

SENATE BILL No. 427

By Committee on Judiciary

1-16

9 AN ACT concerning criminal procedure; relating to the statute of limi-
10 tations for certain sex offenses; amending K.S.A. 21-3106 and repealing
11 the existing section.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 21-3106 is hereby amended to read as follows: 21-
15 3106. (1) A prosecution for the following criminal offenses may be com-
16 menced at any time:

17 (a) Murder;

18 (b) terrorism ~~or~~;

19 (c) illegal use of weapons of mass destruction ~~may be commenced at~~
20 ~~any time~~;

21 (d) rape as defined in K.S.A. 21-3502, and amendments thereto;

22 (e) aggravated indecent liberties with a child as defined in K.S.A. 21-
23 3504, and amendments thereto;

24 (f) indecent liberties with a child as defined in K.S.A. 21-3503, and
25 amendments thereto;

26 (g) aggravated sodomy as defined in K.S.A. 21-3056, and amend-
27 ments thereto; or

28 (h) sodomy as defined subsection (a)(2) or (a)(3) of K.S.A. 21-3505,
29 and amendments thereto.

30 (2) Except as provided in subsection (5), a prosecution for any crime
31 must be commenced within 10 years after its commission if the victim is
32 the Kansas public employees retirement system.

33 (3) (a) Except as provided in ~~subsection~~ subsections (1) and (5), a
34 prosecution for a sexually violent offense as defined in K.S.A. 22-3717,
35 and amendments thereto, must be commenced within the limitation of
36 time provided by the law pertaining to such offense or one year from the
37 date on which the identity of the suspect is conclusively established by
38 DNA testing, whichever is later.

39 (b) For purposes of this section, "DNA" means deoxyribonucleic
40 acid.

41 (4) Except as provided by subsection (5), a prosecution for any crime,
42 as defined in K.S.A. 21-3105, and amendments thereto, not governed by
43 subsections (1), (2) or (3) must be commenced within five years after it

1 is committed.

2 (5) The period within which a prosecution must be commenced shall
3 not include any period in which:

4 (a) The accused is absent from the state;

5 (b) the accused is concealed within the state so that process cannot
6 be served upon the accused;

7 (c) the fact of the crime is concealed;

8 (d) a prosecution is pending against the defendant for the same con-
9 duct, even if the indictment or information which commences the pros-
10 ecution is quashed or the proceedings thereon are set aside, or are re-
11 versed on appeal;

12 (e) an administrative agency is restrained by court order from inves-
13 tigating or otherwise proceeding on a matter before it as to any criminal
14 conduct defined as a violation of any of the provisions of article 41 of
15 chapter 25 and article 2 of chapter 46 of the Kansas Statutes Annotated
16 which may be discovered as a result thereof regardless of who obtains
17 the order of restraint; or

18 (f) whether or not the fact of the crime is concealed by the active act
19 or conduct of the accused, there is substantially competent evidence to
20 believe two or more of the following factors are present: (i) The victim
21 was a child under 15 years of age at the time of the crime; (ii) the victim
22 was of such age or intelligence that the victim was unable to determine
23 that the acts constituted a crime; (iii) the victim was prevented by a parent
24 or other legal authority from making known to law enforcement author-
25 ities the fact of the crime whether or not the parent or other legal au-
26 thority is the accused; and (iv) there is substantially competent expert
27 testimony indicating the victim psychologically repressed such witness'
28 memory of the fact of the crime, and in the expert's professional opinion
29 the recall of such memory is accurate and free of undue manipulation,
30 and substantial corroborating evidence can be produced in support of the
31 allegations contained in the complaint or information but in no event may
32 a prosecution be commenced as provided in this section later than the
33 date the victim turns 28 years of age. Corroborating evidence may in-
34 clude, but is not limited to, evidence the defendant committed similar
35 acts against other persons or evidence of contemporaneous physical man-
36 ifestations of the crime. "Parent or other legal authority" shall include
37 but not be limited to natural and stepparents, grandparents, aunts, uncles
38 or siblings.

39 (6) An offense is committed either when every element occurs, or, if
40 a legislative purpose to prohibit a continuing offense plainly appears, at
41 the time when the course of conduct or the defendant's complicity therein
42 is terminated. Time starts to run on the day after the offense is committed.

43 (7) A prosecution is commenced when a complaint or information is

1 filed, or an indictment returned, and a warrant thereon is delivered to
2 the sheriff or other officer for execution. No such prosecution shall be
3 deemed to have been commenced if the warrant so issued is not executed
4 without unreasonable delay.

5 Sec. 2. K.S.A. 21-3106 is hereby repealed.

6 Sec. 3. This act shall take effect and be in force from and after its
7 publication in the statute book.