As Passed by the Senate

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Senators Jones, Hughes
Cosponsors: Senators Manning, Uecker, Gardner, Lehner, Bacon, Obhof, Beagle, Cafaro, LaRose, Balderson, Burke, Coley, Eklund, Faber, Hite, Jordan, Oelslager, Patton, Peterson, Tavares, Widener

A BILL

To amend section 2901.13 of the Revised Code to extend the period of limitations for prosecution of rape or sexual battery 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) 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 ~~(H)~~ (J) 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:

(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;

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

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

(2) If the period of limitation provided in division (A)(1) or (3) of this section has expired, prosecution for a violation of section 2913.49 of the Revised Code shall be commenced within five years after discovery of the offense

either by an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.

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

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

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

(2) As used in this division:

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

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

(D)<u>(1) If a DNA record made in connection with the criminal investigation of the commission of a violation of section 2907.02 or 2907.03 of the Revised Code is determined to match another DNA record that is of an identifiable person and</u>

if the time of the determination is later than twenty years after the offense is committed, prosecution of that person for a violation of the section may be commenced within five years after the determination.

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

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

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

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

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

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

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

~~(I)~~(J) The period of limitation for a violation of any provision of Title XXIX of the Revised Code that involves a physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of a child under eighteen years of age or of a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age shall not begin to run until either of the following occurs:

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

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

~~(J)~~(K) As used in this section, "peace officer" has the

same meaning as in section 2935.01 of the Revised Code.

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

Section 3. The amendments to section 2901.13 of the Revised Code made in Sections 1 and 2 of this act apply to a violation of section 2907.02 or 2907.03 of the Revised Code committed on and after the effective date of this act and apply to a violation of either of those sections committed prior to the effective date of this act if prosecution for that violation was not barred under section 2901.13 of the Revised Code as it existed on the day prior to the effective date of this act.

Section 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that the changes in law made in this act are crucially needed to ensure that as many persons who commit rape or sexual battery as possible are prosecuted and punished in the interest of public safety. Therefore, this act shall go into immediate effect.