

SECOND REGULAR SESSION

# HOUSE BILL NO. 1153

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE OSTMANN.

Pre-filed December 6, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2486L.011

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### AN ACT

To repeal section 556.036, RSMo, and to enact in lieu thereof one new section relating to statute of limitations for certain sexual offenses, with penalty provisions.

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*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Section A. Section 556.036, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 556.036, to read as follows: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 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 the offenses of forcible rape, attempted forcible rape, statutory rape in the first degree, statutory rape in the second degree, forcible sodomy, attempted forcible sodomy, statutory sodomy in the first degree, and statutory sodomy in the second degree, twenty years;**

(2) For any felony **except those felonies listed in subdivision (1) of subsection 2 of this section**, three years;

[(2)] (3) For any misdemeanor, one year;

[(3)] (4) 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

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 who has a legal duty to represent an aggrieved party and who is himself or herself not a party to  
18 the offense, but in no case shall this provision extend the period of limitation by more than three  
19 years. As used in this subdivision, the term "person who has a legal duty to represent an  
20 aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having  
21 jurisdiction pursuant to section 407.553, RSMo, for purposes of offenses committed pursuant  
22 to sections 407.511 to 407.556, RSMo; and

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

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

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

34 5. A prosecution is commenced either when an indictment is found or an information  
35 filed.

36 6. The period of limitation does not run:

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

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

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

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