

Senate Bill 316

By: Senators Bethel of the 54th, Mullis of the 53rd, Hamrick of the 30th, Shafer of the 48th, Unterman of the 45th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated,
2 relating to limitations of actions, so as to increase the tolling period for limitations for tort
3 actions while a criminal prosecution is pending; to amend Chapter 3 of Title 17 of the
4 Official Code of Georgia Annotated, relating to limitations on prosecutions, so as to extend
5 the statute of limitations for the prosecutions of the offenses of cruelty to children in the first
6 degree, rape, sodomy, aggravated sodomy, statutory rape, child molestation, aggravated child
7 molestation, enticing a child for indecent purposes, and incest; to provide for related matters;
8 to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Article 5 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated, relating to
12 limitations of actions, is amended by revising Code Section 9-3-99, relating to the tolling of
13 limitations for tort actions while a criminal prosecution is pending, as follows:

14 "9-3-99.

15 (a) Except as provided in subsection (b) of this Code section, the ~~The~~ running of the period
16 of limitations with respect to any cause of action in tort that may be brought by the victim
17 of an alleged crime which arises out of the facts and circumstances relating to the
18 commission of such alleged crime committed in this state shall be tolled from the date of
19 the commission of the alleged crime or the act giving rise to such action in tort until the
20 prosecution of such crime or act has become final or otherwise terminated, provided that
21 such time does not exceed six years.

22 (b) On and after July 1, 2012, the running of the period of limitations with respect to any
23 cause of action in tort that may be brought by the victim of an alleged crime of cruelty to
24 children in the first degree, rape, sodomy, aggravated sodomy, statutory rape, child
25 molestation, aggravated child molestation, enticing a child for indecent purposes, or incest
26 which arises out of the facts and circumstances relating to the commission of such alleged

27 crime committed in this state shall be tolled from the date of the commission of the alleged
 28 crime or the act giving rise to such action in tort until the prosecution of such crime or act
 29 has become final or otherwise terminated, provided that such time does not exceed 20 years
 30 from the eighteenth birthday of the alleged victim."

31 **SECTION 2.**

32 Chapter 3 of Title 17 of the Official Code of Georgia Annotated, relating to limitations on
 33 prosecutions, is amended by revising Code Section 17-3-1, relating to limitation on
 34 prosecutions generally, as follows:

35 "17-3-1.

36 (a) A prosecution for murder may be commenced at any time.

37 (b) ~~Prosecution~~ Except as otherwise provided in Code Section 17-3-2.1, prosecution for
 38 other crimes punishable by death or life imprisonment ~~must~~ shall be commenced within
 39 seven years after the commission of the crime except as provided by subsection ~~(c-1)~~ (d)
 40 of this Code section; provided, however, that prosecution for the crime of forcible rape
 41 ~~must~~ shall be commenced within 15 years after the commission of the crime.

42 (c) ~~Prosecution~~ Except as otherwise provided in Code Section 17-3-2.1, prosecution for
 43 felonies other than those specified in subsections (a), (b), and ~~(c-1)~~ (d) of this Code section
 44 ~~must~~ shall be commenced within four years after the commission of the crime, provided
 45 that prosecution for felonies committed against victims who are at the time of the
 46 commission of the offense under the age of 18 years ~~must~~ shall be commenced within
 47 seven years after the commission of the crime.

48 ~~(c-1)~~(d) A prosecution for the following offenses may be commenced at any time when
 49 deoxyribonucleic acid (DNA) evidence is used to establish the identity of the accused:

- 50 (1) Armed robbery, as defined in Code Section 16-8-41;
- 51 (2) Kidnapping, as defined in Code Section 16-5-40;
- 52 (3) Rape, as defined in Code Section 16-6-1;
- 53 (4) Aggravated child molestation, as defined in Code Section 16-6-4;
- 54 (5) Aggravated sodomy, as defined in Code Section 16-6-2; or
- 55 (6) Aggravated sexual battery, as defined in Code Section 16-6-22.2;

56 provided, however, that a sufficient portion of the physical evidence tested for DNA is
 57 preserved and available for testing by the accused and provided, further, that; if the DNA
 58 evidence does not establish the identity of the accused, the limitation on prosecution shall
 59 be as provided in subsections (b) and (c) of this Code section.

60 ~~(d)~~(e) Prosecution for misdemeanors ~~must~~ shall be commenced within two years after the
 61 commission of the crime."

SECTION 3.

62
63 Said chapter is further amended by revising Code Section 17-3-2.1, relating to limitation on
64 prosecution of certain offenses involving a victim under 16 years of age, as follows:

65 "17-3-2.1.

66 (a) ~~If~~ For crimes committed during the period beginning on July 1, 1992, and ending on
67 June 30, 2012, if the victim of a violation of:

- 68 (1) Cruelty to children as defined in Code Section 16-5-70,~~relating to cruelty to children;~~
69 (2) Rape as defined in Code Section 16-6-1,~~relating to rape;~~
70 (3) Sodomy or aggravated sodomy as defined in Code Section 16-6-2,~~relating to sodomy~~
71 ~~and aggravated sodomy;~~
72 (4) Statutory rape as defined in Code Section 16-6-3,~~relating to statutory rape;~~
73 (5) Child molestation or aggravated child molestation as defined in Code Section 16-6-4;
74 ~~relating to child molestation and aggravated child molestation;~~
75 (6) Enticing a child for indecent purposes as defined in Code Section 16-6-5,~~relating to~~
76 ~~enticing a child for indecent purposes; or~~
77 (7) Incest as defined in Code Section 16-6-22,~~relating to incest,~~

78 is under 16 years of age on the date of the violation, the applicable period within which a
79 prosecution ~~must~~ shall be commenced under Code Section 17-3-1 or other applicable
80 statute shall not begin to run until the victim has reached the age of 16 or the violation is
81 reported to a law enforcement agency, prosecuting attorney, or other governmental agency,
82 whichever occurs earlier. Such law enforcement agency or other governmental agency
83 shall promptly report such allegation to the appropriate prosecuting attorney.

84 (b) ~~This Code section shall apply to any offense designated in paragraphs (1) through (7)~~
85 ~~of subsection (a) of this Code section occurring on or after July 1, 1992~~ For crimes
86 committed on and after July 1, 2012, if the victim of a violation of:

- 87 (1) Cruelty to children in the first degree as defined in Code Section 16-5-70;
88 (2) Rape as defined in Code Section 16-6-1;
89 (3) Sodomy or aggravated sodomy as defined in Code Section 16-6-2;
90 (4) Statutory rape as defined in Code Section 16-6-3;
91 (5) Child molestation or aggravated child molestation as defined in Code Section 16-6-4;
92 (6) Enticing a child for indecent purposes as defined in Code Section 16-6-5; or
93 (7) Incest as defined in Code Section 16-6-22,

94 is under 16 years of age on the date of the violation, the applicable period within which a
95 prosecution shall be commenced under Code Section 17-3-1 or other applicable statute
96 shall not begin to run until the victim has reached the age of 18 and shall be extended to
97 until ten years after the victim's eighteenth birthday; provided, however, that prosecution

98 for the crime of forcible rape shall be extended to until 15 years after the victim's
99 eighteenth birthday."

100 **SECTION 4.**

101 All laws and parts of laws in conflict with this Act are repealed.