CHAPTER 802

LIMITATION OF CRIMINAL ACTIONS

Limitations of actions, chapter 614

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802.1 Murder.

A prosecution for murder in the first or second degree may be commenced at any time after the death of the victim.

[C51, §2811; R60, §4513; C73, §4165; C97, §5163; C24, 27, 31, 35, 39, §**13442;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §752.1; C79, 81, §802.1]

Referred to in **§802.3**

802.2 Sexual abuse — first, second, or third degree.

1. An information or indictment for sexual abuse in the first, second, or third degree committed on or with a person who is under the age of eighteen years shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age, or if the person against whom the information or indictment is sought is identified through the use of a DNA profile, an information or indictment shall be found within three years from the date the person is identified by the person's DNA profile, whichever is later.

2. An information or indictment for any other sexual abuse in the first, second, or third degree shall be found within ten years after its commission, or if the person against whom the information or indictment is sought is identified through the use of a DNA profile, an information or indictment shall be found within three years from the date the person is identified by the person's DNA profile, whichever is later.

3. As used in this section, *"identified"* means a person's legal name is known and the person has been determined to be the source of the DNA.

85 Acts, ch 174, §2; 90 Acts, ch 1066, §1; 94 Acts, ch 1128, §3; 2000 Acts, ch 1027, §1; 2005 Acts, ch 158, §36; 2007 Acts, ch 126, §110

Referred to in **§802.3**, **§802.10**

802.2A Incest — sexual exploitation by a counselor, therapist, or school employee.

1. An information or indictment for incest under section 726.2 committed on or with a person who is under the age of eighteen shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age. An information or indictment for any other incest shall be found within ten years after its commission.

2. An indictment or information for sexual exploitation by a counselor, therapist, or school employee under section 709.15 committed on or with a person who is under the age of eighteen shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age. An information or indictment for any other sexual exploitation shall be found within ten years of the date the victim was last treated by the counselor or therapist, or within ten years of the date the victim was enrolled in or attended the school.

2001 Acts, ch 63, §1; 2003 Acts, ch 180, §66

Referred to in **§802.3**

802.2B Other sexual offenses.

An information or indictment for the following offenses committed on or with a person who is under the age of eighteen years shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age, or if the person against whom the information or indictment is sought is identified through the use of a DNA profile, an information or indictment shall be found within three years from the date the person is identified by the person's DNA profile, whichever is later:

1. Lascivious acts with a child in violation of section 709.8.
2. Assault with intent to commit sexual abuse in violation of section 709.11.
3. Indecent contact with a child in violation of section 709.12.
4. Lascivious conduct with a minor in violation of section 709.14.
5. Sexual misconduct with a juvenile in violation of section 709.16, subsection 2.
6. Sexual exploitation of a minor in violation of section 728.12.

2014 Acts, ch 1097, §8
NEW section

802.3 Felony — aggravated or serious misdemeanor.

In all cases, except those enumerated in section 802.1, 802.2, 802.2A, 802.2B, or 802.10, an indictment or information for a felony or aggravated or serious misdemeanor shall be found within three years after its commission.

[C51, §2813; R60, §4515; C73, §4167; C97, §5165; C24, 27, 31, 35, 39, §**13444;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §752.3; C79, 81, §802.3; 81 Acts, ch 204, §10]

85 Acts, ch 174, §3; 92 Acts, ch 1199, §7; 2000 Acts, ch 1027, §2; 2001 Acts, ch 63, §2; 2006 Acts, ch 1084, §1; 2014 Acts, ch 1097, §9
Other exceptions, see §802.5, 802.6, 802.9
Section amended

802.4 Simple misdemeanor — ordinance.

A prosecution for a simple misdemeanor or violation of a municipal or county rule or ordinance shall be commenced within one year after its commission.

[C73, §4168; C97, §5166; C24, 27, 31, 35, 39, §**13445;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §752.4; C79, 81, §802.4]
Referred to in **§802.5**
Other exceptions to limitations period, see §802.5, 802.6, and 802.9

802.5 Extension for fraud, fiduciary breach.

If the periods prescribed in sections 802.3 and 802.4 have expired, prosecution may nevertheless be commenced for 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 legal duty to represent an aggrieved party and who is not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years.

[C79, 81, §802.5; 81 Acts, ch 204, §11]

2003 Acts, ch 108, §115

802.6 Periods excluded from limitation.

1. When a person leaves the state, the indictment or information may be found within the time herein limited after the person's coming into the state, and no period during which the party charged was not publicly resident within the state is a part of the limitation.

2. The time within which an indictment or information must be found shall not include the time during which the defendant is a public officer or employee and the offense arises from misconduct relating to the duties and trust of that office or employment.

[C51, §2814; R60, §4516; C73, §4169; C97, §5167; C24, 27, 31, 35, 39, §**13446;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §752.5; C79, 81, §802.6]

2002 Acts, ch 1116, §1

802.7 Continuing crimes.

When an offense is based on a series of acts committed at different times, the period of limitation prescribed by this chapter shall commence upon the commission of the last of such acts.

[C79, 81, §802.7]

2013 Acts, ch 90, §208

802.8 Time of finding indictment and information.

Within the meaning of this chapter:

1. An indictment is found when it is duly presented by the grand jury in open court and filed.

2. An information is found when it is filed.

[C51, §2815; R60, §4517; C73, §4170; C97, §5168; C24, 27, 31, 35, 39, §**13447;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §752.6; C79, 81, §802.8]

802.9 Indictment or information where a defect is found.

If a defect, error, or irregularity is discovered in any indictment or information which, on motion of either party, causes same to be dismissed or the prosecution to be set aside or reversed on appeal, a new indictment or information may be found within thirty days after such action notwithstanding the time limitations enumerated in this chapter.

[C51, §2949, 3251, 3252; R60, §4699, 4711, 4712, 5011 – 5013; C73, §4344, 4356, 4357, 4617 – 4619; C97, §5326, 5331, 5539; C24, 27, 31, 35, 39, §**13788, 13796, 13797, 14027;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §776.9, 777.8, 777.9, 795.5; C79, 81, §802.9]

802.10 DNA profile of accused.

1. As used in this section:

a. *"DNA profile"* means the same as defined in section 81.1.

b. *"Identified"* means the same as defined in section 802.2.

2. An indictment or information may be found containing only the DNA profile of the person sought. When an indictment or information is found containing only a DNA profile, the limitation of any action under section 802.3 is tolled.

3. However, notwithstanding subsection 2, an indictment or information shall be found against a person within three years from the date the person is identified by the person's DNA profile. If the action involves sexual abuse or another sexual offense, the indictment or information shall be found as provided in section 802.2 or 802.2B, if the person is identified by the person's DNA profile.

2006 Acts, ch 1084, §2; 2007 Acts, ch 126, §111; 2014 Acts, ch 1097, §10

Subsection 3 amended