

ASSEMBLY BILL

No. 2484

Introduced by Assembly Member Davis

February 24, 2012

An act to amend Section 803 of the Penal Code, relating to vehicular manslaughter.

LEGISLATIVE COUNSEL'S DIGEST

AB 2484, as introduced, Davis. Statute of limitations: vehicular manslaughter: fleeing the scene of an accident.

Existing law makes it a crime to drive a vehicle, with gross negligence, in the commission of an unlawful act, not amounting to a felony, or in the commission of a lawful act which might produce death, in an unlawful manner. Existing law provides that those acts are punishable either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 2, 4, or 6 years. Existing law also makes it a crime to perform either of those acts without gross negligence. Existing law provides that this crime is punishable by imprisonment in the county jail for not more than one year.

Existing law also sets forth various time limits to prosecute crimes. Except as otherwise specified, prosecution for an offense that is not punishable by death or imprisonment in the state prison is required to be commenced within one year after commission of the offense.

This bill would provide that notwithstanding any other limitation of time, as specified, if a person flees the scene of an accident, a criminal complaint for the crimes described above may be filed 3 years after the commission of the offense, or one year after the person is initially identified by law enforcement as a suspect in the commission of that offense, whichever is later.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 803 of the Penal Code is amended to
2 read:
- 3 803. (a) Except as provided in this section, a limitation of time
4 prescribed in this chapter is not tolled or extended for any reason.
5 (b) No time during which prosecution of the same person for
6 the same conduct is pending in a court of this state is a part of a
7 limitation of time prescribed in this chapter.
8 (c) A limitation of time prescribed in this chapter does not
9 commence to run until the discovery of an offense described in
10 this subdivision. This subdivision applies to an offense punishable
11 by imprisonment in the state prison or imprisonment pursuant to
12 subdivision (h) of Section 1170, a material element of which is
13 fraud or breach of a fiduciary obligation, the commission of the
14 crimes of theft or embezzlement upon an elder or dependent adult,
15 or the basis of which is misconduct in office by a public officer,
16 employee, or appointee, including, but not limited to, the following
17 offenses:
- 18 (1) Grand theft of any type, forgery, falsification of public
19 records, or acceptance of a bribe by a public official or a public
20 employee.
21 (2) A violation of Section 72, 118, 118a, 132, 134, or 186.10.
22 (3) A violation of Section 25540, of any type, or Section 25541
23 of the Corporations Code.
24 (4) A violation of Section 1090 or 27443 of the Government
25 Code.
26 (5) Felony welfare fraud or Medi-Cal fraud in violation of
27 Section 11483 or 14107 of the Welfare and Institutions Code.
28 (6) Felony insurance fraud in violation of Section 548 or 550
29 of this code or former Section 1871.1, or Section 1871.4, of the
30 Insurance Code.
31 (7) A violation of Section 580, 581, 582, 583, or 584 of the
32 Business and Professions Code.
33 (8) A violation of Section 22430 of the Business and Professions
34 Code.

1 (9) A violation of Section ~~10690~~ 103800 of the Health and
2 Safety Code.

3 (10) A violation of Section 529a.

4 (11) A violation of subdivision (d) or (e) of Section 368.

5 (d) If the defendant is out of the state when or after the offense
6 is committed, the prosecution may be commenced as provided in
7 Section 804 within the limitations of time prescribed by this
8 chapter, and no time up to a maximum of three years during which
9 the defendant is not within the state shall be a part of those
10 limitations.

11 (e) A limitation of time prescribed in this chapter does not
12 commence to run until the offense has been discovered, or could
13 have reasonably been discovered, with regard to offenses under
14 Division 7 (commencing with Section 13000) of the Water Code,
15 under Chapter 6.5 (commencing with Section 25100) of, Chapter
16 6.7 (commencing with Section 25280) of, or Chapter 6.8
17 (commencing with Section 25300) of, Division 20 of, or Part 4
18 (commencing with Section 41500) of Division 26 of, the Health
19 and Safety Code, or under Section 386, or offenses under Chapter
20 5 (commencing with Section 2000) of Division 2 of, Chapter 9
21 (commencing with Section 4000) of Division 2 of, Section 6126
22 of, Chapter 10 (commencing with Section 7301) of Division 3 of,
23 or Chapter 19.5 (commencing with Section 22440) of Division 8
24 of, the Business and Professions Code.

25 (f) (1) Notwithstanding any other limitation of time described
26 in this chapter, a criminal complaint may be filed within one year
27 of the date of a report to a California law enforcement agency by
28 a person of any age alleging that he or she, while under the age of
29 18 years, was the victim of a crime described in Section 261, 286,
30 288, 288a, 288.5, or 289, or Section 289.5, as enacted by Chapter
31 293 of the Statutes of 1991 relating to penetration by an unknown
32 object.

33 (2) This subdivision applies only if all of the following occur:

34 (A) The limitation period specified in Section 800, 801, or 801.1,
35 whichever is later, has expired.

36 (B) The crime involved substantial sexual conduct, as described
37 in subdivision (b) of Section 1203.066, excluding masturbation
38 that is not mutual.

39 (C) There is independent evidence that corroborates the victim's
40 allegation. If the victim was 21 years of age or older at the time

1 of the report, the independent evidence shall clearly and
2 convincingly corroborate the victim's allegation.

3 (3) No evidence may be used to corroborate the victim's
4 allegation that otherwise would be inadmissible during trial.
5 Independent evidence does not include the opinions of mental
6 health professionals.

7 (4) (A) In a criminal investigation involving any of the crimes
8 listed in paragraph (1) committed against a child, when the
9 applicable limitations period has not expired, that period shall be
10 tolled from the time a party initiates litigation challenging a grand
11 jury subpoena until the end of the litigation, including any
12 associated writ or appellate proceeding, or until the final disclosure
13 of evidence to the investigating or prosecuting agency, if that
14 disclosure is ordered pursuant to the subpoena after the litigation.

15 (B) Nothing in this subdivision affects the definition or
16 applicability of any evidentiary privilege.

17 (C) This subdivision shall not apply where a court finds that the
18 grand jury subpoena was issued or caused to be issued in bad faith.

19 (g) (1) Notwithstanding any other limitation of time described
20 in this chapter, a criminal complaint may be filed within one year
21 of the date on which the identity of the suspect is conclusively
22 established by DNA testing, if both of the following conditions
23 are met:

24 (A) The crime is one that is described in subdivision (c) of
25 Section 290.

26 (B) The offense was committed prior to January 1, 2001, and
27 biological evidence collected in connection with the offense is
28 analyzed for DNA type no later than January 1, 2004, or the offense
29 was committed on or after January 1, 2001, and biological evidence
30 collected in connection with the offense is analyzed for DNA type
31 no later than two years from the date of the offense.

32 (2) For purposes of this section, "DNA" means deoxyribonucleic
33 acid.

34 (h) For any crime, the proof of which depends substantially
35 upon evidence that was seized under a warrant, but which is
36 unavailable to the prosecuting authority under the procedures
37 described in *People v. Superior Court (Laff)* (2001) 25 Cal.4th
38 703, *People v. Superior Court (Bauman & Rose)* (1995) 37
39 Cal.App.4th 1757, or subdivision (c) of Section 1524, relating to
40 claims of evidentiary privilege or attorney work product, the

1 limitation of time prescribed in this chapter shall be tolled from
2 the time of the seizure until final disclosure of the evidence to the
3 prosecuting authority. Nothing in this section otherwise affects
4 the definition or applicability of any evidentiary privilege or
5 attorney work product.

6 (i) Notwithstanding any other limitation of time described in
7 this chapter, a criminal complaint may be filed within one year of
8 the date on which a hidden recording is discovered related to a
9 violation of paragraph (2) or (3) of subdivision (j) of Section 647.

10 (j) *Notwithstanding any other limitation of time described in*
11 *this chapter, if a person flees the scene of an accident, a criminal*
12 *complaint brought pursuant to paragraph (1) or (2) of subdivision*
13 *(c) of Section 192 may be filed within three years after the*
14 *commission of the offense, or one year after the person is initially*
15 *identified by law enforcement as a suspect in the commission of*
16 *that offense, whichever is later.*