

**As Introduced**

**134th General Assembly**

**Regular Session**

**2021-2022**

**S. B. No. 198**

**Senator Antonio**

**Cosponsors: Senators Kunze, Maharath, Lang, Thomas, Yuko, Craig**

---

**A BILL**

To amend sections 2901.13 and 2933.82 and to enact  
section 2305.118 of the Revised Code to  
eliminate the period of limitation for the  
criminal prosecution of a person for rape and  
for a civil action brought by a victim of  
conduct that would constitute rape.

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

**Section 1.** That sections 2901.13 and 2933.82 be amended  
and section 2305.118 of the Revised Code be enacted to read as  
follows:

**Sec. 2305.118.** Notwithstanding any other section of the  
Revised Code to the contrary, there is no period of limitations  
for a civil action brought by a victim of conduct that would  
constitute a violation of section 2907.02 of the Revised Code or  
conduct that would constitute conspiracy to commit, complicity  
in committing, or attempting to commit a violation of section  
2907.02 of the Revised Code against the person who committed  
that conduct.

**Sec. 2901.13.** (A) (1) Except as provided in division (A)

(2), (3), or (4) of this section or as otherwise provided in 19  
this section, a prosecution shall be barred unless it is 20  
commenced within the following periods after an offense is 21  
committed: 22

(a) For a felony, six years; 23

(b) For a misdemeanor other than a minor misdemeanor, two 24  
years; 25

(c) For a minor misdemeanor, six months. 26

(2) There is no period of limitation for the prosecution 27  
of ~~a~~ any of the following offenses: 28

(a) A violation of section 2903.01 ~~or, 2903.02, or 2907.02~~ 29  
of the Revised Code; 30

(b) A conspiracy to commit, attempt to commit, or 31  
complicity in committing a violation of section 2907.02 of the 32  
Revised Code. 33

(3) Except as otherwise provided in divisions (B) to (J) 34  
of this section, a prosecution of any of the following offenses 35  
shall be barred unless it is commenced within twenty years after 36  
the offense is committed: 37

(a) A violation of section 2903.03, 2903.04, 2905.01, 38  
2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 39  
2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 40  
2911.11, 2911.12, or 2917.02 of the Revised Code, a violation of 41  
section 2903.11 or 2903.12 of the Revised Code if the victim is 42  
a peace officer, a violation of section 2903.13 of the Revised 43  
Code that is a felony, or a violation of former section 2907.12 44  
of the Revised Code; 45

(b) A conspiracy to commit, attempt to commit, or 46

complicity in committing a violation set forth in division (A) 47  
(3) (a) of this section. 48

(4) Except as otherwise provided in divisions (D) to (L) 49  
of this section, a prosecution of a violation of section ~~2907.02~~ 50  
~~or~~ 2907.03 of the Revised Code or a conspiracy to commit, 51  
attempt to commit, or complicity in committing a violation of 52  
~~either that~~ section shall be barred unless it is commenced 53  
within twenty-five years after the offense is committed. 54

(B) (1) Except as otherwise provided in division (B) (2) of 55  
this section, if the period of limitation provided in division 56  
(A) (1) or (3) of this section has expired, prosecution shall be 57  
commenced for an offense of which an element is fraud or breach 58  
of a fiduciary duty, within one year after discovery of the 59  
offense either by an aggrieved person, or by the aggrieved 60  
person's legal representative who is not a party to the offense. 61

(2) If the period of limitation provided in division (A) 62  
(1) or (3) of this section has expired, prosecution for a 63  
violation of section 2913.49 of the Revised Code shall be 64  
commenced within five years after discovery of the offense 65  
either by an aggrieved person or the aggrieved person's legal 66  
representative who is not a party to the offense. 67

(C) (1) If the period of limitation provided in division 68  
(A) (1) or (3) of this section has expired, prosecution shall be 69  
commenced for the following offenses during the following 70  
specified periods of time: 71

(a) For an offense involving misconduct in office by a 72  
public servant, at any time while the accused remains a public 73  
servant, or within two years thereafter; 74

(b) For an offense by a person who is not a public servant 75

but whose offense is directly related to the misconduct in 76  
office of a public servant, at any time while that public 77  
servant remains a public servant, or within two years 78  
thereafter. 79

(2) As used in this division: 80

(a) An "offense is directly related to the misconduct in 81  
office of a public servant" includes, but is not limited to, a 82  
violation of section 101.71, 101.91, 121.61 or 2921.13, division 83  
(F) or (H) of section 102.03, division (A) of section 2921.02, 84  
division (A) or (B) of section 2921.43, or division (F) or (G) 85  
of section 3517.13 of the Revised Code, that is directly related 86  
to an offense involving misconduct in office of a public 87  
servant. 88

(b) "Public servant" has the same meaning as in section 89  
2921.01 of the Revised Code. 90

(D) (1) If a DNA record made in connection with the 91  
criminal investigation of the commission of a violation of 92  
section ~~2907.02 or~~ 2907.03 of the Revised Code is determined to 93  
match another DNA record that is of an identifiable person and 94  
if the time of the determination is later than twenty-five years 95  
after the offense is committed, prosecution of that person for a 96  
violation of ~~the that~~ section may be commenced within five years 97  
after the determination is complete. 98

(2) If a DNA record made in connection with the criminal 99  
investigation of the commission of a violation of section 100  
~~2907.02 or~~ 2907.03 of the Revised Code is determined to match 101  
another DNA record that is of an identifiable person and if the 102  
time of the determination is within twenty-five years after the 103  
offense is committed, prosecution of that person for a violation 104

of ~~the that~~ section may be commenced within the longer of 105  
twenty-five years after the offense is committed or five years 106  
after the determination is complete. 107

(3) As used in this division, "DNA record" has the same 108  
meaning as in section 109.573 of the Revised Code. 109

(E) An offense is committed when every element of the 110  
offense occurs. In the case of an offense of which an element is 111  
a continuing course of conduct, the period of limitation does 112  
not begin to run until such course of conduct or the accused's 113  
accountability for it terminates, whichever occurs first. 114

(F) A prosecution is commenced on the date an indictment 115  
is returned or an information filed, or on the date a lawful 116  
arrest without a warrant is made, or on the date a warrant, 117  
summons, citation, or other process is issued, whichever occurs 118  
first. A prosecution is not commenced by the return of an 119  
indictment or the filing of an information unless reasonable 120  
diligence is exercised to issue and execute process on the same. 121  
A prosecution is not commenced upon issuance of a warrant, 122  
summons, citation, or other process, unless reasonable diligence 123  
is exercised to execute the same. 124

(G) The period of limitation shall not run during any time 125  
when the corpus delicti remains undiscovered. 126

(H) The period of limitation shall not run during any time 127  
when the accused purposely avoids prosecution. Proof that the 128  
accused departed this state or concealed the accused's identity 129  
or whereabouts is prima-facie evidence of the accused's purpose 130  
to avoid prosecution. 131

(I) The period of limitation shall not run during any time 132  
a prosecution against the accused based on the same conduct is 133

pending in this state, even though the indictment, information, 134  
or process that commenced the prosecution is quashed or the 135  
proceedings on the indictment, information, or process are set 136  
aside or reversed on appeal. 137

(J) The period of limitation for a violation of any 138  
provision of Title XXIX of the Revised Code that involves a 139  
physical or mental wound, injury, disability, or condition of a 140  
nature that reasonably indicates abuse or neglect of a child 141  
under eighteen years of age or of a child with a developmental 142  
disability or physical impairment under twenty-one years of age 143  
shall not begin to run until either of the following occurs: 144

(1) The victim of the offense reaches the age of majority. 145

(2) A public children services agency, or a municipal or 146  
county peace officer that is not the parent or guardian of the 147  
child, in the county in which the child resides or in which the 148  
abuse or neglect is occurring or has occurred has been notified 149  
that abuse or neglect is known, suspected, or believed to have 150  
occurred. 151

(K) As used in this section, "peace officer" has the same 152  
meaning as in section 2935.01 of the Revised Code. 153

(L) The amendments to divisions (A) and (D) of this 154  
section apply to a violation of section ~~2907.02~~ or 2907.03 of 155  
the Revised Code committed on and after July 16, 2015, and apply 156  
to a violation of either of those sections committed prior to 157  
July 16, 2015, if prosecution for that violation was not barred 158  
under this section as it existed on the day prior to July 16, 159  
2015. 160

**Sec. 2933.82.** (A) As used in this section: 161

(1) (a) "Biological evidence" means any of the following: 162

(i) The contents of a sexual assault examination kit;	163
(ii) Any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or any other identifiable biological material that was collected as part of a criminal investigation or delinquent child investigation and that reasonably may be used to incriminate or exculpate any person for an offense or delinquent act.	164 165 166 167 168 169
(b) The definition of "biological evidence" set forth in division (A)(1)(a) of this section applies whether the material in question is cataloged separately, such as on a slide or swab or in a test tube, or is present on other evidence, including, but not limited to, clothing, ligatures, bedding or other household material, drinking cups or containers, or cigarettes.	170 171 172 173 174 175
(2) "Biological material" has the same meaning as in section 2953.71 of the Revised Code.	176 177
(3) "DNA," "DNA analysis," "DNA database," "DNA record," and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.	178 179 180
(4) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.	181 182
(5) "Governmental evidence-retention entity" means all of the following:	183 184
(a) Any law enforcement agency, prosecutor's office, court, public hospital, crime laboratory, or other governmental or public entity or individual within this state that is charged with the collection, storage, or retrieval of biological evidence;	185 186 187 188 189
(b) Any official or employee of any entity or individual	190

described in division (A) (5) (a) of this section. 191

(B) (1) Each governmental evidence-retention entity that 192  
secures any biological evidence in relation to an investigation 193  
or prosecution of a criminal offense or delinquent act that is a 194  
violation of section 2903.01, 2903.02, or 2903.03, a violation 195  
of section 2903.04 or 2903.06 that is a felony of the first or 196  
second degree, a violation of section 2907.02 or 2907.03 or 197  
division (A) (4) or (B) of section 2907.05 of the Revised Code, 198  
or an attempt to commit a violation of section 2907.02 of the 199  
Revised Code shall secure the biological evidence for whichever 200  
of the following periods of time is applicable: 201

(a) For a violation of section 2903.01 ~~or, 2903.02, or~~ 2907.02 of the Revised Code, or an attempt to commit a violation 202  
of section 2907.02 of the Revised Code, for the period of time 203  
that the offense or act remains unsolved; 204  
205

(b) For a violation of section 2903.03, a violation of 206  
section 2903.04 or 2903.06 that is a felony of the first or 207  
second degree, a violation of section ~~2907.02 or 2907.03 or of~~ 208  
division (A) (4) or (B) of section 2907.05 of the Revised Code, 209  
~~or an attempt to commit a violation of section 2907.02 of the~~ 210  
~~Revised Code,~~ for a period of thirty years if the offense or act 211  
remains unsolved; 212

(c) If any person is convicted of or pleads guilty to the 213  
offense, or is adjudicated a delinquent child for committing the 214  
delinquent act, for the earlier of the following: (i) the 215  
expiration of the latest of the following periods of time that 216  
apply to the person: the period of time that the person is 217  
incarcerated, is in a department of youth services institution 218  
or other juvenile facility, is under a community control 219  
sanction for that offense, is under any order of disposition for 220

that act, is on probation or parole for that offense, is under 221  
judicial release or supervised release for that act, is under 222  
post-release control for that offense, is involved in civil 223  
litigation in connection with that offense or act, or is subject 224  
to registration and other duties imposed for that offense or act 225  
under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 226  
Revised Code or (ii) thirty years. If after the period of thirty 227  
years the person remains incarcerated, then the governmental 228  
evidence-retention entity shall secure the biological evidence 229  
until the person is released from incarceration or dies. 230

(2) (a) A law enforcement agency shall review all of its 231  
records and reports pertaining to its investigation of any 232  
offense specified in division (B) (1) of this section as soon as 233  
possible after March 23, 2015. If the law enforcement agency's 234  
review determines that one or more persons may have committed or 235  
participated in an offense specified in division (B) (1) of this 236  
section or another offense committed during the course of an 237  
offense specified in division (B) (1) of this section and the 238  
agency is in possession of a sexual assault examination kit 239  
secured during the course of the agency's investigation, as soon 240  
as possible, but not later than one year after March 23, 2015, 241  
the agency shall forward the contents of the kit to the bureau 242  
of criminal identification and investigation or another crime 243  
laboratory for a DNA analysis of the contents of the kit if a 244  
DNA analysis has not previously been performed on the contents 245  
of the kit. The law enforcement agency shall consider the period 246  
of time remaining under section 2901.13 of the Revised Code for 247  
commencing the prosecution of a criminal offense related to the 248  
DNA specimens from the kit as well as other relevant factors in 249  
prioritizing the forwarding of the contents of sexual assault 250  
examination kits. 251

(b) If an investigation is initiated on or after March 23, 252  
2015, and if a law enforcement agency investigating an offense 253  
specified in division (B) (1) of this section determines that one 254  
or more persons may have committed or participated in an offense 255  
specified in division (B) (1) of this section or another offense 256  
committed during the course of an offense specified in division 257  
(B) (1) of this section, the law enforcement agency shall forward 258  
the contents of a sexual assault examination kit in the agency's 259  
possession to the bureau or another crime laboratory within 260  
thirty days for a DNA analysis of the contents of the kit. 261

(c) A law enforcement agency shall be considered in the 262  
possession of a sexual assault examination kit that is not in 263  
the law enforcement agency's possession for purposes of 264  
divisions (B) (2) (a) and (b) of this section if the sexual 265  
assault examination kit contains biological evidence related to 266  
the law enforcement agency's investigation of an offense 267  
specified in division (B) (1) of this section and is in the 268  
possession of another government evidence-retention entity. The 269  
law enforcement agency shall be responsible for retrieving the 270  
sexual assault examination kit from the government evidence- 271  
retention entity and forwarding the contents of the kit to the 272  
bureau or another crime laboratory as required under divisions 273  
(B) (2) (a) and (b) of this section. 274

(d) (i) The bureau or a laboratory under contract with the 275  
bureau pursuant to division (B) (5) of section 109.573 of the 276  
Revised Code shall perform a DNA analysis of the contents of any 277  
sexual assault examination kit forwarded to the bureau pursuant 278  
to division (B) (2) (a) or (b) of this section as soon as possible 279  
after the bureau receives the contents of the kit. The bureau 280  
shall enter the resulting DNA record into a DNA database. If the 281  
DNA analysis is performed by a laboratory under contract with 282

the bureau, the laboratory shall forward the biological evidence 283  
to the bureau immediately after the laboratory performs the DNA 284  
analysis. A crime laboratory shall perform a DNA analysis of the 285  
contents of any sexual assault examination kit forwarded to the 286  
crime laboratory pursuant to division (B)(2)(a) or (b) of this 287  
section as soon as possible after the crime laboratory receives 288  
the contents of the kit and shall enter the resulting DNA record 289  
into a DNA database subject to the applicable DNA index system 290  
standards. 291

(ii) Upon the completion of the DNA analysis by the bureau 292  
or a crime laboratory under contract with the bureau under this 293  
division, the bureau shall return the contents of the sexual 294  
assault examination kit to the law enforcement agency. The law 295  
enforcement agency shall secure the contents of the sexual 296  
assault examination kit in accordance with division (B)(1) of 297  
this section, as applicable. 298

(e) The failure of any law enforcement agency to comply 299  
with any time limit specified in this section shall not create, 300  
and shall not be construed as creating, any basis or right to 301  
appeal, claim for or right to postconviction relief, or claim 302  
for or right to a new trial or any other claim or right to 303  
relief by any person. 304

(3) This section applies to evidence likely to contain 305  
biological material that was in the possession of any 306  
governmental evidence-retention entity during the investigation 307  
and prosecution of a criminal case or delinquent child case 308  
involving a violation of section 2903.01, 2903.02, or 2903.03, a 309  
violation of section 2903.04 or 2903.06 that is a felony of the 310  
first or second degree, a violation of section 2907.02 or 311  
2907.03 or of division (A)(4) or (B) of section 2907.05 of the 312

Revised Code, or an attempt to commit a violation of section 313  
2907.02 of the Revised Code. 314

(4) A governmental evidence-retention entity that 315  
possesses biological evidence shall retain the biological 316  
evidence in the amount and manner sufficient to develop a DNA 317  
record from the biological material contained in or included on 318  
the evidence. 319

(5) Upon written request by the defendant in a criminal 320  
case or the alleged delinquent child in a delinquent child case 321  
involving a violation of section 2903.01, 2903.02, or 2903.03, a 322  
violation of section 2903.04 or 2903.06 that is a felony of the 323  
first or second degree, a violation of section 2907.02 or 324  
2907.03 or of division (A) (4) or (B) of section 2907.05 of the 325  
Revised Code, or an attempt to commit a violation of section 326  
2907.02 of the Revised Code, a governmental evidence-retention 327  
entity that possesses biological evidence shall prepare an 328  
inventory of the biological evidence that has been preserved in 329  
connection with the defendant's criminal case or the alleged 330  
delinquent child's delinquent child case. 331

(6) Except as otherwise provided in division (B) (8) of 332  
this section, a governmental evidence-retention entity that 333  
possesses biological evidence that includes biological material 334  
may destroy the evidence before the expiration of the applicable 335  
period of time specified in division (B) (1) of this section if 336  
all of the following apply: 337

(a) No other provision of federal or state law requires 338  
the state to preserve the evidence. 339

(b) The governmental evidence-retention entity, by 340  
certified mail, return receipt requested, provides notice of 341

intent to destroy the evidence to all of the following: 342

(i) All persons who remain in custody, incarcerated, in a 343  
department of youth services institution or other juvenile 344  
facility, under a community control sanction, under any order of 345  
disposition, on probation or parole, under judicial release or 346  
supervised release, under post-release control, involved in 347  
civil litigation, or subject to registration and other duties 348  
imposed for that offense or act under sections 2950.04, 349  
2950.041, 2950.05, and 2950.06 of the Revised Code as a result 350  
of a criminal conviction, delinquency adjudication, or 351  
commitment related to the evidence in question; 352

(ii) The attorney of record for each person who is in 353  
custody in any circumstance described in division (B) (6) (b) (i) 354  
of this section if the attorney of record can be located; 355

(iii) The state public defender; 356

(iv) The office of the prosecutor of record in the case 357  
that resulted in the custody of the person in custody in any 358  
circumstance described in division (B) (6) (b) (i) of this section; 359

(v) The attorney general. 360

(c) No person who is notified under division (B) (6) (b) of 361  
this section does either of the following within one year after 362  
the date on which the person receives the notice: 363

(i) Files a motion for testing of evidence under sections 364  
2953.71 to 2953.81 or section 2953.82 of the Revised Code; 365

(ii) Submits a written request for retention of evidence 366  
to the governmental evidence-retention entity that provided 367  
notice of its intent to destroy evidence under division (B) (6) 368  
(b) of this section. 369

(7) Except as otherwise provided in division (B) (8) of 370  
this section, if, after providing notice under division (B) (6) 371  
(b) of this section of its intent to destroy evidence, a 372  
governmental evidence-retention entity receives a written 373  
request for retention of the evidence from any person to whom 374  
the notice is provided, the governmental evidence-retention 375  
entity shall retain the evidence while the person referred to in 376  
division (B) (6) (b) (i) of this section remains in custody, 377  
incarcerated, in a department of youth services institution or 378  
other juvenile facility, under a community control sanction, 379  
under any order of disposition, on probation or parole, under 380  
judicial release or supervised release, under post-release 381  
control, involved in civil litigation, or subject to 382  
registration and other duties imposed for that offense or act 383  
under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 384  
Revised Code as a result of a criminal conviction, delinquency 385  
adjudication, or commitment related to the evidence in question. 386

(8) A governmental evidence-retention entity that 387  
possesses biological evidence that includes biological material 388  
may destroy the evidence five years after a person pleads guilty 389  
or no contest to a violation of section 2903.01, 2903.02, or 390  
2903.03, a violation of section 2903.04 or 2903.06 that is a 391  
felony of the first or second degree, a violation of section 392  
2907.02, 2907.03, division (A) (4) or (B) of section 2907.05, or 393  
an attempt to commit a violation of section 2907.02 of the 394  
Revised Code and all appeals have been exhausted unless, upon a 395  
motion to the court by the person who pleaded guilty or no 396  
contest or the person's attorney and notice to those persons 397  
described in division (B) (6) (b) of this section requesting that 398  
the evidence not be destroyed, the court finds good cause as to 399  
why that evidence must be retained. 400

(9) A governmental evidence-retention entity shall not be 401  
required to preserve physical evidence pursuant to this section 402  
that is of such a size, bulk, or physical character as to render 403  
retention impracticable. When retention of physical evidence 404  
that otherwise would be required to be retained pursuant to this 405  
section is impracticable as described in this division, the 406  
governmental evidence-retention entity that otherwise would be 407  
required to retain the physical evidence shall remove and 408  
preserve portions of the material evidence likely to contain 409  
biological evidence related to the offense, in a quantity 410  
sufficient to permit future DNA testing before returning or 411  
disposing of that physical evidence. 412

(C) The office of the attorney general shall administer 413  
and conduct training programs for law enforcement officers and 414  
other relevant employees who are charged with preserving and 415  
cataloging biological evidence regarding the methods and 416  
procedures referenced in this section. 417

**Section 2.** That existing sections 2901.13 and 2933.82 of 418  
the Revised Code are hereby repealed. 419