



February 21, 2020

ENGROSSED SENATE BILL No. 109

DIGEST OF SB 109 (Updated February 19, 2020 3:00 pm - DI 131)

Citations Affected: IC 5-2; 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. Permits the alleged victim of certain child sex crimes to apply for victim compensation not later than five years after: (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.

Effective: July 1, 2020.

**Crider, Houchin, Ford Jon,
Freeman, Randolph Lonnie M,
Sandlin, Young M, Buck, Bohacek,
Merritt, Stoops**
(HOUSE SPONSORS — STEUERWALD, CHERRY, VANNATTER,
ENGLEMAN)

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.

January 31, 2020, re-engrossed.

February 3, 2020, read third time, passed. Yeas 44, nays 2.

HOUSE ACTION

February 10, 2020, read first time and referred to Committee on Courts and Criminal Code.

February 20, 2020, amended, reported — Do Pass.

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February 21, 2020

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.

ENGROSSED 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 5-2-6.1-16, AS AMENDED BY P.L.65-2016,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 16. (a) A person eligible for assistance under
4 section 12 of this chapter may file an application for assistance with the
5 division if the violent crime was committed in Indiana.
6 (b) Except as provided in ~~subsection (e)~~, **subsections (e) and (f)**, the
7 application must be received by the division not more than one hundred
8 eighty (180) days after the date the crime was committed. The division
9 may grant an extension of time for good cause shown by the claimant.
10 However, and except as provided in ~~subsection (e)~~, **subsections (e) and**
11 **(f)**, the division may not accept an application that is received more
12 than two (2) years after the date the crime was committed.
13 (c) The application must be filed in the office of the division in
14 person, through the division's Internet web site, or by first class or
15 certified mail. If requested, the division shall assist a victim in
16 preparing the application.
17 (d) The division shall accept all applications filed in compliance

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1 with this chapter. Upon receipt of a complete application, the division
2 shall promptly begin the investigation and processing of an application.

3 (e) An alleged victim of a child sex crime may submit an application
4 to the division until the victim becomes thirty-one (31) years of age **or**
5 **in accordance with subsection (f).**

6 **(f) An alleged victim of a child sex crime described in**
7 **IC 35-41-4-2(e) which meets the requirements of IC 35-41-4-2(p)**
8 **may submit an application to the division not later than five (5)**
9 **years after the earliest of the date on which:**

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

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

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

17 **(f)(g)** An alleged victim of a battery offense included in IC 35-42-2
18 upon a child less than fourteen (14) years of age may submit a
19 application to the division not later than five (5) years after the
20 commission of the offense.

21 SECTION 2. IC 35-41-4-2, AS AMENDED BY P.L.211-2019,
22 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2020]: Sec. 2. (a) Except as otherwise provided in this section,
24 a prosecution for an offense is barred unless it is commenced:

25 (1) within five (5) years after the commission of the offense, in
26 the case of a Class B, Class C, or Class D felony (for a crime
27 committed before July 1, 2014) or a Level 3, Level 4, Level 5, or
28 Level 6 felony (for a crime committed after June 30, 2014); or

29 (2) within two (2) years after the commission of the offense, in the
30 case of a misdemeanor.

31 (b) A prosecution for a Class B or Class C felony (for a crime
32 committed before July 1, 2014) or a Level 3, Level 4, or Level 5 felony
33 (for a crime committed after June 30, 2014) that would otherwise be
34 barred under this section may be commenced within one (1) year after
35 the earlier of the date on which the state:

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

38 (2) could have discovered evidence sufficient to charge the
39 offender with the offense through DNA (deoxyribonucleic acid)
40 analysis by the exercise of due diligence.

41 (c) Except as provided in subsection (e), a prosecution for a Class
42 A felony (for a crime committed before July 1, 2014) or a Level 1



1 felony or Level 2 felony (for a crime committed after June 30, 2014)
2 may be commenced at any time.

3 (d) A prosecution for murder may be commenced:

4 (1) at any time; and

5 (2) regardless of the amount of time that passes between:

6 (A) the date a person allegedly commits the elements of
7 murder; and

8 (B) the date the alleged victim of the murder dies.

9 (e) **Except as provided in subsection (p)**, a prosecution for the
10 following offenses is barred unless commenced before the date that the
11 alleged victim of the offense reaches thirty-one (31) years of age:

12 (1) IC 35-42-4-3 (Child molesting).

13 (2) IC 35-42-4-5 (Vicarious sexual gratification).

14 (3) IC 35-42-4-6 (Child solicitation).

15 (4) IC 35-42-4-7 (Child seduction).

16 (5) IC 35-42-4-9 (Sexual misconduct with a minor).

17 (6) IC 35-46-1-3 (Incest).

18 (f) A prosecution for forgery of an instrument for payment of
19 money, or for the uttering of a forged instrument, under IC 35-43-5-2,
20 is barred unless it is commenced within five (5) years after the maturity
21 of the instrument.

22 (g) If a complaint, indictment, or information is dismissed because
23 of an error, defect, insufficiency, or irregularity, a new prosecution may
24 be commenced within ninety (90) days after the dismissal even if the
25 period of limitation has expired at the time of dismissal, or will expire
26 within ninety (90) days after the dismissal.

27 (h) The period within which a prosecution must be commenced does
28 not include any period in which:

29 (1) the accused person is not usually and publicly resident in
30 Indiana or so conceals himself or herself that process cannot be
31 served;

32 (2) the accused person conceals evidence of the offense, and
33 evidence sufficient to charge the person with that offense is
34 unknown to the prosecuting authority and could not have been
35 discovered by that authority by exercise of due diligence; or

36 (3) the accused person is a person elected or appointed to office
37 under statute or constitution, if the offense charged is theft or
38 conversion of public funds or bribery while in public office.

39 (i) For purposes of tolling the period of limitation only, a
40 prosecution is considered commenced on the earliest of these dates:

41 (1) The date of filing of an indictment, information, or complaint
42 before a court having jurisdiction.



- 1 (2) The date of issuance of a valid arrest warrant.
 2 (3) The date of arrest of the accused person by a law enforcement
 3 officer without a warrant, if the officer has authority to make the
 4 arrest.
- 5 (j) A prosecution is considered timely commenced for any offense
 6 to which the defendant enters a plea of guilty, notwithstanding that the
 7 period of limitation has expired.
- 8 (k) The following apply to the specified offenses:
 9 (1) A prosecution for an offense under IC 30-2-9-7(b) (misuse of
 10 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 30-2-9).
 13 (2) A prosecution for an offense under IC 30-2-10-9(b) (misuse
 14 of funeral trust funds) is barred unless commenced within five (5)
 15 years after the date of death of the settlor (as described in
 16 IC 30-2-10).
 17 (3) A prosecution for an offense under IC 30-2-13-38(f) (misuse
 18 of funeral trust or escrow account funds) is barred unless
 19 commenced within five (5) years after the date of death of the
 20 purchaser (as defined in IC 30-2-13-9).
- 21 (l) A prosecution for an offense under IC 23-2-6, IC 23-2.5,
 22 IC 23-14-48-9, or IC 23-19 is barred unless commenced within five (5)
 23 years after the earlier of the date on which the state:
 24 (1) first discovers evidence sufficient to charge the offender with
 25 the offense; or
 26 (2) could have discovered evidence sufficient to charge the
 27 offender with the offense by the exercise of due diligence.
- 28 (m) A prosecution for a sex offense listed in IC 11-8-8-4.5 that is
 29 committed against a child and that is not:
 30 (1) a Class A felony (for a crime committed before July 1, 2014)
 31 or a Level 1 felony or Level 2 felony (for a crime committed after
 32 June 30, 2014); or
 33 (2) listed in subsection (e);
 34 is barred unless commenced within ten (10) years after the commission
 35 of the offense, or within four (4) years after the person ceases to be a
 36 dependent of the person alleged to have committed the offense,
 37 whichever occurs later.
- 38 (n) A prosecution for rape (IC 35-42-4-1) as a Class B felony (for a
 39 crime committed before July 1, 2014) or as a Level 3 felony (for a
 40 crime committed after June 30, 2014) that would otherwise be barred
 41 under this section may be commenced not later than five (5) years after
 42 the earlier of the date on which:



- 1 (1) the state first discovers evidence sufficient to charge the
2 offender with the offense through DNA (deoxyribonucleic acid)
3 analysis;
4 (2) the state first becomes aware of the existence of a recording
5 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
6 to charge the offender with the offense; or
7 (3) a person confesses to the offense.
- 8 (o) A prosecution for criminal deviate conduct (IC 35-42-4-2)
9 (repealed) as a Class B felony for a crime committed before July 1,
10 2014, that would otherwise be barred under this section may be
11 commenced not later than five (5) years after the earliest of the date on
12 which:
- 13 (1) the state first discovers evidence sufficient to charge the
14 offender with the offense through DNA (deoxyribonucleic acid)
15 analysis;
16 (2) the state first becomes aware of the existence of a recording
17 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
18 to charge the offender with the offense; or
19 (3) a person confesses to the offense.
- 20 **(p) A prosecution for an offense described in subsection (e) that**
21 **would otherwise be barred under this section may be commenced**
22 **not later than five (5) years after the earliest of the date on which:**
23 **(1) the state first discovers evidence sufficient to charge the**
24 **offender with the offense through DNA (deoxyribonucleic**
25 **acid) analysis;**
26 **(2) the state first becomes aware of the existence of a**
27 **recording (as defined in IC 35-31.5-2-273) that provides**
28 **evidence sufficient to charge the offender with the offense; or**
29 **(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

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 109, has had the same under

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consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 5-2-6.1-16, AS AMENDED BY P.L.65-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 16. (a) A person eligible for assistance under section 12 of this chapter may file an application for assistance with the division if the violent crime was committed in Indiana.

(b) Except as provided in ~~subsection (e)~~, **subsections (e) and (f)**, the application must be received by the division not more than one hundred eighty (180) days after the date the crime was committed. The division may grant an extension of time for good cause shown by the claimant. However, and except as provided in ~~subsection (e)~~, **subsections (e) and (f)**, the division may not accept an application that is received more than two (2) years after the date the crime was committed.

(c) The application must be filed in the office of the division in person, through the division's Internet web site, or by first class or certified mail. If requested, the division shall assist a victim in preparing the application.

(d) The division shall accept all applications filed in compliance with this chapter. Upon receipt of a complete application, the division shall promptly begin the investigation and processing of an application.

(e) An alleged victim of a child sex crime may submit an application to the division until the victim becomes thirty-one (31) years of age **or in accordance with subsection (f)**.

(f) An alleged victim of a child sex crime described in IC 35-41-4-2(e) which meets the requirements of IC 35-41-4-2(p) may submit an application to the division 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.**

~~(g)~~ **(g)** An alleged victim of a battery offense included in IC 35-42-2 upon a child less than fourteen (14) years of age may submit an application to the division not later than five (5) years after the commission of the offense."

Page 2, delete lines 1 through 16.

Renumber all SECTIONS consecutively.

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and when so amended that said bill do pass.

(Reference is to SB 109 as reprinted January 31, 2020.)

MCNAMARA

Committee Vote: yeas 10, nays 0.

