



When a Case Can Be Filed: Statutes of Limitations and Statutes of Repose

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Many federal laws are subject to time limits known as *statutes of limitations* or *statutes of repose*, which generally bar enforcement of the law after a certain amount of time has passed. Congress can set or modify statutes of limitations and repose via legislation, subject to some constitutional limits. This In Focus provides a brief overview of the law related to statutes of limitations and repose with a focus on time limits that apply to civil litigation. ([CRS Report RL31253](#) provides more information on criminal statutes of limitations.) The In Focus then discusses selected considerations for Congress regarding legislation that imposes time limits on enforcing the law.

Overview of Statutes of Limitations and Statutes of Repose

Statutes of limitations and statutes of repose both impose time limits on when a law can be enforced, but they function somewhat differently. In *CTS Corp. v. Waldburger*, 573 U.S. 1 (2014), the Supreme Court distinguished between the purposes and functions of the two types of laws. The Court [explained](#) that statutes of limitations “require plaintiffs to pursue diligent prosecution of known claims” and “promote justice by preventing surprises through [plaintiffs’] revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared” (internal quotation marks and citations are omitted from all quotes in this In Focus). While statutes of repose “also encourage plaintiffs to bring actions in a timely manner, and for many of the same reasons,” the Court [explained](#) that “the rationale has a different emphasis. Statutes of repose effect a legislative judgment that a defendant should be free from liability after the legislatively determined period of time,” and “embod[y] the idea that at some point a defendant should be able to put past events behind him.”

In light of these differing rationales, the Court [explained](#), “the time periods specified are measured from different points.” A statute of limitations “creates a time limit for suing in a civil case, based on the date when the claim accrued,” usually meaning “when the injury occurred or was discovered.” By contrast, a statute of repose “puts an outer limit on the right to bring a civil action. That limit is measured not from the date on which the claim accrues but instead from the date of the last culpable act or omission of the defendant.” A statute of repose thus bars all suits brought after the specified amount of time has elapsed, “even if this period ends before the plaintiff has suffered a resulting injury” or discovered that a legal violation or injury has occurred.

In *Rotkiske v. Klemm*, 589 U.S. 8 (2019), the Supreme Court [explained](#), “When interpreting limitations provisions, as always, we begin by analyzing the statutory language.” When the statutory language is unambiguous, that ends the inquiry. If

there are two plausible constructions of a limitations provision, the Court will [generally](#)

adopt the construction that starts the time limit running when the cause of action ... accrues because Congress legislates against the standard rule that the limitations period commences when the plaintiff has a complete and present cause of action.

The question of when a cause of action accrues can give rise to litigation. For instance, in *Corner Post, Inc. v. Board of Governors of Federal Reserve System*, 603 U.S. 799 (2024), the Supreme Court held that a facial claim under the Administrative Procedure Act [accrues when a plaintiff is injured](#) by final agency action, even if the injury occurs after the statute of limitations would run from the time of the challenged action.

Federal statutes set default statutes of limitations for both civil and criminal cases. For civil cases, [28 U.S.C. § 1658\(a\)](#) establishes a default four-year limitations period for most federal statutes enacted after 1990 that do not contain explicit limitations provisions. [28 U.S.C. § 2401](#) sets a default six-year limit for civil suits against the U.S. government. As discussed in [CRS Report RL31253](#), the default statute of limitations for criminal cases is [five years](#), but specific offenses may be subject to other limitations periods or [no limitations period](#).

Considerations for Congress

Multiple questions may arise when lawmakers consider whether and how to impose time limits on enforcement of a law. Statutes and court decisions impose certain default rules with respect to such time limits, but Congress has significant authority to depart from those default rules via legislation. These considerations relate to statutes of limitations and repose in federal laws. When courts apply state law, including in federal court cases based on [diversity of citizenship](#), they apply [state statutes of limitations](#).

Does a limitations period apply?

The first question Members of Congress may consider in this area is whether enforcement of a law should be time-limited. As noted, federal statutes lay out default statutes of limitations for civil and criminal cases. Thus, if a piece of legislation does not expressly address time limits on enforcement, courts interpreting the law may apply a default time limit. The equitable doctrine of [laches](#) may also bar claims that are unreasonably delayed.

If Congress does not want enforcement of a statute to be time-limited, it should expressly state that in the legislation. Some existing federal laws are not subject to a statute of limitations or statute of repose. For instance, [38 U.S.C. § 4327\(b\)](#) provides that “there shall be no limit on the period for filing” a lawsuit alleging a violation of the Uniformed Services Employment and Reemployment Rights Act of 1994.

If Congress imposes a time limit on enforcement of a statute, it may consider whether to do so via a statute of limitations or a statute of repose. A statute of limitations may allow more flexibility for plaintiffs who are delayed in discovering or addressing their injuries by circumstances beyond their control, while a statute of repose may provide greater legal certainty for potential defendants. Statutes of limitations are [more commonly used](#) in federal law than statutes of repose.

What starts the limitations period?

There are several possible events that may start the clock on a statute of limitations or repose. Statutes of repose run from when a violation of the law occurred, regardless of whether the plaintiff was injured or discovered the injury within the limitations period. Statutes of limitations often run from the time when a plaintiff is injured, regardless of whether the plaintiff is aware of the injury. As noted above, the Court in *Rotkiske* [stated](#) that if Congress does not specify when a statute of limitations begins running, courts will generally default to starting the clock when a plaintiff's claim *accrues*, that is, when the plaintiff is [injured](#) and thus has a right to bring the claim in court. Congress may also choose to apply a rule known as the [discovery rule](#), meaning that the clock runs from when the plaintiff discovered their injury, or when a reasonably diligent plaintiff would have discovered it. The discovery rule may increase legal uncertainty by extending the statute of limitations, potentially indefinitely, but may also protect the rights of plaintiffs who could not discover an injury promptly despite reasonable diligence. Courts sometimes read statutes to [implicitly include](#) the discovery rule and sometimes [decline to do so](#). Congress can reduce uncertainty by expressly stating whether the discovery rule applies.

How long is the limitations period?

Congress may also consider how long the limitations period should be. On one hand, a longer limitations period gives plaintiffs more time to discover and bring their claims, preventing potentially meritorious claims from being time-barred. This may enhance the deterrent effect of the law if defendants know they are less likely to escape liability. On the other hand, a shorter limitations period may mitigate [concerns](#) about evidence being lost or witnesses' memories fading over time, and may provide greater [legal certainty](#) for potential defendants. Congress has applied short statutes of repose, such as [60 days](#), to challenges to certain agency actions to "[impart\[\] finality](#)" into the administrative process, thereby conserving administrative resources and protecting the reliance interests of regulatees who conform their conduct to the regulations."

Do exceptions apply?

Another question Congress may consider is whether exceptions should apply to the statute of limitations. The Supreme Court has recognized certain default exceptions that apply to statutes of limitations, but not statutes of repose, if Congress is silent on the matter. The first of these is *equitable tolling*. In *CTS Corp.*, the Court explained that this difference between statutes of limitations and repose "[underscores](#) their differing purposes":

Statutes of limitations ... are subject to equitable tolling, a doctrine that pauses the running of, or "tolls," a statute of limitations when a litigant has pursued his rights diligently but some extraordinary circumstance prevents him from bringing

a timely action. Statutes of repose, on the other hand, generally may not be tolled, even in cases of extraordinary circumstances beyond a plaintiff's control.

Second, some Supreme Court decisions have applied an equitable "[fraud discovery rule](#)," holding that when a defendant's fraudulent actions prevent the plaintiff from discovering an injury, the limitations period begins when the plaintiff [discovers the fraud](#).

Congress can specify in legislation that these exceptions do not apply, or it can expressly provide for exceptions. For instance, a prior version of the Fair Credit Reporting Act's statute of limitations [provided](#) that the plaintiff ordinarily had two years from the date liability arose to file suit, but if the defendant materially and willfully misrepresented certain information to the plaintiff, the two-year limitations period would instead run from the date the plaintiff discovered the misrepresentation. The Supreme Court has [suggested](#) that when Congress enumerates specific exceptions to a statute of limitations in statutory text, courts should not read additional, implicit exceptions into the statute. Thus, when drafting a statute of limitations, Congress may consider whether explicitly creating particular exceptions may foreclose judicial recognition of others.

Can Congress change an existing limitations period?

Members of Congress may also consider whether to add a statute of limitations or repose to an existing law or remove or modify an existing time limit. Congress's authority in this area is subject to one firm constitutional limit, which relates to *criminal* law: The Supreme Court has [held](#) that the Constitution's [Ex Post Facto Clause](#), which forbids retroactively imposing or increasing criminal punishment, prohibits reviving a criminal statute of limitations after the limitations period has run. Congress can, however, extend a criminal statute of limitations that has not lapsed.

Changes to civil statutes of limitations are sometimes challenged on due process grounds. Review of such claims may be fact-dependent. Courts have at times invalidated changes to statutes of limitations that were found to deprive people of vested [rights in property](#). For instance, in *Stewart v. Keyes*, 295 U.S. 403 (1935), the Supreme Court [held](#) that where the statute of limitations has run on an action to recover real or personal property, a later attempt "to repeal or remove the bar after it became complete" violates "constitutional provisions forbidding a deprivation of property without due process of law."

Generally, however, due process review of statutes of limitations is deferential, and legislation will usually be upheld as long as it serves a [rational purpose](#) and does not impose undue hardships on parties. In the analogous context of due process review of [state statutes of limitations](#), the Supreme Court has [held](#) that reviving a lapsed civil statute of limitations is not inherently unconstitutional. The Court has also [stated](#):

It is well settled that a statute shortening the period of limitation is within the constitutional power of the legislature, provided a reasonable time, taking into consideration the nature of the case, is allowed for bringing an action after the passage of the statute, and before the bar takes effect.

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