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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** SB 690                      **Hearing Date:** April 25, 2023  
**Author:** Rubio  
**Version:** February 16, 2023  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** SJ

**Subject:** *Domestic violence*

## HISTORY

**Source:** Author

**Prior Legislation:** SB 273 (Rubio), Ch. 546, Stats. 2019  
SB 1331 (Jackson), Ch. 137, Stats. 2018  
SB 813 (Leyva), Ch. 777, Stats. 2016

**Support:** Advocates for Child Empowerment and Safety; Arcadia Police Officers' Association; Burbank Police Officers' Association; California District Attorneys Association; California Federation of Teachers AFL-CIO; California Police Chiefs Association; California Protective Parents Association; Claremont Police Officers Association; Corona Police Officers Association; Culver City Police Officers' Association; Deputy Sheriffs' Association of Monterey County; Fullerton Police Officers' Association; Murrieta Police Officers' Association; Newport Beach Police Association; Palos Verdes Police Officers Association; Peace Officers Research Association of California; Placer County Deputy Sheriffs' Association; Pomona Police Officers' Association; Riverside Police Officers Association; Santa Ana Police Officers Association; Upland Police Officers Association

**Opposition:** California Public Defenders Association; San Francisco Public Defender

## PURPOSE

*The purpose of this bill is to extend the statute of limitations for domestic violence from 5 years to 15 years.*

*Existing law* provides that any person who willfully inflicts corporal injury resulting in a traumatic condition upon a victim, as described, is guilty of a felony. Provides that the punishment is imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to \$6,000, or by both that fine and imprisonment. (Pen. Code, § 273.5, subd. (a).)

*Existing law* provides that the above penalty applies if the victim is or was one or more of the following:

- The offender’s spouse or former spouse.
- The offender’s cohabitant or former cohabitant.
- The offender’s fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, as defined.
- The mother or father of the offender’s child. (Pen. Code, § 273.5, subd. (b).)

*Existing law* defines “traumatic condition” as a condition of the body, such as a wound, or external or internal injury, including, but not limited to, injury as a result of strangulation or suffocation, whether of a minor or serious nature, caused by a physical force. Provides that “strangulation” and “suffocation” include impeding the normal breathing or circulation of the blood of a person by applying pressure on the throat or neck. (Pen. Code, § 273.5, subd. (d).)

*Existing law* provides, generally, that the statute of limitations for most misdemeanors is one year. (Pen. Code, § 802, subd. (a).)

*Existing* provides, generally, that the statute of limitations for most felonies is three years, except as specified. (Pen. Code, § 801.)

*Existing law* establishes a five-year statute of limitations for domestic violence. Provides that the five-year statute of limitations only applies to crimes that were committed on or after January 1, 2020, and to crimes for which the statute of limitations that was in effect prior to January 1, 2020, has not elapsed as of January 1, 2020. (Pen. Code, § 804.7.)

*This bill* extends the statute of limitations for domestic violence from five years to fifteen years. Provides that the fifteen-year statute of limitations only applies to crimes that were committed on or after January 1, 2024, and to crimes for which the statute of limitations that was in effect prior to January 1, 2024, has not elapsed as of January 1, 2024.

## COMMENTS

### 1. Need For This Bill

According to the author:

Survivors of domestic violence often need years to overcome their trauma and build the courage to report their abuse. A common factor in all stories for victims includes a deep-rooted trauma and paralyzing fear that comes from their experience. This bill will allow more time for domestic violence victims to heal and come forward, by extending the statute of limitations to 15 years to report their abuse. Victims of abuse, often times can end up without a home or any resources due to the financial intimate partner dependency element in the relationship, or even worse, it could be fatal. In the U.S., an average of 50 women are shot to death by their intimate partners every month, and many more are injured. By allowing more time to report abuse, we provide survivors with sufficient time to heal and come forward while also mitigating the escalation of domestic violence cases that may result in a tragic death.

## 2. Current Statute of Limitations for Domestic Violence

Domestic violence is defined as “willfully inflict[ing] corporal injury resulting in a traumatic condition upon a victim.” (Pen. Code, § 273.5, subd. (a).) The victim must be the offender’s spouse or former spouse, the offender’s cohabitant or former cohabitant, the offender’s fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, or the mother or father of the offender’s child. (Pen. Code, § 273.5, subd. (b).) “Traumatic condition” is defined as “a condition of the body, such as a wound, or external or internal injury, including, but not limited to, injury as a result of strangulation or suffocation, whether of a minor or serious nature, caused by a physical force.” (Pen. Code, § 273.5, subd. (d).) The statute of limitations for the crime of domestic violence when charged as a violation of Penal Code section 273.5 was previously three years from the commission of the offense. Senate Bill 273 (Rubio, Chapter 546, Statutes of 2019) extended the statute of limitations to five years from the commission of the offense. (Pen. Code, § 803.7.)

This bill would further extend the statute of limitations for the crime of domestic violence from 5 years to 15 years and limits its application to crimes that are committed on or after January 1, 2024, and to crimes for which the statute of limitations that was in effect prior to January 1, 2024, has not run as of January 1, 2024.

## 3. Public Policy Considerations

The statute of limitations requires commencement of a prosecution within a certain period of time after the commission of a crime. The prosecution of an individual is initiated by filing an indictment or information, filing a complaint, arraigning the defendant on a complaint that charges the defendant with a felony, or issuing an arrest or bench warrant. (Pen. Code, § 804.) The failure of a prosecution to be commenced within the applicable period of limitation is a complete defense to the charge. The statute of limitations is jurisdictional and may be raised as a defense at any time, before or after judgment. (*People v. Morris* (1988) 46 Cal.3d 1, 13.) The defense may only be waived under limited circumstances. (See *Cowan v. Superior Court* (1996) 14 Cal.4th 367.)

In 1984, the California Law Revision Commission published a series of recommendations to revise the statute of limitations. The impetus for reform derived from numerous changes made to the statute of limitations by the Legislature. The Commission commented, “[t]his simple scheme has been made complex by numerous modifications . . . the result of this development is that the California law is complex and filled with inconsistencies.” (California Law Revision Commission, *Recommendation Relating to Statutes of Limitations for Felonies* (Jan. 1984) 17 Cal. Law Revision Com. Rep. (1984), p. 307 available at <<http://www.clrc.ca.gov/pub/Printed-Reports/Pub146.pdf>>.) In its report, the Commission described the rationale of the statute of limitations:

The statute of limitations is simply a societal declaration that it will no longer pursue a criminal after a certain period of time. The period selected may be somewhat arbitrary but still achieves society’s purpose of imposing an outside limit that recognizes the staleness problem, that requires that crime must come to light and be investigated within a reasonable time, and that represents the point after which society declares it no longer has an interest in prosecution and seeks repose.  
(*Id.* at pp. 313-314.)

The three principal policy reasons for felony statute of limitations include:

- *Staleness*: The statute of limitations protects persons accused of crime: (i) from having to face charges based on evidence that may be unreliable, and (ii) from losing access to the evidentiary means to defend against the accusation. With the passage of time, memory fades, witnesses die or otherwise become unavailable, and physical evidence becomes unobtainable or contaminated.
- *Prompt Investigation*: The statute of limitations imposes a priority among crimes for investigation and prosecution. The deadline serves to motivate the police and to ensure against bureaucratic delays in investigating crimes.
- *Repose*: The statute of limitations reflect society's lack of desire to prosecute for crimes committed in the distant past. The interest in repose represents a societal evaluation of the time after which it is neither profitable nor desirable to commence a prosecution. (*Id.* at pp. 308-310.)

These principals are reflected in court decisions. The U.S. Supreme Court has stated that statutes of limitations are “the primary guarantee against bringing overly stale criminal charges.” (*United States v. Ewell* (1966) 383 U.S. 116, 122.) There is a measure of predictability provided by specifying a limit beyond which there is an irrebutable presumption that a defendant's right to a fair trial would be prejudiced. Such laws reflect legislative assessments of relative interests of the state and the defendant in administering and receiving justice. More recently, in *Stogner v. California* (2003) 539 U.S. 67, the Court underscored the basis for statutes of limitations:

Significantly, a statute of limitations reflects a legislative judgment that, after a certain time, no quantum of evidence is sufficient to convict. And that judgment typically rests, in large part, upon evidentiary concerns – for example, concern that the passage of time has eroded memories or made witnesses or other evidence unavailable. (*Id.* at p. 615.)

#### **4. Argument in Support**

The California District Attorneys Association writes:

Victims of domestic violence often hide their abuse – and may do so for years on end. Currently, when this happens justice cannot be served through prosecution due to the short statute of limitations. Having the ability to reach back 15 years will help us hold abusers accountable and provide substantial justice for victims.

CDAAs support SB 690 because it protects victims and survivors by providing them with more time to come forward and seek the justice they deserve.

#### **5. Argument in Opposition**

According to the California Public Defenders Association:

SB 690 would extend the current five year statute of limitations for misdemeanors and felonies to 15 years for domestic violence. This five-year statute of limitation for domestic violence was just enacted in 2019 (SB 273). Previously the statute of limitations for misdemeanor domestic violence was one year and three years for felonies.

Nothing has happened in the intervening 3-1/2 years since SB 273 became effective that warrants upsetting the careful balancing of interests by the Legislature in 2019. We strongly oppose SB 690's extension of the statute of limitations for domestic violence prosecutions. The extension of the state of limitations will result in the conviction of innocent people, is bad public policy and wastes scarce resources that could be better spent on evidence based and effective strategies to end domestic violence.

Criminal statutes of limitations in the United States date back to colonial times . . . The statute's fundamental purpose is to protect people accused of crimes from having to face charges based on evidence that may be unreliable, and from losing access to the means to defend themselves.

...

With the passage of time, memories fade, witnesses die, records and biological evidence are lost or destroyed. All of this makes it more likely that an innocent person will be wrongly convicted.

Statutes of limitations also serve the purpose of encouraging swift investigations and prosecutions. Given the incidence of domestic violence in the United States and California, proponents of SB 690 rightly complain that relatively few domestic violence cases are actually investigated and prosecuted in California. The primary reason for this is not because of statutes of limitations. Rather, the failure to investigate and prosecute domestic violence results from choices made about allocation of resources and priorities and lingering ignorance about the generational harms of domestic violence. Extending the statute of limitations will do nothing to address those obstacles.

...

SB 690 is bad public policy and proposes to waste scarce resources imprisoning more individuals for domestic violence when there are evidence based programs that have been proven effective at reducing violence. ...

Both domestically and internationally researchers have found that school and community based education programs work. ...

In contrast, there has been no research showing that SB 690's proposed 15 year statute of limitations ... is warranted.