

What is the Statute of Limitations for Fraud? & EMBEZZLEMENT

FRAUD is the intentional deception of a third party that causes some form of harm to the victim. There are many forms of fraud, including mail, wire, **securities**, real estate, and credit card fraud. The statute of limitations for fraud depends on the crime, the region, and sometimes when the crime was discovered.

A statute of limitations for any crime is a common law measure that prevents the prosecution of certain crimes after a specific period of time. This helps ensure that plaintiffs do not bring a claim simply out of spite or other motives, even though they have lived with the offense for many years. Additionally, it protects evidence from loss, contamination, or decay that could materially influence the outcome of a trial. Some legal experts also claim that, for minor crimes, punishing a person for what he or she did 20 years ago may be a meaningless use of the justice system.

The statute of limitations for **fraud** varies by region, and sometimes by the type of crime. In **most** US states, **fraud** proceedings are limited to between **One and Five years after the crime** occurred, and limits are similar in other common law countries. **Fraud** may be charged at the regional or national level, depending on the type of crime. **Mail fraud**, for instance, is considered a federal crime in the United States and is prosecuted in the federal court system.

One issue that may alter the statute of limitations is the application of the discovery rule. This is a special rule that allows for the possibility that a crime might not be discovered at the same time that it is committed. If, for instance, a person was a victim of a fraudulent accountant but did not realize the fraud had occurred until four years later, he or she might not be able to make a legal complaint if the statute of limitations had run out. The **Discovery Rule** allows the **Statute of Limitations** to **BEGIN** at the **Moment of Discovery**, rather than the moment of the crime.

There are some exceptions to the discovery rule that prevent gross negligence on the part of the plaintiff from permitting prosecution. Some legal systems have an upper limit for the statute of limitations for fraud, even with the discovery rule applied. **Securities fraud** in the United States, for example, has a **Statute of Limitations of Two years, or up to Five years if the Discovery Rule is applied**. If the **crime** is discovered **after five years**, it would no longer be prosecutable.

JUDICIAL EMBEZZLEMENT

EMBEZZLEMENT. A **Statutory Offense**, not a common law crime; the fraudulent appropriation or conversion by an **agent**, an employee, a corporate officer, a trustee, a **public officer**, or other person acting in a fiduciary capacity or character, of money or property, the possession of which has been entrusted to him by another. 18 Am J1st Embez § 2. The word includes misappropriation of trifling sums, made with intent to restore in due time, and with ample present and prospective ability to restore. United States v Summers (DC Va) 19 F 627. **In statutes imposing a double liability in damages for the "embezzlement" of property** of a decedent prior to the granting of letters testamentary or letters of administration, the term means the fraudulent appropriation or concealment to one's own use of estate property in one's possession. Anno: 29 ALR2d 256.

EMBEZZLEMENT BY AGENT: The **crime of embezzlement** committed by one in possession of the **converted or misappropriated property** by virtue of his employment by a principal and the delegation of authority to do something in the name and stead of such principal. 26 Am J2d Embez § 26.

EMBEZZLEMENT BY BAILEE. The **offense of embezzlement** committed by one in possession of the converted or misappropriated property as bailee. Although the hirer of property has been held not to be within a statute of embezzlement which includes "any bailee or other agent," it has also been held that a statute making it a crime for any carrier, bailee, or other person to embezzle or convert to his own use property delivered to him, is not confined to bailments for the sole benefit of the bailor, but extends to the bailee of an automobile under a hiring agreement, who fails to return the automobile. 26 Am J2d Embez § 24.

EMBEZZLEMENT BY EMPLOYEE: The **criminal offense of embezzlement** committed by a person who is in the employ of another and who, in the discharge of his duties, is subject to the immediate control and direction of his employer. 26 Am J2d Embez § 25.

EMBEZZLEMENT BY FIDUCIARY: The **crime of embezzlement** committed by an executor, administrator, guardian, or broker. 26 Am J2d Embez § 31. A statute defining embezzlement by a "trustee or factor, carrier or bailee," applies to trustees, factors, carriers, or bailees for artificial persons as well as private persons. Anno: 41 ALR 474.