
A BILL FOR AN ACT

RELATING TO TIME LIMITATIONS.

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

1 SECTION 1. The purpose of this Act is to add a definition
2 for "public servant" to section 701-108, Hawaii Revised
3 Statutes, to clarify the scope and applicability of provisions
4 related to the time limitations to bring prosecution based on
5 misconduct in office.

6 SECTION 2. Section 701-108, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§701-108 Time limitations. (1) A prosecution for
9 murder, murder in the first and second degrees, attempted
10 murder, attempted murder in the first and second degrees,
11 criminal conspiracy to commit murder in any degree, criminal
12 solicitation to commit murder in any degree, sexual assault in
13 the first and second degrees, sex trafficking, and continuous
14 sexual assault of a minor under the age of fourteen years may be
15 commenced at any time.



1 (2) Except as otherwise provided in this section,
2 prosecutions for other offenses are subject to the following
3 periods of limitation:

4 (a) A prosecution for manslaughter where the death was not
5 caused by the operation of a motor vehicle must be
6 commenced within ten years after it is committed;

7 (b) A prosecution for a class A felony must be commenced
8 within six years after it is committed;

9 (c) A prosecution for any felony under part IX of chapter
10 708 must be commenced within five years after it is
11 committed;

12 (d) A prosecution for any other felony must be commenced
13 within three years after it is committed;

14 (e) A prosecution for a misdemeanor or parking violation
15 must be commenced within two years after it is
16 committed; and

17 (f) A prosecution for a petty misdemeanor or a violation
18 other than a parking violation must be commenced
19 within one year after it is committed.

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



- 1 (a) Any offense an element of which is fraud, deception as
2 defined in section 708-800, or a breach of fiduciary
3 obligation or the offense of medical assistance fraud
4 under section 346-43.5, within three years after
5 discovery of the offense by an aggrieved party or by a
6 person who has a legal duty to represent an aggrieved
7 party and who is oneself not a party to the offense,
8 but in no case shall this provision extend the period
9 of limitation by more than six years from the
10 expiration of the period of limitation prescribed in
11 subsection (2);
- 12 (b) Any offense based on misconduct in office by a public
13 ~~[officer or employee]~~ servant at any time when the
14 defendant is in public office or employment or within
15 two years thereafter, but in no case shall this
16 provision extend the period of limitation by more than
17 three years from the expiration of the period of
18 limitation prescribed in subsection (2); and
- 19 (c) Any felony offense involving evidence containing
20 deoxyribonucleic acid from the offender, if a test
21 confirming the presence of deoxyribonucleic acid is



1 performed prior to expiration of the period of
2 limitation prescribed in subsection (2), but in no
3 case shall this provision extend the period of
4 limitation by more than ten years from the expiration
5 of the period of limitation prescribed in subsection
6 (2).

7 (4) An offense is committed either when every element
8 occurs, or, if a legislative purpose to prohibit a continuing
9 course of conduct plainly appears, at the time when the course
10 of conduct or the defendant's complicity therein is terminated.
11 Time starts to run on the day after the offense is committed.

12 (5) A prosecution is commenced either when an indictment
13 is found or a complaint filed, or when an arrest warrant or
14 other process is issued, provided that such warrant or process
15 is executed without unreasonable delay.

16 (6) The period of limitation does not run:

17 (a) During any time when the accused is continuously
18 absent from the State or has no reasonably
19 ascertainable place of abode or work within the State,
20 but in no case shall this provision extend the period
21 of limitation by more than four years from the



1 expiration of the period of limitation prescribed in
2 subsection (2);

3 (b) During any time when a prosecution against the accused
4 for the same conduct is pending in this State; or

5 (c) For any felony offense under chapter 707, part V or
6 VI, during any time when the victim is alive and under
7 eighteen years of age.

8 (7) As used in this section, "public servant" shall have
9 the same meaning as in section 710-1000."

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

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



Report Title:

Criminal Proceedings; Public Servant; Government; Time
Limitations

Description:

Defines the term "public servant" in section 701-108, Hawaii
Revised Statutes, to clarify the scope and applicability of
provisions related to the time limitations to bring prosecution
based on misconduct in office. (SD2)

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not legislation or evidence of legislative intent.*

