

1 A bill to be entitled
 2 An act relating to limitation of actions; amending s.
 3 775.15, F.S.; authorizing the prosecution of specified
 4 sexual offenses in certain circumstances within 1 year
 5 after the identity of the accused is established through
 6 analysis of DNA evidence, in addition to the time
 7 limitations otherwise prescribed by law; providing for
 8 applicability; providing an effective date.

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 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Section 775.15, Florida Statutes, is amended to
 13 read:

14 775.15 Time limitations.--

15 (1)(a) A prosecution for a capital felony, a life felony,
 16 or a felony that resulted in a death may be commenced at any
 17 time. A prosecution for a felony that resulted in injury to any
 18 person, when such felony arises from the use of a "destructive
 19 device," as defined in s. 790.001, may be commenced within 10
 20 years. If the death penalty is held to be unconstitutional by
 21 the Florida Supreme Court or the United States Supreme Court,
 22 all crimes designated as capital felonies shall be considered
 23 life felonies for the purposes of this section, and prosecution
 24 for such crimes may be commenced at any time.

25 (b) Except as otherwise provided in subsection (7), a
 26 prosecution for a first or second degree felony violation of s.
 27 794.011, if such crime is reported to a law enforcement agency
 28 within 72 hours after commission of the crime, may be commenced

29 | at any time. If such crime is not reported within 72 hours after
30 | the commission of the crime, the prosecution must be commenced
31 | within the time periods prescribed in subsection (2).

32 | (c) A prosecution for perjury in an official proceeding
33 | that relates to the prosecution of a capital felony may be
34 | commenced at any time.

35 | (2) Except as otherwise provided in this section,
36 | prosecutions for other offenses are subject to the following
37 | periods of limitation:

38 | (a) A prosecution for a felony of the first degree must be
39 | commenced within 4 years after it is committed.

40 | (b) A prosecution for any other felony must be commenced
41 | within 3 years after it is committed.

42 | (c) A prosecution for a misdemeanor of the first degree
43 | must be commenced within 2 years after it is committed.

44 | (d) A prosecution for a misdemeanor of the second degree
45 | or a noncriminal violation must be commenced within 1 year after
46 | it is committed.

47 | (e) A prosecution for a felony violation of chapter 517 or
48 | s. 409.920 must be commenced within 5 years after the violation
49 | is committed.

50 | (f) A prosecution for a felony violation of chapter 403
51 | must be commenced within 5 years after the date of discovery of
52 | the violation.

53 | (g) A prosecution for a felony violation of s. 825.102 or
54 | s. 825.103 must be commenced within 5 years after it is
55 | committed.

56 (h) A prosecution for a felony violation of ss. 440.105
57 and 817.234 must be commenced within 5 years after the violation
58 is committed.

59 (3) If the period prescribed in subsection (2) has
60 expired, a prosecution may nevertheless be commenced for:

61 (a) Any offense, a material element of which is either
62 fraud or a breach of fiduciary obligation, within 1 year after
63 discovery of the offense by an aggrieved party or by a person
64 who has a legal duty to represent an aggrieved party and who is
65 himself or herself not a party to the offense, but in no case
66 shall this provision extend the period of limitation otherwise
67 applicable by more than 3 years.

68 (b) Any offense based upon misconduct in office by a
69 public officer or employee at any time when the defendant is in
70 public office or employment, within 2 years from the time he or
71 she leaves public office or employment, or during any time
72 permitted by any other part of this section, whichever time is
73 greater.

74 (4) An offense is committed either when every element has
75 occurred or, if a legislative purpose to prohibit a continuing
76 course of conduct plainly appears, at the time when the course
77 of conduct or the defendant's complicity therein is terminated.
78 Time starts to run on the day after the offense is committed.

79 (5)(a) Prosecution on a charge on which the defendant has
80 previously been arrested or served with a summons is commenced
81 by the filing of an indictment, information, or other charging
82 document.

83 (b) A prosecution on a charge on which the defendant has
84 not previously been arrested or served with a summons is
85 commenced when either an indictment or information is filed,
86 provided the capias, summons, or other process issued on such
87 indictment or information is executed without unreasonable
88 delay. In determining what is reasonable, inability to locate
89 the defendant after diligent search or the defendant's absence
90 from the state shall be considered. The failure to execute
91 process on or extradite a defendant in another state who has
92 been charged by information or indictment with a crime in this
93 state shall not constitute an unreasonable delay.

94 (c) If, however, an indictment or information has been
95 filed within the time period prescribed in this section and the
96 indictment or information is dismissed or set aside because of a
97 defect in its content or form after the time period has elapsed,
98 the period for commencing prosecution shall be extended 3 months
99 from the time the indictment or information is dismissed or set
100 aside.

101 (6) The period of limitation does not run during any time
102 when the defendant is continuously absent from the state or has
103 no reasonably ascertainable place of abode or work within the
104 state. This provision shall not extend the period of limitation
105 otherwise applicable by more than 3 years, but shall not be
106 construed to limit the prosecution of a defendant who has been
107 timely charged by indictment or information or other charging
108 document and who has not been arrested due to his or her absence
109 from this state or has not been extradited for prosecution from
110 another state.

111 (7)(a) If the victim of a violation of s. 794.011, former
 112 s. 794.05, Florida Statutes 1995, s. 800.04, or s. 826.04 is
 113 under the age of 18, the applicable period of limitation, if
 114 any, does not begin to run until the victim has reached the age
 115 of 18 or the violation is reported to a law enforcement agency
 116 or other governmental agency, whichever occurs earlier. Such law
 117 enforcement agency or other governmental agency shall promptly
 118 report such allegation to the state attorney for the judicial
 119 circuit in which the alleged violation occurred. If the offense
 120 is a first or second degree felony violation of s. 794.011, and
 121 the crime is reported within 72 hours after its commission,
 122 paragraph (1)(b) applies. This paragraph applies to any such
 123 offense except an offense the prosecution of which would have
 124 been barred by subsection (2) on or before December 31, 1984.

125 (b) Notwithstanding the provisions of paragraph (1)(b) and
 126 paragraph (a) of this subsection, if the offense is a first
 127 degree felony violation of s. 794.011 and the victim was under
 128 18 years of age at the time the offense was committed, a
 129 prosecution of the offense may be commenced at any time. This
 130 paragraph applies to any such offense except an offense the
 131 prosecution of which would have been barred by subsection (2) on
 132 or before October 1, 2003.

133 (8)(a) In addition to the time periods prescribed in this
 134 section, a prosecution for any of the following offenses may be
 135 commenced within 1 year after the date on which the identity of
 136 the accused is established, or should have been established by
 137 the exercise of due diligence, through the analysis of
 138 deoxyribonucleic acid (DNA) evidence, if a sufficient portion of

139 | the evidence collected at the time of the original investigation
140 | and tested for DNA is preserved and available for testing by the
141 | accused:

142 | 1. An offense of sexual battery under chapter 794.

143 | 2. A lewd or lascivious offense under s. 800.04 or s.
144 | 825.1025.

145 | (b) This subsection applies to any offense that is not
146 | otherwise barred from prosecution on or after July 1, 2004.

147 | Section 2. This act shall take effect July 1, 2004.