

---

THIRD READING

---

Bill No: AB 2014  
Author: Maienschein (D)  
Amended: 7/23/20 in Senate  
Vote: 21

---

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 7/31/20

AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Morrell, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/20/20

AYES: Portantino, Bates, Bradford, Hill, Jones, Leyva, Wieckowski

ASSEMBLY FLOOR: 75-0, 6/8/20 - See last page for vote

---

**SUBJECT:** Medical misconduct: misuse of sperm, ova, or embryos: statute of limitations

**SOURCE:** Author

---

**DIGEST:** This bill extends the statute of limitations for criminal offenses involving the misuse of sperm, ova, or embryos in assisted reproduction technology.

**ANALYSIS:**

Existing law:

- 1) Provides that prosecution for crimes punishable by imprisonment for eight years or more and not otherwise covered must be commenced within six years after commission of the offense. (Pen. Code, § 800.)
- 2) Provides that prosecution for other felonies punishable by less than eight years must be commenced within three years after commission of the offense. (Pen. Code, § 801.)
- 3) Provides that prosecution for crimes involving fraud, breach of a fiduciary duty, embezzlement of funds from an elder or dependent adult, or misconduct

by a public official does not start to run until the discovery of the offense and prosecution must be commenced within four years after discovery of the crime or within four years after completion, whichever is later. (Penal Code § 801.5 & 803, subd. (c).)

- 4) States that prosecution for a misdemeanor shall be commenced within one year after the commission of the offense, unless otherwise specified. (Pen. Code, § 802, subd. (a).)
- 5) Specifies that the statute of limitations for misdemeanors related to unlawful business practices and license violations is within three years after discovery of the commission of the offense, or within three years after completion of the offense, whichever is later. (Pen. Code, § 802, subd. (e).)
- 6) Provides that unless provided, as specified, a limitation of time is not tolled or extended for any reason. (Penal Code § 803, subd. (a).)
- 7) Provides that if more than one statute of limitations period applies to a crime, the time for commencing an action shall be governed by the period that expires later in time. (Penal Code § 803.6, subd. (a).)
- 8) States that, except as otherwise provided, prosecution for an offense is commenced when any of the following occurs:
  - a) An indictment or information is filed;
  - b) A complaint is filed charging a misdemeanor or infraction;
  - c) The defendant is arraigned on a complaint that charges the defendant with a felony; or,
  - d) An arrest warrant or bench warrant is issued, provided the warrant names or describes the defendant with the same degree of particularity required for an indictment, information, or complaint. (Pen. Code, § 804.)
- 9) States that for purposes of determining the applicable limitation of time the following apply:
  - a) An offense is deemed punishable by the maximum punishment prescribed by statute for the offense, regardless of the punishment actually sought or imposed. Any enhancement of punishment prescribed by statute shall be disregarded in determining the maximum punishment prescribed by statute for an offense.

- b) The limitation of time applicable to an offense that is necessarily included within a greater offense is the limitation of time applicable to the lesser included offense, regardless of the limitation of time applicable to the greater offense. (Pen. Code, § 805.)
- 10) States that for purposes of determining the applicable limitation of time the following apply:
- a) An offense is deemed punishable by the maximum punishment prescribed by statute for the offense, regardless of the punishment actually sought or imposed. Any enhancement of punishment prescribed by statute shall be disregarded in determining the maximum punishment prescribed by statute for an offense.
  - b) The limitation of time applicable to an offense that is necessarily included within a greater offense is the limitation of time applicable to the lesser included offense, regardless of the limitation of time applicable to the greater offense. (Pen. Code, § 805.)
- 11) States that for purposes of determining the applicable limitation of time the following apply:
- a) An offense is deemed punishable by the maximum punishment prescribed by statute for the offense, regardless of the punishment actually sought or imposed. Any enhancement of punishment prescribed by statute shall be disregarded in determining the maximum punishment prescribed by statute for an offense.
  - b) The limitation of time applicable to an offense that is necessarily included within a greater offense is the limitation of time applicable to the lesser included offense, regardless of the limitation of time applicable to the greater offense. (Pen. Code, § 805.)
- 12) Punishes the unlawful use or implantation of sperm, ova, or embryos by imprisonment in the county jail for three, four, or five years, by a fine not to exceed fifty thousand dollars (\$50,000), or by both that fine and imprisonment. (Pen. Code § 367g, subd. (c).)

This bill:

- 1) Extends the statute of limitations for violations of misuse or sperm, ova, or embryos in assisted reproduction technology from three years after

commission of the offense to within one year of discovery of the offense or within one year after the offense could have reasonably been discovered.

- 2) Specifies that the amended statute of limitations applies to crimes committed on or after January 1, 2021, and to crimes for which the statute of limitations that was in effect prior to January 1, 2021, has not elapsed as of January 1, 2021.

## Comments

According to the author:

The deficiency in existing law is that the statute of limitations on this type of offense is 3 years from commission of the offense.

Making the decision to have a child through Assisted Reproductive techniques is monumental to a couple, and having to experience this type of fraud can be a massive violation of the personal, fiduciary, and ethical realms. While this is an illegal practice in California, there is a glaring deficiency that the legislature can address. Current statute of limitations provides a 3 year window after commission of the offense to be prosecuted; however, it is common for victims to discover this way after the fact. For example, a case in Indiana was uncovered ranging from 26-40 years after the fraud occurred, which would mean this misconduct could not be prosecuted under California law.

By changing the statute of limitations to a year from discovery, we can provide victims with a viable option for seeking justice.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: No Local: No

According to the Senate Appropriations Committee:

- State Prison: Unknown, potential increase in state costs for new commitments to state prison that otherwise would not have resulted in criminal convictions absent this measure. The FY 2020-2021 per capita cost to detain a person in a state prison is \$91,100 annually, with an annual marginal rate per person of over \$12,000. The contract bed rate averages to about \$29,000 annually. The actual costs would depend on how many defendants are sentenced to prison. (General Fund)
- Courts: Unknown, potentially-significant workload cost pressures to the courts to adjudicate charges that would be time barred under current law. While the courts are not funded on a workload basis, an increase in workload could result

in delayed court services and would put pressure on the General Fund to fund additional staff and resources. For example, the Budget Act of 2020 appropriated \$273.8 million from the General Fund to backfill continued reduction in fine and fee revenue for trial court operations. (General Fund\*)

\*Trial Court Trust Fund

**SUPPORT:** (Verified 8/20/20)

Crime Victims United of California

**OPPOSITION:** (Verified 8/20/20)

None received

ASSEMBLY FLOOR: 75-0, 6/8/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Bigelow, Kamlager, Muratsuchi, Quirk

Prepared by: Stella Choe / PUB. S. /  
8/21/20 17:56:21

\*\*\*\* END \*\*\*\*