

AN ACT

*Codification
District of
Columbia
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend section 23-113 of the District of Columbia Official Code to extend to 15 years the statute of limitations for first and second degree sexual abuse and first and second degree child sexual abuse, to extend to 10 years the statute of limitations for third and fourth degree sexual abuse, enticing a child for the purpose of committing felony sexual abuse, first and second degree sexual abuse of a ward, first and second degree sexual abuse of a patient or client, using a minor in a sexual performance or promoting a sexual performance by a minor, and incest, to toll the statute of limitations until the victim has reached 21 years of age for first and second degree child sexual abuse, enticing a child for the purpose of committing felony sexual abuse, using a minor in a sexual performance or promoting a sexual performance by a minor, and incest, to toll the statute of limitations for first and second degree sexual abuse of a ward until the victim is no longer a ward, and to toll the statute of limitations for first and second degree sexual abuse of a patient or client until the victim is no longer a patient or client of the actor; and to amend Chapter 3 of Title 23 of the District of Columbia Official Code to provide that the government may prosecute first or second degree sexual abuse or first or second degree child sexual abuse by fictitious name indictment if the name of the offender is unknown at the time of the indictment and the identity of the offender has been established through forensic testing of nuclear deoxyribonucleic acid (“DNA”) evidence or equivalently accurate DNA evidence, and to prohibit the use of mitochondrial DNA or Y-DNA evidence from being used as the evidentiary basis of a fictitious name indictment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Felony Sexual Assault Statute of Limitations Act of 2004”.

Sec. 2. Section 23-113 of the District of Columbia Official Code is amended as follows:
(a) Subsection (a) is amended to read as follows:

Amend
§ 23-113

“(a) *Time Limitations.* – (1) A prosecution for the following crimes may be commenced at any time:

“(A) murder in the first or second degree (D.C. Official Code §§ 22-2101 and 2102);

“(B) murder in the second degree (D.C. Official Code § 22-2103);

“(C) murder of a law enforcement officer or public safety employee (D.C. Official Code § 22-2106);

“(D) first degree murder that constitutes an act of terrorism (D.C. Official Code § 22-3153(a));

“(E) second degree murder that constitutes an act of terrorism (D.C. Official Code § 22-3153(c)); and

“(F) murder of a law enforcement officer or public safety employee that constitutes an act of terrorism (D.C. Official Code § 22-3153(b)).

“(2) A prosecution for the following crimes is barred if not commenced within fifteen (15) years after it is committed:

“(A) first degree sexual abuse (D.C. Official Code § 22-3002);

“(B) second degree sexual abuse (D.C. Official Code § 22-3003);

“(C) first degree child sexual abuse (D.C. Official Code § 22-3008); and

“(D) second degree child sexual abuse (D.C. Official Code § 22-3009).

“(3) A prosecution for the following crimes is barred if not commenced within ten (10) years after it is committed:

“(A) third degree sexual abuse (D.C. Official Code § 22-3004);

“(B) fourth degree sexual abuse (D.C. Official Code § 22-3005);

“(C) enticing a child for the purpose of committing felony sexual abuse (D.C. Official Code § 22-3010);

“(D) first degree sexual abuse of a ward (D.C. Official Code § 22-3013);

“(E) second degree sexual abuse of a ward (D.C. Official Code § 22-3014);

“(F) first degree sexual abuse of a patient or client (D.C. Official Code § 22-3015);

“(G) second degree sexual abuse of a patient or client (D.C. Official Code § 22-3016);

“(H) using a minor in a sexual performance or promoting a sexual performance by a minor (D.C. Official Code § 22-3102); and

“(I) incest (D.C. Official Code § 22-1901).

“(4) Except as provided in paragraph (6), a prosecution for a felony other than those crimes enumerated in paragraphs (1) through (3) is barred if not commenced within six (6) years after it is committed.

“(5) Except as provided in paragraph (6), a prosecution for any other criminal offense is barred if not commenced within three (3) years after it is committed.

“(6) A prosecution for a felony or a misdemeanor may be brought within three (3) years:

“(A) after a public officer or employee has left office, for any completed offense based on official conduct; or

“(B) after a fraud or breach of fiduciary trust has been, or reasonably should have been, discovered for any completed offense based on that fraud or breach of fiduciary trust; even if barred by the provisions of paragraphs (4) and (5):

“Provided, that, in no case shall this provision extend the period of limitations to more than nine (9) years in the case of a felony nor more than six (6) years in the case of a misdemeanor.”.

(b) Subsection (d) is amended to read as follows:

“(d) *Suspension of period of limitation.* – (1) The period of limitation for an offense, and any necessarily included offense, does not run during any time when a prosecution against the defendant for that offense is pending in the courts of the District of Columbia.

“(2) The period of limitation shall not begin to run until the victim reaches 21 years of age for the following offenses:

“(A) first degree child sexual abuse (D.C. Official Code § 22-3008);

“(B) second degree child sexual abuse (D.C. Official Code § 22-3009);

“(C) enticing a child for the purpose of committing felony sexual abuse (D.C. Official Code § 22-3010);

“(D) using a minor in a sexual performance or promoting a sexual performance by a minor (D.C. Official Code § 22-3102); and

“(E) incest (D.C. Official Code § 22-1901).

“(3) The period of limitation shall not begin to run for first degree sexual abuse of a ward (D.C. Official Code § 22-3013) or second degree sexual abuse of a ward (D.C. Official Code § 22-3014) until the victim is no longer a ward.

“(4) The period of limitation shall not begin to run for first degree sexual abuse of a patient or client (D.C. Official Code § 22-3015) or second degree sexual abuse of a patient or client (D.C. Official Code § 22-3016) until the victim is no longer a patient or client of the actor.”.

Sec. 3. Chapter 3 of Title 23 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended as follows:

(1) Strike the phrase “23-324. Subordination of perjury.” and insert the phrase “23-324. Subornation of perjury.” in its place.

(2) Add after the phrase “23-324. Subornation of perjury.” the following:

“Subchapter IV. Fictitious Name Indictments.

“23-331. Fictitious name indictments for first or second degree sexual abuse or first or second degree child sexual abuse.”.

(b) A new Subchapter IV is added to read as follows:

“Subchapter IV. Fictitious Name Indictments.

“§ 23-331. Fictitious name indictments for first or second degree sexual abuse or first or second degree child sexual abuse.

“(a) A defendant may be prosecuted for first or second degree sexual abuse or first or second degree child sexual abuse by indictment under a fictitious name, such as “John Doe” or “Jane Doe,” if, at the time of indictment, the defendant’s true name is unknown and the defendant’s identity has been established with reasonable certainty by the means of forensic testing of nuclear deoxyribonucleic acid (“DNA”) evidence or DNA evidence with a comparable level of accuracy with nuclear DNA evidence.

“(b) Mitochondrial DNA (“mtDNA”) and Y-DNA cannot be used for the purposes of prosecuting by indictment under a fictitious name a defendant whose true name is unknown under subsection (a) of this section.

“(c) Nothing in this section shall be construed as prohibiting the use or admissibility of mtDNA, Y-DNA, or similar genetic material for any purpose other than obtaining a fictitious name indictment pursuant to subsection (a) of this section.”.

Sec. 4. Applicability.

This act shall apply to an offense committed before its effective date only if the statute of limitations for the offense has not expired prior to the effective date.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia