§ 30.10 Timeliness of prosecutions; periods of limitation.

1. A criminal action must be commenced within the period of limitation prescribed in the ensuing subdivisions of this section.

2. Except as otherwise provided in subdivision three:

(a) A prosecution for a class A felony, or rape in the first degree as defined in section 130.35 of the penal law, or a crime defined or formerly defined in section 130.50 of the penal law, or aggravated sexual abuse in the first degree as defined in section 130.70 of the penal law, or course of sexual conduct against a child in the first degree as defined in section 130.75 of the penal law, or incest in the first degree as defined in section 255.27 of the penal law may be commenced at any time;

(a-1) A prosecution for rape in the second degree as defined in subdivision two of section 130.30 of the penal law, or criminal sexual act in the second degree as defined in subdivision two of section 130.45 of the penal law, or incest in the second degree as defined in section 255.26 of the penal law (where the crime committed is rape in the second degree as defined in subdivision two of section 130.30 of the penal law or criminal sexual act in the second degree as defined in subdivision two of section 130.45) must be commenced within twenty years after the commission thereof or within ten years from when the offense is first reported to law enforcement, whichever occurs earlier;

(a-2) A prosecution for rape in the third degree as defined in subdivision one or three of section 130.25 of the penal law, or criminal sexual act in the third degree as defined in subdivision one or three of section 130.40 of the penal law must be commenced within ten years after the commission thereof;

(b) A prosecution for any other felony must be commenced within five years after the commission thereof;

(c) A prosecution for a misdemeanor must be commenced within two years after the commission thereof;

(d) A prosecution for a petty offense must be commenced within one year after the commission thereof.

3. Notwithstanding the provisions of subdivision two, the periods of

limitation for the commencement of criminal actions are extended as follows in the indicated circumstances:

(a) A prosecution for larceny committed by a person in violation of a fiduciary duty may be commenced within one year after the facts constituting such offense are discovered or, in the exercise of reasonable diligence, should have been discovered by the aggrieved party or by a person under a legal duty to represent him who is not himself implicated in the commission of the offense.

(b) A prosecution for any offense involving misconduct in public office by a public servant including, without limitation, an offense defined in article four hundred ninety-six of the penal law, may be commenced against a public servant, or any other person acting in concert with such public servant at any time during such public servant's service in such office or within five years after the termination of such service; provided however, that in no event shall the period of limitation be extended by more than five years beyond the period otherwise applicable under subdivision two of this section.

(c) A prosecution for any crime set forth in title twenty-seven or article seventy-one of the environmental conservation law may be commenced within four years after the facts constituting such crime are discovered or, in the exercise of reasonable diligence, should have been discovered by a public servant who has the responsibility to enforce the provisions of said title and article.

(d) A prosecution for any misdemeanor set forth in the tax law or chapter forty-six of the administrative code of the city of New York must be commenced within three years after the commission thereof.

(e) A prosecution for course of sexual conduct against a child in the second degree as defined in section 130.80 of the penal law may be commenced within five years of the commission of the most recent act of sexual conduct.

(f) For purposes of a prosecution involving a sexual offense as defined in article one hundred thirty of the penal law, other than a sexual offense delineated in paragraph (a) of subdivision two of this section, committed against a child less than eighteen years of age, incest in the first, second or third degree as defined in sections 255.27, 255.26 and 255.25 of the penal law committed against a child less than eighteen years of age, or use of a child in a sexual

performance as defined in section 263.05 of the penal law, the period of limitation shall not begin to run until the child has reached the age of twenty-three or the offense is reported to a law enforcement agency or statewide central register of child abuse and maltreatment, whichever occurs earlier.

(g) A prosecution for any felony defined in article four hundred ninety of the penal law must be commenced within eight years after the commission thereof provided, however, that in a prosecution for a felony defined in article four hundred ninety of the penal law, if the commission of such felony offense resulted in, or created a foreseeable risk of, death or serious physical injury to another person, the prosecution may be commenced at any time; provided, however, that nothing in this paragraph shall be deemed to shorten or otherwise lessen the period, defined in any other applicable law, in which a prosecution for a felony designated in this paragraph may be commenced.

(h) A prosecution for any felony related to a deed theft or where there is fraud in connection with a transaction involving real property must be commenced within five years after the commission of the crime, or within two years after the facts constituting such offense are discovered by the aggrieved party, whichever occurs later.

4. In calculating the time limitation applicable to commencement of a criminal action, the following periods shall not be included:

(a) Any period following the commission of the offense during which (i) the defendant was continuously outside this state or (ii) the whereabouts of the defendant were continuously unknown and continuously unascertainable by the exercise of reasonable diligence. However, in no event shall the period of limitation be extended by more than five years beyond the period otherwise applicable under subdivision two.

(b) When a prosecution for an offense is lawfully commenced within the prescribed period of limitation therefor, and when an accusatory instrument upon which such prosecution is based is subsequently dismissed by an authorized court under directions or circumstances permitting the lodging of another charge for the same offense or an offense based on the same conduct, the period extending from the commencement of the thus defeated prosecution to the dismissal of the accusatory instrument does not constitute a part of the period of

limitation applicable to commencement of prosecution by a new charge.