

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 184

Introduced by Assembly Member Gatto
(Coauthors: Assembly Members *Achadjian, Fox, Frazier,*
***Muratsuchi, Nestande, Quirk-Silva, Rendon, Ting, and Wilk*)**
(Coauthors: Senators Berryhill, Cannella, *Nielsen, Padilla,* and Price)

January 28, 2013

An act to amend Section 803 of the Penal Code, relating to statute of limitations.

LEGISLATIVE COUNSEL'S DIGEST

AB 184, as amended, Gatto. Statute of limitations.

Existing law makes it a crime for the driver of a vehicle involved in an accident resulting in injury to a person other than himself or herself, or in the death of a person, to leave the scene of the accident. Existing law makes it a crime to drive a vehicle, with or without gross negligence, in the commission of an unlawful act not amounting to a felony, or in the commission of a lawful act that might produce death in an unlawful manner.

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 specified, if a person flees the scene of an accident that has caused *death or permanent, serious injury* ~~or flees the scene of an accident and is charged with specified types of vehicular manslaughter~~, charges may be brought either one or 3 years after the completion of the offense, as

specified, or one year after the person is initially identified as a suspect in the commission of the 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.

1 (8) A violation of Section 22430 of the Business and Professions
2 Code.

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

5 (10) A violation of Section 529a.

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

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

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

27 (f) (1) Notwithstanding any other limitation of time described
28 in this chapter, a criminal complaint may be filed within one year
29 of the date of a report to a California law enforcement agency by
30 a person of any age alleging that he or she, while under the age of
31 18 years, was the victim of a crime described in Section 261, 286,
32 288, 288a, 288.5, or 289, or Section 289.5, as enacted by Chapter
33 293 of the Statutes of 1991 relating to penetration by an unknown
34 object.

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

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

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

1 (C) There is independent evidence that corroborates the victim's
2 allegation. If the victim was 21 years of age or older at the time
3 of the report, the independent evidence shall clearly and
4 convincingly corroborate the victim's allegation.

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

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

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

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

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

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

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

34 (2) For purposes of this section, "DNA" means deoxyribonucleic
35 acid.

36 (h) For any crime, the proof of which depends substantially
37 upon evidence that was seized under a warrant, but which is
38 unavailable to the prosecuting authority under the procedures
39 described in *People v. Superior Court (Laff)* (2001) 25 Cal.4th
40 703, *People v. Superior Court (Bauman & Rose)* (1995) 37

1 Cal.App.4th 1757, or subdivision (c) of Section 1524, relating to
2 claims of evidentiary privilege or attorney work product, the
3 limitation of time prescribed in this chapter shall be tolled from
4 the time of the seizure until final disclosure of the evidence to the
5 prosecuting authority. Nothing in this section otherwise affects
6 the definition or applicability of any evidentiary privilege or
7 attorney work product.

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

12 (j) Notwithstanding any other limitation of time described in
13 this chapter, if a person flees the scene of an accident that caused
14 *death or* permanent, serious injury, as defined in subdivision (d)
15 of Section 20001 of the Vehicle Code, a criminal complaint brought
16 pursuant to paragraph (2) of subdivision (b) of Section 20001 of
17 the Vehicle Code may be filed within the applicable time period
18 described in Section 801 or 802 or one year after the person is
19 initially identified by law enforcement as a suspect in the
20 commission of the offense, whichever is later.

21 ~~(k) Notwithstanding any other limitation of time described in~~
22 ~~this chapter, if a person flees the scene of an accident, a criminal~~
23 ~~complaint brought pursuant to paragraph (1) or (2) of subdivision~~
24 ~~(e) of Section 192 may be filed within the applicable time period~~
25 ~~described in Section 801 or 802 or one year after the person is~~
26 ~~initially identified by law enforcement as a suspect in the~~
27 ~~commission of the offense, whichever is later.~~