

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Florida Statutes Annotated
Title XLVI. Crimes (Chapters 775-899)
Chapter 775. General Penalties; Registration of Criminals (Refs & Annos)

West's F.S.A. § 775.15

775.15. Time limitations; general time limitations; exceptions

Effective: October 1, 2016

[Currentness](#)

- (1) A prosecution for a capital felony, a life felony, or a felony that resulted in a death may be commenced at any time. If the death penalty is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, all crimes designated as capital felonies shall be considered life felonies for the purposes of this section, and prosecution for such crimes may be commenced at any time.
- (2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:
- (a) A prosecution for a felony of the first degree must be commenced within 4 years after it is committed.
 - (b) A prosecution for any other felony must be commenced within 3 years after it is committed.
 - (c) A prosecution for a misdemeanor of the first degree must be commenced within 2 years after it is committed.
 - (d) A prosecution for a misdemeanor of the second degree or a noncriminal violation must be commenced within 1 year after it is committed.
- (3) An offense is committed either when every element has occurred or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.
- (4)(a) Prosecution on a charge on which the defendant has previously been arrested or served with a summons is commenced by the filing of an indictment, information, or other charging document.
- (b) A prosecution on a charge on which the defendant has not previously been arrested or served with a summons is commenced when either an indictment or information is filed, provided the capias, summons, or other process issued on such indictment or information is executed without unreasonable delay. In determining what is reasonable, inability to locate the defendant after diligent search or the defendant's absence from the state shall be considered. The failure to

execute process on or extradite a defendant in another state who has been charged by information or indictment with a crime in this state shall not constitute an unreasonable delay.

(c) If, however, an indictment or information has been filed within the time period prescribed in this section and the indictment or information is dismissed or set aside because of a defect in its content or form after the time period has elapsed, the period for commencing prosecution shall be extended 3 months from the time the indictment or information is dismissed or set aside.

(5) The period of limitation does not run during any time when the defendant is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state. This provision shall not extend the period of limitation otherwise applicable by more than 3 years, but shall not be construed to limit the prosecution of a defendant who has been timely charged by indictment or information or other charging document and who has not been arrested due to his or her absence from this state or has not been extradited for prosecution from another state.

(6) A prosecution for perjury in an official proceeding that relates to the prosecution of a capital felony may be commenced at any time.

(7) A prosecution for a felony that resulted in injury to any person, when such felony arises from the use of a “destructive device,” as defined in [s. 790.001](#), may be commenced within 10 years.

(8) A prosecution for a felony violation of chapter 517 or [s. 409.920](#) must be commenced within 5 years after the violation is committed.

(9) A prosecution for a felony violation of chapter 403 must be commenced within 5 years after the date of discovery of the violation.

(10) A prosecution for a felony violation of [s. 825.102](#) or [s. 825.103](#) must be commenced within 5 years after it is committed.

(11) A prosecution for a felony violation of [ss. 440.105](#) and [817.234](#) must be commenced within 5 years after the violation is committed.

(12) If the period prescribed in subsection (2), subsection (8), subsection (9), subsection (10), or subsection (11) has expired, a prosecution may nevertheless be commenced for:

(a) Any offense, a material element of which is either fraud or a breach of fiduciary obligation, within 1 year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than 3 years.

(b) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment, within 2 years from the time he or she leaves public office or employment, or during any time permitted by any other part of this section, whichever time is greater.

(13)(a) If the victim of a violation of [s. 794.011](#), former [s. 794.05](#), [Florida Statutes 1995, s. 800.04](#), [s. 826.04](#), or [s. 847.0135\(5\)](#) is under the age of 18, the applicable period of limitation, if any, does not begin to run until the victim has reached the age of 18 or the violation is reported to a law enforcement agency or other governmental agency, whichever occurs earlier. Such law enforcement agency or other governmental agency shall promptly report such allegation to the state attorney for the judicial circuit in which the alleged violation occurred. If the offense is a first or second degree felony violation of [s. 794.011](#), and the offense is reported within 72 hours after its commission, the prosecution for such offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before December 31, 1984.

(b) If the offense is a first degree felony violation of [s. 794.011](#) and the victim was under 18 years of age at the time the offense was committed, a prosecution of the offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before October 1, 2003.

(c) If the offense is a violation of [s. 794.011](#) and the victim was under 16 years of age at the time the offense was committed, a prosecution of the offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before July 1, 2010.

(14)(a) A prosecution for a first or second degree felony violation of [s. 794.011](#), if the victim is 16 years of age or older at the time of the offense and the offense is reported to a law enforcement agency within 72 hours after commission of the offense, may be commenced at any time.

(b) Except as provided in paragraph (a) or paragraph (13)(b), a prosecution for a first or second degree felony violation of [s. 794.011](#), if the victim is 16 years of age or older at the time of the offense, must be commenced within 8 years after the violation is committed. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before July 1, 2015.

(15)(a) In addition to the time periods prescribed in this section, a prosecution for any of the following offenses may be commenced within 1 year after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of deoxyribonucleic acid (DNA) evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused:

1. An offense of sexual battery under chapter 794.
2. A lewd or lascivious offense under [s. 800.04](#) or [s. 825.1025](#).

(b) This subsection applies to any offense that is not otherwise barred from prosecution between July 1, 2004, and June 30, 2006.

(16)(a) In addition to the time periods prescribed in this section, a prosecution for any of the following offenses may be commenced at any time after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of deoxyribonucleic acid (DNA) evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused:

1. Aggravated battery or any felony battery offense under chapter 784.
2. Kidnapping under [s. 787.01](#) or false imprisonment under [s. 787.02](#).
3. An offense of sexual battery under chapter 794.
4. A lewd or lascivious offense under [s. 800.04](#), [s. 825.1025](#), or [s. 847.0135\(5\)](#).
5. A burglary offense under [s. 810.02](#).
6. A robbery offense under [s. 812.13](#), [s. 812.131](#), or [s. 812.135](#).
7. Carjacking under [s. 812.133](#).
8. Aggravated child abuse under [s. 827.03](#).

(b) This subsection applies to any offense that is not otherwise barred from prosecution on or after July 1, 2006.

(17) In addition to the time periods prescribed in this section, a prosecution for video voyeurism in violation of [s. 810.145](#) may be commenced within 1 year after the date on which the victim of video voyeurism obtains actual knowledge of the existence of such a recording or the date on which the recording is confiscated by a law enforcement agency, whichever occurs first. Any dissemination of such a recording before the victim obtains actual knowledge thereof or before its confiscation by a law enforcement agency does not affect any provision of this subsection.

(18) If the offense is a violation of [s. 800.04\(4\)](#) or [\(5\)](#) and the victim was under 16 years of age at the time the offense was committed, a prosecution of the offense may be commenced at any time, unless, at the time of the offense, the offender is less than 18 years of age and is no more than 4 years older than the victim. This subsection applies to an offense that is not otherwise barred from prosecution on or before October 1, 2014.

(19) A prosecution for a violation of [s. 787.06](#) may be commenced at any time. This subsection applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before October 1, 2014.

Credits

Act Feb. 10, 1832, § 78; Rev.St.1892, § 2357; Laws 1901, c. 4915, § 1; Gen.St.1906, §§ 3181, 3182; Rev.Gen.St.1920, §§ 5011, 5012; Comp.Gen.Laws 1927, §§ 7113, 7114; Laws 1935, c. 16962, § 1; Laws 1951, c. 26484, § 10; Fla.St.1969, §§ 932.05, 932.06; Laws 1970, c. 70-339, § 109; Fla.St.1970, Supp. § 915.03; Fla.St.1973, § 932.465; Laws 1974, c. 74-383, § 10; Laws 1976, c. 76-275, § 1; Laws 1977, c. 77-174, § 1; Laws 1978, c. 78-435, § 12; Laws 1984, c. 84-86, § 6; Laws 1984, c. 84-550, § 1; Laws 1985, c. 85-63, § 10; Laws 1989, c. 89-143, § 4; Laws 1990, c. 90-120, § 2; Laws 1991, c. 91-258, § 2. Amended by Laws 1993, c. 93-156, § 16, eff. Oct. 1, 1993; Laws 1995, c. 95-158, § 17, eff. July 1, 1995; Laws 1995, c. 95-418, § 139, eff. July 1, 1995; Laws 1996, c. 96-145, § 1, eff. Oct. 1, 1996; Laws 1996, c. 96-280, § 3, eff. Oct. 1, 1996; Laws 1996, c. 96-322, § 3, eff. Oct. 1, 1996; Laws 1996, c. 96-409, § 4, eff. Oct. 1, 1996; Laws 1997, c. 97-36, § 1, eff. Oct. 1, 1997; Laws 1997, c. 97-90, § 1, eff. July 1, 1997; Laws 1997, c. 97-102, § 1812, eff. July 1, 1997; Laws 1997, c. 97-104, § 1, eff. May 24, 1997; Laws 1998, c. 98-174, § 17, eff. Jan. 1, 1999; Laws 1999, c. 99-201, § 7, eff. Oct. 1, 1999; Laws 1999, c. 99-204, § 5, eff. Oct. 1, 1999; Laws 2000, c. 2000-246, § 3, eff. Oct. 1, 2000; Laws 2001, c. 2001-102, § 1, eff. Oct. 1, 2001; Laws 2002, c. 2002-168, § 1, eff. Oct. 1, 2002; Laws 2003, c. 2003-116, § 1, eff. Oct. 1, 2003; Laws 2004, c. 2004-94, § 1, eff. July 1, 2004; Laws 2005, c. 2005-110, § 1, eff. July 1, 2005; Laws 2006, c. 2006-266, § 1, eff. July 1, 2006; Laws 2008, c. 2008-172, § 15, eff. Oct. 1, 2008; Laws 2010, c. 2010-54, § 2, eff. July 1, 2010; Laws 2011, c. 2011-220, § 6, eff. July 1, 2011; Laws 2014, c. 2014-4, § 2, eff. Oct. 1, 2014; Laws 2014, c. 2014-160, § 6, eff. Oct. 1, 2014; Laws 2015, c. 2015-133, § 2, eff. July 1, 2015; Laws 2016, c. 2016-24, § 30, eff. Oct. 1, 2016.

Notes of Decisions (351)

West's F. S. A. § 775.15, FL ST § 775.15

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