

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1115**

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**Introduced by Assembly Member Sharon Runner**

February 23, 2007

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An act to amend Section 803 of the Penal Code, relating to statutes of limitation 557.5 of the Insurance Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1115, as amended, Sharon Runner. ~~Prosecutions: time: limitations. Peace officers: accidents.~~

*Existing law provides that no peace officer, member of the Department of the California Highway Patrol, or firefighter shall be required to report any accident in which he or she is involved while operating an authorized emergency vehicle, as defined, in the performance of his or her duty during the hours of his or her employment, to any person who has issued that peace officer, member of the Department of the California Highway Patrol, or firefighter a private automobile insurance policy.*

*This bill would provide that no peace officer, member of the Department of the California Highway Patrol, or firefighter shall be required to report any accident in which he or she is involved while operating any leased or rented vehicle, in the performance of his or her duty during the hours of his or her employment, to any person who has issued that peace officer, member of the Department of the California Highway Patrol, or firefighter a private automobile insurance policy.*

~~Existing law allows a criminal complaint to be filed, notwithstanding any other limitation of time, within one year of establishing a suspect's~~

identity by DNA if the crime is a registerable sex offense and the DNA was analyzed within a specific timeframe.

This bill would allow a criminal complaint to be filed, notwithstanding any other limitation of time, within one year of establishing a suspect's identity by DNA if the crime for which the person is suspected is rape.

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

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

1     SECTION 1. Section 557.5 of the Insurance Code is amended  
2 to read:

3     557.5. No peace officer, member of the Department of the  
4 California Highway Patrol, or firefighter shall be required to report  
5 any accident in which he or she is involved while operating an  
6 authorized emergency vehicle, as defined in subdivision (a) or (f)  
7 of Section 165 of the Vehicle Code or in paragraph (1) or (2) of  
8 subdivision (b) of Section 165 of the Vehicle Code, *or any leased*  
9 *or rented vehicle* in the performance of his or her duty during the  
10 hours of his or her employment, to any person who has issued that  
11 peace officer, member of the Department of the California Highway  
12 Patrol, or firefighter a private automobile insurance policy.

13     As used in this section:

14     (a) "Peace officer" means every person defined in Chapter 4.5  
15 (commencing with Section 830) of Title 3 of Part 2 of the Penal  
16 Code.

17     (b) "Policy" shall have the same meaning as defined in  
18 subdivision (a) of Section 660.

19     ~~SECTION 1. Section 803 of the Penal Code is amended to~~  
20 ~~read:~~

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

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

26     ~~(c) A limitation of time prescribed in this chapter does not~~  
27 ~~commence to run until the discovery of an offense described in~~  
28 ~~this subdivision. This subdivision applies to an offense punishable~~  
29 ~~by imprisonment in the state prison, a material element of which~~  
30 ~~is fraud or breach of a fiduciary obligation, the commission of the~~

1 crimes of theft or embezzlement upon an elder or dependent adult,  
2 or the basis of which is misconduct in office by a public officer,  
3 employee, or appointee, including, but not limited to, the following  
4 offenses:

5 (1) ~~Grand theft of any type, forgery, falsification of public~~  
6 ~~records, or acceptance of a bribe by a public official or a public~~  
7 ~~employee.~~

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

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

11 (4) ~~A violation of Section 1090 or 27443 of the Government~~  
12 ~~Code.~~

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

15 (6) ~~Felony insurance fraud in violation of Section 548 or 550~~  
16 ~~of this code or former Section 1871.1, or Section 1871.4, of the~~  
17 ~~Insurance Code.~~

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

20 (8) ~~A violation of Section 22430 of the Business and Professions~~  
21 ~~Code.~~

22 (9) ~~A violation of Section 10690 of the Health and Safety Code.~~

23 (10) ~~A violation of Section 529a.~~

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

25 (d) ~~If the defendant is out of the state when or after the offense~~  
26 ~~is committed, the prosecution may be commenced as provided in~~  
27 ~~Section 804 within the limitations of time prescribed by this~~  
28 ~~chapter, and no time up to a maximum of three years during which~~  
29 ~~the defendant is not within the state shall be a part of those~~  
30 ~~limitations.~~

31 (e) ~~A limitation of time prescribed in this chapter does not~~  
32 ~~commence to run until the offense has been discovered, or could~~  
33 ~~have reasonably been discovered, with regard to offenses under~~  
34 ~~Division 7 (commencing with Section 13000) of the Water Code,~~  
35 ~~under Chapter 6.5 (commencing with Section 25100) of, Chapter~~  
36 ~~6.7 (commencing with Section 25280) of, or Chapter 6.8~~  
37 ~~(commencing with Section 25300) of, Division 20 of, or Part 4~~  
38 ~~(commencing with Section 41500) of Division 26 of, the Health~~  
39 ~~and Safety Code, or under Section 386, or offenses under Chapter~~  
40 ~~5 (commencing with Section 2000) of Division 2 of, Chapter 9~~

1 ~~(commencing with Section 4000) of Division 2 of, Section 6126~~  
2 ~~of, Chapter 10 (commencing with Section 7301) of Division 3 of,~~  
3 ~~or Chapter 19.5 (commencing with Section 22440) of Division 8~~  
4 ~~of, the Business and Professions Code.~~

5 ~~(f) (1) Notwithstanding any other limitation of time described~~  
6 ~~in this chapter, a criminal complaint may be filed within one year~~  
7 ~~of the date of a report to a California law enforcement agency by~~  
8 ~~a person of any age alleging that he or she, while under the age of~~  
9 ~~18 years, was the victim of a crime described in Section 261, 286,~~  
10 ~~288, 288a, 288.5, or 289, or Section 289.5, as enacted by Chapter~~  
11 ~~293 of the Statutes of 1991 relating to penetration by an unknown~~  
12 ~~object.~~

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

14 ~~(A) The limitation period specified in Section 800, 801, or 801.1;~~  
15 ~~whichever is later, has expired.~~

16 ~~(B) The crime involved substantial sexual conduct, as described~~  
17 ~~in subdivision (b) of Section 1203.066, excluding masturbation~~  
18 ~~that is not mutual.~~

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

23 ~~(3) No evidence may be used to corroborate the victim's~~  
24 ~~allegation that otherwise would be inadmissible during trial.~~  
25 ~~Independent evidence does not include the opinions of mental~~  
26 ~~health professionals.~~

27 ~~(4) (A) In a criminal investigation involving any of the crimes~~  
28 ~~listed in paragraph (1) committed against a child, when the~~  
29 ~~applicable limitations period has not expired, that period shall be~~  
30 ~~tolled from the time a party initiates litigation challenging a grand~~  
31 ~~jury subpoena until the end of the litigation, including any~~  
32 ~~associated writ or appellate proceeding, or until the final disclosure~~  
33 ~~of evidence to the investigating or prosecuting agency, if that~~  
34 ~~disclosure is ordered pursuant to the subpoena after the litigation.~~

35 ~~(B) Nothing in this subdivision affects the definition or~~  
36 ~~applicability of any evidentiary privilege.~~

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

39 ~~(g) (1) Notwithstanding any other limitation of time described~~  
40 ~~in this chapter, a criminal complaint may be filed within one year~~

1 of the date on which the identity of the suspect is conclusively  
2 established by DNA testing, if both of the following conditions  
3 are met:

4 (A) The crime is one that is described in subparagraph (A) of  
5 paragraph (2) of subdivision (a) of Section 290.

6 (B) The offense was committed prior to January 1, 2001, and  
7 biological evidence collected in connection with the offense is  
8 analyzed for DNA type no later than January 1, 2004, or the offense  
9 was committed on or after January 1, 2001, and biological evidence  
10 collected in connection with the offense is analyzed for DNA type  
11 no later than two years from the date of the offense.

12 (2) For purposes of this section, "DNA" means deoxyribonucleic  
13 acid.

14 (h) Notwithstanding any other limitation of time described in  
15 this chapter, a criminal complaint may be filed within one year of  
16 the date on which the identity of the suspect is conclusively  
17 established by DNA testing if the crime is one described in Section  
18 261.

19 (i) For any crime, the proof of which depends substantially upon  
20 evidence that was seized under a warrant, but which is unavailable  
21 to the prosecuting authority under the procedures described in  
22 *People v. Superior Court (Laff)* (2001) 25 Cal.4th 703, *People v.*  
23 *Superior Court (Bauman & Rose)* (1995) 37 Cal.App.4th 1757, or  
24 subdivision (c) of Section 1524, relating to claims of evidentiary  
25 privilege or attorney work product, the limitation of time prescribed  
26 in this chapter shall be tolled from the time of the seizure until  
27 final disclosure of the evidence to the prosecuting authority.  
28 Nothing in this section otherwise affects the definition or  
29 applicability of any evidentiary privilege or attorney work product.