

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

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

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

14 **76-1-301. Offenses for which prosecution may be commenced at any time.**

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

18 Section 2. Section **76-1-304** is amended to read:

19 **76-1-304. Defendant out of state or conceals offense -- Plea held invalid -- New**
20 **prosecutions.**

21 (1) As used in this section:

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

25 (b) "Final" means:

26 (i) all appeals have been exhausted;

27 (ii) no judicial review is pending; and



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

29 ~~[(+)]~~ (2) The period of limitation does not run against any defendant during any period of
30 time in which;

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

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

34 ~~[(2)]~~ (3) If the defendant has entered into a plea agreement with the prosecution and later
35 successfully moves to invalidate his conviction, the period of limitation is suspended from the time
36 of the entry of the plea pursuant to the plea agreement until the time at which the conviction is
37 determined to be invalid, and that determination becomes final.

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

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

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

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

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

46 (5) Notwithstanding any other limitation, a prosecution may be commenced for charges
47 described in Subsection (4) within one year after a plea entered pursuant to a plea agreement has
48 been determined to be invalid, and that determination becomes final.

Legislative Review Note
as of 11-15-01 11:24 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Judiciary Interim Committee recommended this bill.