

SECOND REGULAR SESSION

# HOUSE BILL NO. 1857

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LIPKE.

Read 1st time February 22, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5297L.011

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### AN ACT

To repeal section 556.036, RSMo, and to enact in lieu thereof one new section relating to commencement of prosecution.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 556.036, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 556.036, to read as follows:

556.036. 1. A prosecution for murder, forcible rape, attempted forcible rape, forcible sodomy, attempted forcible sodomy, or any class A felony may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

(1) For any felony, three years;

(2) For any misdemeanor, one year;

(3) For any infraction, six months.

3. If the period prescribed in subsection 2 of this section has expired, a prosecution may nevertheless be commenced for:

(1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation by more than three years. As used in this subdivision, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 jurisdiction pursuant to section 407.553, RSMo, for purposes of offenses committed pursuant  
17 to sections 407.511 to 407.556, RSMo; and

18 (2) Any offense based upon misconduct in office by a public officer or employee at any  
19 time when the defendant is in public office or employment or within two years thereafter, but in  
20 no case shall this provision extend the period of limitation by more than three years; and

21 (3) Any offense based upon an intentional and willful fraudulent claim of child support  
22 arrearage to a public servant in the performance of his or her duties within one year after  
23 discovery of the offense, but in no case shall this provision extend the period of limitation by  
24 more than three years.

25 4. An offense is committed either when every element occurs, or, if a legislative purpose  
26 to prohibit a continuing course of conduct plainly appears, at the time when the course of  
27 conduct or the defendant's complicity therein is terminated. Time starts to run on the day after  
28 the offense is committed.

29 5. A prosecution is commenced [either when an indictment is found or an information  
30 filed] **for a misdemeanor or infraction when the information is filed and for a felony when**  
31 **the complaint or indictment is filed.**

32 6. The period of limitation does not run:

33 (1) During any time when the accused is absent from the state, but in no case shall this  
34 provision extend the period of limitation otherwise applicable by more than three years; or

35 (2) During any time when the accused is concealing himself from justice either within  
36 or without this state; or

37 (3) During any time when a prosecution against the accused for the offense is pending  
38 in this state; or

39 (4) During any time when the accused is found to lack mental fitness to proceed pursuant  
40 to section 552.020, RSMo.

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