

JAN 25 2006

A BILL FOR AN ACT

RELATING TO TIME LIMITATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 701-108, Hawaii Revised Statutes, is
2 amended by amending subsection (3) to read as follows:

3 "(3) If the period prescribed in subsection (2) has
4 expired, a prosecution may nevertheless be commenced for:

5 (a) Any offense an element of which is either fraud,
6 deception, or a breach of fiduciary obligation within
7 three years after discovery of the offense by an
8 aggrieved party or by a person who has a legal duty to
9 represent an aggrieved party and who is oneself not a
10 party to the offense, but in no case shall this
11 provision extend the period of limitation by more than
12 six years from the expiration of the period of
13 limitation prescribed in subsection (2);

14 (b) Any offense based on misconduct in office by a public
15 officer or employee at any time when the defendant is
16 in public office or employment or within two years
17 thereafter, but in no case shall this provision extend
18 the period of limitation by more than three years from

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1 the expiration of the period of limitation prescribed
2 in subsection (2); and
3 (c) Any felony offense involving evidence containing
4 deoxyribonucleic acid from the offender, if a test
5 confirming the presence of deoxyribonucleic acid is
6 performed prior to expiration of the period of
7 limitation prescribed in subsection (2), but in no case
8 shall this provision extend the period of limitation by
9 more than ten years from the expiration of the period
10 of limitation prescribed in subsection (2)."

11 SECTION 3. Statutory material to be added is underscored.

12 SECTION 4. This Act shall take effect upon its approval.

13
14 INTRODUCED BY: 
15 BY REQUEST

JUSTIFICATION SHEET

SB. NO. 2255

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO TIME LIMITATIONS.

PURPOSE: To add crimes that include deception as an element of those crimes where the date of discovery is used to calculate the time limitation within which the crime must be charged.

MEANS: Amend section 701-108, Hawaii Revised Statutes.

JUSTIFICATION: Section 701-108, Hawaii Revised Statutes, currently permits crimes that include fraud as an element to be charged a given number of years following the discovery of the crime, rather than following the commission of the crime. The logic is that crimes involving fraud are often not discovered until the statute of limitations has expired. The same logic is applicable to crimes involving deception. Thefts by deception are frequently so clever that the victims do not realize that they have been victimized until the statute of limitations has expired. Therefore, it is reasonable to allow the period that determines the statute of limitations to commence the day the crime has been discovered.

Impact on the public: This bill will be beneficial to the public interest because it will allow victims of deceptive thefts the benefit of justice that is currently denied to them in cases where they do not discover that they have been victimized until after the statute of limitations has already expired.

Impact on the department and other agencies: This bill will help the department and other agencies to prosecute deceptive thefts that

are currently impossible to prosecute because the crime is not discovered until after the statute of limitations has already expired.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: County police, county prosecutors, and the Office of the Public Defender.

EFFECTIVE DATE: Upon approval.