

JAN 21 2011

S.B. NO. 225

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# A BILL FOR AN ACT

RELATING TO CRIME.

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

1           SECTION 1. Section 701-108, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§701-108 Time limitations.** (1) A prosecution for  
4 murder, murder in the first and second degrees, attempted  
5 murder, and attempted murder in the first and second degrees,  
6 criminal conspiracy to commit murder in any degree, [~~and~~]  
7 criminal solicitation to commit murder in any degree, or any  
8 felony offense under chapter 707, part V, may be commenced at  
9 any time.

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

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

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



1 (c) A prosecution for any felony under part IX of chapter  
2 708 must be commenced within five years after it is  
3 committed;

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

6 (e) A prosecution for a misdemeanor or parking violation  
7 must be commenced within two years after it is  
8 committed; and

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

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

14 (a) Any offense an element of which is either fraud,  
15 deception, as defined in section 708-800, or a breach  
16 of fiduciary obligation within three years after  
17 discovery of the offense by an aggrieved party or by a  
18 person who has a legal duty to represent an aggrieved  
19 party and who is oneself not a party to the offense,  
20 but in no case shall this provision extend the period  
21 of limitation by more than six years from the



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

3 (b) Any offense based on misconduct in office by a public  
4 officer or employee at any time when the defendant is  
5 in public office or employment or within two years  
6 thereafter, but in no case shall this provision extend  
7 the period of limitation by more than three years from  
8 the expiration of the period of limitation prescribed  
9 in subsection (2); and

10 (c) Any felony offense involving evidence containing  
11 deoxyribonucleic acid from the offender, if a test  
12 confirming the presence of deoxyribonucleic acid is  
13 performed prior to expiration of the period of  
14 limitation prescribed in subsection (2), but in no  
15 case shall this provision extend the period of  
16 limitation by more than ten years from the expiration  
17 of the period of limitation prescribed in subsection  
18 (2).

19 (4) An offense is committed either when every element  
20 occurs, or, if a legislative purpose to prohibit a continuing  
21 course of conduct plainly appears, at the time when the course



1 of conduct or the defendant's complicity therein is terminated.

2 Time starts to run on the day after the offense is committed.

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

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

8 (a) During any time when the accused is continuously  
9 absent from the State or has no reasonably  
10 ascertainable place of abode or work within the State,  
11 but in no case shall this provision extend the period  
12 of limitation by more than four years from the  
13 expiration of the period of limitation prescribed in  
14 subsection (2);

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

17 (c) For any felony offense under chapter 707, part [~~V~~ or]  
18 VI, during any time when the victim is alive and under  
19 eighteen years of age."

20 SECTION 2. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22 SECTION 3. This Act shall take effect upon its approval.



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**Report Title:**

Crime; rape

**Description:**

Removes statute of limitations for prosecution of rape cases.

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