

Criminal Statutes of Limitations Alabama

Last Updated: April 2023

Rape, first degree

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a Class A felony.</p> <ol style="list-style-type: none">1. No time limit for the prosecution of any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; and any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death. <i>See Kirby v. State</i>, 500 So. 2d 79, 80 (Ala. Crim. App. 1986), a case which held that: no time limit for the offense of rape because rape is classified for limitations purposes as an offense which may be punished capitally; therefore, statute of limitations for felony offenses does not apply to rape. <i>See also Ex parte Beverly</i>, 497 So.2d 519 (Ala., 1986), a case which held that the Alabama legislature never intended for rape to cease being a “capital offense” for purposes of the statute of limitations as a result of any court invalidating Alabama’s capital punishment laws. <i>See also Chamblee v. State</i>, 527 So.2d 173, 174 (Ala. Crim. App. 1988).
Statutory citation(s):	<ol style="list-style-type: none">1. Citation for the crime: Ala. Code § 13A-6-61.2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Rape, second degree

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a Class B felony.</p> <ol style="list-style-type: none">1. No time limit for the prosecution of any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; and any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death. <i>See Kirby v. State</i>, 500 So. 2d 79, 80 (Ala. Crim. App. 1986), a case which held that: no time limit for the offense of rape because rape is classified for limitations purposes as an offense which may be punished capitally; therefore, statute of limitations for felony offenses does not apply to rape. <i>See also Ex parte Beverly</i>, 497 So. 2d 519 (Ala. 1986), a case which held that the Alabama legislature never intended for

	rape to cease being a “capital offense” for purposes of the statute of limitations as a result of any court invalidating Alabama’s capital punishment laws. See also <i>Chamblee v. State</i> , 527 So.2d 173, 174 (Ala. Crim. App. 1988).
Statutory citation(s):	1. Citation for the crime: Ala. Code § 13A-6-62. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Sodomy, first degree

Question	Answer
What is the statute of limitations for this crime?	This crime is a Class A felony. 1. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or 2. No time limit for the prosecution of any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; and any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	1. Citation for the crime: Ala. Code § 13A-6-63. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Sodomy, second degree

Question	Answer
What is the statute of limitations for this crime?	This crime is a class B felony. 1. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or 2. No time limit for the prosecution of any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; and any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.

Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ala. Code § 13A-6-64. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.
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Sexual misconduct

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a Class A misdemeanor.</p> <ol style="list-style-type: none"> 1. For all misdemeanors, within one year after commission of the offense; or 2. No time limit for the prosecution of any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ala. Code § 13A-6-65. 2. Citation for the statute of limitations: Ala. Code § 15-3-2 and Ala. Code § 15-3-5.

Sexual torture

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a Class A felony.</p> <ol style="list-style-type: none"> 1. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or 2. No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; or any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ala. Code § 13A-6-65.1. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Sexual abuse, first degree

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a Class C felony.</p> <ol style="list-style-type: none">1. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or2. No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; or any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	<ol style="list-style-type: none">1. Citation for the crime: Ala. Code § 13A-6-66.2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Sexual abuse, second degree

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is generally a Class A misdemeanor. However, the code provides for two instances where the offense is a Class C Felony: (i) if the offender commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, then the offense is a Class C felony; or (ii) if the offender is 19 years old or older, the victim is at least 12 years old but under 16 years old, and the offender is at least 15 years older than the victim, then the offense is a Class C felony.</p> <ol style="list-style-type: none">1. If a misdemeanor, within one year after commission of the offense;2. If a felony, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or3. No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; or any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	<ol style="list-style-type: none">1. Citation for the crime: Ala. Code § 13A-6-67.2. Citation for the statute of limitations: Ala. Code § 15-3-1, Ala. Code § 15-3-2 and Ala. Code § 15-3-5.

Enticing child under 16 to enter vehicle, house, etc., for immoral purposes

Question	Answer
What is the statute of limitations for this crime?	This crime is a Class C felony. 1. No time limit for the prosecution of any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	1. Citation for the crime: Ala. Code § 13A-6-69. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Sexual abuse of a child under 12

Question	Answer
What is the statute of limitations for this crime?	This crime is a Class B felony. 1. No time limit for the prosecution of any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	1. Citation for the crime: Ala. Code § 13A-6-69.1. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Foster parent engaging in a sex act with a foster child

Question	Answer
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What is the statute of limitations for this crime?	<p>This crime is a Class B felony.</p> <ol style="list-style-type: none"> 1. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or 2. No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; or any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the definition of sexual intercourse or deviant sexual intercourse: Ala. Code § 13A-6-60(1) or (2). 2. Citation for the crime: Ala. Code § 13A-6-71(a). 3. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Foster parent engaging in sexual contact with a foster child

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a Class C felony.</p> <ol style="list-style-type: none"> 1. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or 2. No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; or any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the definition of sexual contact: Ala. Code § 13A-6-60(3). 2. Citation for the crime: Ala. Code § 13A-6-71(b). 3. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Foster parent soliciting a sex act or sexual contact with a foster child

Question	Answer
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What is the statute of limitations for this crime?	<p>This crime is a Class A misdemeanor.</p> <ol style="list-style-type: none"> 1. Within one year after commission of the offense; or 2. No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; or any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the definition of sexual act or contact: Ala. Code § 13A-6-60(1)-(3). 2. Citation for the crime: Ala. Code § 13A-6-71(c). 3. Citation for the statute of limitations: Ala. Code § 15-3-2 and Ala. Code § 15-3-5.

Transmitting obscene material to a child under 17 by computer

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a Class B felony.</p> <ol style="list-style-type: none"> 1. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or 2. No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; or any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ala. Code § 13A-6-111. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Facilitating solicitation of unlawful sexual conduct with a child under 16

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a Class C felony.</p> <ol style="list-style-type: none"> 1. No time limit for the prosecution of any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.

Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ala. Code § 13A-6-121. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.
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Electronic solicitation of a child under 16

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a Class B felony.</p> <ol style="list-style-type: none"> 1. No time limit for the prosecution of any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ala. Code § 13A-6-122. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Incest

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a Class C felony, unless the victim is under 17 years old, in which case this crime is a Class A felony.</p> <ol style="list-style-type: none"> 1. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or 2. No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; or any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ala. Code § 13A-13-3. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

School employee engaging in a sex act with a student under the age of 19 years (or is a protected person under the age of 22 years)

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a Class B felony.</p> <ol style="list-style-type: none"> 1. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or 2. No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; or any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death. <p>Note: "School employee" includes a teacher, school administrator, student teacher, safety or resource officer, coach, adult volunteer in a position of authority, or any other school employee who has contact with a student in his or her official capacity as a school employee.</p>
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the definition of school employee: Ala. Code § 13A-6-80. 2. Citation for the definition of protected person: Ala. Code § 15-25-1. 3. Citation for the crime: Ala. Code § 13A-6-81. 4. Citation for the statute of limitations: Ala. Code § 15-3-1, Ala. Code § 15-3-3 and Ala. Code § 15-3-5.

School employee having sexual contact with a student under the age of 19 (or is a protected person under the age of 22 years)

Question	Answer
What is the statute of limitations for this crime?	<p>The crime of a school employee having sexual contact with a student or student protected person is a Class C felony. The crime of soliciting a student or student protected person to perform a sex act is a Class A misdemeanor.</p> <ol style="list-style-type: none"> 1. If a felony, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; 2. If a misdemeanor, within one year after commission of the offense; or 3. No time limit for the prosecution of any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.

	Note: "School employee" includes a teacher, school administrator, student teacher, safety or resource officer, coach, adult volunteer in a position of authority, or any other school employee who has contact with a student in his or her official capacity as a school employee.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the definition of school employee: Ala. Code § 13A-6-80. 2. Citation for the definition of protected person: Ala. Code § 15-25-1. 3. Citation for the definition of sexual contact: Ala. Code § 13A-6-60. 4. Citation for the crime: Ala. Code § 13A-6-82(a). 5. Citation for the statute of limitations: Ala. Code § 15-3-1, Ala. Code § 15-3-2 and Ala. Code § 15-3-5.

School employee distributing obscene material to a student

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a Class A misdemeanor.</p> <ol style="list-style-type: none"> 1. For all misdemeanors, within one year after commission of the offense; or 2. No time limit for the prosecution of any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death. <p>Note: "School employee" includes a teacher, school administrator, student teacher, safety or resource officer, coach, adult volunteer in a position of authority, or any other school employee who has contact with a student in his or her official capacity as a school employee.</p>
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the definition of school employee: Ala. Code § 13A-6-80. 2. Citation for the crime: Ala. Code § 13A-6-82.1. 3. Citation for the statute of limitations: Ala. Code § 15-3-2 and Ala. Code § 15-3-5.

Facilitating the on-line solicitation of a child under 16

Question	Answer

What is the statute of limitations for this crime?	This crime is a Class B felony. 1. No time limit for the prosecution of any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	1. Citation for the crime: Ala. Code § 13A-6-123. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Traveling to meet a child under 16 for an unlawful sex act

Question	Answer
What is the statute of limitations for this crime?	This crime is a Class A felony. 1. No time limit for the prosecution of any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	1. Citation for the crime: Ala. Code § 13A-6-124. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Facilitating the travel of a child under 16 for an unlawful sex act

Question	Answer
What is the statute of limitations for this crime?	This crime is a Class A felony. 1. No time limit for the prosecution of any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	1. Citation for the crime: Ala. Code § 13A-6-125. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Distributing a private image with intent to harass, threaten, coerce, or intimidate the person

depicted.

Question	Answer
What is the statute of limitations for this crime?	A first offense is a Class A misdemeanor. A subsequent adjudication or conviction is a Class C felony. <ol style="list-style-type: none">1. For all misdemeanors, within one year after commission of the offense;2. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or3. No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; or any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	<ol style="list-style-type: none">1. Citation for the crime: Ala. Code § 13A-6-240.2. Citation for the statute of limitations: Ala. Code § 15-3-1, Ala. Code § 15-3-2 and Ala. Code § 15-3-5.

Sexual Extortion

Question	Answer
What is the statute of limitations for this crime?	This crime is a Class B felony. <ol style="list-style-type: none">1. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or2. No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; or any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	<ol style="list-style-type: none">1. Citation for the crime: Ala. Code § 13A-6-241.2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Assault with bodily fluids

Question	Answer
What is the statute of limitations for this crime?	<p>A first offense is a Class A misdemeanor. If the person commits the crime knowing that he or she has a communicable disease, then it is a Class C felony.</p> <ol style="list-style-type: none"> 1. For all misdemeanors, within one year after commission of the offense; 2. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; <p>No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; or any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.</p>
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ala. Code § 13A-6-242. 2. Citation for the statute of limitations: Ala. Code § 15-3-1, Ala. Code § 15-3-2 and Ala. Code § 15-3-5.

Directing a child to engage in sexual intercourse or sodomy

Question	Answer
What is the statute of limitations for this crime?	<p>Directing a child to engage in sexual intercourse or sodomy is a Class A felony. Directing a child to engage in sexual contact is a Class B felony.</p> <ol style="list-style-type: none"> 1. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or 2. No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ala. Code § 13A-6-243. 2. Citation for the statute of limitations: Ala. Code § 15-3-1 and Ala. Code § 15-3-5.

Indecent exposure

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a Class A misdemeanor. However, a third or subsequent conviction is a Class C felony.</p> <ol style="list-style-type: none"> 1. For all misdemeanors, within one year after commission of the offense; 2. For all felonies, within five years after commission of the offense, except those specified in Section 15-3-3, Section 15-3-5 or any other felony that has a specified limitations period; or <p>No time limit for the prosecution of: any capital offense; any felony involving the use of, attempted use of, or threat of, violence to a person; any felony involving serious physical injury or death of a person; or any sex offense involving a victim under 16 years of age, regardless of whether it involves force or serious physical injury or death.</p>
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ala. Code § 13A-6-68. 2. Citation for the statute of limitations: Ala. Code § 15-3-1, Ala. Code § 15-3-2 and Ala. Code § 15-3-5.

Are there any exceptions to the statute of limitations laws?

Question	Answer
Exceptions	None specified (other than as noted above).

Anything else I should know?

Question	Answer
Anything else I should know?	<ul style="list-style-type: none"> • <i>Kirby v. State</i>, 500 So. 2d 79, 80 (Ala. Crim. App. 1986) <ul style="list-style-type: none"> • No time limit for the offense of rape because rape is classified for limitations purposes as an offense which may be punished capitally; therefore, statute of limitations for felony offenses does not apply to rape. <i>See also Chamblee v. State</i>, 527 So.2d 173, 174 (Ala. Crim. App. 1988). • <i>Allen v. State</i>, 624 So. 2d 650, 651-52 (Ala. Crim. App. 1993) <ul style="list-style-type: none"> • No time limit for the prosecution of offenses against a child under 16 committed prior to the §15-3-5 amendment effective date of January 7, 1985, if as of such amendment date the previous three year

limitation period had not expired. *See also Hawkins v. State*, 549 So. 2d 552, 554-55 (Ala. Crim. App. 1989) (holding that the extension of the statute of limitations by § 15-3-5 does not amount to an ex post facto law).

- *Money v. State*, 138 So. 3d 332 (Ala. Crim. App. 2012), *abrogating Rock v. State*, 558 So. 2d 967 (Ala. Crim. App. 1989)
 - Court held defendant indicted for felony offense could not be convicted of lesser-included misdemeanor offense, where the prosecution for the felony was not commenced until after the statute of limitations applicable to the misdemeanor offense had expired.
- *M.A.M. v. State*, 177 So. 3d 222 (Ala. Crim. App. 2015)
 - Court held that Ala. Code 1975, § 12-15-114(b), which provides an exception to the juvenile court's loss of jurisdiction at 21 years of age if the offense has no statute of limitations, does not apply retroactively to crimes committed before the statute was passed.
- *J.S. v. State*, 2022 WL 1438951 (Ala. Crim. App. 2022)
 - Court held that the offense of sodomy involves the use of violence when it is committed against a person who lacks the capacity to consent (and thus, not subject to a statute of limitations pursuant to Ala. Code § 15-3-1 and 15-3-5).