

FIRST REGULAR SESSION

HOUSE BILL NO. 760

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WALKER.

1401H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 556.036, RSMo, and to enact in lieu thereof two new sections relating to sexual offenses.

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

Section A. Section 556.036, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 556.036 and 595.221, to read as follows:

556.036. 1. A prosecution for murder, rape in the first degree, forcible rape, attempted rape in the first degree, attempted forcible rape, sodomy in the first degree, forcible sodomy, attempted sodomy in the first degree, attempted forcible sodomy, or any class A felony 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, except as provided in subdivision (4) or (5) of this subsection;

(2) For any misdemeanor, one year;

(3) For any infraction, six months;

(4) For any violation of section 569.040, when classified as a class B felony, or any violation of section 569.050 or 569.055, five years;

(5) For any sexual offense under chapter 566 that is not described in subsection 1 of this section, ten years from the commission of the offense if the victim reported the offense within three years of the commission of the offense. If the victim consented to the collection of evidence using an evidentiary collection kit as defined in section 595.220, such collection of evidence shall constitute reporting for purposes of this subdivision. If the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **victim did not report the offense within three years, the time limitation for prosecution**
19 **shall be three years.**

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

22 (1) Any offense a material element of which is either fraud or a breach of fiduciary
23 obligation within one year after discovery of the offense by an aggrieved party or by a person
24 who has a legal duty to represent an aggrieved party and who is himself or herself not a party to
25 the offense, but in no case shall this provision extend the period of limitation by more than three
26 years. As used in this subdivision, the term "person who has a legal duty to represent an
27 aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having
28 jurisdiction pursuant to section 407.553, for purposes of offenses committed pursuant to sections
29 407.511 to 407.556; and

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

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

37 4. An offense is committed either when every element occurs, or, if a legislative purpose
38 to prohibit a continuing course of conduct plainly appears, at the time when the course of
39 conduct or the person's complicity therein is terminated. Time starts to run on the day after the
40 offense is committed.

41 5. A prosecution is commenced for a misdemeanor or infraction when the information
42 is filed and for a felony when the complaint or indictment is filed.

43 6. The period of limitation does not run:

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

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

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

50 (4) During any time when the accused is found to lack mental fitness to proceed pursuant
51 to section 552.020; or

52 (5) During any period of time after which a DNA profile is developed from evidence
53 collected in relation to the commission of a crime and included in a published laboratory report

54 until the date upon which the accused is identified by name based upon a match between that
55 DNA evidence profile and the known DNA profile of the accused. For purposes of this section,
56 the term "DNA profile" means the collective results of the DNA analysis of an evidence sample.

**595.221. 1. This section shall be known and may be cited as the "Survivors' Bill of
2 Rights".**

**3 2. A person who has been a victim of a sexual offense under chapter 566 shall have
4 the right to:**

**5 (1) A shower at no cost after a forensic examination as defined in section 595.220,
6 unless showering facilities are unavailable;**

7 (2) Clean clothing upon leaving the hospital;

8 (3) Postcoital contraception, which shall be provided at no cost to the victim;

**9 (4) Upon request, a free copy of the police report concerning the victim's incident,
10 as soon as practicable but in no event later than five business days from the request of the
11 victim;**

**12 (5) A sexual assault advocate and a support person of his or her choosing present
13 at forensic and physical examinations;**

**14 (6) Retain counsel, who may be present during all stages of any interview,
15 investigation, or other interaction with representatives of the criminal justice system;**

**16 (7) Not be prosecuted for an offense relating to the use of alcohol or a controlled
17 substance based on the forensic evidence collected after the sexual assault; and**

**18 (8) Information that consenting to the collection of evidence by means of an
19 evidentiary collection kit extends the statute of limitations for a criminal prosecution to the
20 maximum currently provided under section 556.036.**

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