

SEXUAL ABUSE STATUTES OF LIMITATION

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses criminal and civil statutes of limitation for certain sex crimes.

Highlighted Provisions:

This bill:

- ▶ addresses criminal and civil statutes of limitation for certain sex crimes; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-1-301, as last amended by Laws of Utah 2022, Chapter 181

76-1-302, as last amended by Laws of Utah 2022, Chapter 185

ENACTS:

78B-2-402, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

78B-2-401, (Renumbered from 78B-2-119, as enacted by Laws of Utah 2022, Chapter 474)

REPEALS:



28 [78B-2-308](#), as last amended by Laws of Utah 2022, Chapter 430

29

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **76-1-301** is amended to read:

32 **76-1-301. Offenses for which prosecution may be commenced at any time.**

33 (1) As used in this section:

34 (a) "Aggravating offense" means any offense incident to which a homicide was
35 committed as described in Subsection [76-5-202\(2\)\(a\)\(iv\)](#) or (v) or Subsection [76-5-202\(2\)\(b\)](#).

36 (b) "Predicate offense" means an offense described in Subsection [76-5-203\(1\)\(a\)](#) if a
37 person other than a party as defined in Section [76-2-202](#) was killed in the course of the
38 commission, attempted commission, or immediate flight from the commission or attempted
39 commission of the offense.

40 (2) Notwithstanding [~~any~~] other provisions of this code, prosecution for the following
41 offenses may be commenced at any time:

42 (a) an offense classified as a capital felony under Section [76-3-103](#);

43 (b) aggravated murder under Section [76-5-202](#);

44 (c) murder under Section [76-5-203](#);

45 (d) manslaughter under Section [76-5-205](#);

46 (e) child abuse homicide under Section [76-5-208](#);

47 (f) aggravated kidnapping under Section [76-5-302](#);

48 (g) child kidnapping under Section [76-5-301.1](#);

49 (h) rape under Section [76-5-402](#);

50 (i) rape of a child under Section [76-5-402.1](#);

51 (j) object rape under Section [76-5-402.2](#);

52 (k) object rape of a child under Section [76-5-402.3](#);

53 (l) forcible sodomy under Section [76-5-403](#);

54 (m) sodomy on a child under Section [76-5-403.1](#);

55 (n) sexual abuse of a child under Section [76-5-404.1](#);

56 (o) aggravated sexual abuse of a child under Section [76-5-404.3](#);

57 (p) aggravated sexual assault under Section [76-5-405](#);

58 (q) sexual abuse of a minor under Section [76-5-401.1](#);

59 (r) forcible sexual abuse under Section 76-5-404;
60 (s) sexual exploitation of a minor under Section 76-5b-201;
61 (t) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
62 (u) sexual exploitation of a vulnerable adult under Section 76-5b-202;
63 (v) sexual extortion under Section 76-5b-204;
64 (w) incest under Section 76-7-102;
65 ~~[(q)]~~ (x) any predicate offense to a murder or aggravating offense to an aggravated
66 murder;
67 ~~[(r)]~~ (y) aggravated human trafficking [or aggravated human smuggling in violation of]
68 under Section 76-5-310;
69 (z) aggravated human smuggling under Section 76-5-310.1;
70 ~~[(s)]~~ (aa) aggravated exploitation of prostitution involving a child, under Section
71 76-10-1306; [or]
72 ~~[(t)]~~ (bb) human trafficking of a child, under Section 76-5-308.5; or
73 (cc) human trafficking of a vulnerable adult under Section 76-5-311.
74 (3) (a) This section extends the statute of limitations for prosecution of an offense
75 described in Subsection (2)(q), (r), (s), (t), (u), (v), (w), or (cc) that is not time barred on or
76 before May 3, 2023.
77 (b) A prosecution may not commence for an offense described in Subsection (2)(q), (r),
78 (s), (t), (u), (v), (w), or (cc) that is time barred on or before May 3, 2023.
79 Section 2. Section **76-1-302** is amended to read:
80 **76-1-302. Time limitations for prosecution of offenses -- Provisions if DNA**
81 **evidence would identify the defendant -- Commencement of prosecution.**
82 (1) Except as otherwise provided, a prosecution for:
83 (a) a felony or negligent homicide offense shall be commenced within four years after
84 ~~[it]~~ the day on which the offense is committed~~[-except that prosecution for:];~~
85 ~~[(i) forcible sexual abuse shall be commenced within eight years after the offense is~~
86 ~~committed, if within four years after its commission the offense is reported to a law~~
87 ~~enforcement agency; and]~~
88 ~~[(ii) incest shall be commenced within eight years after the offense is committed, if~~
89 ~~within four years after its commission the offense is reported to a law enforcement agency;]~~

90 (b) a misdemeanor offense other than a negligent homicide offense shall be
91 commenced within two years after [it] the day on which the offense is committed; and

92 (c) any infraction shall be commenced within one year after [it] the day on which the
93 infraction is committed.

94 (2) (a) Notwithstanding Subsection (1), prosecution for the offenses listed in
95 Subsections 76-3-203.5(1)(c)(i)(A) through (CC) may be commenced at any time if the identity
96 of the person who committed the crime is unknown but DNA evidence is collected that would
97 identify the person at a later date.

98 (b) Subsection (2)(a) does not apply if the statute of limitations on a crime has run as of
99 May 5, 2003, and no charges have been filed.

100 (3) If the statute of limitations would have run but for the provisions of Subsection (2)
101 and identification of a perpetrator is made through DNA, a prosecution shall be commenced
102 within four years of confirmation of the identity of the perpetrator.

103 (4) A prosecution is commenced upon:

104 (a) the finding and filing of an indictment by a grand jury;

105 (b) the filing of a complaint or information; or

106 (c) the issuance of a citation.

107 Section 3. Section 78B-2-401, which is renumbered from Section 78B-2-119 is
108 renumbered and amended to read:

109 **Part 4. Civil Actions Arising Out of Criminal Conduct**

110 ~~[78B-2-119].~~ **78B-2-401. Statute of limitations after criminal proceeding.**

111 (1) As used in this section:

112 (a) "Cause of action" means [~~any~~] a civil claim that a victim [~~could~~] may bring against
113 a defendant for criminal conduct committed against the victim.

114 (b) "Criminal conduct" means [~~any~~] an act that is charged as a felony under:

115 (i) Title 76, Chapter 5, Offenses Against the Individual, except for a felony offense
116 described in Subsection 78B-2-402(1)(f); or

117 (ii) Title 76, Chapter 4, Inchoate Offenses, that is directly related to prohibited conduct
118 under Title 76, Chapter 5, Offenses Against the Individual, except for conduct described in
119 Subsection 78B-2-402(1)(f).

120 (c) "Victim" means an individual directly harmed by criminal conduct or the

121 individual's representative.

122 (2) (a) Notwithstanding any statute of limitations, a victim may bring a cause of action
123 arising out of criminal conduct if:

124 (i) the defendant to the cause of action was charged by a criminal complaint,
125 indictment, or information for that criminal conduct;

126 (ii) the cause of action is brought within one year [~~from~~] after the day on which a final
127 disposition for the criminal proceeding is issued;

128 (iii) the cause of action is brought to address any harm resulting from the criminal
129 conduct that was at issue in the criminal proceeding described in Subsection (2)(a)(ii); and

130 (iv) the applicable statute of limitations that would apply to the conduct at issue in the
131 cause of action did not expire before May 4, 2022.

132 (b) A defendant does not need to be convicted of the criminal conduct for an individual
133 to bring a cause of action under Subsection (2)(a).

134 (3) Subsection (2)(a) does not:

135 (a) shorten an applicable statute of limitations or an applicable tolling provision;

136 (b) toll or extend an applicable statute of limitations for an action that is brought
137 against an employer or former employer of a defendant described in Subsection (2)(a)(i); or

138 (c) require an insurer to defend or indemnify a defendant for a cause of action that
139 would otherwise be barred if not for Subsection (2)(a).

140 Section 4. Section **78B-2-402** is enacted to read:

141 **78B-2-402. Statute of limitations for civil actions arising out of sexual abuse.**

142 (1) As used in this part:

143 (a) "Cause of action" means a civil claim that a victim may bring against a defendant
144 for sexual abuse committed against the victim.

145 (b) "Child" means an individual under 18 years old.

146 (c) "Discovers" means when an individual knows or should know that sexual abuse
147 occurred.

148 (d) "Negligent sexual abuse" means a failure to act to prevent the sexual abuse of a
149 child from occurring, or to report the sexual abuse of a child, when the individual discovers the
150 sexual abuse and the individual:

151 (i) is the child's parent, stepparent, adoptive parent, foster parent, legal guardian,

152 ancestor, descendant, brother, sister, uncle, aunt, first cousin, nephew, niece, grandparent, or
153 stepgrandparent; or

154 (ii) lives in the same home as the child when the sexual abuse occurs.

155 (e) "Perpetrator" means an individual who commits sexual abuse.

156 (f) "Sexual abuse" means:

157 (i) sexual abuse of a minor under Section [76-5-401.1](#);

158 (ii) rape under Section [76-5-402](#);

159 (iii) rape of a child under Section [76-5-402.1](#);

160 (iv) object rape under Section [76-5-402.2](#);

161 (v) object rape of a child under Section [76-5-402.3](#);

162 (vi) forcible sodomy under Section [76-5-403](#);

163 (vii) sodomy on a child under Section [76-5-403.1](#);

164 (viii) forcible sexual abuse under Section [76-5-404](#);

165 (ix) sexual abuse of a child under Section [76-5-404.1](#);

166 (x) aggravated sexual abuse of a child under Section [76-5-404.3](#);

167 (xi) aggravated sexual assault under Section [76-5-405](#);

168 (xii) sexual exploitation of a minor under Section [76-5b-201](#);

169 (xiii) aggravated sexual exploitation of a minor under Section [76-5b-201.1](#);

170 (xiv) sexual exploitation of a vulnerable adult under Section [76-5b-202](#);

171 (xv) sexual extortion under Section [76-5b-204](#); or

172 (xvi) incest under Section [76-7-102](#).

173 (g) (i) "Victim" means an individual against whom sexual abuse is committed or
174 allegedly committed.

175 (ii) "Victim" does not include an individual whose claims are derived through another
176 individual against whom sexual abuse is committed or allegedly committed.

177 (2) (a) Notwithstanding other provisions of this code, a victim may bring a cause of
178 action at any time against:

179 (i) a perpetrator of sexual abuse committed or allegedly committed against the victim;

180 or

181 (ii) an individual who would be criminally responsible under Section [76-2-202](#) for
182 sexual abuse committed or allegedly committed against the victim.

183 (b) A victim may only bring a cause of action against an individual for negligent sexual
184 abuse within the later of:

185 (i) four years after the day on which the victim turns 18 years old; or

186 (ii) four years after the day on which the victim discovers the sexual abuse.

187 (3) A victim may bring a cause of action regardless of whether criminal charges are
188 filed or the perpetrator is convicted of sexual abuse.

189 (4) For purposes of establishing the discovery of sexual abuse under Subsection
190 (2)(b)(ii):

191 (a) if there is more than one alleged act of sexual abuse in a cause of action, the date of
192 discovery is computed from the day on which the victim discovers the last alleged act of sexual
193 abuse by the perpetrator; and

194 (b) the discovery of sexual abuse by a custodial parent or guardian may not be imputed
195 to an individual who is a child at the time of the sexual abuse.

196 (5) (a) This section extends the statute of limitations for a cause of action described in
197 Subsection (2) that is not time barred on or before May 3, 2023.

198 (b) This section does not revive a cause of action that is time barred on or before May
199 3, 2023.

200 Section 5. **Repealer.**

201 This bill repeals:

202 Section **78B-2-308**, **Legislative findings -- Civil actions for sexual abuse of a child --**
203 **Window for revival of time barred claims.**