

As Introduced

**130th General Assembly
Regular Session
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S. B. No. 324

Senators Jones, Hughes

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A B I L L

To amend section 2901.13 of the Revised Code to
extend the period of limitations for commencing a
rape or sexual battery prosecution against a
person who is implicated in the offense by DNA
analysis.

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

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

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

(a) For a felony, six years;

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

(c) For a minor misdemeanor, six months.

(2) There is no period of limitation for the prosecution of a
violation of section 2903.01 or 2903.02 of the Revised Code.

(3) Except as otherwise provided in divisions (B) to (H) of
this section, a prosecution of any of the following offenses shall

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
2905.32, 2907.02, 2907.03, 2907.04, 2907.05, 2907.21, 2909.02, 23
2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 24
2911.01, 2911.02, 2911.11, 2911.12, or 2917.02 of the Revised 25
Code, a violation of section 2903.11 or 2903.12 of the Revised 26
Code if the victim is a peace officer, a violation of section 27
2903.13 of the Revised Code that is a felony, or a violation of 28
former section 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

(3)(a) In a case in which DNA analysis implicates an 46
identified person in the commission of a violation of section 47
2907.02 or 2907.03 of the Revised Code, no statute of limitations 48
that otherwise would preclude prosecution of the offense shall 49
preclude prosecution of the offense until a period of time 50

following the implication of the person by DNA testing has elapsed 51
that is equal to the otherwise applicable limitation period. 52

(b) "DNA analysis" has the same meaning as in section 109.573 53
of the Revised Code. 54

(C)(1) If the period of limitation provided in division 55
(A)(1) or (3) of this section has expired, prosecution shall be 56
commenced for the following offenses during the following 57
specified periods of time: 58

(a) For an offense involving misconduct in office by a public 59
servant, at any time while the accused remains a public servant, 60
or within two years thereafter; 61

(b) For an offense by a person who is not a public servant 62
but whose offense is directly related to the misconduct in office 63
of a public servant, at any time while that public servant remains 64
a public servant, or within two years thereafter. 65

(2) As used in this division: 66

(a) An "offense is directly related to the misconduct in 67
office of a public servant" includes, but is not limited to, a 68
violation of section 101.71, 101.91, 121.61 or 2921.13, division 69
(F) or (H) of section 102.03, division (A) of section 2921.02, 70
division (A) or (B) of section 2921.43, or division (F) or (G) of 71
section 3517.13 of the Revised Code, that is directly related to 72
an offense involving misconduct in office of a public servant. 73

(b) "Public servant" has the same meaning as in section 74
2921.01 of the Revised Code. 75

(D) An offense is committed when every element of the offense 76
occurs. In the case of an offense of which an element is a 77
continuing course of conduct, the period of limitation does not 78
begin to run until such course of conduct or the accused's 79
accountability for it terminates, whichever occurs first. 80

(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.

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

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

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

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

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

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

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

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