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Sub. H. B. No. 6

Representatives LaTourette, Kunze

Cosponsors: Representatives Amstutz, Antani, Antonio, Baker, Barnes, Brenner, Brown, Buchy, Burkley, Butler, Conditt, Cupp, Derickson, Dever, Driehaus, Duffey, Gerberry, Ginter, Gonzales, Green, Grossman, Hackett, Hagan, Hambley, Henne, Hill, Johnson, T., Koehler, Kraus, Landis, Maag, Manning, McClain, O'Brien, M., O'Brien, S., Patterson, Perales, Phillips, Rezabek, Roegner, Rogers, Ruhl, Schaffer, Schuring, Sears, Sheehy, Slaby, Smith, K., Smith, R., Sprague, Strahorn, Terhar, Young, Zeltwanger, Speaker Rosenberger

A BILL

To amend section 2901.13 of the Revised Code to
increase the period of limitations for
prosecution of rape or sexual battery, to extend
that period of limitations when a DNA record
made in connection with the investigation of the
offense matches another DNA record of an
identifiable person, and to declare an
emergency.

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), or (4)~~ 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:	15
(a) For a felony, six years;	16
(b) For a misdemeanor other than a minor misdemeanor, two years;	17 18
(c) For a minor misdemeanor, six months.	19
(2) There is no period of limitation for the prosecution of a violation of section 2903.01 or 2903.02 of the Revised Code.	20 21 22
(3) Except as otherwise provided in divisions (B) to (H) <u>(J)</u> of this section, a prosecution of any of the following offenses shall be barred unless it is commenced within twenty years after the offense is committed:	23 24 25 26
(a) A violation of section 2903.03, 2903.04, 2905.01, 2905.32, 2907.02, 2907.03, 2907.04 , 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, or 2917.02 of the Revised Code, a violation of section 2903.11 or 2903.12 of the Revised Code if the victim is a peace officer, a violation of section 2903.13 of the Revised Code that is a felony, or a violation of former section 2907.12 of the Revised Code;	27 28 29 30 31 32 33 34
(b) A conspiracy to commit, attempt to commit, or complicity in committing a violation set forth in division (A) (3) (a) of this section.	35 36 37
<u>(4) Except as otherwise provided in divisions (D) to (L)</u> <u>of this section, a prosecution of a violation of section 2907.02</u> <u>or 2907.03 of the Revised Code or a conspiracy to commit,</u> <u>attempt to commit, or complicity in committing a violation of</u> <u>either section shall be barred unless it is commenced within</u>	38 39 40 41 42

twenty-five years after the offense is committed. 43

(B) (1) Except as otherwise provided in division (B) (2) of 44
this section, if the period of limitation provided in division 45
(A) (1) or (3) of this section has expired, prosecution shall be 46
commenced for an offense of which an element is fraud or breach 47
of a fiduciary duty, within one year after discovery of the 48
offense either by an aggrieved person, or by the aggrieved 49
person's legal representative who is not a party to the offense. 50

(2) If the period of limitation provided in division (A) 51
(1) or (3) of this section has expired, prosecution for a 52
violation of section 2913.49 of the Revised Code shall be 53
commenced within five years after discovery of the offense 54
either by an aggrieved person or the aggrieved person's legal 55
representative who is not a party to the offense. 56

(C) (1) If the period of limitation provided in division 57
(A) (1) or (3) of this section has expired, prosecution shall be 58
commenced for the following offenses during the following 59
specified periods of time: 60

(a) For an offense involving misconduct in office by a 61
public servant, at any time while the accused remains a public 62
servant, or within two years thereafter; 63

(b) For an offense by a person who is not a public servant 64
but whose offense is directly related to the misconduct in 65
office of a public servant, at any time while that public 66
servant remains a public servant, or within two years 67
thereafter. 68

(2) As used in this division: 69

(a) An "offense is directly related to the misconduct in 70
office of a public servant" includes, but is not limited to, a 71

violation of section 101.71, 101.91, 121.61 or 2921.13, division 72
(F) or (H) of section 102.03, division (A) of section 2921.02, 73
division (A) or (B) of section 2921.43, or division (F) or (G) 74
of section 3517.13 of the Revised Code, that is directly related 75
to an offense involving misconduct in office of a public 76
servant. 77

(b) "Public servant" has the same meaning as in section 78
2921.01 of the Revised Code. 79

(D) (1) If a DNA record made in connection with the 80
criminal investigation of the commission of a violation of 81
section 2907.02 or 2907.03 of the Revised Code is determined to 82
match another DNA record that is of an identifiable person and 83
if the time of the determination is later than twenty-five years 84
after the offense is committed, prosecution of that person for a 85
violation of the section may be commenced within five years 86
after the determination. 87

(2) If a DNA record made in connection with the criminal 88
investigation of the commission of a violation of section 89
2907.02 or 2907.03 of the Revised Code is determined to match 90
another DNA record that is of an identifiable person and if the 91
time of the determination is within twenty-five years after the 92
offense is committed, prosecution of that person for a violation 93
of the section may be commenced within the longer of twenty-five 94
years after the offense is committed or five years after the 95
determination. 96

(3) As used in this division, "DNA record" has the same 97
meaning as in section 109.573 of the Revised Code. 98

(E) An offense is committed when every element of the 99
offense occurs. In the case of an offense of which an element is 100

a continuing course of conduct, the period of limitation does 101
not begin to run until such course of conduct or the accused's 102
accountability for it terminates, whichever occurs first. 103

~~(E)~~ (F) A prosecution is commenced on the date an 104
indictment is returned or an information filed, or on the date a 105
lawful arrest without a warrant is made, or on the date a 106
warrant, summons, citation, or other process is issued, 107
whichever occurs first. A prosecution is not commenced by the 108
return of an indictment or the filing of an information unless 109
reasonable diligence is exercised to issue and execute process 110
on the same. A prosecution is not commenced upon issuance of a 111
warrant, summons, citation, or other process, unless reasonable 112
diligence is exercised to execute the same. 113

~~(F)~~ (G) The period of limitation shall not run during any 114
time when the corpus delicti remains undiscovered. 115

~~(G)~~ (H) The period of limitation shall not run during any 116
time when the accused purposely avoids prosecution. Proof that 117
the accused departed this state or concealed the accused's 118
identity or whereabouts is prima-facie evidence of the accused's 119
purpose to avoid prosecution. 120

~~(H)~~ (I) The period of limitation shall not run during any 121
time a prosecution against the accused based on the same conduct 122
is pending in this state, even though the indictment, 123
information, or process that commenced the prosecution is 124
quashed or the proceedings on the indictment, information, or 125
process are set aside or reversed on appeal. 126

~~(I)~~ (J) The period of limitation for a violation of any 127
provision of Title XXIX of the Revised Code that involves a 128
physical or mental wound, injury, disability, or condition of a 129

nature that reasonably indicates abuse or neglect of a child 130
under eighteen years of age or of a mentally retarded, 131
developmentally disabled, or physically impaired child under 132
twenty-one years of age shall not begin to run until either of 133
the following occurs: 134

(1) The victim of the offense reaches the age of majority. 135

(2) A public children services agency, or a municipal or 136
county peace officer that is not the parent or guardian of the 137
child, in the county in which the child resides or in which the 138
abuse or neglect is occurring or has occurred has been notified 139
that abuse or neglect is known, suspected, or believed to have 140
occurred. 141

~~(J)~~ (K) As used in this section, "peace officer" has the 142
same meaning as in section 2935.01 of the Revised Code. 143

(L) The amendments to divisions (A) and (D) of this 144
section apply to a violation of section 2907.02 or 2907.03 of 145
the Revised Code committed on and after the effective date of 146
those amendments and apply to a violation of either of those 147
sections committed prior to the effective date of the amendments 148
if prosecution for that violation was not barred under this 149
section as it existed on the day prior to the effective date of 150
the amendments. 151

Section 2. That existing section 2901.13 of the Revised 152
Code is hereby repealed. 153

Section 3. This act is hereby declared to be an emergency 154
measure necessary for the immediate preservation of the public 155
peace, health, and safety. The reason for such necessity is that 156
the changes in law made in this act are crucially needed to 157
ensure that as many persons who commit rape or sexual battery as 158

possible are prosecuted and punished in the interest of public 159
safety. Therefore, this act shall go into immediate effect. 160