

As Introduced

**129th General Assembly
Regular Session
2011-2012**

S. B. No. 185

Senator Turner

Cosponsor: Senator Cafaro

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A B I L L

To amend section 2901.13 of the Revised Code to 1
provide that there is no period of limitation for 2
the prosecution of an offense of rape or sexual 3
battery. 4

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

Section 1. That section 2901.13 of the Revised Code be 5
amended to read as follows: 6

Sec. 2901.13. (A)(1) Except as provided in division (A)(2) or 7
(3) of this section or as otherwise provided in this section, a 8
prosecution shall be barred unless it is commenced within the 9
following periods after an offense is committed: 10

(a) For a felony, six years; 11

(b) For a misdemeanor other than a minor misdemeanor, two 12
years; 13

(c) For a minor misdemeanor, six months. 14

(2) There is no period of limitation for the prosecution of a 15
violation of section 2903.01 ~~or~~, 2903.02, 2907.02, or 2907.03 of 16
the Revised Code. 17

(3) Except as otherwise provided in divisions (B) to (H) of 18

this section, a prosecution of any of the following offenses shall 19
be barred unless it is commenced within twenty years after the 20
offense is committed: 21

(a) A violation of section 2903.03, 2903.04, 2905.01, 22
~~2907.02, 2907.03,~~ 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 23
2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 24
2911.02, 2911.11, 2911.12, or 2917.02 of the Revised Code, a 25
violation of section 2903.11 or 2903.12 of the Revised Code if the 26
victim is a peace officer, a violation of section 2903.13 of the 27
Revised Code that is a felony, or a violation of former section 28
2907.12 of the Revised Code; 29

(b) A conspiracy to commit, attempt to commit, or complicity 30
in committing a violation set forth in division (A)(3)(a) of this 31
section. 32

(B)(1) Except as otherwise provided in division (B)(2) of 33
this section, if the period of limitation provided in division 34
(A)(1) or (3) of this section has expired, prosecution shall be 35
commenced for an offense of which an element is fraud or breach of 36
a fiduciary duty, within one year after discovery of the offense 37
either by an aggrieved person, or by the aggrieved person's legal 38
representative who is not a party to the offense. 39

(2) If the period of limitation provided in division (A)(1) 40
or (3) of this section has expired, prosecution for a violation of 41
section 2913.49 of the Revised Code shall be commenced within five 42
years after discovery of the offense either by an aggrieved person 43
or the aggrieved person's legal representative who is not a party 44
to the offense. 45

(C)(1) If the period of limitation provided in division 46
(A)(1) or (3) of this section has expired, prosecution shall be 47
commenced for the following offenses during the following 48
specified periods of time: 49

(a) For an offense involving misconduct in office by a public servant, at any time while the accused remains a public servant, or within two years thereafter;

(b) For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.

(2) As used in this division:

(a) An "offense is directly related to the misconduct in office of a public servant" includes, but is not limited to, a violation of section 101.71, 101.91, 121.61 or 2921.13, division (F) or (H) of section 102.03, division (A) of section 2921.02, division (A) or (B) of section 2921.43, or division (F) or (G) of section 3517.13 of the Revised Code, that is directly related to an offense involving misconduct in office of a public servant.

(b) "Public servant" has the same meaning as in section 2921.01 of the Revised Code.

(D) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.

(E) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation, or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation, or other process, unless reasonable diligence is exercised to execute the

same. 81

(F) The period of limitation shall not run during any time 82
when the corpus delicti remains undiscovered. 83

(G) The period of limitation shall not run during any time 84
when the accused purposely avoids prosecution. Proof that the 85
accused departed this state or concealed the accused's identity or 86
whereabouts is prima-facie evidence of the accused's purpose to 87
avoid prosecution. 88

(H) The period of limitation shall not run during any time a 89
prosecution against the accused based on the same conduct is 90
pending in this state, even though the indictment, information, or 91
process that commenced the prosecution is quashed or the 92
proceedings on the indictment, information, or process are set 93
aside or reversed on appeal. 94

(I) The period of limitation for a violation of any provision 95
of Title XXIX of the Revised Code that involves a physical or 96
mental wound, injury, disability, or condition of a nature that 97
reasonably indicates abuse or neglect of a child under eighteen 98
years of age or of a mentally retarded, developmentally disabled, 99
or physically impaired child under twenty-one years of age shall 100
not begin to run until either of the following occurs: 101

(1) The victim of the offense reaches the age of majority. 102

(2) A public children services agency, or a municipal or 103
county peace officer that is not the parent or guardian of the 104
child, in the county in which the child resides or in which the 105
abuse or neglect is occurring or has occurred has been notified 106
that abuse or neglect is known, suspected, or believed to have 107
occurred. 108

(J) As used in this section, "peace officer" has the same 109
meaning as in section 2935.01 of the Revised Code. 110

Section 2. That existing section 2901.13 of the Revised Code 111
is hereby repealed. 112

Section 3. Section 2901.13 of the Revised Code, as amended by 113
this act, applies to a violation of section 2907.02 or 2907.03 of 114
the Revised Code committed on or after the effective date of this 115
act and applies to a violation of section 2907.02 or 2907.03 of 116
the Revised Code committed prior to the effective date of this act 117
if, on the effective date of this act, prosecution for that 118
violation was not barred under section 2901.13 of the Revised Code 119
as it existed on the day prior to the effective date of this act. 120

Section 4. The General Assembly, applying the principle 121
stated in division (B) of section 1.52 of the Revised Code that 122
amendments are to be harmonized if reasonably capable of 123
simultaneous operation, finds that the following sections, 124
presented in this act as composites of the sections as amended by 125
the acts indicated, are the resulting versions of the sections in 126
effect prior to the effective date of the sections as presented in 127
this act: 128

Section 2901.13 of the Revised Code as amended by both Sub. 129
H.B. 46 and S.B. 219 of the 127th General Assembly. 130