



Reprinted
January 31, 2020

SENATE BILL No. 109

DIGEST OF SB 109 (Updated January 30, 2020 2:21 pm - DI 128)

Citations Affected: IC 34-11; IC 35-41.

Synopsis: Statute of limitations. Provides that an otherwise barred offense may be commenced not later than five years from the earlier of the date on which: (1) the state first discovers DNA evidence sufficient to charge the offender; (2) the state first becomes aware of a recording that provides evidence sufficient to charge the offender; or (3) a person confesses to the offense. Removes the statute of limitations for civil causes of action alleging child sexual abuse, and provides that a person who alleges an injury resulting from child sexual abuse may file an action in an otherwise time barred case any time before the date the alleged injured person reaches 31 years of age. Provides that, if the injured person is 31 years of age or older, an civil cause of action alleging child sexual abuse may only be revived if: (1) the cause of action is brought against the alleged perpetrator; and (2) certain new evidence is discovered.

Effective: July 1, 2020.

**Crider, Houchin, Ford Jon,
Freeman, Randolph Lonnie M,
Sandlin, Young M, Buck, Bohacek,
Merritt, Stoops**

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

January 23, 2020, amended, reported favorably — Do Pass.

January 27, 2020, read second time, amended, ordered engrossed.

January 28, 2020, engrossed. Returned to second reading.

January 30, 2020, re-read second time, amended, ordered engrossed.

SB 109—LS 6504/DI 106



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 34-11-2-4, AS AMENDED BY P.L.44-2013,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 4. (a) An action for:
4 (1) injury to person or character;
5 (2) injury to personal property; or
6 (3) a forfeiture of penalty given by statute;
7 must be commenced within two (2) years after the cause of action
8 accrues.
9 (b) An action for injury to a person that results from the sexual
10 abuse of a child ~~must~~ **may** be commenced ~~within the later of:~~
11 ~~(1) seven (7) years after the cause of action accrues; or~~
12 ~~(2) four (4) years after the person ceases to be a dependent of the~~
13 ~~person alleged to have performed the sexual abuse. at any time.~~
14 **(c) An action for injury to a person that resulted from the sexual**
15 **abuse of a child that was time barred before July 1, 2020, is hereby**
16 **revived. An action described in this subsection is revived even if:**
17 **(1) no action was filed; or**

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- 1 **(2) an action was filed and dismissed by a court due to the**
 2 **expiration of a statute of limitations.**
- 3 **(d) The evidence required for criminal prosecution under**
 4 **IC 35-41-4-2(b) is not required to revive a civil action under**
 5 **subsection (c), so long as the injured person is less than thirty-one**
 6 **(31) years of age.**
- 7 **(e) If the injured person is thirty-one (31) years of age or older,**
 8 **an action under subsection (c) may only be revived if:**
- 9 **(1) the cause of action is brought against the alleged**
 10 **perpetrator; and**
- 11 **(2) one of the following occurs:**
- 12 **(A) Evidence is discovered through DNA (deoxyribonucleic**
 13 **acid) analysis sufficient to support the action.**
- 14 **(B) A recording (as defined in IC 35-31.5-2-273) is**
 15 **discovered which supports the action.**
- 16 **(C) A person confesses to the sexual abuse.**
- 17 SECTION 2. IC 35-41-4-2, AS AMENDED BY P.L.211-2019,
 18 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2020]: Sec. 2. (a) Except as otherwise provided in this section,
 20 a prosecution for an offense is barred unless it is commenced:
- 21 (1) within five (5) years after the commission of the offense, in
 22 the case of a Class B, Class C, or Class D felony (for a crime
 23 committed before July 1, 2014) or a Level 3, Level 4, Level 5, or
 24 Level 6 felony (for a crime committed after June 30, 2014); or
- 25 (2) within two (2) years after the commission of the offense, in the
 26 case of a misdemeanor.
- 27 (b) A prosecution for a Class B or Class C felony (for a crime
 28 committed before July 1, 2014) or a Level 3, Level 4, or Level 5 felony
 29 (for a crime committed after June 30, 2014) that would otherwise be
 30 barred under this section may be commenced within one (1) year after
 31 the earlier of the date on which the state:
- 32 (1) first discovers evidence sufficient to charge the offender with
 33 the offense through DNA (deoxyribonucleic acid) analysis; or
- 34 (2) could have discovered evidence sufficient to charge the
 35 offender with the offense through DNA (deoxyribonucleic acid)
 36 analysis by the exercise of due diligence.
- 37 (c) Except as provided in subsection (e), a prosecution for a Class
 38 A felony (for a crime committed before July 1, 2014) or a Level 1
 39 felony or Level 2 felony (for a crime committed after June 30, 2014)
 40 may be commenced at any time.
- 41 (d) A prosecution for murder may be commenced:
- 42 (1) at any time; and



- 1 (2) regardless of the amount of time that passes between:
 2 (A) the date a person allegedly commits the elements of
 3 murder; and
 4 (B) the date the alleged victim of the murder dies.
- 5 (e) **Except as provided in subsection (p)**, a prosecution for the
 6 following offenses is barred unless commenced before the date that the
 7 alleged victim of the offense reaches thirty-one (31) years of age:
 8 (1) IC 35-42-4-3 (Child molesting).
 9 (2) IC 35-42-4-5 (Vicarious sexual gratification).
 10 (3) IC 35-42-4-6 (Child solicitation).
 11 (4) IC 35-42-4-7 (Child seduction).
 12 (5) IC 35-42-4-9 (Sexual misconduct with a minor).
 13 (6) IC 35-46-1-3 (Incest).
- 14 (f) A prosecution for forgery of an instrument for payment of
 15 money, or for the uttering of a forged instrument, under IC 35-43-5-2,
 16 is barred unless it is commenced within five (5) years after the maturity
 17 of the instrument.
- 18 (g) If a complaint, indictment, or information is dismissed because
 19 of an error, defect, insufficiency, or irregularity, a new prosecution may
 20 be commenced within ninety (90) days after the dismissal even if the
 21 period of limitation has expired at the time of dismissal, or will expire
 22 within ninety (90) days after the dismissal.
- 23 (h) The period within which a prosecution must be commenced does
 24 not include any period in which:
 25 (1) the accused person is not usually and publicly resident in
 26 Indiana or so conceals himself or herself that process cannot be
 27 served;
 28 (2) the accused person conceals evidence of the offense, and
 29 evidence sufficient to charge the person with that offense is
 30 unknown to the prosecuting authority and could not have been
 31 discovered by that authority by exercise of due diligence; or
 32 (3) the accused person is a person elected or appointed to office
 33 under statute or constitution, if the offense charged is theft or
 34 conversion of public funds or bribery while in public office.
- 35 (i) For purposes of tolling the period of limitation only, a
 36 prosecution is considered commenced on the earliest of these dates:
 37 (1) The date of filing of an indictment, information, or complaint
 38 before a court having jurisdiction.
 39 (2) The date of issuance of a valid arrest warrant.
 40 (3) The date of arrest of the accused person by a law enforcement
 41 officer without a warrant, if the officer has authority to make the
 42 arrest.



1 (j) A prosecution is considered timely commenced for any offense
2 to which the defendant enters a plea of guilty, notwithstanding that the
3 period of limitation has expired.

4 (k) The following apply to the specified offenses:

5 (1) A prosecution for an offense under IC 30-2-9-7(b) (misuse of
6 funeral trust funds) is barred unless commenced within five (5)
7 years after the date of death of the settlor (as described in
8 IC 30-2-9).

9 (2) A prosecution for an offense under IC 30-2-10-9(b) (misuse
10 of funeral trust funds) is barred unless commenced within five (5)
11 years after the date of death of the settlor (as described in
12 IC 30-2-10).

13 (3) A prosecution for an offense under IC 30-2-13-38(f) (misuse
14 of funeral trust or escrow account funds) is barred unless
15 commenced within five (5) years after the date of death of the
16 purchaser (as defined in IC 30-2-13-9).

17 (l) A prosecution for an offense under IC 23-2-6, IC 23-2.5,
18 IC 23-14-48-9, or IC 23-19 is barred unless commenced within five (5)
19 years after the earlier of the date on which the state:

20 (1) first discovers evidence sufficient to charge the offender with
21 the offense; or

22 (2) could have discovered evidence sufficient to charge the
23 offender with the offense by the exercise of due diligence.

24 (m) A prosecution for a sex offense listed in IC 11-8-8-4.5 that is
25 committed against a child and that is not:

26 (1) a Class A felony (for a crime committed before July 1, 2014)
27 or a Level 1 felony or Level 2 felony (for a crime committed after
28 June 30, 2014); or

29 (2) listed in subsection (e);

30 is barred unless commenced within ten (10) years after the commission
31 of the offense, or within four (4) years after the person ceases to be a
32 dependent of the person alleged to have committed the offense,
33 whichever occurs later.

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

39 (1) the state first discovers evidence sufficient to charge the
40 offender with the offense through DNA (deoxyribonucleic acid)
41 analysis;

42 (2) the state first becomes aware of the existence of a recording



1 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
2 to charge the offender with the offense; or

3 (3) a person confesses to the offense.

4 (o) A prosecution for criminal deviate conduct (IC 35-42-4-2)
5 (repealed) as a Class B felony for a crime committed before July 1,
6 2014, that would otherwise be barred under this section may be
7 commenced not later than five (5) years after the earliest of the date on
8 which:

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

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

15 (3) a person confesses to the offense.

16 **(p) A prosecution for an offense described in subsection (e) that**
17 **would otherwise be barred under this section may be commenced**
18 **not later than five (5) years after the earliest of the date on which:**

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

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

25 **(3) a person confesses to the offense.**



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 109, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 4, reset in roman "Except as provided in subsection (e),".

Page 2, line 4, delete "A" and insert "a".

Page 2, line 14, delete "A" and insert "**Except as provided in subsection (p), a**".

Page 2, line 14, reset in roman "is barred unless".

Page 2, line 14, delete "may be".

Page 2, line 15, reset in roman "before the date that the alleged victim of the offense".

Page 2, line 16, reset in roman "reaches thirty-one (31) years of age:".

Page 2, line 16, delete "at any time:".

Page 2, delete lines 17 through 18.

Page 2, line 19, reset in roman "(1)".

Page 2, line 19, delete "(3)".

Page 2, line 20, reset in roman "(2)".

Page 2, line 20, delete "(4)".

Page 2, line 21, reset in roman "(3)".

Page 2, line 21, delete "(5)".

Page 2, line 22, reset in roman "(4)".

Page 2, line 22, delete "(6)".

Page 2, line 23, reset in roman "(5)".

Page 2, line 23, delete "(7)".

Page 2, line 24, reset in roman "(6)".

Page 2, line 24, delete "(8)".

Page 4, after line 26, begin a new paragraph and insert:

"(p) A prosecution for an offense described in subsection (e) that would otherwise be barred under this section may be commenced not later than five (5) years after the earliest of the date on which:

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

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



(3) a person confesses to the offense."

and when so amended that said bill do pass.

(Reference is to SB 109 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 109 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 34-11-2-4, AS AMENDED BY P.L.44-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. (a) An action for:

- (1) injury to person or character;
- (2) injury to personal property; or
- (3) a forfeiture of penalty given by statute;

must be commenced within two (2) years after the cause of action accrues.

(b) An action for injury to a person that results from the sexual abuse of a child ~~must may~~ be commenced ~~within the later of:~~

- ~~(1) seven (7) years after the cause of action accrues; or~~
- ~~(2) four (4) years after the person ceases to be a dependent of the person alleged to have performed the sexual abuse: at any time.~~

(c) An action for injury to a person that resulted from the sexual abuse of a child that was time barred before July 1, 2020, is hereby revived. An action described in this subsection is revived even if:

- (1) no action was filed; or**
- (2) an action was filed and dismissed by a court due to the expiration of a statute of limitations.**

However, an action under this subsection may only be commenced before the date the alleged injured person reaches thirty-one (31) years of age.

(d) The evidence required for criminal prosecution under IC 35-41-4-2(b) is not required to revive a civil action under subsection (c)."

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Renumber all SECTIONS consecutively.

(Reference is to SB 109 as printed January 24, 2020.)

FREEMAN

SENATE MOTION

Madam President: I move that Engrossed Senate Bill 109, which is eligible for third reading, be returned to second reading for purposes of amendment.

CRIDER

SENATE MOTION

Madam President: I move that Senate Bill 109 be amended to read as follows:

Page 2, delete lines 3 through 5.

Page 2, line 8, delete "(c)." and insert "**(c), so long as the injured person is less than thirty-one (31) years of age.**

(e) If the injured person is thirty-one (31) years of age or older, an action under subsection (c) may only be revived if:

(1) the cause of action is brought against the alleged perpetrator; and

(2) one of the following occurs:

(A) Evidence is discovered through DNA (deoxyribonucleic acid) analysis sufficient to support the action.

(B) A recording (as defined in IC 35-31.5-2-273) is discovered which supports the action.

(C) A person confesses to the sexual abuse."

(Reference is to SB 109 as reprinted January 28, 2020.)

FREEMAN

