

HB0333S01 compared with HB0333

~~{deleted text}~~ shows text that was in HB0333 but was deleted in HB0333S01.

inserted text shows text that was not in HB0333 but was inserted into HB0333S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Ken Ivory proposes the following substitute bill:

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:}~~

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~~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:

78B-2-308, as last amended by Laws of Utah 2022, Chapter 430

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

Section 1. ~~Section 76-1-301 is amended to read:~~

~~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(2)(a)(iv) or (v) or Subsection 76-5-202(2)(b).~~

~~(b) "Predicate offense" means an offense described in Subsection 76-5-203(1)(a) 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) an offense classified as a capital felony under Section 76-3-103;~~

~~(b) aggravated murder under Section 76-5-202;~~

~~(c) murder under Section 76-5-203;~~

~~(d) manslaughter under Section 76-5-205;~~

~~(e) child abuse homicide under Section 76-5-208;~~

~~(f) aggravated kidnapping under Section 76-5-302;~~

~~(g) child kidnapping under Section 76-5-301.1;~~

~~(h) rape under Section 76-5-402;~~

~~(i) rape of a child under Section 76-5-402.1;~~

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- ~~—— (j) object rape under Section 76-5-402.2;~~
- ~~—— (k) object rape of a child under Section 76-5-402.3;~~
- ~~—— (l) forcible sodomy under Section 76-5-403;~~
- ~~—— (m) sodomy on a child under Section 76-5-403.1;~~
- ~~—— (n) sexual abuse of a child under Section 76-5-404.1;~~
- ~~—— (o) aggravated sexual abuse of a child under Section 76-5-404.3;~~
- ~~—— (p) aggravated sexual assault under Section 76-5-405;~~
- ~~—— (q) sexual abuse of a minor under Section 76-5-401.1;~~
- ~~—— (r) forcible sexual abuse under Section 76-5-404;~~
- ~~—— (s) sexual exploitation of a minor under Section 76-5b-201;~~
- ~~—— (t) aggravated sexual exploitation of a minor under Section 76-5b-201.1;~~
- ~~—— (u) sexual exploitation of a vulnerable adult under Section 76-5b-202;~~
- ~~—— (v) sexual extortion under Section 76-5b-204;~~
- ~~—— (w) incest under Section 76-7-102;~~
- ~~—— [(q)] (x) any predicate offense to a murder or aggravating offense to an aggravated murder;~~
- ~~—— [(r)] (y) aggravated human trafficking [or aggravated human smuggling in violation of] under Section 76-5-310;~~
- ~~—— (z) aggravated human smuggling under Section 76-5-310.1;~~
- ~~—— [(s)] (aa) aggravated exploitation of prostitution involving a child, under Section 76-10-1306; [or]~~
- ~~—— [(t)] (bb) human trafficking of a child, under Section 76-5-308.5; or~~
- ~~—— (cc) human trafficking of a vulnerable adult under Section 76-5-311.~~
- ~~—— (3) (a) This section extends the statute of limitations for prosecution of an offense described in Subsection (2)(q), (r), (s), (t), (u), (v), (w), or (cc) that is not time barred on or before May 3, 2023.~~
- ~~—— (b) A prosecution may not commence for an offense described in Subsection (2)(q), (r), (s), (t), (u), (v), (w), or (cc) that is time barred on or before May 3, 2023.~~
- ~~—— Section 2. Section 76-1-302 is amended to read:~~
- ~~—— 76-1-302. Time limitations for prosecution of offenses -- Provisions if DNA evidence would identify the defendant -- Commencement of prosecution.~~

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~~—— (1) Except as otherwise provided, a prosecution for:~~
~~—— (a) a felony or negligent homicide offense shall be commenced within four years after [it] the day on which the offense 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 offense other than a negligent homicide offense shall be commenced within two years after [it] the day on which the offense is committed; and~~
~~—— (c) any infraction shall be commenced within one year after [it] the day on which the infraction is committed.~~
~~—— (2) (a) Notwithstanding Subsection (1), prosecution for the offenses listed in Subsections 76-3-203.5(1)(c)(i)(A) through (CC) 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 four years of confirmation 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.~~
~~—— Section 3.~~ Section **78B-2-401**, which is renumbered from Section 78B-2-119 is renumbered and amended to read:

Part 4. Civil Actions Arising Out of Criminal Conduct

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

(1) As used in this section:

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

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

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

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

(c) "Victim" means an individual directly harmed by criminal conduct or the individual's representative.

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

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

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

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

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

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

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

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

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

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

Section ~~{4}~~2. Section **78B-2-402** is enacted to read:

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

(1) As used in this part:

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

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

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

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

(i) is the child's parent, stepparent, adoptive parent, foster parent, legal guardian, ancestor, descendant, brother, sister, uncle, aunt, first cousin, nephew, niece, grandparent, or stepgrandparent; or

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

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

(f) "Sexual abuse" means:

~~{~~ (i) ~~sexual abuse of a minor under Section 76-5-401.1;~~

~~}~~ ~~{iii}~~ i rape under Section 76-5-402;

~~{iiii}~~ ii rape of a child under Section 76-5-402.1;

~~{iv}~~ iii object rape under Section 76-5-402.2;

~~{v}~~ iv object rape of a child under Section 76-5-402.3;

~~{vi}~~ v forcible sodomy under Section 76-5-403;

~~{vii}~~ vi sodomy on a child under Section 76-5-403.1;

~~{viii}~~ vii ~~{forcible}~~ sexual abuse of a child under Section 76-5-404.1;

~~{ix}~~ viii aggravated sexual abuse of a child under Section 76-5-404. ~~{1}~~ 3; or

~~{x}~~ ix aggravated sexual ~~{abuse of a child}~~ assault under Section ~~{76-5-404}~~ 76-5-405. ~~{3}~~;

~~{~~ ~~(xi)~~ ~~aggravated sexual assault under Section 76-5-405;~~

~~—~~ ~~(xii)~~ ~~sexual exploitation of a minor under Section 76-5b-201;~~

~~—~~ ~~(xiii)~~ ~~aggravated sexual exploitation of a minor under Section 76-5b-201.1;~~

~~—~~ ~~(xiv)~~ ~~sexual exploitation of a vulnerable adult under Section 76-5b-202;~~

~~—~~ ~~(xv)~~ ~~sexual extortion under Section 76-5b-204; or~~

~~—~~ ~~(xvi)~~ ~~incest under Section 76-7-102.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~†5~~3. Repealer.

This bill repeals:

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

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