

**ACT 124**

H.B. NO. 983

A Bill for an Act Relating to Time Limitations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to add a definition for “public servant” to 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.

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

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

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

- (a) A prosecution for manslaughter where the death was not caused by the operation of a motor vehicle must be commenced within ten years after it is committed;
- (b) A prosecution for a class A felony must be commenced within six years after it is committed;
- (c) A prosecution for any felony under part IX of chapter 708 must be commenced within five years after it is committed;
- (d) A prosecution for any other felony must be commenced within three years after it is committed;
- (e) A prosecution for a misdemeanor or parking violation must be commenced within two years after it is committed; and
- (f) A prosecution for a petty misdemeanor or a violation other than a parking violation must be commenced within one year after it is committed.

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

- (a) Any offense an element of which is fraud, deception as defined in section 708-800, or a breach of fiduciary obligation or the offense of medical assistance fraud under section 346-43.5, within three years 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 oneself not a party to the offense, but in no case shall this provision extend the period of limitation by more than six years from the expiration of the period of limitation prescribed in subsection (2);
- (b) Any offense based on misconduct in office by a public ~~officer or~~ ~~employee~~ servant at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years from the expiration of the period of limitation prescribed in subsection (2); and
- (c) Any felony offense involving evidence containing deoxyribonucleic acid from the offender, if a test confirming the presence of deoxyribonucleic acid is performed prior to expiration of the period of limitation prescribed in subsection (2), but in no case shall this provision extend the period of limitation by more than ten years from the expiration of the period of limitation prescribed in subsection (2).

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

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

(6) The period of limitation does not run:

- (a) During any time when the accused is continuously absent from the State or has no reasonably ascertainable place of abode or work within the State, but in no case shall this provision extend the period of limitation by more than four years from the expiration of the period of limitation prescribed in subsection (2);
- (b) During any time when a prosecution against the accused for the same conduct is pending in this State; or
- (c) For any felony offense under chapter 707, part V or VI, during any time when the victim is alive and under eighteen years of age.

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

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

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

(Approved June 23, 2023.)