

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 638

Representative Kent

A BILL

To amend section 2901.13 of the Revised Code to
modify the period of limitation for prosecution
of offenses involving child abuse and neglect.

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), (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:

(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 (J) 18
of this section, a prosecution of any of the following offenses 19
shall be barred unless it is commenced within twenty years after 20
the offense is committed: 21

(a) A violation of section 2903.03, 2903.04, 2905.01, 22
2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 23
2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 24
2911.11, 2911.12, or 2917.02 of the Revised Code, a violation of 25
section 2903.11 or 2903.12 of the Revised Code if the victim is 26
a peace officer, a violation of section 2903.13 of the Revised 27
Code that is a felony, or a violation of former section 2907.12 28
of the Revised Code; 29

(b) A conspiracy to commit, attempt to commit, or 30
complicity in committing a violation set forth in division (A) 31
(3) (a) of this section. 32

(4) Except as otherwise provided in divisions (D) to (L) 33
of this section, a prosecution of a violation of section 2907.02 34
or 2907.03 of the Revised Code or a conspiracy to commit, 35
attempt to commit, or complicity in committing a violation of 36
either section shall be barred unless it is commenced within 37
twenty-five years after the offense is committed. 38

(B) (1) Except as otherwise provided in division (B) (2) of 39
this section, if the period of limitation provided in division 40
(A) (1) or (3) of this section has expired, prosecution shall be 41
commenced for an offense of which an element is fraud or breach 42
of a fiduciary duty, within one year after discovery of the 43
offense either by an aggrieved person, or by the aggrieved 44
person's legal representative who is not a party to the offense. 45

(2) If the period of limitation provided in division (A) 46

(1) or (3) of this section has expired, prosecution for a 47
violation of section 2913.49 of the Revised Code shall be 48
commenced within five years after discovery of the offense 49
either by an aggrieved person or the aggrieved person's legal 50
representative who is not a party to the offense. 51

(C) (1) If the period of limitation provided in division 52
(A) (1) or (3) of this section has expired, prosecution shall be 53
commenced for the following offenses during the following 54
specified periods of time: 55

(a) For an offense involving misconduct in office by a 56
public servant, at any time while the accused remains a public 57
servant, or within two years thereafter; 58

(b) For an offense by a person who is not a public servant 59
but whose offense is directly related to the misconduct in 60
office of a public servant, at any time while that public 61
servant remains a public servant, or within two years 62
thereafter. 63

(2) As used in this division: 64

(a) An "offense is directly related to the misconduct in 65
office of a public servant" includes, but is not limited to, a 66
violation of section 101.71, 101.91, 121.61 or 2921.13, division 67
(F) or (H) of section 102.03, division (A) of section 2921.02, 68
division (A) or (B) of section 2921.43, or division (F) or (G) 69
of section 3517.13 of the Revised Code, that is directly related 70
to an offense involving misconduct in office of a public 71
servant. 72

(b) "Public servant" has the same meaning as in section 73
2921.01 of the Revised Code. 74

(D) (1) If a DNA record made in connection with the 75

criminal investigation of the commission of a violation of 76
section 2907.02 or 2907.03 of the Revised Code is determined to 77
match another DNA record that is of an identifiable person and 78
if the time of the determination is later than twenty-five years 79
after the offense is committed, prosecution of that person for a 80
violation of the section may be commenced within five years 81
after the determination is complete. 82

(2) If a DNA record made in connection with the criminal 83
investigation of the commission of a violation of section 84
2907.02 or 2907.03 of the Revised Code is determined to match 85
another DNA record that is of an identifiable person and if the 86
time of the determination is within twenty-five years after the 87
offense is committed, prosecution of that person for a violation 88
of the section may be commenced within the longer of twenty-five 89
years after the offense is committed or five years after the 90
determination is complete. 91

(3) As used in this division, "DNA record" has the same 92
meaning as in section 109.573 of the Revised Code. 93

(E) An offense is committed when every element of the 94
offense occurs. In the case of an offense of which an element is 95
a continuing course of conduct, the period of limitation does 96
not begin to run until such course of conduct or the accused's 97
accountability for it terminates, whichever occurs first. 98

(F) A prosecution is commenced on the date an indictment 99
is returned or an information filed, or on the date a lawful 100
arrest without a warrant is made, or on the date a warrant, 101
summons, citation, or other process is issued, whichever occurs 102
first. A prosecution is not commenced by the return of an 103
indictment or the filing of an information unless reasonable 104
diligence is exercised to issue and execute process on the same. 105

A prosecution is not commenced upon issuance of a warrant, 106
summons, citation, or other process, unless reasonable diligence 107
is exercised to execute the same. 108

(G) The period of limitation shall not run during any time 109
when the corpus delicti remains undiscovered. 110

(H) The period of limitation shall not run during any time 111
when the accused purposely avoids prosecution. Proof that the 112
accused departed this state or concealed the accused's identity 113
or whereabouts is prima-facie evidence of the accused's purpose 114
to avoid prosecution. 115

(I) The period of limitation shall not run during any time 116
a prosecution against the accused based on the same conduct is 117
pending in this state, even though the indictment, information, 118
or process that commenced the prosecution is quashed or the 119
proceedings on the indictment, information, or process are set 120
aside or reversed on appeal. 121

(J) The period of limitation for a violation of any 122
provision of Title XXIX of the Revised Code that involves a 123
physical or mental wound, injury, disability, or condition of a 124
nature that reasonably indicates abuse or neglect of a child 125
under eighteen years of age or of a child with a developmental 126
disability or physical impairment under twenty-one years of age 127
shall not begin to run until ~~either of the following occurs:-~~ 128

~~(1) The victim of the offense reaches the age of majority.~~ 129

~~(2) A public children services agency, or a municipal or 130
county peace officer that is not the parent or guardian of the 131
child, in the county in which the child resides or in which the 132
abuse or neglect is occurring or has occurred has been notified 133
that abuse or neglect is known, suspected, or believed to have 134~~

~~occurred.~~ 135

(K) As used in this section, "peace officer" has the same 136
meaning as in section 2935.01 of the Revised Code. 137

(L) The amendments to divisions (A) and (D) of this 138
section apply to a violation of section 2907.02 or 2907.03 of 139
the Revised Code committed on and after July 16, 2015, and apply 140
to a violation of either of those sections committed prior to 141
July 16, 2015, if prosecution for that violation was not barred 142
under this section as it existed on the day prior to July 16, 143
2015. 144

Section 2. That existing section 2901.13 of the Revised 145
Code is hereby repealed. 146