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# A BILL FOR AN ACT

RELATING TO MISCONDUCT BY A PUBLIC SERVANT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 701-108, Hawaii Revised Statutes, is  
2 amended by amending subsection (3) to read as follows:

3           "(3) If the period prescribed in subsection (2) has  
4 expired, a prosecution may nevertheless be commenced for:

5           (a) Any offense an element of which is fraud, deception as  
6 defined in section 708-800, or a breach of fiduciary  
7 obligation or the offense of medical assistance fraud  
8 under section 346-43.5, within three years after  
9 discovery of the offense by an aggrieved party or by a  
10 person who has a legal duty to represent an aggrieved  
11 party and who is oneself not a party to the offense,  
12 but in no case shall this provision extend the period  
13 of limitation by more than six years from the  
14 expiration of the period of limitation prescribed in  
15 subsection (2);

16           (b) Any offense based on misconduct in office by a public  
17 servant at any time when the defendant is in public



1 office or employment or within [~~two~~] ten years  
2 thereafter[~~, but in no case shall this provision~~  
3 ~~extend the period of limitation by more than three~~  
4 ~~years from the expiration of the period of limitation~~  
5 ~~prescribed in subsection (2); and~~]. For the purposes  
6 of this paragraph, "misconduct in office" means  
7 conduct that constitutes an offense in which the  
8 defendant's official position, duties, or authority is  
9 an element of the offense or is used to facilitate the  
10 commission of the offense, including abuse of  
11 authority, breach of public trust, or misuse of public  
12 resources; and

13 (c) Any felony offense involving evidence containing  
14 deoxyribonucleic acid from the offender, if a test  
15 confirming the presence of deoxyribonucleic acid is  
16 performed [~~prior to~~] before expiration of the period  
17 of limitation prescribed in subsection (2), but in no  
18 case shall this provision extend the period of  
19 limitation by more than ten years from the expiration  
20 of the period of limitation prescribed in subsection  
21 (2)."



1 SECTION 2. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 3. This Act shall take effect on March 22, 2075.

4



S.B. NO. 2830  
S.D. 2

**Report Title:**

Penal Code; Statute of Limitations; Misconduct in Office; Public Servants

**Description:**

Extends the statute of limitations for offenses based on misconduct in office by a public servant to allow prosecution at any time during the defendant's period of public service and up to ten years thereafter. Effective 3/22/2075. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

