

Part 3 Limitations of Actions

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

- (1) As used in this section:
 - (a) "Aggravating offense" means any offense incident to which a homicide was committed as described in Subsection 76-5-202(1)(d) or (e) or Subsection 76-5-202(2).
 - (b) "Predicate offense" means an offense described in Section 76-5-203(1) if a person other than a party as defined in Section 76-2-202 was killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of the offense.
- (2) Notwithstanding any other provisions of this code, prosecution for the following offenses may be commenced at any time:
 - (a) capital felony;
 - (b) aggravated murder;
 - (c) murder;
 - (d) manslaughter;
 - (e) child abuse homicide;
 - (f) aggravated kidnapping;
 - (g) child kidnapping;
 - (h) rape;
 - (i) rape of a child;
 - (j) object rape;
 - (k) object rape of a child;
 - (l) forcible sodomy;
 - (m) sodomy on a child;
 - (n) sexual abuse of a child;
 - (o) aggravated sexual abuse of a child;
 - (p) aggravated sexual assault;
 - (q) any predicate offense to a murder or aggravating offense to an aggravated murder;
 - (r) aggravated human trafficking or aggravated human smuggling in violation of Section 76-5-310; or
 - (s) aggravated exploitation of prostitution involving a child, under Section 76-10-1306.

Amended by Chapter 196, 2013 General Session

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

- (1) A prosecution for misusing public money, falsification or alteration of government records, or for a bribery offense shall be commenced within two years after facts constituting the offense have been reported to a prosecutor having responsibility and jurisdiction to prosecute the offense.
- (2) This section does not shorten the limitation of actions under Section 76-1-302 or Subsection 76-1-303(3).

Amended by Chapter 208, 2002 General Session

76-1-302 Time limitations for prosecution of offenses -- Provisions if DNA evidence would identify the defendant -- Commencement of prosecution.

- (1) Except as otherwise provided, a prosecution for:
 - (a) a felony or negligent homicide shall be commenced within four years after it is committed, except that prosecution for:
 - (i) forcible sexual abuse shall be commenced within eight years after the offense is committed, if within four years after its commission the offense is reported to a law enforcement agency; and
 - (ii) incest shall be commenced within eight years after the offense is committed, if within four years after its commission the offense is reported to a law enforcement agency;
 - (b) a misdemeanor other than negligent homicide shall be commenced within two years after it is committed; and
 - (c) any infraction shall be commenced within one year after it is committed.
- (2)
 - (a) Notwithstanding Subsection (1), prosecution for the offenses listed in Subsections 76-3-203.5(1)(c)(i)(A) through (BB) may be commenced at any time if the identity of the person who committed the crime is unknown but DNA evidence is collected that would identify the person at a later date.
 - (b) Subsection (2)(a) does not apply if the statute of limitations on a crime has run as of May 5, 2003, and no charges have been filed.
- (3) If the statute of limitations would have run but for the provisions of Subsection (2) and identification of a perpetrator is made through DNA, a prosecution shall be commenced within one year of the discovery of the identity of the perpetrator.
- (4) A prosecution is commenced upon:
 - (a) the finding and filing of an indictment by a grand jury;
 - (b) the filing of a complaint or information; or
 - (c) the issuance of a citation.

Amended by Chapter 320, 2011 General Session

76-1-303 Time limitations for fraud or breach of fiduciary obligation -- Misconduct of public officer or employee.

- (1) If the period prescribed in Section 76-1-302 has expired, a prosecution may be commenced for any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after a report of the offense has been filed with a law enforcement agency.
- (2) Subsection (1) may not extend the period of limitation as provided in Section 76-1-302 by more than three years.
- (3) If the period prescribed in Section 76-1-301.5 or 76-1-302 has expired, a prosecution may be commenced for:
 - (a) any offense based upon misconduct in office by a public officer or public employee:
 - (i) at any time during which the defendant holds a public office or during the period of his public employment; or
 - (ii) within two years after termination of defendant's public office or public employment.
 - (b) Except as provided in Section 76-1-301.5, Subsection (3) shall not extend the period of limitation otherwise applicable by more than three years.

Amended by Chapter 145, 2009 General Session

76-1-304 Defendant out of state -- Plea held invalid -- New prosecutions.

- (1) The period of limitation does not run against any defendant during any period of time in which the defendant is out of the state following the commission of an offense.
- (2) If the defendant has entered into a plea agreement with the prosecution and later successfully moves to invalidate his conviction, the period of limitation is suspended from the time of the entry of the plea pursuant to the plea agreement until the time at which the conviction is determined to be invalid, and that determination becomes final.
- (3) For purposes of this section, "final" means:
 - (a) all appeals have been exhausted;
 - (b) no judicial review is pending; and
 - (c) no application for judicial review is pending.
- (4) When the period of limitation is suspended pursuant to Subsection (2), the suspension includes any charges to which the defendant pleaded guilty pursuant to a plea agreement, charges which were dismissed as a result of a plea agreement, as well as any known charges which were not barred at the time of entry of the plea.
- (5) Notwithstanding any other limitation, a prosecution may be commenced for charges described in Subsection (4) within one year after a plea entered pursuant to a plea agreement has been determined to be invalid, and that determination becomes final.

Amended by Chapter 121, 1998 General Session

76-1-305 Lesser included offense for which period of limitations has run.

Whenever a defendant is charged with an offense for which the period of limitations has not run and the defendant should be found guilty of a lesser offense for which the period of limitations has run, the finding of the lesser and included offense against which the statute of limitations has run shall not be a bar to punishment for the lesser offense.

Enacted by Chapter 196, 1973 General Session

76-1-306 Judge to determine.

When an issue concerning the statute of limitations is raised, the judge shall determine by a preponderance of the evidence whether the prosecution is barred by the limitations in this part.

Enacted by Chapter 121, 1998 General Session