

HOUSE BILL 2308

By Moody

AN ACT to amend Tennessee Code Annotated, Title 24;
Title 38; Title 39 and Title 40, relative to the statute
of limitations for certain felony sexual offenses.

WHEREAS, the Tennessee Supreme Court has reasoned that only the general assembly may create an exception to the statute of limitations where an offender is identified through DNA analysis, as illustrated in *State v. Burdick*, 395 S.W.3d 120 (Tenn. 2012); and

WHEREAS, although the defendant's appeal in *State v. Burdick* was unsuccessful, prosecution of future rape cases where the offender is identified by DNA analysis could be inhibited by the current statute of limitations; and

WHEREAS, it is estimated that over seventy percent (70%) of rapists are repeat offenders, and therefore, public safety demands that sexual offenders be prosecuted and their criminal acumen should not shield them from prosecution; and

WHEREAS, DNA technology and investments in such databases have increased the likelihood that more sexual offenders will be identified in the future; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-2-101, is amended by adding the following as a new subsection:

(l)

(1) Notwithstanding the limitations prescribed in this section, a person may be prosecuted, tried and punished for any offense committed on or after July 1, 2014 that constitutes a criminal offense under the provisions of § 39-13-502, § 39-13-503, § 39-13-522 or § 39-13-531 as provided in this subsection (l).

(2) No statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA analysis has elapsed that is equal to the otherwise applicable statute of limitations period.

(3) For the purposes of this subsection, "DNA analysis" means the process through which deoxyribonucleic acid (DNA) in a human biological specimen is analyzed and compared with DNA from another biological specimen for identification purposes.

(4) For purposes of this subsection, "implication" means matching to a single identified person.

SECTION 2. This act shall take effect on July 1, 2014, the public welfare requiring it and shall apply to commencement of prosecution for any offense committed on or after July 1, 2014.