



# Ohio Legislative Service Commission

## Final Analysis

Dennis M. Papp

### Sub. H.B. 6

131st General Assembly  
(As Passed by the General Assembly)

- Reps.** LaTourette and Kunze, Amstutz, Antani, Antonio, Baker, Barnes, Brenner, Brown, Buchy, Burkley, Butler, Conditt, Cupp, Derickson, Dever, Driehaus, Duffey, Gerberry, Ginter, Gonzales, Green, Grossman, Hackett, Hagan, Hambley, Henne, Hill, T. Johnson, Koehler, Kraus, Landis, Maag, Manning, McClain, M. O'Brien, S. O'Brien, Patterson, Perales, Phillips, Rezabek, Roegner, Rogers, Ruhl, Schaffer, Schuring, Sears, Sheehy, Slaby, K. Smith, R. Smith, Sprague, Strahorn, Terhar, Young, Zeltwanger, Rosenberger
- Sens.** Obhof, Bacon, Balderson, Beagle, Brown, Burke, Coley, Eklund, Faber, Gardner, Hite, Hottinger, Hughes, Jones, Jordan, LaRose, Lehner, Manning, Oelslager, Peterson, Sawyer, Schiavoni, Tavares, Thomas, Uecker, Widener, Williams, Yuko

**Effective date:** Emergency, July 16, 2015

---

## ACT SUMMARY

- Generally increases the period of limitation for prosecution of rape or sexual battery or conspiracy or attempt to commit, or complicity in committing, rape or sexual battery from 20 to 25 years.
- Provides that, in a case in which a DNA record made in connection with the criminal investigation of a rape or sexual battery is determined to match another DNA record of an identifiable person, one of the following applies:
  - (1) If the determination is later than 25 years after the offense is committed, prosecution may be commenced within five years after the determination is complete;
  - (2) If the determination is within 25 years after the offense is committed, prosecution may be commenced within the longer of 25 years after the offense is committed or five years after the determination is complete.
- Specifies that the changes apply to a rape or sexual battery committed on or after the act's effective date (July 16, 2015), and apply to a rape or sexual battery committed

prior to that date if prosecution was not barred under the period of limitation for the offense as it existed on the day before that date.

---

## **CONTENT AND OPERATION**

### **Operation of the act**

#### **Increase of period of limitation for rape or sexual battery prosecution**

The act increases the period of limitation for commencing a criminal prosecution for rape or sexual battery, or a conspiracy or attempt to commit, or complicity in committing, rape or sexual battery, to 25 years after the offense is committed.<sup>1</sup> Formerly, subject to specified exceptions described below, a prosecution for rape or sexual battery or a conspiracy or attempt to commit, or complicity in committing, rape or sexual battery was barred unless it was commenced within 20 years after the offense was committed.<sup>2</sup>

The act extends the period of limitation for commencing a criminal prosecution for rape or sexual battery against a person who is identified by DNA analysis. Specifically, it provides that, in a case in which a "DNA record" made in connection with the criminal investigation of a rape or sexual battery is determined to match another DNA record of an identifiable person, unless the case is not within the coverage of the act (see below), one of the following applies:

(1) If the determination is later than 25 years after the offense is committed, prosecution may be commenced within five years after the determination is complete;

(2) If the determination is within 25 years after the offense is committed, prosecution may be commenced within the longer of 25 years after the offense is committed or five years after the determination is complete.

As used in the act's provisions described above, "DNA record" has the same meaning as in the Criminal Records Check Law.<sup>3</sup>

#### **Cases that are within the coverage of the act**

The act specifies that the changes it makes to criminal periods of limitation for prosecutions for rape and sexual battery apply to a rape or sexual battery committed on

---

<sup>1</sup> R.C. 2901.13(A)(4).

<sup>2</sup> R.C. 2901.13(A)(3).

<sup>3</sup> R.C. 2901.13(D).



or after the act's effective date (July 16, 2015), and apply to a rape or sexual battery committed prior to that date if prosecution was not barred under the period of limitation for the offense as it existed on the day before that date.<sup>4</sup> Regarding the application of a change in a criminal period of limitation to an offense committed prior to July 16, 2015, see "**Judicial decisions regarding change in criminal period of limitation**," below.

## **Criminal periods of limitation**

Under continuing law, except for aggravated murder and murder, a criminal prosecution generally is barred unless it is commenced within a specified period after an offense is committed. Formerly, the periods were six months, two years, six years, or 20 years, depending on the offense. The act retains those periods, except for the changes it makes with respect to a rape or sexual battery prosecution. Under continuing law, the period of limitation does not run during any time when the *corpus delicti* remains undiscovered, the accused purposely avoids prosecution (including when the accused departed Ohio or concealed his or her identity or whereabouts), or a prosecution against the accused based on the same conduct is pending in Ohio. Also, the period of limitation for an offense that involves a wound, injury, disability, or condition that reasonably indicates abuse or neglect of a child does not begin to run until either the victim reaches age 18, or a public children services agency or a specified municipal or county peace officer has been notified of the abuse or neglect.<sup>5</sup>

## **Judicial decisions regarding criminal period of limitations**

The U.S. Supreme Court in *Stogner v. California*<sup>6</sup> held that an expired criminal period of limitation may not be "revived" after it has expired, but that an unexpired period of limitation may be extended. Ohio's appellate courts have reiterated the principles of *Stogner*, consistently holding that an extension of a period of limitation for the criminal prosecution of a particular offense cannot "revive" a possible criminal prosecution for that offense that is barred because of the expiration of the period of limitation that is being replaced, and adding that an extension of an unexpired limitation period does not violate constitutional restrictions against retroactive legislation.<sup>7</sup>

---

<sup>4</sup> R.C. 2901.13(L).

<sup>5</sup> R.C. 2901.13(A) and (F) to (J).

<sup>6</sup> *Stogner v. California* (2003), 539 U.S. 607.

<sup>7</sup> See, e.g.: *State v. Gibbs* (December 31, 2014), Geauga App. Case No. 2014-G-3213, 2014 Ohio App. LEXIS 5590; *State v. Diaz* (July 29, 2004), Cuyahoga App. No. 81857, 2004 Ohio App. LEXIS 3594; *State v. Dycus*



---

## HISTORY

ACTION	DATE
Introduced	01-28-15
Reported, H. Judiciary	05-06-15
Passed House (92-0)	05-12-15
Reported, S. Criminal Justice	06-24-15
Passed Senate (32-0)	06-25-15
House concurred in Senate amendments (93-0)	06-30-15

15-HB6-131.docx/ks

---

(August 4, 2005), Franklin App. No. 04AP-751, 2005 Ohio App. LEXIS 3636, motion for leave to file delayed appeal denied (2007), 113 Ohio St.3d 1439.

