

SENATE BILL No. 167

By Senators Faust-Goudeau, Smith, Arpke, Francisco, King and Petersen

2-11

1 AN ACT concerning crimes, criminal procedure and punishment; relating
2 to the statute of limitations for rape prosecutions; amending K.S.A.
3 2012 Supp. 21-5107 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2012 Supp. 21-5107 is hereby amended to read as
7 follows: 21-5107.(a) A prosecution for *rape*, murder, terrorism or illegal
8 use of weapons of mass destruction may be commenced at any time.

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

12 (c) Except as provided in subsection (e), a prosecution for a sexually
13 violent ~~offense~~ *crime* as defined in K.S.A. 22-3717, and amendments
14 thereto,:

15 (1) *When the victim is 18 years of age or older* shall be commenced
16 within the limitation of time provided by the law pertaining to such offense
17 or one year from the date on which the identity of the suspect is
18 conclusively established by DNA testing, whichever is later; *or*

19 (2) *when the victim is under 18 years of age shall be commenced*
20 *within 10 years of the date the victim turns 18 years of age or one year*
21 *from the date on which the identity of the suspect is conclusively*
22 *established by DNA testing, whichever is later.*

23 (d) Except as provided by subsection (e), a prosecution for any crime,
24 as defined in K.S.A. 2012 Supp. 21-5102, and amendments thereto, not
25 governed by subsection (a), (b) or (c) shall be commenced within five
26 years after it is committed.

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

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

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

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

33 (4) a prosecution is pending against the defendant for the same
34 conduct, even if the indictment or information which commences the
35 prosecution is quashed or the proceedings thereon are set aside, or are
36 reversed on appeal;

1 (5) an administrative agency is restrained by court order from
2 investigating or otherwise proceeding on a matter before it as to any
3 criminal conduct defined as a violation of any of the provisions of article
4 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes
5 Annotated, and amendments thereto, which may be discovered as a result
6 thereof regardless of who obtains the order of restraint; or

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

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

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

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

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

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

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

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

1 Sec. 2. K.S.A. 2012 Supp. 21-5107 is hereby repealed.

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