

HOUSE BILL No. 2494

By Committee on Corrections and Juvenile Justice

1-20

1 AN ACT concerning crimes, criminal procedure and punishment; relating
2 to the statute of limitations for sexually violent offenders when the
3 victim is a child; amending K.S.A. 2011 Supp. 21-5107 and repealing
4 the existing section.
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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2011 Supp. 21-5107 is hereby amended to read as
8 follows: 21-5107. (a) A prosecution for murder, terrorism or illegal use
9 of weapons of mass destruction may be commenced at any time.

10 (b) Except as provided in subsection (e), a prosecution for any crime
11 shall be commenced within 10 years after its commission if the victim is
12 the Kansas public employees retirement system.

13 (c) Except as provided in subsection (e), a prosecution for a sexually
14 violent offense as defined in K.S.A. 22-3717, and amendments thereto,
15 shall be commenced within the limitation of time provided by the law
16 pertaining to such offense or one year from the date on which the identity
17 of the suspect is conclusively established by DNA testing, whichever is
18 later.

19 (d) Except as provided by subsection (e), a prosecution for any crime,
20 as defined in K.S.A. 2011 Supp. 21-5102, and amendments thereto, not
21 governed by subsections (a), (b) or (c) shall be commenced within five
22 years after it is committed.

23 (e) The period within which a prosecution shall be commenced shall
24 not include any period in which:

25 (1) The accused is absent from the state;

26 (2) the accused is concealed within the state so that process cannot be
27 served upon the accused;

28 (3) the fact of the crime is concealed;

29 (4) a prosecution is pending against the defendant for the same
30 conduct, even if the indictment or information which commences the
31 prosecution is quashed or the proceedings thereon are set aside, or are
32 reversed on appeal;

33 (5) an administrative agency is restrained by court order from
34 investigating or otherwise proceeding on a matter before it as to any
35 criminal conduct defined as a violation of any of the provisions of article
36 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes

1 Annotated, and amendments thereto, which may be discovered as a result
2 thereof regardless of who obtains the order of restraint; or

3 (6) whether the fact of the crime is concealed by the active act or
4 conduct of the accused, there is substantially competent evidence to
5 believe two or more of the following factors are present:

6 (A) The victim was a child under 15 years of age at the time of the
7 crime;

8 (B) the victim was of such age or intelligence that the victim was
9 unable to determine that the acts constituted a crime;

10 (C) the victim was prevented by a parent or other legal authority from
11 making known to law enforcement authorities the fact of the crime
12 whether or not the parent or other legal authority is the accused; and

13 (D) there is substantially competent expert testimony indicating the
14 victim psychologically repressed such witness' memory of the fact of the
15 crime, and in the expert's professional opinion the recall of such memory is
16 accurate and free of undue manipulation, and substantial corroborating
17 evidence can be produced in support of the allegations contained in the
18 complaint or information but in no event may a prosecution be
19 commenced as provided in ~~this section~~ subsection (e)(6) later than the date
20 the victim turns 28 years of age. Corroborating evidence may include, but
21 is not limited to, evidence the defendant committed similar acts against
22 other persons or evidence of contemporaneous physical manifestations of
23 the crime.

24 (f) An offense is committed either when every element occurs, or, if a
25 legislative purpose to prohibit a continuing offense plainly appears, at the
26 time when the course of conduct or the defendant's complicity therein is
27 terminated. Time starts to run on the day after the offense is committed
28 *except if the offense charged is a sexually violent offense as described in*
29 *K.S.A. 22-3717, and amendments thereto, and the victim was under 18*
30 *years of age at the time of the offense, then time shall start to run on the*
31 *day after the victim's 18th birthday.*

32 (g) A prosecution is commenced when a complaint or information is
33 filed, or an indictment returned, and a warrant thereon is delivered to the
34 sheriff or other officer for execution. No such prosecution shall be deemed
35 to have been commenced if the warrant so issued is not executed without
36 unreasonable delay.

37 (h) As used in this section, "parent or other legal authority" shall
38 include, but not be limited to, natural and stepparents, grandparents, aunts,
39 uncles or siblings.

40 Sec. 2. K.S.A. 2011 Supp. 21-5107 is hereby repealed.

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

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