

Criminal Statutes of Limitations Florida

Last Updated: April 2023

Sexual battery

Question	Answer
What is the statute of limitations for this crime?	<p>The statute of limitations depends on the specifics of the acts committed and the relative ages of the offender and victim, as outlined below.</p> <ol style="list-style-type: none">1. Capital felony if offender is at least 18 and commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, victim under 12;2. Life felony if offender under 18 commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, victim under 12;3. Life felony if offender commits sexual battery upon a victim at least 12, without that person's consent, and in the process thereof uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury;4. Felony of the first degree if offender commits sexual battery upon a victim, at least 12, without the victim's consent, under any of the following circumstances:<ul style="list-style-type: none">• Victim is physically helpless to resist;• Offender coerces submission by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat;• Offender coerces submission by threatening to retaliate against the victim or a third person, and the victim reasonably believes that the offender has the present ability to execute the threat in the future;• Offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance which mentally or physically incapacitates victim;• Victim is mentally defective and offender knows or has reason to know;• Victim is physically incapacitated; or• Offender is a law enforcement officer, correctional officer, correctional probation officer, or other person in a position of control or authority in a controlled setting and such person is acting in a manner as to lead the victim to reasonably believe that the offender is in a position of control authority as an agent or employee of government.5. Felony of the first degree if offender 18 or older commits sexual battery upon a person 12 years of age or older, but younger than 18, without that person's consent, without using physical force and violence likely to cause serious personal injury;

6. Felony of the second degree if offender 18 or older commits sexual battery upon a person 18 or older without that person's consent, without using physical force and violence likely to cause serious personal injury;
7. Felony of the second degree if offender younger than 18 commits sexual battery upon a person 12 years of age or older, without that person's consent, without using physical force and violence likely to cause serious personal injury; or
8. See statute (Fla. Stat. § 794.011) for other classifications of sexual battery and aggravating factors that may increase the nature of the crime and the statute of limitations in certain circumstances.

The statute of limitations is as follows:

1. For a capital felony, life felony, or a felony that resulted in death, there is no time limitation;

The statute of limitations for offenses committed before July 1, 2020, is as follows:

1. For a felony of the first degree, prosecution must commence within four years after commission of the offense;
2. For any other felony, prosecution must commence within three years after commission of the offense;
3. There is no time limitation for any sexual battery violation committed against a victim under 16 at the time of the act.
4. There is no time limitation for any first degree sexual battery offense committed against a victim under 18 at the time of the act;
5. There is no time limitation if the offense is a first or second degree felony committed against a victim 16 or older, and the offense is reported within 72 hours after its commission;
6. If the victim was under 18, the time does not begin to run until the earlier of the victim reaching 18 or the offense being reported to law enforcement; however, there is no limitations period for a first or second degree sexual battery felony on a victim under 18 if the crime was reported within 72 hours after it was committed.

The statute of limitations for offenses committed on or after July 1, 2020, is as follows:

1. For any sexual battery violation committed on or after July 1, 2020, against a victim under 18 at the time of the act, there is no time limitation

Statutory citation(s):

1. Citation for the crime: Fla. Stat. § 794.011.
2. Citation for the statute of limitations: Fla. Stat. §§ 95.11(9), 775.15.

Sexual battery by multiple perpetrators

Question

Answer

What is the statute of limitations for this crime?	<p>This crime is classified as follows:</p> <ol style="list-style-type: none"> 1. A sexual battery that would be a felony of the second degree becomes a felony of the first degree if there were multiple perpetrators; or 2. A sexual battery that would be a felony of the first degree becomes a life felony if there were multiple perpetrators. <p>Once an act of sexual battery is reclassified as a sexual battery committed by more than one person, there is no Statute of Limitation for these crimes.</p>
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Fla. Stat. § 794.023 and § 794.011. 2. Citation for the statute of limitations: Fla. Stat. § 775.15

Unlawful sexual activity with certain minors

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a second degree felony.</p> <ol style="list-style-type: none"> 1. Prosecution must commence within three years after commission of the offense.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Fla. Stat. § 794.05, as amended or modified by 2022 Bill Text FL S.B. 692. 2. Citation for the statute of limitations: Fla. Stat. § 775.15(2)(b).

Lewd or lascivious offenses committed on or in the presence of persons under 16

Question	Answer
What is the statute of limitations for this crime?	<p>The statute of limitations depends on the specifics of the acts committed and the relative ages of the offender and victim, as outlined below:</p> <ol style="list-style-type: none"> 1. Lewd or lascivious battery <ul style="list-style-type: none"> • Felony of the second degree if the offender engages in sexual activity with a victim at least 12 but under 16, or encourages, forces, or entices a victim under 16 to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other sexual activity as defined by the law; but it is a

- Felony of the first degree if the offender is at least 18 and has been previously convicted of a prior felony, kidnapping, kidnapping of a child under 13, aggravating circumstances; false imprisonment, false imprisonment of a child under 13, aggravating circumstances; sexual battery under Chapter 794, through a lewd act under this section or by certain computer transmissions prohibited under § 847.0135(5), or of lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person, computer pornography, or under this section.

2. Lewd or lascivious molestation

If the offender intentionally touches in a lewd or lascivious manner a person's breasts, genitals, genital area, or buttocks, or the clothing over them, is a:

- Life felony if offender is at least 18 and the victim under 12;
- Felony of the first degree if offender is at least 18 and has been previously convicted of a prior felony; kidnapping, kidnapping of a child under 13, aggravating circumstances; false imprisonment, false imprisonment of a child under 13, aggravating circumstances; sexual battery under Chapter 794, through a lewd act under this section or certain computer transmissions prohibited under § 847.0135(5), lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person; computer pornography, or under this section;
- Felony of the second degree if offender is under 18 and the victim is under 12, or if offender is at least 18 and victim is at least 12 but under 16; or
- Felony of the third degree if offender is under 18 and the victim is at least 12 but under 16.

3. Lewd or lascivious conduct

If the offender intentionally touches a person under 16 years of age in a lewd or lascivious manner; or solicits a person under 16 years of age to commit lewd or lascivious conduct, is a:

- Felony of the second degree if offender 18 or older and the victim is under 16; or
- Felony of the third degree if offender less than 18 and the victim is under 16.

4. Lewd or lascivious exhibition

If the offender intentionally masturbates, exposes the genitals in a lewd or lascivious manner, or commits any sexual act that does not involve actual physical or sexual conduct with a child that is under 16 years, is a:

- Felony of the second degree if offender 18 or older commits a lewd or lascivious exhibition; or
- Felony of the third degree if offender less than 18 commits a lewd or lascivious exhibition

The statute of limitations is as follows:

1. No limitation for a capital felony, life felony, or a felony that resulted in death;
2. No limitation for Lewd or Lascivious Battery or Molestation under Fla. Stat. § 800.04(4) or (5), if committed against a victim under 16, unless the offender was under 18 and no more than one year older than the victim;

	<p>3. For a felony of the first degree, prosecution must commence within four years after commission of the act;</p> <p>4. For a second or third degree felony offenses, the time limitation is three years after commission of the act;</p> <p>5. If the victim was under 18 at the time the act, the time does not begin to run until victim has reached 18 or the offense is reported to law enforcement, whichever occurs first.</p>
Statutory citation(s):	<p>1. Citation for the crime: Fla. Stat. § 800.04.</p> <p>2. Citation for the statute of limitations: Fla. Stat. § 775.15(1)-(2).</p>

Lewd or lascivious offenses committed on or in the presence of an elderly person or disabled person

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a felony of the second degree.</p> <p>1. Prosecution must commence within three years after commission of the offense.</p>
Statutory citation(s):	<p>1. Citation for the crime: Fla. Stat. § 825.1025, as amended or modified by 2022 Bill Text FL S.B. 692.</p> <p>2. Citation for the statute of limitations: Fla. Stat. § 775.15(2)(b).</p>

Incest

Question	Answer
What is the statute of limitations for this crime?	<p>This crime is a felony of the third degree.</p> <p>1. Prosecution must commence within three years after commission of the offense; but</p> <p>2. If the victim was under 18 at the time the offense was committed, the time does not begin to run until victim has reached 18 or the offense is reported to law enforcement, whichever occurs first.</p>
Statutory citation(s):	<p>1. Citation for the crime: Fla. Stat. § 826.04.</p> <p>2. Citation for the statute of limitations: Fla. Stat. §§ 775.15(2)(b) and (13)(a).</p>

Computer pornography/prohibited computer usage/traveling to meet minors

Question	Answer
<p>What is the statute of limitations for this crime?</p>	<p>The statute of limitations depends on the specifics of the acts committed and the relative ages of the offender and victim, as outlined below:</p> <ol style="list-style-type: none"> 1. Computer Pornography <p>Felony of the third degree if a person knowingly uses a computer or any computerized device to buy, sell, receive, exchange, or disseminate, any notice, statement, or advertisement of any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any minor, or the visual depiction of such conduct.</p> 2. Certain uses of computer services or devices prohibited <ul style="list-style-type: none"> • Felony of the third degree if a person knowingly uses a computer online service or a device capable of electronic data storage or transmission to seduce, solicit, lure, or entice a child or a person believed to be a child to engage in unlawful sexual conduct, or attempt to gain consent from a guardian of a child for the child to engage in such conduct; but it is a • Felony of the second degree if a person commits this offense by misrepresenting his or her age. 3. Traveling to meet a minor <p>Felony of the second degree if a person travels any distance to attempt to engage in unlawful sexual conduct with a child or a person believed to be a child after using a computer online service, internet service, local bulletin board service or any device capable of electronic data storage or transmission to seduce, solicit, lure, or entice a person believed to be a child to engage in unlawful sexual conduct, or attempt to gain consent from a guardian of a child for the child to engage in such conduct.</p> 4. Certain uses of computer services or devices prohibited <ul style="list-style-type: none"> • Felony of the third degree if a person intentionally commits a lewd or lascivious exhibition using a computer, but it is a • Felony of the second degree if the offender is 18 or older when committing the offense. <p>The statute of limitations is as follows:</p> <ol style="list-style-type: none"> 1. For a felony of the first degree, prosecution must commence within four years after commission of the

	<p>offense;</p> <p>2. For any other felony, prosecution must commence within three years after commission of the offense.</p> <p>3. For certain computer actions prohibited by Fla. Stat. § 847.1035(5), if the victim was under 18 at the time the offense was committed, the time does not begin to run until victim has reached 18 or the offense is reported to law enforcement, whichever occurs first.</p>
Statutory citation(s):	<p>1. Citation for the crime: Fla. Stat. § 847.0135.</p> <p>2. Citation for the statute of limitations: Fla. Stat. §§ 775.15(2)(a)–(b) and (13)(a).</p>

Human trafficking

Question	Answer
What is the statute of limitations for this crime?	There is no time limitation for this crime.
Statutory citation(s):	<p>1. Citation for the crime: Fla. Stat. § 787.06.</p> <p>2. Citation for the statute of limitations: Fla. Stat. § 775.15(19).</p>

Selling or buying minors

Question	Answer
What is the statute of limitations for this crime?	<p>The statute of limitations depends on the specifics of the acts committed:</p> <p>1. For a capital felony, life felony, or a felony that resulted in death, there is no time limitation;</p> <p>2. For a felony of the first degree, prosecution must commence within four years after commission of the offense.</p>
Statutory citation(s):	<p>1. Citation for the crime: Fla. Stat. § 847.0145.</p> <p>2. Citation for the statute of limitations: Fla. Stat. §§ 775.15(1)–(2).</p>

Female genital mutilation

Question	Answer
What is the statute of limitations for this crime?	<p>The statute of limitations depends on the specifics of the acts committed and the relative ages of the offender and victim, as outlined below:</p> <p>As used in this section, the term “female genital mutilation” means the circumcising, excising, or infibulating, in whole or in part, the labia majora, labia minora, or clitoris of a female person</p> <ol style="list-style-type: none">1. Felony of the first degree if offender knowingly commits, or attempts to commit, female genital mutilation upon a female person younger than 18 years of age2. Felony of the second degree if offender knowingly removes, or causes or permits the removal of, a female person younger than 18 years of age from this state for purposes of committing female genital mutilation commits a.3. Felony of the third degree if offender is a parent, a guardian, or in a position of familial or custodial authority to a female person younger than 18 years of age and who knowingly consents to or permits the female genital mutilation of that female person. <p>The statute of limitations is as follows:</p> <ol style="list-style-type: none">1. No limitation for a felony that resulted in death.2. For a felony of the first degree, prosecution must commence within four years after commission of the offense;3. For any other felony, prosecution must commence within three years after commission of the offense.
Statutory citation(s):	<ol style="list-style-type: none">1. Citation for the crime: Fla. Stat. § 794.08.2. Citation for the statute of limitations: Fla. Stat. §§ 775.15(1)–(2).

Sexting

Question	Answer
What is the statute of limitations for this crime?	<p>The statute of limitation depends on the specifics of the acts committed and the relative ages of the offender and victim, as outlined below:</p> <p>If a minor uses a computer or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity, and is harmful to minors; or possesses a photograph or video of any person that was transmitted or</p>

	<p>distributed by another minor which depicts nudity, and is harmful to minors.</p> <ol style="list-style-type: none"> 1. Noncriminal violation for a first violation and must sign and accept a citation to appear before the juvenile court. 2. Misdemeanor of the first degree for a violation that occurs after the minor has been found to have committed a noncriminal violation for sexting. 3. Felony of the third degree for a violation that occurs after a minor has been found to have committed a misdemeanor of the first degree for texting. <p>The statute of limitation is as follows:</p> <ol style="list-style-type: none"> 1. A prosecution for a noncriminal violation must commence within 1 year after commission of the offense. 2. A prosecution for a misdemeanor of the first degree must commence within 2 years after commission of the offense. 3. A prosecution for a felony of the first degree must commence within 3 years after commission of the offense.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Fla. Stat. § 847.0141 2. Citation for the statute of limitations: Fla. Stat. § 775.15(2)(b), (c), and (d).

Are there any exceptions to the statute of limitations laws?

Question	Answer
Exceptions	<ul style="list-style-type: none"> • DNA Evidence Exception - under Fla. Stat. § 775.15: <ul style="list-style-type: none"> • Subsection (15): For the following offenses, within one year after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of DNA evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused; applies to any offense not otherwise barred from prosecution between July 1, 2004 and June 30, 2006: <ul style="list-style-type: none"> • An offence of sexual battery under chapter 794; • Lewd or lascivious offense upon or in the presence of a child (§ 800.04); • Lewd or lascivious offense upon or in the presence of an elderly or disabled person (§ 825.1025). • Subsection (16): For the following offenses, a prosecution may be commenced at any time after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of DNA evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused; applies to offenses not otherwise barred from prosecution on or after July 1, 2006:

- An offence of sexual battery under chapter 794;
- Lewd or lascivious offense in the presence of a child (§ 800.04);
- Lewd or lascivious offense upon or in the presence of an elderly or disabled person (§ 825.1025);
- Certain computer transmissions related to child pornography (§ 847.0135 (5)).
- Trolling of the Statute of limitations - under Fla. Stat. § 775.15 (5):
 - Florida law provides that the period of limitation does not run during any time when the defendant is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state.
 - This provision shall not extend the period of limitation otherwise applicable by more than 3 years, but shall not be construed to limit the prosecution of a defendant who has been timely charged by indictment or information or other charging document and who has not been arrested due to his or her absence from this state or has not been extradited for prosecution from another state.

Anything else I should know?

Question	Answer
Anything else I should know?	<ul style="list-style-type: none"> • <i>Exploited children's remedy</i> <ul style="list-style-type: none"> • Any person who, while under the age of 18, was a victim of a sexual abuse crime listed in chapter 794, chapter 800, chapter 827, or chapter 847, where any portion of such abuse was used in the production of child pornography, and who suffers personal or psychological injury as a result of the production, promotion, or possession of such images or movies, may bring an action in an appropriate state court against the producer, promoter, or possessor of such images or movies, regardless of whether the victim is now an adult. In any action brought under this section, a prevailing plaintiff shall recover the actual damages such person sustained and the cost of the suit, including reasonable attorney's fees. Any victim who is awarded damages under this section shall be deemed to have sustained damages of at least \$150,000. Fla. Stat. Ann. § 847.01357. • <i>Scharfschwerdt v. Kanarek</i>, 553 So.2d 218, 220 (Fla. 4th DCA 1989) <ul style="list-style-type: none"> • Legislature can amend statutes of limitation for sexual battery to apply retroactively without running afoul of constitutional ex post facto prohibition if it does so before prosecution is barred by old statute, and legislature clearly indicates that new statute is to apply retroactively. • See also <i>Dixon v. State</i>, 53 So.3d 1242, 1243-44 (Fla. 2d DCA 2011) (refusing to apply statute of limitations extension based on DNA analysis when the subsequent statute had not been enacted when the original limitations period for a sexual battery offense had already expired). • <i>Torgerson v. State</i>, 964 So. 2d 178, 179 (Fla. 2007) <ul style="list-style-type: none"> • In a trial for lewd or lascivious battery upon a person between 12 and 16 and sexual battery, the statute of limitations in effect at the time defendant allegedly committed the offenses was applicable. Thus, the limitations period began to run when the victim reached 16 or when the crime was reported to law

| | enforcement agency – not when the victim turned 18 as provided in statute relied on by prosecution. |