

# STATUTE OF LIMITATIONS

A statute of limitations is an enactment in a common law legal system that sets the maximum time after an event that legal proceedings based on that event may be initiated. In civil law systems, similar provisions are typically part of the civil code or criminal code and are often known collectively as periods of prescription.

## APPLICATIONS

Common law legal system might have a statute, for example, limiting the time for prosecution of a debt or crimes designated as misdemeanors to two years after the offense occurred. Under such a statute, if a person is discovered to have committed a misdemeanor three years later, the time has expired for the person to be prosecuted. While it may seem unfair to forbid prosecution of crimes that law enforcement can later prove to a standard required by law (*cf.*, e.g. beyond a reasonable doubt, clear and convincing evidence, and preponderance of the evidence), the purpose of a statute of limitations or its equivalent is to ensure that the possibility of punishment for an act committed long ago cannot give rise to either a person's incarceration or the criminal justice system's activation. In short, unless the crime is deemed exceptionally heinous – for example, murder, to which the statute does not generally apply – social justice as enacted through law says that lesser crimes from long ago are best left alone so as not to detract attention from more serious crimes.

## REASONS FOR STATUTES OF LIMITATION

One reason is that, over time, evidence can be corrupted or disappear, memories fade, crime scenes are changed, and companies dispose of records. The best time to bring a lawsuit is while the evidence is not lost and as close as possible to the alleged illegal behavior. Another reason is that people want to get on with their lives and not have legal battles from their past come up unexpectedly. The injured party has a responsibility to quickly bring about charges so that the process can begin.

Limitations periods begin when a cause of action is deemed to have arisen or when a plaintiff had reason to know of the harm, rather than at the time of the original event. This distinction is significant in cases in which an earlier event causes a later harm (e.g. a surgeon negligently operates on a patient, who subsequently suffers the consequences of that negligence years later).

In a related concept, contracts may also have a term under which they may be the basis of a suit, and after which a [plaintiff](#) is held to have waived any right to claim. Under Article VI of the [United States Constitution](#), private contracts cannot be abridged; this provision has been held by the [United States Supreme Court](#) to mean that the federal government or a State can only [vitate](#) (annul or invalidate) a contract if it directly opposes an important public policy. Similarly, the [Charter of Fundamental Rights](#), codified into law applicable to [European Union](#) countries by the passage civil [lawsuit](#), is said to have accrued when the event beginning its time limitation occurs. Sometimes, it is the event itself that is the subject of the suit or prosecution (such as a crime or personal injury), but it may also be an event such as the *discovery* of a condition one wishes to redress, such as discovering a defect in a manufactured good, or in the case of controversial "[repressed memory](#)" cases where someone discovers memories of childhood [sexual abuse](#) long afterwards.

With respect to the United States as a defendant, suits against the government are generally forbidden without some waiver of [sovereign immunity](#). Since the [Spending Clause](#) of the [United States Constitution](#) vests only [Congress](#) with power to spend money from the public [fisc](#), the [Supreme Court](#) has held that only Congress may waive sovereign immunity, and Congress may place limitations on any such waiver. Therefore, statutes of limitation are typically seen as a limitation on the waiver of sovereign immunity, which is jurisdictional in nature. This distinguishes the United States from other parties, in that if the statute of limitations has run, a court has no jurisdiction over a case against the United States. Because the Spending Clause does not give any power to the [Executive Branch](#) or the [Judicial Branch](#), officials of agencies in the Executive Branch may not enter into agreements tolling the statute of limitations, and courts may not toll the statute of limitations under [equitable tolling](#) principles in claims against the United States.

## STATUTE OF REPOSE

An idea closely related, but not identical, to the statute of limitations is a statute of repose. A statute of repose limits the time within which an action may be brought and is not related to the accrual of any cause of action; the injury need not have occurred, much less have been discovered. Unlike an ordinary statute of limitations, which begins running upon accrual of the claim, the period contained in a statute of repose begins when a specific event occurs, regardless of whether a cause of action has accrued or whether any injury has resulted. This often applies to buildings and properties, and limits the time during which an action may lie based upon defects or hazards connected to the construction of the building or premises. An example of this would be that if a person is electrocuted by a wiring defect incorporated into a structure in, say, 1990, a state law may allow his heirs to sue only before 1997 in the case of an open (patent) defect, or before 2000 in the case of a hidden defect. Statutes of repose can also apply to manufactured goods. Manufacturers contend they are necessary to avoid unfairness and encourage consumers to maintain their property. Consumer groups argue that statutes of repose on consumer goods provide a disincentive for manufacturers to build durable products and to notify consumers of product defects as the manufacturers become aware of them. Consumer groups also argue that such statutes of repose disproportionately affect poorer people, since they are more likely to own older goods.

## EXPIRY

Once the time allowed for a case by a statute of limitations runs out, if a party raises it as a defense and that defense is accepted, any further litigation is foreclosed. However, most jurisdictions provide that limitations are tolled, or delayed, under certain circumstances. Tolling will prevent the time for filing suit from running while the condition exists. Examples of such circumstances are if the aggrieved party (plaintiff) is a minor, or the plaintiff has filed a bankruptcy proceeding. In those instances, in most jurisdictions, the running of limitations is tolled until the circumstance (i.e., the injured party reaches majority in the former or the bankruptcy proceeding is concluded in the latter) no longer exists.

There may be a number of factors that will affect the tolling of a statute of limitations. In many cases, the discovery of the harm (as in a medical malpractice claim where the fact or the impact of the doctor's mistake is not immediately apparent) starts the statute running. In some jurisdictions the action is said to have not accrued until the harm is discovered; in others, the action accrues when the malpractice occurs, but an action to redress the harm is tolled until the injured party discovers the harm.

As discussed in *Wolk v. Olson*, the discovery rule does not apply to mass-media publications such as newspapers and the Internet; the statute of limitations begins to run at the date of publication.

An action to redress a tort committed against a minor is generally tolled in most cases until the child reaches the age of majority. A ten-year-old who is injured in a car accident might therefore be able to bring suit one, two, or three years after he turns 18.

It may also be inequitable to allow a defendant to use the defense of the running of the limitations period, such as the case of an individual in the position of authority over someone else who intimidates the victim into never reporting the wrongdoing, or where one is led to believe that the other party has agreed to suspend the limitations period during good faith settlement negotiations or due to a fraudulent misrepresentation.

Generally speaking, in the case of private, civil matters, the limitations period may be shortened or lengthened by agreement of the parties. Under the Uniform Commercial Code, the parties to a contract for sale of goods may reduce the limitations period to not less than one year, but may not extend it.

Although such limitations periods generally are issues of law, limitations periods known as laches may apply in situations of equity (i.e., a judge will not issue an injunction if the party requesting the injunction waited too long to ask for it). Such periods are not clearly defined and are subject to broad judicial discretion.

For U.S. military cases, the Uniform Code of Military Justice (UCMJ) states that all charges except for those facing general court martial (where a death sentence could be involved) have a five-year statute of limitation. This statute changes once charges have been prepared against the service member. In all supposed UCMJ violations except for those headed for general court martial, should the charges be dropped, there is a six-month window in which the charges can be reinstated. If those six months have passed and the charges have not been reinstated, the statutes of limitation have run out.