

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 23.
CRIMINAL PROCEDURE.

CHAPTER 3.
INDICTMENTS AND INFORMATIONS.

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DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 3. INDICTMENTS AND INFORMATIONS.

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CHAPTER 3. INDICTMENTS AND INFORMATIONS.

SUBCHAPTER I. GENERAL PROVISIONS.

§ 23-301. PROSECUTION BY INDICTMENT OR INFORMATION.

An offense prosecuted in the Superior Court which may be punished by death shall be prosecuted by indictment returned by a grand jury. An offense which may be punished by imprisonment for a term exceeding one year shall be prosecuted by indictment, but it may be prosecuted by information if the defendant, after he has been advised of the nature of the charge and of his rights, waives in open court prosecution by indictment. Any other offense may be prosecuted by indictment or by information. An information subscribed by the proper prosecuting officer may be filed without leave of court.

(July 29, 1970, 84 Stat. 611, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-301.

1973 Ed., § 23-301.

SUBCHAPTER II. JOINDER.

§ 23-311. JOINDER OF OFFENSES AND OF DEFENDANTS.

(a) Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies or misdemeanors or both, are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

(b) Two or more offenses may be charged in the same indictment or information as provided in subsection (a) even though one or more is in violation of the laws of the United States and another is in violation of the laws applicable exclusively to the District of Columbia and may be prosecuted as provided in section 11-502(3).

(c) Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

(July 29, 1970, 84 Stat. 611, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-311.

1973 Ed., § 23-311.

§ 23-312. JOINDER OF INDICTMENTS OR INFORMATIONS FOR TRIAL.

The court may order two or more indictments or informations, or both, to be tried together if the offenses, and the defendants if there is more than one, could have been joined in a single indictment or information. The procedure shall be the same as if the prosecution were under such single indictment or information.

(July 29, 1970, 84 Stat. 611, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-312.

1973 Ed., § 23-312.

§ 23-313. RELIEF FROM PREJUDICIAL JOINDER.

If it appears that a defendant or the government is prejudiced by a joinder of offenses or of defendants in an indictment or information or by such joinder for trial together, the court may order an election or separate trials of counts, grant a severance of defendants, or provide whatever other relief justice requires. In ruling on a motion by a defendant for severance the court may order the attorney for the government to deliver to the court for inspection in camera any statements or confessions made by the defendants which the government intends to introduce in evidence at the trial.

(July 29, 1970, 84 Stat. 611, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-313.

1973 Ed., § 23-313.

§ 23-314. JOINDER OF INCONSISTENT OFFENSES CONCERNING THE SAME PROPERTY.[REPEALED]

(Dec. 1, 1982, D.C. Law 4-164, § 602(a), 29 DCR 3976.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-314.

Legislative History of Laws

Law 4-164, the "District of Columbia Theft and White Collar Crimes Act of 1982," was introduced in Council and assigned Bill No. 4-133, which was referred to the Committee on the Judiciary. The Bill was adopted on first, amended first and second reading on June 22, 1982, July 6, 1982, and July 20, 1982, respectively. Signed by the Mayor on August 4, 1982, it was assigned act No. 4-238 and transmitted to both Houses of Congress for its review.

SUBCHAPTER III. SUFFICIENCY.

§ 23-321. DESCRIPTION OF MONEY.

In every indictment or information, except for forgery, in which it is necessary to make an averment as to any money or bank bill or notes, United States Treasury notes, postal and fractional currency, or other bills, bonds, or notes, issued by lawful authority and intended to pass and circulate as money, it shall be sufficient to describe such money, bills, notes, currency, or bonds simply as money, without specifying any particular coin, note, bill, or bond; and such allegation shall be sustained by proof that the accused has stolen or embezzled any amount of coin, or any such note, bill, currency, or bond, although the particular amount or species of such coin, note, bill, currency, or bond be not proved.

(July 29, 1970, 84 Stat. 612, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-321.

1973 Ed., § 23-321.

§ 23-322. INTENT TO DEFRAUD.

In an indictment or information in which it is necessary to allege an intent to defraud, it shall be sufficient to allege that the party accused did the act complained of with intent to defraud, without alleging an intent to defraud any particular person or body corporate. On the trial of such an indictment or information it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove a general intent to defraud.

(July 29, 1970, 84 Stat. 612, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-322.

1973 Ed., § 23-322.

§ 23-323. PERJURY.

In every information or indictment for perjury, it shall be sufficient to set forth the substance of the offense charged upon the defendant, and by what court, or before whom the oath was taken (averring such court, or person or persons, to have a competent authority to administer the same) together with the proper averment or averments to falsify the matter or matters wherein the perjury or perjuries is or are assigned; without setting forth the bill, answer, information, indictment, declaration, or any part of any record of proceeding either in law or equity, other than as aforesaid; and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed; any law, usage, or custom to the contrary notwithstanding.

(July 29, 1970, 84 Stat. 612, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-323.

1973 Ed., § 23-323.

§ 23-324. SUBORNATION OF PERJURY.

In every information or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit perjury, it shall be sufficient to set forth the substance of the offense charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding either in law or equity, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed, any law, usage, or custom to the contrary notwithstanding.

(July 29, 1970, 84 Stat. 612, Pub. L. 91-358, title II, § 210(a); May 10, 2005, D.C. Law 15-356, § 3(a)(1), 52 DCR 1178.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-324.

1973 Ed., § 23-324.

Effect of Amendments

D.C. Law 15-356, in the section heading, substituted "subornation" for "subordination".

Legislative History of Laws

Law 15-356, the "Felony Sexual Assault Statute of Limitations Act of 2004", was introduced in Council and assigned Bill No. 15-785, which was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on October 5, 2004, and November 9, 2004, respectively. Signed by the Mayor on November 30, 2004, it was assigned Act No. 15-634 and transmitted to both Houses of Congress for its review. D.C. Law 15-356 became effective on May 2005.

SUBCHAPTER IV. FICTITIOUS NAME

INDICTMENTS.

§ 23-331. FICTITIOUS NAME INDICTMENTS FOR FIRST OR SECOND DEGREE SEXUAL ABUSE OR FIRST OR SECOND DEGREE CHILD SEXUAL ABUSE.

(a) A defendant may be prosecuted for first or second degree sexual abuse or first or second degree child sexual abuse by indictment under a fictitious name, such as "John Doe" or "Jane Doe," if, at the time of indictment, the defendant's true name is unknown and the defendant's identity has been established with reasonable certainty by the means of forensic testing of nuclear deoxyribonucleic acid ("DNA") evidence or DNA evidence with a comparable level of accuracy with nuclear DNA evidence.

(b) Mitochondrial DNA ("mtDNA") and Y-DNA cannot be used for the purposes of prosecuting by indictment under a fictitious name a defendant whose true name is unknown under subsection (a) of this section.

(c) Nothing in this section shall be construed as prohibiting the use or admissibility of mtDNA, Y-DNA, or similar genetic material for any purpose other than obtaining a fictitious name indictment pursuant to subsection (a) of this section.

(May 10, 2005, D.C. Law 15-356, § 3(b), 52 DCR 1176; Mar. 2, 2007, D.C. Law 16-191, § 45, 53 DCR 6794.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-191 made a technical change in the language of D.C. Law 15-356 that resulted in no change in text.

Legislative History of Laws

Law 15-356, the "Felony Sexual Assault Statute of Limitations Act of 2004", was introduced in Council and assigned Bill No. 15-785, which was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on October 5, 2004, and November 9, 2004, respectively. Signed by the Mayor on November 30, 2004, it was assigned Act No. 15-634 and transmitted to both Houses of Congress for its review. D.C. Law 15-356 became effective on May 10, 2005.

Law 16-191, the "Technical Amendments Act of 2006", was introduced in Council and assigned Bill No. 16-760, which was referred to the Committee of the whole. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 31, 2006, it was assigned Act No. 16-475 and transmitted to both Houses of Congress for its review. D.C. Law 16-191 became effective on March 2, 2007.

Effective Dates

Section 4 of D.C. Law 15-356 provides as follows:

"Sec. 4. Applicability.

"This act shall apply to an offense committed before its effective date only if the statute of limitations for the offense has not expired prior to the effective date."