

SENATE BILL No. 258

By Committee on Judiciary

1-14

1 AN ACT concerning the Kansas juvenile justice code; relating to time
2 limitations; sex crimes; amending K.S.A. 2013 Supp. 38-2303 and
3 repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2013 Supp. 38-2303 is hereby amended to read as
7 follows: 38-2303. (a) Proceedings under this code involving acts
8 committed by a juvenile which, if committed by an adult, would constitute
9 a violation of K.S.A. 21-3401 or 21-3402, prior to their repeal, or K.S.A.
10 2013 Supp. 21-5402 or 21-5403, and amendments thereto, *or rape as*
11 *defined in K.S.A. 2013 Supp. 21-5503, and amendments thereto, or*
12 *aggravated criminal sodomy as defined in K.S.A. 2013 Supp. 21-5504, and*
13 *amendments thereto, may be commenced at any time.*

14 (b) Except as provided by subsections ~~(d)~~(c) and ~~(f)~~(e), a proceeding
15 under this code for any act committed by a juvenile which, if committed
16 by an adult, would constitute a violation of any of the following statutes
17 shall be commenced within five years after its commission if the victim is
18 less than 16 years of age: (1) ~~Indecent liberties with a child as defined in~~
19 ~~K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp.~~
20 ~~21-5506, and amendments thereto; (2) aggravated indecent liberties with a~~
21 ~~child as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of~~
22 ~~K.S.A. 2013 Supp. 21-5506, and amendments thereto; (3) Lewd and~~
23 ~~lascivious behavior as defined in K.S.A. 21-3508, prior to its repeal, or~~
24 ~~K.S.A. 2013 Supp. 21-5513, and amendments thereto; (4) indecent~~
25 ~~solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or~~
26 ~~subsection (a) of K.S.A. 2013 Supp. 21-5508, and amendments thereto; (5)~~
27 ~~aggravated indecent solicitation of a child as defined in K.S.A. 21-3511,~~
28 ~~prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5508, and~~
29 ~~amendments thereto; (6) sexual exploitation of a child as defined in K.S.A.~~
30 ~~21-3516, prior to its repeal, or K.S.A. 2013 Supp. 21-5510, and~~
31 ~~amendments thereto; (7)(2) unlawful voluntary sexual relations as defined~~
32 ~~in K.S.A. 21-3522, prior to its repeal, or K.S.A. 2013 Supp. 21-5507, and~~
33 ~~amendments thereto; or (8)(3) aggravated incest as defined in K.S.A. 21-~~
34 ~~3603, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5604,~~
35 ~~and amendments thereto.~~

36 (c) Except as provided by subsections ~~(d)~~ and ~~(f)~~, a prosecution for

1 rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013-
 2 Supp. 21-5503, and amendments thereto, or aggravated criminal sodomy,
 3 as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of
 4 K.S.A. 2013 Supp. 21-5504, and amendments thereto, shall be commenced
 5 within five years after its commission.

6 ~~(d) (1)~~ Except as provided in subsection (f), a prosecution for any
 7 offense provided in subsection (b) or a sexually violent offense as defined
 8 in K.S.A. 22-3717, and amendments thereto, shall be commenced within
 9 the limitation of time provided by the law pertaining to such offense or one
 10 year from the date on which the identity of the suspect is conclusively
 11 established by DNA testing, whichever is later. *Except as provided in*
 12 *subsection (e), a prosecution for a sexually violent crime as defined in*
 13 *K.S.A. 22-3717, and amendments thereto:*

14 *(1) When the victim is 18 years of age or older shall be commenced*
 15 *within 10 years or one year from the date on which the identity of the*
 16 *suspect is conclusively established by DNA testing, whichever is later; or*

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

21 ~~(2)~~(3) For the purposes of this subsection, "DNA" means
 22 deoxyribonucleic acid.

23 ~~(e)(d)~~ Except as provided by subsection ~~(f)~~(e), proceedings under this
 24 code not governed by subsections (a), (b); *or* (c) ~~or~~ (d) shall be
 25 commenced within two years after the act giving rise to the proceedings is
 26 committed.

27 ~~(f)~~(e) The period within which the proceedings must be commenced
 28 shall not include any period in which:

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

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

32 (3) the fact of the offense is concealed; or

33 (4) whether or not the fact of the offense is concealed by the active
 34 act or conduct of the accused, there is substantial competent evidence to
 35 believe two or more of the following factors are present: (A) The victim
 36 was a child under 15 years of age at the time of the offense; (B) the victim
 37 was of such age or intelligence that the victim was unable to determine
 38 that the acts constituted an offense; (C) the victim was prevented by a
 39 parent or other legal authority from making known to law enforcement
 40 authorities the fact of the offense whether or not the parent or other legal
 41 authority is the accused; and (D) there is substantial competent expert
 42 testimony indicating the victim psychologically repressed such victim's
 43 memory of the fact of the offense, and in the expert's professional opinion

1 the recall of such memory is accurate, free of undue manipulation, and
2 substantial corroborating evidence can be produced in support of the
3 allegations contained in the complaint or information; but in no event may
4 a proceeding be commenced as provided in subsection ~~(f)~~(e)(4) later than
5 the date the victim turns 28 years of age. Corroborating evidence may
6 include, but is not limited to, evidence the alleged juvenile offender
7 committed similar acts against other persons or evidence of
8 contemporaneous physical manifestations of the offense. Parent or other
9 legal authority shall include, but not be limited to, natural and stepparents,
10 grandparents, aunts, uncles or siblings.

11 Sec. 2. K.S.A. 2013 Supp. 38-2303 is hereby repealed.

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