

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
**HOUSE BILL NOS. 1037, 1188,
1074 & 1271**
91ST GENERAL ASSEMBLY

Reported from the Committee on Judiciary, January 23, 2002, with recommendation that the House Committee Substitute for House Bill Nos. 1037, 1188, 1074 & 1271 Do Pass.

TED WEDEL, Chief Clerk

2842L.02C

AN ACT

To repeal section 556.036, RSMo, and to enact in lieu thereof one new section relating to statute of limitations for forcible rape and sodomy, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 556.036, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 556.036, to read as follows:

556.036. 1. A prosecution for murder or any class A felony **or a prosecution under sections 566.030 or 566.060, RSMo,** may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

(1) For any felony, three years;

(2) For any misdemeanor, one year;

(3) For any infraction, six months.

3. If the period prescribed in subsection 2 has expired, a prosecution may nevertheless be commenced for:

(1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation by more than three years. As used in this subdivision, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having

16 jurisdiction pursuant to section 407.553, RSMo, for purposes of offenses committed pursuant
17 to sections 407.511 to 407.556, RSMo; and

18 (2) Any offense based upon misconduct in office by a public officer or employee at any
19 time when the defendant is in public office or employment or within two years thereafter, but in
20 no case shall this provision extend the period of limitation by more than three years; and

21 (3) Any offense based upon an intentional and willful fraudulent claim of child support
22 arrearage to a public servant in the performance of his or her duties within one year after
23 discovery of the offense, but in no case shall this provision extend the period of limitation by
24 more than three years.

25 4. An offense is committed either when every element occurs, or, if a legislative purpose
26 to prohibit a continuing course of conduct plainly appears, at the time when the course of
27 conduct or the defendant's complicity therein is terminated. Time starts to run on the day after
28 the offense is committed.

29 5. A prosecution is commenced either when an indictment is found or an information
30 filed.

31 6. The period of limitation does not run:

32 (1) During any time when the accused is absent from the state, but in no case shall this
33 provision extend the period of limitation otherwise applicable by more than three years; or

34 (2) During any time when the accused is concealing himself from justice either within
35 or without this state; or

36 (3) During any time when a prosecution against the accused for the offense is pending
37 in this state; or

38 (4) During any time when the accused is found to lack mental fitness to proceed pursuant
39 to section 552.020, RSMo.

Section B. Because immediate action is necessary to revise the statute of limitations for
2 certain sexual offenses section A of this act is deemed necessary for the immediate preservation
3 of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act
4 within the meaning of the constitution, and section A of this act shall be in full force and effect
5 upon its passage and approval.