

Representative Katherine M. Bryson proposes the following substitute bill:

1 **STATUTE OF LIMITATIONS AMENDMENTS**

2 2002 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Katherine M. Bryson**

5 **This act modifies the Criminal Code by specifying additional crimes that are not subject to**
6 **statutes of limitations for prosecution. The act also amends the Criminal Code to clarify that**
7 **the defendant's active concealment of a crime tolls the statute of limitations.**

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **76-1-301**, as last amended by Chapter 232, Laws of Utah 1995

11 **76-1-301.5**, as last amended by Chapter 155, Laws of Utah 1998

12 **76-1-304**, as last amended by Chapter 121, Laws of Utah 1998

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

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

15 **76-1-301. Offenses for which prosecution may be commenced at any time.**

16 A prosecution for a capital felony, aggravated murder, murder, [or] manslaughter, child
17 abuse homicide which is a second degree felony, aggravated kidnapping, or child kidnapping may
18 be commenced at any time.

19 Section 2. Section **76-1-301.5** is amended to read:

20 **76-1-301.5. Time limitations for prosecution of misusing public monies, falsification**
21 **or alteration of government records, and bribery.**

22 (1) A prosecution for misusing public monies, falsification or alteration of government
23 records, or for a bribery offense shall be commenced within two years after facts constituting the
24 offense have been reported to a prosecutor having responsibility and jurisdiction to prosecute the
25 offense.



26 (2) This section does not shorten the limitation of actions under Section 76-1-302 or
27 Subsection 76-1-303(3).

28 Section 3. Section **76-1-304** is amended to read:

29 **76-1-304. Defendant out of state or conceals offense -- Plea held invalid -- New**
30 **prosecutions.**

31 (1) As used in this section:

32 (a) "Active concealment" means conduct of the defendant that is designed to prevent
33 discovery of the offense or of the defendant's involvement in the offense. Mere silence, inaction,
34 or nondisclosure does not constitute active concealment.

35 (b) "Final" means:

36 (i) all appeals have been exhausted;

37 (ii) no judicial review is pending; and

38 (iii) no application for judicial review is pending.

39 ~~[(1)]~~ (2) The period of limitation does not run against any defendant during any period of
40 time in which;

41 (a) the defendant is out of the state following the commission of an offense[-]; or

42 (b) an offense is not discovered or the defendant's involvement in the offense is not
43 discovered because of the defendant's active concealment.

44 ~~[(2)]~~ (3) If the defendant has entered into a plea agreement with the prosecution and later
45 successfully moves to invalidate his conviction, the period of limitation is suspended from the time
46 of the entry of the plea pursuant to the plea agreement until the time at which the conviction is
47 determined to be invalid, and that determination becomes final.

48 ~~[(3) For purposes of this section, "final" means:]~~

49 ~~[(a) all appeals have been exhausted;]~~

50 ~~[(b) no judicial review is pending; and]~~

51 ~~[(c) no application for judicial review is pending.]~~

52 (4) When the period of limitation is suspended pursuant to Subsection ~~[(2)]~~ (3), the
53 suspension includes any charges to which the defendant pleaded guilty pursuant to a plea
54 agreement, charges which were dismissed as a result of a plea agreement, as well as any known
55 charges which were not barred at the time of entry of the plea.

56 (5) Notwithstanding any other limitation, a prosecution may be commenced for charges

57 described in Subsection (4) within one year after a plea entered pursuant to a plea agreement has
58 been determined to be invalid, and that determination becomes final.