

Criminal Statutes of Limitations Georgia

Last Updated: April 2023

Rape

Question	Answer
What is the statute of limitations for this crime?	The statute of limitations for this offense is as follows: <ol style="list-style-type: none">1. When the rape is forcible, prosecution must be commenced within 15 years after commission of the offense; or2. If the rape is not forcible, then prosecution must be commenced within seven years of the offense; or3. If the victim is under 16 on the date of commission of the offense and the offense was committed on or after July 1, 1992 but before June 30, 2012, then the period does not run until the victim reaches the age of 16 or the violation is reported to law enforcement; or4. If the victim is under 16 on the date of the commission of the offense, then prosecution may be commenced at any time for offenses occurring on or after July 1, 2012.5. Prosecution may be commenced at any time when deoxyribonucleic acid (DNA) evidence is used to establish the identity of the accused.
Statutory citation(s):	<ol style="list-style-type: none">1. Citation for the crime: Ga. Code § 16-6-12. Citation for the statute of limitations: Ga. Code § 17-3-1 and Ga. Code § 17-3-2.1.

Sodomy, aggravated sodomy

Question	Answer
What is the statute of limitations for this crime?	<ol style="list-style-type: none">1. Ga. Code Ann. § 16-6-2 has been recognized as unconstitutional. <i>Doe v. Hood</i>, 345 F. Supp. 3d 749 (S.D. Miss. 2018).
Statutory citation(s):	<ol style="list-style-type: none">1. Citation for the crime: Ga. Code § 16-6-2.2. Citation for the statute of limitations: Ga. Code Ann. § 16-6-2 has been recognized as unconstitutional. <i>Doe v. Hood</i>, 345 F. Supp. 3d 749 (S.D. Miss. 2018).

Statutory rape (victim under age of 16 not a spouse of the offender)

Question	Answer
What is the statute of limitations for this crime?	<ol style="list-style-type: none">1. Prosecution must commence within seven years after the commission of the crime; or2. If the victim is at least 14 but less than 16, and the offender is 18 or younger and no more than 4 years older than the victim, then prosecution must commence within two years after commission of the crime; or3. If the offense was committed on or after July 1, 1992 but before June 30, 2012, then the period does not run until the victim reaches the age of 16 or the violation is reported to law enforcement.
Statutory citation(s):	<ol style="list-style-type: none">1. Citation for the crime: Ga. Code § 16-6-3.2. Citation for the statute of limitations: Ga. Code § 17-3-1 and Ga. Code § 17-3-2.1.

Child molestation, aggravated child molestation

Question	Answer
What is the statute of limitations for this crime?	<p>Child molestation:</p> <ol style="list-style-type: none">1. Prosecution must commence within seven years of the crime; or2. If the victim is at least 14 but less than 16, and the offender is 18 or younger and within four years of the victim, then prosecution must commence within two years of the crime. <p>Aggravated child molestation:</p> <ol style="list-style-type: none">1. Prosecution must commence within seven years of the crime; or2. If the victim is between 14 and 16, the offender is 18 or younger and within four years of the victim, and the basis of the charge of aggravated child molestation is that the act involved sodomy, then the prosecution must commence within two years.3. Prosecution may be commenced at any time when deoxyribonucleic acid (DNA) evidence is used to establish the identity of the accused. <p>For both child molestation and aggravated child molestation:</p>

	<ol style="list-style-type: none"> 1. If the offense was committed on or after July 1, 1992 but before June 30, 2012, then the period does not run until the victim reaches the age of 16 or the violation is reported to law enforcement; or 2. Prosecution may be commenced at any time for offenses occurring on or after July 1, 2012.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ga. Code § 16-6-4. 2. Citation for the statute of limitations: Ga. Code §§ 17-3-1, 17-3-2.1.

Incest

Question	Answer
What is the statute of limitations for this crime?	<ol style="list-style-type: none"> 1. Prosecution must commence within four years after commission of the crime; or 2. Prosecution must commence within seven years of the crime, if the victim is under 18; or 3. If the victim is under 16 on the date of commission of the offense and the offense was committed on or after July 1, 1992 but before June 30, 2012, then the period does not run until the victim reaches the age of 16 or the violation is reported to law enforcement; or 4. If the victim is under 16 on the date of the commission of the offense, then prosecution may be commenced at any time for offenses occurring on or after July 1, 2012.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ga. Code § 16-6-22 2. Citation for the statute of limitations: Ga. Code §§ 17-3-1, 17-3-2.1.

Sexual battery

Question	Answer
What is the statute of limitations for this crime?	<p>The statute of limitations for this crime is as follows:</p> <ol style="list-style-type: none"> 1. For sexual battery on persons over 16, prosecution must commence within two years after commission of the crime if it is the offender's first offense; or 2. For sexual battery on persons over 16, prosecution must commence within four years of the crime, if the offender has a prior conviction for sexual battery; or 3. For sexual battery committed against victims who are under 16 at the time the offense is committed, prosecution must commence within seven years after commission of the crime.

Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ga. Code § 16-6-22.1. 2. Citation for the statute of limitations: Ga. Code § 17-3-1.
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Aggravated sexual battery

Question	Answer
What is the statute of limitations for this crime?	<ol style="list-style-type: none"> 1. Prosecution must commence within seven years after the commission of the crime. 2. Prosecution may be commenced at any time when deoxyribonucleic acid (DNA) evidence is used to establish the identity of the accused.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ga. Code § 16-6-22.2. 2. Citation for the statute of limitations: Ga. Code § 17-3-1.

Trafficking a person for labor or sexual servitude

Question	Answer
What is the statute of limitations for this crime?	<p>The statute of limitations for this offense is as follows:</p> <ol style="list-style-type: none"> 1. Prosecution must commence within four years of the commission of the crime; or 2. If the victim is under 18 or has a developmental disability, then prosecution must commence within seven years of the crime; or 3. If the victim is under 16 on the date of the commission of the offense, and the offense occurred on or after July 1, 2012, then prosecution may be commenced at any time.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ga. Code § 16-5-46. 2. Citation for the statute of limitations: Ga. Code §§ 17-3-1, 17-3-2.1.

Enticing a child for indecent purposes

Question	Answer
What is the statute of limitations for this crime?	<p>The statute of limitations for this crime is as follows:</p> <ol style="list-style-type: none"> 1. Prosecution must commence within seven years after the commission of the crime; or 2. If the victim is at least 14 but less than 16, and the offender is 18 or younger and no more than four years older than the victim, prosecution must commence within two years of the crime; or 3. If the victim is under 16 on the date of commission of the offense and the offense was committed on or after July 1, 1992 but before June 30, 2012, then the period does not run until the victim reaches the age of 16 or the violation is reported to law enforcement; or 4. If the victim is under 16 on the date of the commission of the offense, then prosecution may be commenced at any time for offenses occurring on or after July 1, 2012 (unless the offender is no more than 18 years old, is no more than four years older than the victim, and the victim is at least 14 years old).
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ga. Code § 16-6-5. 2. Citation for the statute of limitations: Ga. Code §§ 17-3-1, 17-3-2.1.

Sexual Assault (by persons with supervisory or disciplinary authority)

Question	Answer
What is the statute of limitations for this crime?	<p>The statute of limitations for this crime is as follows:</p> <ol style="list-style-type: none"> 1. Prosecution for sexual assault must commence within four years after the offense; or 2. For sexual assault committed against victims who are under 18 at the time the offense is committed, prosecution must commence within seven years after commission of the crime; or 3. If the victim is at least 14 and less than 16, and the offender is 18 or younger and no more than four years older than the victim, then prosecution must commence within two years of the crime.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: Ga. Code § 16-6-5.1. 2. Citation for the statute of limitations: Ga. Code § 17-3-1.

Female Genital Mutilation

Question	Answer
What is the statute of limitations for this crime?	1. Prosecution must commence within seven years after the commission of the crime.
Statutory citation(s):	1. Citation for the crime: Ga. Code § 16-5-27. 2. Citation for the statute of limitations: Ga. Code § 17-3-1.

Anything else I should know?

Question	Answer
Anything else I should know?	<ul style="list-style-type: none"> • Ga. Code § 17-3-2.2 Statute of limitations: <ul style="list-style-type: none"> • When the victim of an offense is 65 or older, the applicable period of limitations will not begin to run until the offense is reported to or discovered by a law enforcement agency, prosecuting attorney, or other governmental agency. Unless the statute of limitations is longer than 15 years, prosecution shall not commence more than 15 years after commission of the crime. • <i>Duke v. State</i>, 681 S.E.2d 174, 177-78 (Ga. Ct. App. 2009) <ul style="list-style-type: none"> • Ex post facto clause does not prevent the State from extending statute of limitations for prosecutions not yet time barred when statute was enacted. • <i>Wiggins v. State</i>, 432 S.E.2d 113, 116 (Ga. Ct. App. 1993) <ul style="list-style-type: none"> • For statute of limitations purposes, the date of a sexual assault need not be proved with preciseness, but only that it occurred during the period of limitation. • Ga. Code § 17-3-2.2. Preservation of physical evidence: <ul style="list-style-type: none"> • Effective July 1, 2019, in cases in which the victim reports an alleged sexual assault to law enforcement, the investigating law enforcement agency shall maintain any physical evidence collected as a result of an alleged sexual assault that contains biological material, including, but not limited to, stains, fluids, or hair samples that relate to the identity of the perpetrator of an alleged sexual assault, for 30 years from the date of arrest, or seven years from completion of sentence, whichever occurs last, and if no arrests, then for 50 years. • <i>Mency v. State</i>, 492 S.E.2d 692, 699 (Ga. Ct. App. 1997). <ul style="list-style-type: none"> • “[T]he uncorroborated testimony of the victim is sufficient to sustain a conviction of the charges of child molestation and aggravated child molestation as contained within this bill of indictment if that testimony is sufficient to convince [the jury] of the defendant’s guilt beyond a reasonable doubt.”

Are there any exceptions to the statute of limitations laws?

Question	Answer
Exceptions	<ul style="list-style-type: none">• Ga. Code § 17-3-1, Limitation on prosecutions<ul style="list-style-type: none">• (d) For the following offenses, no statute of limitations when DNA evidence is used to establish the identity of the accused, provided that a sufficient portion of the physical evidence tested for DNA is preserved and available for testing by the accused:<ul style="list-style-type: none">• Rape (§ 16-6-1);• Aggravated child molestation (§ 16-6-4); and• Aggravated sexual battery (§ 16-6-22.2)• Ga. Code § 17-3-2. Tolling of the Statute of limitation:<ul style="list-style-type: none">• The time period within which prosecution must begin does not run if: (1) The accused is not usually and publicly a resident within Georgia; and (2) The person committing the crime is unknown or the crime is unknown.• <i>Riley v. State</i>, S18A1048 (Feb. 18, 2019).<ul style="list-style-type: none">• For purposes of Ga. Code § 17-3-2 9 (2) (“person unknown exception”), the statute of limitation is tolled with respect to an “unknown” person until the State possess sufficient evidence to authorize the lawful arrest of that person for the crime charged. The amount of actual knowledge required is the “probable cause” standard, but the State has the burden of proving that it lacked “probable cause”.