

**CALIFORNIA**

<b>SEXUAL OFFENSE STATUTES</b>	<b>STATUTE OF LIMITATIONS</b>	<b>DNA EXCEPTION</b>
<p>CAL. PENAL CODE § 261 Rape</p> <p>CAL. PENAL CODE § 261.5 Unlawful sexual intercourse with a minor            Misdemeanor if victim is not more than three years older or three years younger than offender            Misdemeanor or felony if victim is more than three years younger than offender; punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison            Misdemeanor or felony if offender is at least 21 and victim is under 16; punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison for two, three, or four years</p> <p>CAL. PENAL CODE § 262 Spousal rape</p> <p>CAL. PENAL CODE § 264 Punishment for rape            Rape, as defined in § 261 and § 262, is punishable by imprisonment in the state prison for three, six, or eight years</p> <p>CAL. PENAL CODE § 264.1 Rape or penetration of</p>	<p>CAL. PENAL CODE § 799            No limit for offenses punishable by death or life imprisonment without parole</p> <p>CAL. PENAL CODE § 800            For offenses punishable by imprisonment for eight years or more, within six years after commission of the offense</p> <p>CAL. PENAL CODE § 801            For offenses punishable by imprisonment in state prison, within three years after commission of the offense</p> <p>CAL. PENAL CODE § 801.1            (a) For the following offenses, if the victim was under 18 at the time of commission of the offense, anytime before victim's 28<sup>th</sup> birthday:  <ul style="list-style-type: none"> <li>• Rape (§ 261)</li> <li>• Sodomy (§ 286)</li> <li>• Lewd or lascivious acts involving children (§ 288)</li> <li>• Continuous sexual abuse of a child (§ 288.5)</li> <li>• Oral copulation (§ 288A)</li> </ul> </p>	<p>CAL. PENAL CODE § 803 (g)            (g) Notwithstanding the limitations described in section 799-801.1 of the Cal. Penal Code, criminal complaints for the following offenses may be filed within one year after the identity of the suspect is conclusively established by DNA testing:</p> <ul style="list-style-type: none"> <li>• Rape (§ 261)</li> <li>• Spousal rape (§ 262)</li> <li>• Rape or penetration of genital or anal openings by foreign object (§ 264.1)</li> <li>• Unlawful sexual intercourse (§ 266C)</li> <li>• Aggravated sexual assault of child (§ 269)</li> <li>• Incest (§ 285)</li> <li>• Sodomy (§ 286)</li> <li>• Lewd or lascivious acts involving children (§ 288)</li> <li>• Continuous sexual abuse of child (§ 288.5)</li> <li>• Oral copulation (§ 288A)</li> <li>• Sexual acts with child 10 or younger (§ 288.7)</li> <li>• Forcible acts of sexual penetration (§ 289)</li> </ul>

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<p>genital or anal openings by foreign object, etc.; acting by force or violence; punishment punishable by imprisonment in the state prison for five, seven or nine years</p> <p>CAL. PENAL CODE § 266C. Unlawful sexual intercourse, sexual penetration, oral copulation, or sodomy; consent procured by false or fraudulent representation with intent to create fear; punishment punishable by imprisonment in the state prison for two, three or four years</p> <p>CAL. PENAL CODE § 269 Aggravated sexual assault of child Felony, punishable by imprisonment in the state prison for 15 years to life</p> <p>CAL. PENAL CODE § 285 Incest Punishable by imprisonment in the state prison</p> <p>CAL. PENAL CODE § 286 Sodomy Punishable by imprisonment in the state prison</p> <p>CAL. PENAL CODE § 288 Lewd or lascivious acts involving children Punishable by imprisonment in the state prison</p> <p>CAL. PENAL CODE § 288A Oral copulation Punishable by imprisonment in the state prison</p> <p>CAL. PENAL CODE § 288.5 Continuous sexual abuse</p>	<ul style="list-style-type: none"> <li>• Forcible acts of sexual penetration (§ 289)</li> </ul> <p>(b) For the following offenses, within 10 years after commission of the offense:</p> <ul style="list-style-type: none"> <li>• Rape (§ 261)</li> <li>• Spousal rape (§ 262)</li> <li>• Rape or penetration of genital or anal openings by foreign object (§ 264.1)</li> <li>• Unlawful sexual intercourse (§ 266C)</li> <li>• Aggravated sexual assault of child (§ 269)</li> <li>• Incest (§ 285)</li> <li>• Sodomy (§ 286)</li> <li>• Lewd or lascivious acts involving children (§ 288)</li> <li>• Continuous sexual abuse of child (§ 288.5)</li> <li>• Oral copulation (§ 288A)</li> <li>• Sexual acts with child 10 or younger (§ 288.7)</li> <li>• Forcible acts of sexual penetration (§ 289)</li> </ul> <p>CAL. PENAL CODE § 803</p> <p>(b) Statute of limitations tolled during any time which prosecution of the same person for the same conduct is pending in a court of this state.</p> <p>(f)(1) Notwithstanding any other limitation, a criminal complaint may be filed within one year of the date of a report to a California law enforcement agency by a person of any age alleging that he or she, while under the age of 18</p>	<p>This DNA exemption is available if, for offenses committed prior to January 1, 2001, the biological evidence has been analyzed for DNA type no later than January 1, 2004, and for offenses committed on or after January 1, 2001, the biological evidence is analyzed for DNA type within two years after commission of the offense:</p>
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<p>of child Requires three or more acts of substantial sexual conduct with a child under 14 Punishable by imprisonment in the state prison</p> <p>CAL. PENAL CODE § 288.7 Sexual acts with child 10 or younger Felony, punishable by imprisonment in the state prison for 15 or 25 years to life</p> <p>CAL. PENAL CODE § 289 Forcible acts of sexual penetration Punishable by imprisonment in the state prison</p>	<p>years, was the victim of a crime described in §261 Rape, §286 Sodomy, §288 Lewd or Lascivious acts involving children, §288a Oral copulation, §288.5 Continuous sexual abuse of a child, §289 Forcible acts of sexual penetration.</p> <p>(f)(2) This subdivision applies only if : (A) the limitation period specified in §800, §801 or §801.1, whichever is later, has expired (B) the crime involved substantial sexual conduct, and (C) there is independent evidence that corroborates the victim's allegation. If the victim was 21 years of age or older at the time of the report, the independent evidence shall clearly and convincingly corroborate the victim's allegation.</p> <p>CAL. PENAL CODE § 803.6 (a) If more than one time period applies, the time period that is longer applies.</p> <p>(b) Any change in the statute of limitations period applies to any crime if prosecution for the crime was not barred on the effective date of the change by the statute of limitations in effect immediately prior to the effective date of the change.</p> <p>CAL. PENAL CODE § 805 For the purpose of determining the applicable limitation of time:</p> <p>(a) An offense is deemed punishable by the</p>	
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	<p>maximum punishment prescribed by statute for the offense, regardless of the punishment actually sought or imposed (disregarding any enhancement).</p> <p>(b) The limitation of time applicable to an offense that is necessarily included within a greater offense is the limitation of time applicable to the lesser included offense, regardless of the limitation of time applicable to the greater offense.</p> <p>People v. Vasquez, 13 Cal. Rptr.3d 162, 164-165 (Cal. Dist. Ct. App. 2004) Ex post facto clause does not prevent the State from extending statute of limitations for prosecutions not yet time barred when statute was enacted. 803(f) merely extends limitations period and does not revive prosecution for previously time barred offenses.</p> <p>People v. Stanfill, 76 Cal. App. 4<sup>th</sup> 1137, 1150 (Cal. Dist. Ct. App. 2004) Defendant may not challenge on appeal conviction of a time barred lesser included offense when the charged offense was not time barred and the defendant requested or acquiesced to the giving instructions on the lesser offense.</p>	
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