

AMENDED IN SENATE SEPTEMBER 1, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 835

Introduced by Assembly Member Gipson

February 26, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 835, as amended, Gipson. Vehicular manslaughter: statute of limitation.

Existing law defines the crime of vehicular manslaughter as the unlawful killing of a human being without malice while driving a vehicle under specified circumstances, including the commission of an unlawful act, not amounting to a felony, with or without gross negligence. Existing law provides that vehicular manslaughter is punishable as a misdemeanor or felony.

Existing law provides various time limits within which crimes may be prosecuted, except as specified. Existing law authorizes, if a person flees the scene of an accident that caused death or permanent, serious injury, a criminal complaint brought pursuant to specified provisions to be filed within one or 3 years after the completion of the offense, as specified, or one year after the person is initially identified by law enforcement as a suspect in the commission of the offense, whichever is later, but in no case later than 6 years after the commission of the offense.

This bill would additionally authorize, if a person flees the scene of an accident, a criminal complaint brought for a violation of specified vehicular manslaughter crimes to be filed either one or 3 years after the commission of the offense, as specified, or one year after the person is initially identified by law enforcement as a suspect in the commission of that offense, whichever is ~~later~~ later, but in no case later than 6 years after the commission of the offense.

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, or asking, receiving, or agreeing to
20 receive, a bribe, by a public official or a public employee,
21 including, but not limited to, a violation of Section 68, 86, or 93.

22 (2) A violation of Section 72, 118, 118a, 132, 134, or 186.10.

23 (3) A violation of Section 25540, of any type, or Section 25541
24 of the Corporations Code.

25 (4) A violation of Section 1090 or 27443 of the Government
26 Code.

27 (5) Felony welfare fraud or Medi-Cal fraud in violation of
28 Section 11483 or 14107 of the Welfare and Institutions Code.

1 (6) Felony insurance fraud in violation of Section 548 or 550
2 of this code or former Section 1871.1, or Section 1871.4, of the
3 Insurance Code.

4 (7) A violation of Section 580, 581, 582, 583, or 584 of the
5 Business and Professions Code.

6 (8) A violation of Section 22430 of the Business and Professions
7 Code.

8 (9) A violation of Section 103800 of the Health and Safety
9 Code.

10 (10) A violation of Section 529a.

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

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

18 (e) A limitation of time prescribed in this chapter does not
19 commence to run until the offense has been discovered, or could
20 have reasonably been discovered, with regard to offenses under
21 Division 7 (commencing with Section 13000) of the Water Code,
22 under Chapter 6.5 (commencing with Section 25100) of, Chapter
23 6.7 (commencing with Section 25280) of, or Chapter 6.8
24 (commencing with Section 25300) of, Division 20 of, or Part 4
25 (commencing with Section 41500) of Division 26 of, the Health
26 and Safety Code, or under Section 386, or offenses under Chapter
27 5 (commencing with Section 2000) of Division 2 of, Chapter 9
28 (commencing with Section 4000) of Division 2 of, Section 6126
29 of, Chapter 10 (commencing with Section 7301) of Division 3 of,
30 or Chapter 19.5 (commencing with Section 22440) of Division 8
31 of, the Business and Professions Code.

32 (f) (1) Notwithstanding any other limitation of time described
33 in this chapter, a criminal complaint may be filed within one year
34 of the date of a report to a California law enforcement agency by
35 a person of any age alleging that he or she, while under 18 years
36 of age, was the victim of a crime described in Section 261, 286,
37 288, 288a, 288.5, or 289, or Section 289.5, as enacted by Chapter
38 293 of the Statutes of 1991 relating to penetration by an unknown
39 object.

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

- 1 (A) The limitation period specified in Section 800, 801, or 801.1,
2 whichever is later, has expired.
- 3 (B) The crime involved substantial sexual conduct, as described
4 in subdivision (b) of Section 1203.066, excluding masturbation
5 that is not mutual.
- 6 (C) There is independent evidence that corroborates the victim's
7 allegation. If the victim was 21 years of age or older at the time
8 of the report, the independent evidence shall clearly and
9 convincingly corroborate the victim's allegation.
- 10 (3) No evidence may be used to corroborate the victim's
11 allegation that otherwise would be inadmissible during trial.
12 Independent evidence does not include the opinions of mental
13 health professionals.
- 14 (4) (A) In a criminal investigation involving any of the crimes
15 listed in paragraph (1) committed against a child, when the
16 applicable limitations period has not expired, that period shall be
17 tolled from the time a party initiates litigation challenging a grand
18 jury subpoena until the end of the litigation, including any
19 associated writ or appellate proceeding, or until the final disclosure
20 of evidence to the investigating or prosecuting agency, if that
21 disclosure is ordered pursuant to the subpoena after the litigation.
- 22 (B) Nothing in this subdivision affects the definition or
23 applicability of any evidentiary privilege.
- 24 (C) This subdivision shall not apply if a court finds that the
25 grand jury subpoena was issued or caused to be issued in bad faith.
- 26 (g) (1) Notwithstanding any other limitation of time described
27 in this chapter, a criminal complaint may be filed within one year
28 of the date on which the identity of the suspect is conclusively
29 established by DNA testing, if both of the following conditions
30 are met:
- 31 (A) The crime is one that is described in subdivision (c) of
32 Section 290.
- 33 (B) The offense was committed prior to January 1, 2001, and
34 biological evidence collected in connection with the offense is
35 analyzed for DNA type no later than January 1, 2004, or the offense
36 was committed on or after January 1, 2001, and biological evidence
37 collected in connection with the offense is analyzed for DNA type
38 no later than two years from the date of the offense.
- 39 (2) For purposes of this section, "DNA" means deoxyribonucleic
40 acid.

1 (h) For any crime, the proof of which depends substantially
2 upon evidence that was seized under a warrant, but which is
3 unavailable to the prosecuting authority under the procedures
4 described in *People v. Superior Court (Laff)* (2001) 25 Cal.4th
5 703, *People v. Superior Court (Bauman & Rose)* (1995) 37
6 Cal.App.4th 1757, or subdivision (c) of Section 1524, relating to
7 claims of evidentiary privilege or attorney work product, the
8 limitation of time prescribed in this chapter shall be tolled from
9 the time of the seizure until final disclosure of the evidence to the
10 prosecuting authority. Nothing in this section otherwise affects
11 the definition or applicability of any evidentiary privilege or
12 attorney work product.

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

17 (j) Notwithstanding any other limitation of time described in
18 this chapter, if a person flees the scene of an accident that caused
19 death or permanent, serious injury, as defined in subdivision (d)
20 of Section 20001 of the Vehicle Code, a criminal complaint brought
21 pursuant to paragraph (2) of subdivision (b) of Section 20001 of
22 the Vehicle Code may be filed within the applicable time period
23 described in Section 801 or 802 or one year after the person is
24 initially identified by law enforcement as a suspect in the
25 commission of the offense, whichever is later, but in no case later
26 than six years after the commission of the offense.

27 (k) Notwithstanding any other limitation of time described in
28 this chapter, if a person flees the scene of an accident, a criminal
29 complaint brought pursuant to paragraph (1) or (2) of subdivision
30 (c) of Section 192 may be filed within the applicable time period
31 described in Section 801 or 802, or one year after the person is
32 initially identified by law enforcement as a suspect in the
33 commission of that offense, whichever is ~~later~~ *later, but in no*
34 *case later than six years after the commission of the offense.*

35 (l) A limitation of time prescribed in this chapter does not
36 commence to run until the discovery of an offense involving the
37 offering or giving of a bribe to a public official or public employee,

- 1 including, but not limited to, a violation of Section 67, 67.5, 85,
- 2 92, or 165, or Section 35230 or 72530 of the Education Code.

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