judges and one retired practitioner, appointed by the Chief Justice of the Supreme Judicial Court, and, by statute, the Co-Chairs of the Legislature's Committee on Criminal Justice and Public Safety, serve as consultants. The Supreme Judicial Court's Criminal Process Manager serves as liaison from the Court to CLAC. CLAC advises the Legislature on matters relating to crimes in the Criminal Code and in other Titles, the Bail and Juvenile Codes, and with respect to other statutes related to criminal justice processes.

CLAC Report, Chapter 479

AAG Yustak's
Notes for the
Report Presentation
1/27/26

Define SOL— What is it and why do we have it?

Historical Overview, bringing us to where we are now.

Incongruities identified by CLAC and changes the Committee might want to consider

Definitions

What is statute of limitations?

Limitations statute. Limits what the State can do.

Deadline

Runs from the date of the criminal conduct (in criminal cases)

"It is a defense"

Defendant can introduce enough to raise reasonable doubt, and then State has to disprove (or prove that it is within statute) beyond a reasonable doubt. State always needs to be ready to show that conduct occurred w/in SOL.

Usually, it's a set time period, expressed in years (though conduct can occur over time)

It can be tolled/suspended

If accused leaves the State (5 years)

While the prosecution is pending

What is its purpose?

Limit on Govt— can't bring certain actions forever

Evidence gets stale, witnesses die, memories fade

Encourages timely investigation

Why are there no limitations for some types of crimes?

Look at types of crimes for which there were no SOL in Maine
murder, treason, arson, manslaughter (in Maine)

Some crimes are so severe that there is State interest in being able to hold offenders accountable.

Adults v Juveniles

Juvenile Code is a little different 15 MRS 3105-A

<https://legislature.maine.gov/legis/statutes/15/title15sec3105-A.html>

Only talking about Criminal Code and adult crimes 17-A MRS 8

<https://legislature.maine.gov/legis/statutes/17-A/title17-Asec8.html>

Part 1, Chapter 1 of the Criminal Code, where you find fundamental and general rules that apply to crimes across the board.

History/Timeline

Prior to the Criminal Code

General: 6 years

Exceptions: murder, manslaughter, treason, arson

Criminal Code – 1975

General: 6 years for A, B, C

3 years for D, E

Exception: murder

Misconduct by public servants (while in office and for 2 years after)

Amendments since enactment of Criminal Code

Skip technical amendments; address only changes re sex crimes

Amendments apply to new crimes, or crimes for which the statute has not yet expired. If the deadline is up, it can't be extended. It's finished; nothing to extend; constitutional issue.

-1991, c 585

Incest, rape, GSA (formerly GSM), all for victims under 16 --no more SOL

Notably, incest could be Class D (not Class C until 1993, if priors)

-1999, c. 438

USC, SAM, for victims under 16 – no more SOL

-2013, c. 392

USC, GSA, Class A, B or C – SOL extended to 8 years
victims 16 or older

-2019, c. 483

USC, GSA, Class A, B, C – SOL extended to 20 years
victims 16 or older

-2023, c. 475

See 1991 and 1999 changes

**Incest, rape, GSA (GSM), USC, SAM – eliminates SOL for under 18
(changes 16 to 18) Adds UST and sexual exploitation of minor (282 –
permits, compels, induces, entices sexually explicit conduct &
knows/intends photography... <16)**

UST is Class D or E. SEM is Class A or B.

-2025, c. 479

See 2013 and 2019 changes – agg sex trafficking, Class A or B – added to 20 years
category

What SOL does Maine have now?

6 years – Class A, B, C

3 years – Class D, E

20 years – GSA or USC (A, B or C); Agg Sex trafficking (A or B)

No SOL – murder, sex crimes against victims under 18: incest, USC, SAM, rapge or GSA (formerly GSM), UST, SEM

Exceptions – misconduct by public servant (while in office, plus 2 years)

Breach of fiduciary duty (discovery plus 1 year)

Extension ltd to 5 years

Changes Legis. may want to consider; incongruities led to the following questions:

Should aggravated sex trafficking against minors go in (1)(B) (no SOL) with other sex crimes against children?

Should commercial sexual exploitation of a minor, section 855, a Class C crime, be included in either of the extended SOL categories, at least with respect to those crimes committed against victims under 18? If not, it is subject to 6-year SOL. Inconsistent with other sex crimes, classified as less serious, which are not limited at all.

If the Legislature is going to propose future changes, a couple recommendations

SOL – foundational rule that applies across the board to criminal prosecutions.

When the law is changed, it is more difficult for prosecutors, law enforcement, victims and defense counsel to know whether conduct is within the statute. Not a reason NOT to change the rules, but for policymakers to be sure that their intent is clear.

Understand what factors are being taken into consideration when Legis assigns a crime to a particular category, to assist with consistency.

Is it only the class (A-E) of the crime?

Are certain crimes treated differently despite class (e.g., crimes against children; public servants; fiduciaries)?

Reason for different treatment (e.g. only: delayed disclosure or discovery; victim vulnerability or dependence; ongoing relationships that interfere with reporting or prosecution...).

Drafting – put the application provisions in the enacted law, with dates.

Unidentified “effective date” in unallocated language harder to identify