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Memorandum

February 10, 2020

TO: Interested Persons

FROM: Juliann Jenson, Research Analyst, 303-866-3264

SUBJECT: Statutes of Limitations

Summary

This memorandum provides an overview of statutes of limitations, including factors that impact length, such as statutes of repose and tolling. The memorandum also includes tables listing the various criminal and civil statutes of limitations and statutes of repose in the state.

Statutes of Limitations Overview

A statute of limitations is a law that specifies the maximum length of time allowed for plaintiffs in civil cases, or victims and prosecutors in criminal cases, to initiate legal proceedings. The general purpose of these laws is to encourage the swift and efficient prosecution of crimes or closure of civil claims. They are specifically designed to ensure that physical evidence or eyewitness testimony has not deteriorated or become less reliable over time.

All 50 states have criminal and civil statutes of limitations, varying in both type and length. The following outlines some of the key terminology and factors used to assess whether a civil action or criminal case fits within its respective statutes of limitations or is eligible for an extension.

Different time limits. The type of crime or personal injury claim affects the time limit. Violent crimes have a longer statute of limitations, and with some crimes, such as murder, there are no statutes of limitations at all. Misdemeanor offenses, in contrast, often have a short window, such as 18 months, to bring charges against an alleged perpetrator. In civil cases, certain defamation cases may be granted longer time limits, while medical malpractice generally has a shorter resolution period.

Date of accrual. Generally, statutes of limitations either begin on the date the wrongdoing occurred or when the wrongdoing caused harm. The latter is called the discovery rule, which is based on when the incident or injury is discovered, or reasonably should have been discovered. An injury that caused a wrongful death or medical malpractice claim, for example, may not be apparent when it first

occurred, such as asbestos-related lung cancer that is discovered 15 years after exposure. This rule may also apply in certain sexual assault or abuse cases.

Tolling. Tolling is a legal term that refers to allowing statutes of limitations to be legally suspended in certain instances so that charges may be pressed or lawsuits may be filed after the expiration date. Tolling essentially pauses or stops the clock during this time and restarts it after an event takes place that changes the situation. In civil cases, for example, statutes of limitations may be tolled when a defendant engages in fraudulent concealment, or in some misleading or deceptive act, designed to hide the existence of a cause of action. Criminal statutes of limitations may be tolled when the offender is absent from the state.

Statute of repose. Statutes of repose apply to specific kinds of civil cases, such as product liability, product defect, construction defect, or medical malpractice. While a statute of limitation sets a lawsuit-filing time limit based on when the potential plaintiff suffered harm, a statute of repose is triggered by a specified event or a fixed date, such as the completion of an improvement to real property or after a product's first use or sale. For example, the statute of limitations may give a plaintiff four years to file a complaint after discovering a construction defect. But, if the state's statute of repose is seven years from the time the construction is completed, and the defect is not discovered until the fifth year, there is only two years to file a claim. Statutes of repose may not be tolled.

Minors. If the plaintiff is a minor, he or she cannot sue the defendant until he or she reaches the age of majority, or 18 years old. Therefore, if the victim is a minor, he or she has until the age of 18, plus the number of years provided under the statute of limitations.

See Appendices A, B, and C for a listing of civil and criminal statutes of limitations and statutes of repose in Colorado.

Table 1
Criminal Statutes of Limitations in Colorado

Statutes of Limitations	Crime
None	Murder, kidnapping, treason, any sex offense against a child, and any forgery regardless of the penalty provided. This also applies to attempt, conspiracy, or solicitation to commit murder, kidnapping, treason, forgery, or any sex offense against a child.
6 years	Actions pursuant to the Colorado Antitrust Act of 1992, such as monopolization and bid-rigging, with the statute of limitations clock starting when the act of complaint occurred.
5 years	Vehicular homicide, leaving a scene of an accident that resulted in death, and criminal violations of the Colorado Commodity Code. The statutes of limitations run upon discovery of the criminal act or upon commission of the offense, respectively.
3 years	All other felonies; clock begins upon the commission of the offense.
18 months	Misdemeanors; clock begins upon discovery of the criminal act.
1 year	Class 1 and 2 misdemeanor traffic offenses; clock begins upon the discovery of the criminal act.
6 months	Petty offenses; clock begins upon discovery of the criminal act.

Source: Sections 6-4-118 and 16-5-401, C.R.S.

Table 2
Civil Statutes of Limitations in Colorado

Statutes of Limitations	Cause of Action
1 year	<ul style="list-style-type: none"> • Assault, battery, false imprisonment, false arrest, libel, slander • Escape of prisoners • Sheriffs, coroners, police officers, firefighters, national guardsmen, or any other law enforcement abuse of authority • Penalty or forfeiture of any penal statutes • Violation of the Motor Vehicle Repair Act of 1977 • Class A or B traffic infraction <p><i>Source: Section 13-80-103, C.R.S.</i></p>
2 years	<ul style="list-style-type: none"> • Tort actions, including but not limited to, negligence, trespass, malicious abuse of process, malicious prosecution, outrageous conduct, interference with relationships, and tortious breach of contract • Strict liability, absolute liability, or failure to instruct or warn • Veterinarians, professional malfeasance • Wrongful death, with exceptions • Action against public or governmental entity or any employee, including cases for which insurance coverage is provided • Liability created by a federal statute where no period of limitation is provided and every kind of other actions for which no other period of limitation is provided • Violation regarding sales of used motor vehicles • Construction defect, product liability, medical malpractice • Recovery for bounced checks <p><i>Source: Sections 13-80-102, 13-80-102.5, 13-80-104, and 13-80-106 C.R.S.</i></p>
3 years	<ul style="list-style-type: none"> • Violation of written and oral contracts • Fraud, misrepresentations, concealment, or deceit • Breach of trust or fiduciary duty • Uniform Consumer Credit Code claims • Replevin or taking, detaining, or converting goods or chattel • Violation of Motor Vehicle Financial Responsibility Act • Auto insurance claims • Outside of state actions claims • Violations concerning plowing along railroad tracks • Erroneous or excessive tax refunds • Motor vehicle-related bodily injury or property damage <p><i>Source: Section 13-80-101, C.R.S.</i></p>
6 years	<ul style="list-style-type: none"> • Debt collection where there was a contract • Collection of rent claims • Bounced checks • Unpaid contributions to Public Employees' Retirement Association <p><i>Source: Section 13-80-103.5, C.R.S.</i></p>

Table 3
Statutes of Repose in Colorado

Statutes of Repose	Cause of Action
3 years with exceptions	Medical malpractice
6 years, may be extended up to two years if the defect is discovered during the fifth or sixth year after completion	Construction defect
7 years for manufacturing products; 10 year rebuttable presumption for other products	Product liability

Source: Sections 13-80-102.5, 13-80-104, 13-80-107, and 13-21-403, C.R.S.