

Research Plan: Senate Bill 2538, House Bill 2536 Criminal Statute of Limitations

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Due: January 15, 2019 Support: Lynne Holliday

Deputy Executive Director Approval: Initial: *UMTB* Date: *4-27-18*

Executive Director Approval: Initial: *[Signature]* Date: *4/27/18*

Purpose

To study the purpose and efficacy of Tennessee's statutes of limitation on the prosecution of criminal offenses

Background

Senate Bill 2538 by Senator Ketron and its companion, House Bill 2536 by Representative Sparks, have been passed by the Senate and House but not yet signed by the Governor and directs the Commission to study the effectiveness of Tennessee's statutes of limitation on the prosecution of criminal offenses. It must include, but not be limited to, information on the effectiveness of statutes of limitation on the prosecution of sexual offenses. The bill requires the Commission to report its findings and recommendations, including any proposed legislation, by January 15, 2019.

A criminal statute of limitation refers to the law that imposes a time limit on filing criminal charges following a crime. Once a statute of limitations runs out, an individual cannot be criminally charged for that crime. The rationales for statutes of limitations include helping to minimize the deterioration of evidence, encouraging victims to pursue claims promptly, and encouraging law enforcement to investigate crimes in a timely manner. They may also help to reduce litigation costs since it might be more costly to litigate old claims because of evidence deterioration. Statutes of limitation vary from state to state and from crime to crime. Many victim advocates argue that statutes of limitation should be eliminated for certain sex crimes, particularly those sex crimes committed against children. Advocates say that victims often find the courage to speak out and confront their abuser or recover painful buried memories of abuse

only after the statute of limitations has run out. While some states have passed laws abolishing statutes of limitations for sexual offenses against children and adults, Tennessee still has statutes of limitations for sexual offenses.

Step 1. Define the Problem

To find an appropriate balance between the need for timely filing of charges to ensure integrity of evidence and witness testimony and victims' access to justice.

Step 2. Assemble Some Evidence

- Review referred legislation.
 - Review committee hearings on the bill and summarize comments and concerns of committee members, the bill sponsors, and others speaking for or against the bill.
 - Interview the bill's sponsors, proponents, and other stakeholders to determine what is driving this issue, including, but not limited to the following:
 - Tennessee District Attorneys Conference,
 - Tennessee District Public Defenders Conference,
 - Tennessee Sheriff's Association,
 - Tennessee Association of Chiefs of Police,
 - National Center for Victims of Crime,
 - National Coalition Against Sexual Assault,
 - National Center for Prosecution of Child Abuse, and
 - American Civil Liberties Union.
- Review similar bills from previous general assemblies, including relevant committee hearings.
- Review current case law, Tennessee constitution, attorney generals opinions, and relevant statutes.
- Review similar laws in other states.
- Review relevant federal statutes and regulations.
- Review relevant literature and data sets.

Step 3. Construct Alternatives

Alternatives will include

- current law and
- any additional alternatives drawn from the research and analysis in Step 2.

Each alternative will be described specifically enough to project outcomes in Step 5.

Step 4. Select Criteria

- Cost to
 - state government,
 - local governments,
 - crime victims, and the
 - general public.
- Ease of administration for
 - state government and
 - local governments.
- Effectiveness of ensuring offenders are prosecuted and convicted.
- Equity – Balancing the victims’ need to have sufficient time to bring charges with the need for timely filing of charges to ensure integrity of evidence and witness testimony:
 - Crime victims
 - Defendants
- Constitutionality
- Estimate receptiveness of
 - state government,
 - local governments,
 - crime victims,
 - defendants,
 - judges,
 - prosecutors,

- defense attorneys,
- law enforcement, and the
- general public.

Step 5. Project Outcomes

- Estimate
 - cost and
 - receptiveness of the state and local governments, the general public, and other affected stakeholders.
- Evaluate
 - ease of administration;
 - effectiveness of ensuring offenders are prosecuted and convicted;
 - whether crime victims and defendants are treated equitably; and
 - constitutional issues.

Step 6. Confront Trade-offs

- How will the differences between the current law and the other alternatives affect the individuals and businesses accessing the court system?
- What are the pros and cons of the potential solutions?

Step 7. Decide which alternatives to present to the Commission

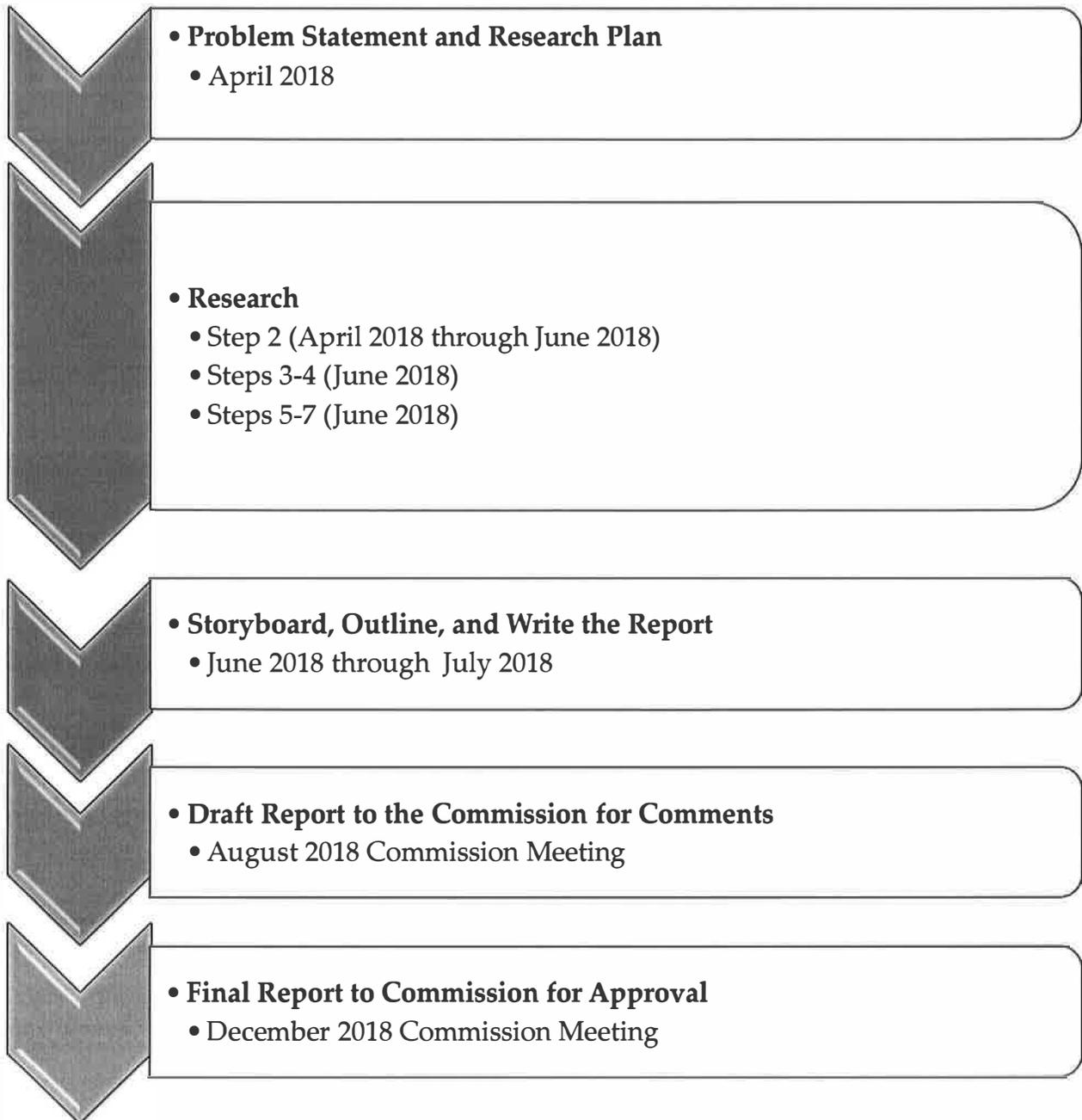
Based on the results of Step 6, choose the alternatives that most practically and realistically resolve the problem.

Step 8. Produce the Draft Report

Develop and present a draft for review and comment to the Commission.

Revisit Steps 5 through 8.

- Respond to feedback from Commission regarding outcome projections, trade-offs, and selection of alternatives.
- Revise and edit the draft to reflect comments of the Commission.
- Submit final report to the Commission for approval.



SENATE BILL 2538

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 39
and Title 40, relative to statutes of limitation on
prosecution for criminal offenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) The Tennessee advisory commission on intergovernmental relations (TACIR) is directed to perform a study on the effectiveness of statutes of limitation on prosecution for criminal offenses. The study shall include, but shall not be limited to, information on the effectiveness of statutes of limitation on prosecution of sexual offenses. The study may include comparisons of Tennessee statutes of limitation on prosecution of criminal offenses to neighboring states.

(b) TACIR shall report its findings and recommendations, including any proposed legislation, by January 15, 2019.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.