

Bredesen urges more time to try child sex abuse cases

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Prosecutors should be given decades after crimes occur to bring suspected child rapists and sex abusers to court, says Democratic gubernatorial candidate Phil Bredesen.

Bredesen, in a new political advertisement that began running yesterday, says he wants to eliminate the statute of limitations imposed by Tennessee law for prosecuting child rape and for other sex crimes against children.

The statute of limitations is a time limit within which a case can be prosecuted. Once it expires, the case cannot be brought to court.

The statute of limitations for child rape is 15 years after the crime occurs, or if the rape occurs before the child is 6 until the child turns 21. Child rape and child sexual battery involve children under age 13.

Bredesen said in several child sex cases, DNA samples can be taken, and DNA technology allows evidence to be preserved forever.

"I think the state is a little behind the times in the law in this regard," Bredesen said during an interview yesterday.

He said he also would support "dramatically extending" the statute of limitations.

One legal scholar, Nashville attorney David Raybin, said the statute of limitations for child rape was just revised by lawmakers five years ago, and any policy change proposed by a new governor would likely not affect current or old cases.

Raybin said eliminating or extending the limit could compromise cases.

"We don't want cases floating around that are decades old," Raybin said. "They are impossible to prosecute and impossible to defend."

Bredesen said he would like the proposal to be retroactive in order to revive old criminal cases, but acknowledged the Tennessee Supreme Court has ruled against retroactive statutes of limitations.

Bredesen said the issue is on people's minds because of such things as the Roman Catholic Church scandals and other cases. He did not say whether a specific case prompted the proposal.

Although Bredesen has not talked about the issue in campaign stops, he said yesterday it is one important to him and his wife, Andre Conte. Conte, who was a victim of a 1988 kidnapping, is president of a victim's rights group, We Have the Power, which has focused its most recent programs on child sex abuse.

Republican gubernatorial candidate Van Hilleary, a U.S. congressman, saw the ad yesterday and said, "With the DNA technology available to us today, there is no excuse for allowing criminals who harm innocent children to escape prosecution and punishment because of a statute of limitations. Any person who harms an innocent child should be tracked down and punished to the fullest extent of the law, regardless of how many years it takes."

Hilleary spokeswoman Jennifer Coxe said Hilleary's congressional record shows his support for protecting children from crime, including votes to increase federal sentencing for sex crimes against children and the trafficking of child pornography.

A spokesman for state prosecutors said the issue has not been talked about in criminal justice circles, but his group would not oppose the measure.

"Many times when children are abused, they don't talk because of fear or they're being threatened," said Wally Kirby, executive director of the Tennessee District Attorneys General Conference. "Although cases that old are difficult to prosecute, it would be a benefit."

State law gave child rape cases a longer statute of limitations than adult cases in 1989 at the suggestion of a sentencing commission, which Raybin served on. Lawmakers again extended the statute of limitations for child rape cases in 1997, Raybin said.

"I think the very long statute of limitations in place now is adequate," Raybin said. "The longer you wait, the more chance for error."

Raybin said the Tennessee Supreme Court spoke on the matter in a 1996 child rape case brought up 40 years after the fact. The court said the belated indictment violated the due process of the defendant, Raybin said. Raybin said he does not believe the proposal can be retroactive because courts have ruled against retroactive statutes of limitations. Thus, it would not affect a case for at least after the next 15 years, he said.

Bredesen said, "If it is possible to do so, I would like to extend the statute of limitations for crimes that may have already occurred. The Tennessee Supreme Court has, in other instances, prohibited this, and so we may be restricted to covering crimes that occur after the day a law is passed."

Bredesen said the 15-year limit is too arbitrary. "If one of those cases is solved in year 16 ... then one should not escape prosecution for that because of the statute of limitations," Bredesen said. "That might have made sense in 1950 but doesn't make sense in 2002."

Raybin acknowledged that a DNA sample taken at the scene of a crime but not matched to a suspect until the 15-year statute of limitation has expired is a real possibility, but said other factors must be considered.

"DNA does not always establish guilt. It establishes identity," Raybin said. "The longer it takes for the government to make a charge, the more difficult it is to defend."

Script of TV ad

This is the script for a new television advertisement for Democratic gubernatorial candidate Phil Bredesen.

Narrator: It's wrong. In Tennessee, when a child is a victim of a sex crime, if the abuser isn't found and prosecuted within 15 years or by age 21, the crime goes unpunished.

Bredesen: I'm Phil Bredesen, and as governor, I want to eliminate the statute of limitations for rape and for sex crimes against children. DNA technology allows evidence to be preserved forever. No matter how long it takes to find a criminal, the clock should never run out on justice." (Source: Bredesen campaign)