

AMENDED IN SENATE MARCH 31, 2016

SENATE BILL

No. 813

Introduced by Senator Leyva

(Principal coauthor: Senator Pavley)

(Principal coauthors: Assembly Members Burke, Gipson, and Williams)

(Coauthors: Assembly Members Chávez and Lackey)

January 4, 2016

An act to amend Sections ~~680~~, 799, 801.1, and 803 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 813, as amended, Leyva. Sex offenses: statute of limitations.

Existing law generally requires that the prosecution of a felony sex offense be commenced within 10 years after the commission of the offense. Under existing law, prosecution for the crimes of rape, sodomy, lewd or lascivious acts, continuous sexual abuse of a child, oral copulation, and sexual penetration, if committed against a victim who was under 18 years of age, may be commenced at any time prior to the victim's 40th birthday. Existing law allows prosecution of an offense punishable by death or by imprisonment for life or for life without the possibility of parole, or for the embezzlement of public money, to be commenced at any time.

This bill would allow the prosecution of rape, sodomy, lewd or lascivious acts, continuous sexual abuse of a child, oral copulation, and sexual penetration, *that are committed under certain circumstances*, as specified, to be commenced at any time. The bill would apply to these crimes committed after January 1, 2017, and to crimes for which the statute of limitations that was in effect prior to January 1, 2017, has not run as of January 1, 2017.

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

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

1 ~~SECTION 1. Section 680 of the Penal Code is amended to~~
2 ~~read:~~
3 ~~680. (a) This section shall be known as and may be cited as~~
4 ~~the “Sexual Assault Victims’ DNA Bill of Rights.”~~
5 ~~(b) The Legislature finds and declares all of the following:~~
6 ~~(1) Deoxyribonucleic acid (DNA) and forensic identification~~
7 ~~analysis is a powerful law enforcement tool for identifying and~~
8 ~~prosecuting sexual assault offenders.~~
9 ~~(2) Existing law requires an adult arrested for or charged with~~
10 ~~a felony and a juvenile adjudicated for a felony to submit DNA~~
11 ~~samples as a result of that arrest, charge, or adjudication.~~
12 ~~(3) Victims of sexual assaults have a strong interest in the~~
13 ~~investigation and prosecution of their cases.~~
14 ~~(4) Law enforcement agencies have an obligation to victims of~~
15 ~~sexual assaults in the proper handling, retention, and timely DNA~~
16 ~~testing of rape kit evidence or other crime scene evidence and to~~
17 ~~be responsive to victims concerning the developments of forensic~~
18 ~~testing and the investigation of their cases.~~
19 ~~(5) The growth of the Department of Justice’s Cal-DNA~~
20 ~~databank and the national databank through the Combined DNA~~
21 ~~Index System (CODIS) makes it possible for many sexual assault~~
22 ~~perpetrators to be identified after their first offense, provided that~~
23 ~~rape kit evidence is analyzed in a timely manner.~~
24 ~~(6) Timely DNA analysis of rape kit evidence is a core public~~
25 ~~safety issue affecting men, women, and children in the State of~~
26 ~~California. It is the intent of the Legislature, in order to further~~
27 ~~public safety, to encourage DNA analysis of rape kit evidence~~
28 ~~within the time limits imposed by subparagraphs (A) and (B) of~~
29 ~~paragraph (1) of subdivision (f) of Section 803.~~
30 ~~(7) In order to ensure that sexual assault forensic evidence is~~
31 ~~analyzed within the two-year timeframe required by subparagraphs~~
32 ~~(A) and (B) of paragraph (1) of subdivision (f) of Section 803 and~~
33 ~~to ensure the longest possible statute of limitations for sex offenses,~~
34 ~~including sex offenses designated pursuant to those subparagraphs,~~
35 ~~the following should occur:~~

1 ~~(A) A law enforcement agency in whose jurisdiction a sex~~
2 ~~offense specified in Section 261, 261.5, 262, 286, 288a, or 289~~
3 ~~occurred, should do one of the following for any sexual assault~~
4 ~~forensic evidence received by the law enforcement agency on or~~
5 ~~after January 1, 2016:~~

6 ~~(i) Submit sexual assault forensic evidence to the crime lab~~
7 ~~within 20 days after it is booked into evidence.~~

8 ~~(ii) Ensure that a rapid turnaround DNA program is in place to~~
9 ~~submit forensic evidence collected from the victim of a sexual~~
10 ~~assault directly from the medical facility where the victim is~~
11 ~~examined to the crime lab within five days after the evidence is~~
12 ~~obtained from the victim.~~

13 ~~(B) The crime lab should do one of the following for any sexual~~
14 ~~assault forensic evidence received by the crime lab on or after~~
15 ~~January 1, 2016.~~

16 ~~(i) Process sexual assault forensic evidence, create DNA profiles~~
17 ~~when able, and upload qualifying DNA profiles into CODIS as~~
18 ~~soon as practically possible, but no later than 120 days after initially~~
19 ~~receiving the evidence.~~

20 ~~(ii) Transmit the sexual assault forensic evidence to another~~
21 ~~crime lab as soon as practically possible, but no later than 30 days~~
22 ~~after initially receiving the evidence, for processing of the evidence~~
23 ~~for the presence of DNA. If a DNA profile is created, the~~
24 ~~transmitting crime lab should upload the profile into CODIS as~~
25 ~~soon as practically possible, but no longer than 30 days after being~~
26 ~~notified about the presence of DNA.~~

27 ~~(C) This subdivision does not require a lab to test all items of~~
28 ~~forensic evidence obtained in a sexual assault forensic evidence~~
29 ~~examination. A lab is considered to be in compliance with the~~
30 ~~guidelines of this section when representative samples of the~~
31 ~~evidence are processed by the lab in an effort to detect the foreign~~
32 ~~DNA of the perpetrator.~~

33 ~~(D) This section does not require a DNA profile to be uploaded~~
34 ~~into CODIS if the DNA profile does not meet federal guidelines~~
35 ~~regarding the uploading of DNA profiles into CODIS.~~

36 ~~(E) For purposes of this section, a “rapid turnaround DNA~~
37 ~~program” is a program for the training of sexual assault team~~
38 ~~personnel in the selection of representative samples of forensic~~
39 ~~evidence from the victim to be the best evidence, based on the~~
40 ~~medical evaluation and patient history, the collection and~~

1 preservation of that evidence, and the transfer of the evidence
2 directly from the medical facility to the crime lab, which is adopted
3 pursuant to a written agreement between the law enforcement
4 agency, the crime lab, and the medical facility where the sexual
5 assault team is based.

6 (8) For the purpose of this section, “law enforcement” means
7 the law enforcement agency with the primary responsibility for
8 investigating an alleged sexual assault.

9 (e) (1) Upon the request of a sexual assault victim, the law
10 enforcement agency investigating a violation of Section 261, 261.5,
11 262, 286, 288a, or 289 may inform the victim of the status of the
12 DNA testing of the rape kit evidence or other crime scene evidence
13 from the victim’s case. The law enforcement agency may, at its
14 discretion, require that the victim’s request be in writing. The law
15 enforcement agency may respond to the victim’s request with
16 either an oral or written communication, or by email, if an email
17 address is available. Nothing in this subdivision requires that the
18 law enforcement agency communicate with the victim or the
19 victim’s designee regarding the status of DNA testing absent a
20 specific request from the victim or the victim’s designee.

21 (2) Subject to the commitment of sufficient resources to respond
22 to requests for information, sexual assault victims have the
23 following rights:

24 (A) The right to be informed whether or not a DNA profile of
25 the assailant was obtained from the testing of the rape kit evidence
26 or other crime scene evidence from their case.

27 (B) The right to be informed whether or not the DNA profile
28 of the assailant developed from the rape kit evidence or other crime
29 scene evidence has been entered into the Department of Justice
30 Data Bank of case evidence.

31 (C) The right to be informed whether or not there is a match
32 between the DNA profile of the assailant developed from the rape
33 kit evidence or other crime scene evidence and a DNA profile
34 contained in the Department of Justice Convicted Offender DNA
35 Data Base, provided that disclosure would not impede or
36 compromise an ongoing investigation.

37 (3) This subdivision is intended to encourage law enforcement
38 agencies to notify victims of information which is in their
39 possession. It is not intended to affect the manner of or frequency

1 with which the Department of Justice provides this information to
2 law enforcement agencies.

3 ~~(d) If the law enforcement agency does not analyze DNA~~
4 ~~evidence within six months prior to the time limits established by~~
5 ~~subparagraphs (A) and (B) of paragraph (1) of subdivision (f) of~~
6 ~~Section 803, a victim of a sexual assault offense specified in~~
7 ~~Section 261, 261.5, 262, 286, 288a, or 289 shall be informed, either~~
8 ~~orally or in writing, of that fact by the law enforcement agency.~~

9 ~~(e) If the law enforcement agency intends to destroy or dispose~~
10 ~~of rape kit evidence or other crime scene evidence from an~~
11 ~~unsolved sexual assault case prior to the expiration of the statute~~
12 ~~of limitations as set forth in Section 803, a victim of a violation~~
13 ~~of Section 261, 261.5, 262, 286, 288a, or 289 shall be given written~~
14 ~~notification by the law enforcement agency of that intention.~~

15 ~~(f) Written notification under subdivision (d) or (e) shall be~~
16 ~~made at least 60 days prior to the destruction or disposal of the~~
17 ~~rape kit evidence or other crime scene evidence from an unsolved~~
18 ~~sexual assault case where the election not to analyze the DNA or~~
19 ~~the destruction or disposal occurs prior to the expiration of the~~
20 ~~statute of limitations specified in subdivision (f) of Section 803.~~

21 ~~(g) A sexual assault victim may designate a sexual assault victim~~
22 ~~advocate, or other support person of the victim's choosing, to act~~
23 ~~as a recipient of the above information required to be provided by~~
24 ~~this section.~~

25 ~~(h) It is the intent of the Legislature that a law enforcement~~
26 ~~agency responsible for providing information under subdivision~~
27 ~~(e) do so in a timely manner and, upon request of the victim or the~~
28 ~~victim's designee, advise the victim or the victim's designee of~~
29 ~~any significant changes in the information of which the law~~
30 ~~enforcement agency is aware. In order to be entitled to receive~~
31 ~~notice under this section, the victim or the victim's designee shall~~
32 ~~keep appropriate authorities informed of the name, address,~~
33 ~~telephone number, and email address of the person to whom the~~
34 ~~information should be provided, and any changes of the name,~~
35 ~~address, telephone number, and email address, if an email address~~
36 ~~is available.~~

37 ~~(i) A defendant or person accused or convicted of a crime against~~
38 ~~the victim shall have no standing to object to any failure to comply~~
39 ~~with this section. The failure to provide a right or notice to a sexual~~

1 assault victim under this section may not be used by a defendant
2 to seek to have the conviction or sentence set aside.

3 (j) ~~The sole civil or criminal remedy available to a sexual assault~~
4 ~~victim for a law enforcement agency's failure to fulfill its~~
5 ~~responsibilities under this section is standing to file a writ of~~
6 ~~mandamus to require compliance with subdivision (d) or (e).~~

7 ~~SEC. 2.~~

8 *SECTION 1.* Section 799 of the Penal Code is amended to read:

9 799. (a) Prosecution for an offense punishable by death or by
10 imprisonment in the state prison for life or for life without the
11 possibility of parole, or for the embezzlement of public money,
12 may be commenced at any time.

13 ~~(b) Prosecution for a felony offense described in Section 261,~~
14 ~~286, 288, 288.5, 288a, or 289, or Section 289.5, as enacted by~~
15 ~~Chapter 293 of the Statutes of 1991 relating to penetration by an~~
16 ~~unknown object, may be commenced at any time. This subdivision~~
17 ~~applies to crimes that were committed on or after January 1, 2017,~~
18 ~~and to crimes for which the statute of limitations that was in effect~~
19 ~~prior to January 1, 2017, has not run as of January 1, 2017.~~

20 *(b) (1) Prosecution for a felony offense described in paragraph*
21 *(1), (2), (3), (4), (6) or (7) of subdivision (a) of Section 261,*
22 *paragraph (1), (2), (3), (4), or (5) of subdivision (a) of Section*
23 *262, Section 264.1, paragraph (2) or (3) of subdivision (c) of, or*
24 *subdivision (d), (f), (g), (i), or (k) of, Section 286, subdivision (a)*
25 *of Section 288 involving substantial sexual conduct as defined by*
26 *in subdivision (b) of Section 1203.066, subdivision (b) of Section*
27 *288, Section 288.5, paragraph (2) or (3) of subdivision (c) of, or*
28 *subdivision (d), (f), (g), (i), or (k) of, Section 288a, or subdivision*
29 *(a), (b), (d), (e), or (g) of Section 289 may be commenced at any*
30 *time.*

31 *(2) This subdivision applies to crimes that were committed on*
32 *or after January 1, 2017, and to crimes for which the statute of*
33 *limitations that was in effect prior to January 1, 2017, has not run*
34 *as of January 1, 2017.*

35 (c) This section shall apply in any case in which the defendant
36 was a minor at the time of the commission of the offense and the
37 prosecuting attorney could have petitioned the court for a fitness
38 hearing pursuant to Section 707 of the Welfare and Institutions
39 Code.

40 *SEC. 2. Section 801.1 of the Penal Code is amended to read:*

1 801.1. (a) (1) Notwithstanding any other limitation of time
2 described in this chapter, prosecution for a felony offense described
3 in Section 261, 286, 288, 288.5, 288a, or 289, or Section 289.5,
4 as enacted by Chapter 293 of the Statutes of 1991 relating to
5 penetration by an unknown object, that is alleged to have been
6 committed when the victim was under 18 years of age, may be
7 commenced any time prior to the victim's 40th birthday.

8 (2) Paragraph (1) shall only apply to crimes that were committed
9 on or after January 1, 2015, or for which the statute of limitations
10 that was in effect prior to January 1, 2015, has not run as of January
11 1, 2015.

12 (b) Notwithstanding any other limitation of time described in
13 this chapter, if *either* subdivision (a) of *this section* or subdivision
14 (b) of *Section 799* does not apply, prosecution for a felony offense
15 described in subdivision (c) of Section 290 shall be commenced
16 within 10 years after commission of the offense.

17 *SEC. 3. Section 803 of the Penal Code is amended to read:*

18 803. (a) Except as provided in this section, a limitation of time
19 prescribed in this chapter is not tolled or extended for any reason.

20 (b) No time during which prosecution of the same person for
21 the same conduct is pending in a court of this state is a part of a
22 limitation of time prescribed in this chapter.

23 (c) A limitation of time prescribed in this chapter does not
24 commence to run until the discovery of an offense described in
25 this subdivision. This subdivision applies to an offense punishable
26 by imprisonment in the state prison or imprisonment pursuant to
27 subdivision (h) of Section 1170, a material element of which is
28 fraud or breach of a fiduciary obligation, the commission of the
29 crimes of theft or embezzlement upon an elder or dependent adult,
30 or the basis of which is misconduct in office by a public officer,
31 employee, or appointee, including, but not limited to, the following
32 offenses:

33 (1) Grand theft of any type, forgery, falsification of public
34 records, or acceptance of, or asking, receiving, or agreeing to
35 receive, a bribe, by a public official or a public employee,
36 including, but not limited to, a violation of Section 68, 86, or 93.

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

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

1 (4) A violation of Section 1090 or 27443 of the Government
2 Code.

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

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

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

10 (8) A violation of Section 22430 of the Business and Professions
11 Code.

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

14 (10) A violation of Section 529a.

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

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

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

36 (f) (1) Notwithstanding any other limitation of time described
37 in this chapter, *if subdivision (b) of Section 799 does not apply*, a
38 criminal complaint may be filed within one year of the date of a
39 report to a California law enforcement agency by a person of any
40 age alleging that he or she, while under 18 years of age, was the

1 victim of a crime described in Section 261, 286, 288, 288a, 288.5,
2 or 289, or Section 289.5, as enacted by Chapter 293 of the Statutes
3 of 1991 relating to penetration by an unknown object.

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

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

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

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

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

18 (4) (A) In a criminal investigation involving any of the crimes
19 listed in paragraph (1) committed against a child, when the
20 applicable limitations period has not expired, that period shall be
21 tolled from the time a party initiates litigation challenging a grand
22 jury subpoena until the end of the litigation, including any
23 associated writ or appellate proceeding, or until the final disclosure
24 of evidence to the investigating or prosecuting agency, if that
25 disclosure is ordered pursuant to the subpoena after the litigation.

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

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

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

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

37 (B) The offense was committed prior to January 1, 2001, and
38 biological evidence collected in connection with the offense is
39 analyzed for DNA type no later than January 1, 2004, or the offense
40 was committed on or after January 1, 2001, and biological evidence

1 collected in connection with the offense is analyzed for DNA type
2 no later than two years from the date of the offense.

3 (2) For purposes of this section, “DNA” means deoxyribonucleic
4 acid.

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

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

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

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

39 (l) A limitation of time prescribed in this chapter does not
40 commence to run until the discovery of an offense involving the

1 offering or giving of a bribe to a public official or public employee,
2 including, but not limited to, a violation of Section 67, 67.5, 85,
3 92, or 165, or Section 35230 or 72530 of the Education Code.

4 ~~SEC. 3.— Section 801.1 of the Penal Code is amended to read:~~

5 ~~801.1. Notwithstanding any other limitation of time described~~
6 ~~in this chapter, if subdivision (b) of Section 799 does not apply,~~
7 ~~prosecution for a felony offense described in subdivision (c) of~~
8 ~~Section 290 shall be commenced within 10 years after commission~~
9 ~~of the offense.~~

10

11 ~~SEC. 4.— Section 803 of the Penal Code is amended to read:~~

12 ~~803. (a) Except as provided in this section, a limitation of time~~
13 ~~prescribed in this chapter is not tolled or extended for any reason.~~

14 ~~(b) No time during which prosecution of the same person for~~
15 ~~the same conduct is pending in a court of this state is a part of a~~
16 ~~limitation of time prescribed in this chapter.~~

17 ~~(c) A limitation of time prescribed in this chapter does not~~
18 ~~commence to run until the discovery of an offense described in~~
19 ~~this subdivision. This subdivision applies to an offense punishable~~
20 ~~by imprisonment in the state prison or imprisonment pursuant to~~
21 ~~subdivision (h) of Section 1170, a material element of which is~~
22 ~~fraud or breach of a fiduciary obligation, the commission of the~~
23 ~~crimes of theft or embezzlement upon an elder or dependent adult,~~
24 ~~or the basis of which is misconduct in office by a public officer,~~
25 ~~employee, or appointee, including, but not limited to, the following~~
26 ~~offenses:~~

27 ~~(1) Grand theft of any type, forgery, falsification of public~~
28 ~~records, or acceptance of, or asking, receiving, or agreeing to~~
29 ~~receive, a bribe, by a public official or a public employee,~~
30 ~~including, but not limited to, a violation of Section 68, 86, or 93.~~

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

32 ~~(3) A violation of Section 25540, of any type, or Section 25541~~
33 ~~of the Corporations Code.~~

34 ~~(4) A violation of Section 1090 or 27443 of the Government~~
35 ~~Code.~~

36 ~~(5) Felony welfare fraud or Medi-Cal fraud in violation of~~
37 ~~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 on which the identity of the suspect is conclusively~~
35 ~~established by DNA testing, if both of the following conditions~~
36 ~~are met:~~
- 37 ~~(A) The crime is one that is described in subdivision (c) of~~
38 ~~Section 290.~~
- 39 ~~(B) The offense was committed prior to January 1, 2001, and~~
40 ~~biological evidence collected in connection with the offense is~~

1 analyzed for DNA type no later than January 1, 2004, or the offense
2 was committed on or after January 1, 2001, and biological evidence
3 collected in connection with the offense is analyzed for DNA type
4 no later than two years from the date of the offense.

5 (2) For purposes of this section, “DNA” means deoxyribonucleic
6 acid.

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

19 (h) ~~Notwithstanding any other limitation of time described in
20 this chapter, a criminal complaint may be filed within one year of
21 the date on which a hidden recording is discovered related to a
22 violation of paragraph (2) or (3) of subdivision (j) of Section 647.~~

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

33 (j) ~~A limitation of time prescribed in this chapter does not
34 commence to run until the discovery of an offense involving the
35 offering or giving of a bribe to a public official or public employee,
36 including, but not limited to, a violation of Section 67, 67.5, 85,
37 92, or 165, or Section 35230 or 72530 of the Education Code.~~

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