

1                   A bill to be entitled  
 2           An act relating to time limitations; amending s. 775.15,  
 3           F.S.; reorganizing provisions establishing time  
 4           limitations for prosecuting criminal offenses; clarifying  
 5           certain provisions; amending s. 922.105, F.S.; conforming  
 6           a cross reference; providing an effective date.

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

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

12           775.15 Time limitations; general time limitations;  
 13 exceptions.--

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

24           ~~(b) Except as otherwise provided in subsection (7), a~~  
 25 ~~prosecution for a first or second degree felony violation of s.~~  
 26 ~~794.011, if such crime is reported to a law enforcement agency~~  
 27 ~~within 72 hours after commission of the crime, may be commenced~~  
 28 ~~at any time. If such crime is not reported within 72 hours after~~

29 ~~the commission of the crime, the prosecution must be commenced~~  
 30 ~~within the time periods prescribed in subsection (2).~~

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

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

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

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

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

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

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

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

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

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

57 ~~is committed.~~

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

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

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

73 (3)~~(4)~~ An offense is committed either when every element  
 74 has occurred or, if a legislative purpose to prohibit a  
 75 continuing course of conduct plainly appears, at the time when  
 76 the course of conduct or the defendant's complicity therein is  
 77 terminated. Time starts to run on the day after the offense is  
 78 committed.

79 (4)~~(5)~~(a) Prosecution on a charge on which the defendant  
 80 has previously been arrested or served with a summons is  
 81 commenced by the filing of an indictment, information, or other  
 82 charging 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 ~~(5)(6)~~ The period of limitation does not run during any  
102 time when the defendant is continuously absent from the state or  
103 has no reasonably ascertainable place of abode or work within  
104 the state. This provision shall not extend the period of  
105 limitation otherwise applicable by more than 3 years, but shall  
106 not be construed to limit the prosecution of a defendant who has  
107 been timely charged by indictment or information or other  
108 charging document and who has not been arrested due to his or  
109 her absence from this state or has not been extradited for  
110 prosecution from another state.

111 (6) A prosecution for perjury in an official proceeding  
112 that relates to the prosecution of a capital felony may be

113 commenced at any time.

114 (7) A prosecution for a felony that resulted in injury to  
 115 any person, when such felony arises from the use of a  
 116 "destructive device," as defined in s. 790.001, may be commenced  
 117 within 10 years.

118 (8) A prosecution for a felony violation of chapter 517 or  
 119 s. 409.920 must be commenced within 5 years after the violation  
 120 is committed.

121 (9) A prosecution for a felony violation of chapter 403  
 122 must be commenced within 5 years after the date of discovery of  
 123 the violation.

124 (10) A prosecution for a felony violation of s. 825.102 or  
 125 s. 825.103 must be commenced within 5 years after the violation  
 126 is committed.

127 (11) A prosecution for a felony violation of ss. 440.105  
 128 and 817.234 must be commenced within 5 years after the violation  
 129 is committed.

130 (12) If the period prescribed in subsection (2),  
 131 subsection (8), subsection (9), subsection (10), or subsection  
 132 (11) has expired, a prosecution may nevertheless be commenced  
 133 for:

134 (a) Any offense, a material element of which is either  
 135 fraud or a breach of fiduciary obligation, within 1 year after  
 136 discovery of the offense by an aggrieved party or by a person  
 137 who has a legal duty to represent an aggrieved party and who is  
 138 himself or herself not a party to the offense, but in no case  
 139 shall this provision extend the period of limitation otherwise  
 140 applicable by more than 3 years.

141           (b) Any offense based upon misconduct in office by a  
 142 public officer or employee at any time when the defendant is in  
 143 public office or employment, within 2 years from the time he or  
 144 she leaves public office or employment, or during any time  
 145 permitted by any other provision of this section, whichever time  
 146 is greater.

147           (13)(7)(a) If the victim of a violation of s. 794.011,  
 148 former s. 794.05, Florida Statutes 1995, s. 800.04, or s. 826.04  
 149 is under the age of 18, the applicable period of limitation, if  
 150 any, does not begin to run until the victim has reached the age  
 151 of 18 or the violation is reported to a law enforcement agency  
 152 or other governmental agency, whichever occurs earlier. Such law  
 153 enforcement agency or other governmental agency shall promptly  
 154 report such allegation to the state attorney for the judicial  
 155 circuit in which the alleged violation occurred. If the offense  
 156 is a first or second degree felony violation of s. 794.011, and  
 157 the offense ~~crime~~ is reported within 72 hours after its  
 158 commission, the prosecution for such offense may be commenced at  
 159 any time ~~paragraph (1)(b) applies~~. This paragraph applies to any  
 160 such offense except an offense the prosecution of which would  
 161 have been barred by subsection (2) on or before December 31,  
 162 1984.

163           (b) ~~Notwithstanding the provisions of paragraph (1)(b) and~~  
 164 ~~paragraph (a) of this subsection,~~ If the offense is a first  
 165 degree felony violation of s. 794.011 and the victim was under  
 166 18 years of age at the time the offense was committed, a  
 167 prosecution of the offense may be commenced at any time. This  
 168 paragraph applies to any such offense except an offense the

169 prosecution of which would have been barred by subsection (2) on  
 170 or before October 1, 2003.

171 (14) A prosecution for a first or second degree felony  
 172 violation of s. 794.011, if the victim is 18 years of age or  
 173 older at the time of the offense and the offense is reported to  
 174 a law enforcement agency within 72 hours after commission of the  
 175 offense, may be commenced at any time. If the offense is not  
 176 reported within 72 hours after the commission of the offense,  
 177 the prosecution must be commenced within the time periods  
 178 prescribed in subsection (2).

179 ~~(15)~~(8)(a) In addition to the time periods prescribed in  
 180 this section, a prosecution for any of the following offenses  
 181 may be commenced within 1 year after the date on which the  
 182 identity of the accused is established, or should have been  
 183 established by the exercise of due diligence, through the  
 184 analysis of deoxyribonucleic acid (DNA) evidence, if a  
 185 sufficient portion of the evidence collected at the time of the  
 186 original investigation and tested for DNA is preserved and  
 187 available for testing by the accused:

- 188 1. An offense of sexual battery under chapter 794.
- 189 2. A lewd or lascivious offense under s. 800.04 or s.  
 190 825.1025.

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

193 Section 2. Subsection (8) of section 922.105, Florida  
 194 Statutes, is amended to read:

195 922.105 Execution of death sentence; prohibition against  
 196 reduction of death sentence as a result of determination that a

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197 method of execution is unconstitutional.--

198 (8) Notwithstanding s. 775.082(2), s. 775.15(1)~~(a)~~, or s.  
199 790.161(4), or any other provision to the contrary, no sentence  
200 of death shall be reduced as a result of a determination that a  
201 method of execution is declared unconstitutional under the State  
202 Constitution or the Constitution of the United States. In any  
203 case in which an execution method is declared unconstitutional,  
204 the death sentence shall remain in force until the sentence can  
205 be lawfully executed by any valid method of execution.

206 Section 3. This act shall take effect July 1, 2005.