

SENATE BILL No. 109

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-41-4-2.

Synopsis: Statute of limitations. Removes the statute of limitations for certain sex offenses that, under current law, must be charged before the victim reaches 31 years of age, and removes the statute of limitations for rape and child exploitation.

Effective: July 1, 2020.

Crider

January 6, 2020, read first time and referred to Committee on Corrections and Criminal Law.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

SENATE BILL No. 109

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-41-4-2, AS AMENDED BY P.L.211-2019,
2 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 2. (a) Except as otherwise provided in this section,
4 a prosecution for an offense is barred unless it is commenced:
5 (1) within five (5) years after the commission of the offense, in
6 the case of a Class B, Class C, or Class D felony (for a crime
7 committed before July 1, 2014) or a Level 3, Level 4, Level 5, or
8 Level 6 felony (for a crime committed after June 30, 2014); or
9 (2) within two (2) years after the commission of the offense, in the
10 case of a misdemeanor.
11 (b) A prosecution for a Class B or Class C felony (for a crime
12 committed before July 1, 2014) or a Level 3, Level 4, or Level 5 felony
13 (for a crime committed after June 30, 2014) that would otherwise be
14 barred under this section may be commenced within one (1) year after
15 the earlier of the date on which the state:
16 (1) first discovers evidence sufficient to charge the offender with
17 the offense through DNA (deoxyribonucleic acid) analysis; or



- 1 (2) could have discovered evidence sufficient to charge the
 2 offender with the offense through DNA (deoxyribonucleic acid)
 3 analysis by the exercise of due diligence.
- 4 (c) ~~Except as provided in subsection (e)~~; A prosecution for a Class
 5 A felony (for a crime committed before July 1, 2014) or a Level 1
 6 felony or Level 2 felony (for a crime committed after June 30, 2014)
 7 may be commenced at any time.
- 8 (d) A prosecution for murder may be commenced:
 9 (1) at any time; and
 10 (2) regardless of the amount of time that passes between:
 11 (A) the date a person allegedly commits the elements of
 12 murder; and
 13 (B) the date the alleged victim of the murder dies.
- 14 (e) A prosecution for the following offenses ~~is barred unless~~ **may be**
 15 ~~commenced before the date that the alleged victim of the offense~~
 16 ~~reaches thirty-one (31) years of age: at any time:~~
 17 **(1) IC 35-42-4-1 (Rape).**
 18 **(2) IC 35-42-4-4(b) (Child exploitation).**
 19 ~~(3)~~ **(3)** IC 35-42-4-3 (Child molesting).
 20 ~~(4)~~ **(4)** IC 35-42-4-5 (Vicarious sexual gratification).
 21 ~~(5)~~ **(5)** IC 35-42-4-6 (Child solicitation).
 22 ~~(6)~~ **(6)** IC 35-42-4-7 (Child seduction).
 23 ~~(7)~~ **(7)** IC 35-42-4-9 (Sexual misconduct with a minor).
 24 ~~(8)~~ **(8)** IC 35-46-1-3 (Incest).
- 25 (f) A prosecution for forgery of an instrument for payment of
 26 money, or for the uttering of a forged instrument, under IC 35-43-5-2,
 27 is barred unless it is commenced within five (5) years after the maturity
 28 of the instrument.
- 29 (g) If a complaint, indictment, or information is dismissed because
 30 of an error, defect, insufficiency, or irregularity, a new prosecution may
 31 be commenced within ninety (90) days after the dismissal even if the
 32 period of limitation has expired at the time of dismissal, or will expire
 33 within ninety (90) days after the dismissal.
- 34 (h) The period within which a prosecution must be commenced does
 35 not include any period in which:
 36 (1) the accused person is not usually and publicly resident in
 37 Indiana or so conceals himself or herself that process cannot be
 38 served;
 39 (2) the accused person conceals evidence of the offense, and
 40 evidence sufficient to charge the person with that offense is
 41 unknown to the prosecuting authority and could not have been
 42 discovered by that authority by exercise of due diligence; or



- 1 (3) the accused person is a person elected or appointed to office
 2 under statute or constitution, if the offense charged is theft or
 3 conversion of public funds or bribery while in public office.
- 4 (i) For purposes of tolling the period of limitation only, a
 5 prosecution is considered commenced on the earliest of these dates:
 6 (1) The date of filing of an indictment, information, or complaint
 7 before a court having jurisdiction.
 8 (2) The date of issuance of a valid arrest warrant.
 9 (3) The date of arrest of the accused person by a law enforcement
 10 officer without a warrant, if the officer has authority to make the
 11 arrest.
- 12 (j) A prosecution is considered timely commenced for any offense
 13 to which the defendant enters a plea of guilty, notwithstanding that the
 14 period of limitation has expired.
- 15 (k) The following apply to the specified offenses:
 16 (1) A prosecution for an offense under IC 30-2-9-7(b) (misuse of
 17 funeral trust funds) is barred unless commenced within five (5)
 18 years after the date of death of the settlor (as described in
 19 IC 30-2-9).
 20 (2) A prosecution for an offense under IC 30-2-10-9(b) (misuse
 21 of funeral trust funds) is barred unless commenced within five (5)
 22 years after the date of death of the settlor (as described in
 23 IC 30-2-10).
 24 (3) A prosecution for an offense under IC 30-2-13-38(f) (misuse
 25 of funeral trust or escrow account funds) is barred unless
 26 commenced within five (5) years after the date of death of the
 27 purchaser (as defined in IC 30-2-13-9).
- 28 (l) A prosecution for an offense under IC 23-2-6, IC 23-2.5,
 29 IC 23-14-48-9, or IC 23-19 is barred unless commenced within five (5)
 30 years after the earlier of the date on which the state:
 31 (1) first discovers evidence sufficient to charge the offender with
 32 the offense; or
 33 (2) could have discovered evidence sufficient to charge the
 34 offender with the offense by the exercise of due diligence.
- 35 (m) A prosecution for a sex offense listed in IC 11-8-8-4.5 that is
 36 committed against a child and that is not:
 37 (1) a Class A felony (for a crime committed before July 1, 2014)
 38 or a Level 1 felony or Level 2 felony (for a crime committed after
 39 June 30, 2014); or
 40 (2) listed in subsection (e);
 41 is barred unless commenced within ten (10) years after the commission
 42 of the offense, or within four (4) years after the person ceases to be a



1 dependent of the person alleged to have committed the offense,
2 whichever occurs later.

3 (n) A prosecution for rape (IC 35-42-4-1) as a Class B felony (for a
4 crime committed before July 1, 2014) or as a Level 3 felony (for a
5 crime committed after June 30, 2014) that would otherwise be barred
6 under this section may be commenced not later than five (5) years after
7 the earlier of the date on which:

8 (1) the state first discovers evidence sufficient to charge the
9 offender with the offense through DNA (deoxyribonucleic acid)
10 analysis;

11 (2) the state first becomes aware of the existence of a recording
12 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
13 to charge the offender with the offense; or

14 (3) a person confesses to the offense.

15 (o) A prosecution for criminal deviate conduct (IC 35-42-4-2)
16 (repealed) as a Class B felony for a crime committed before July 1,
17 2014, that would otherwise be barred under this section may be
18 commenced not later than five (5) years after the earliest of the date on
19 which:

20 (1) the state first discovers evidence sufficient to charge the
21 offender with the offense through DNA (deoxyribonucleic acid)
22 analysis;

23 (2) the state first becomes aware of the existence of a recording
24 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
25 to charge the offender with the offense; or

26 (3) a person confesses to the offense.

