

HOUSE BILL NO. 109

INTRODUCED BY M. DUNWELL

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 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATUTE OF LIMITATIONS FOR SEX OFFENSES;  
 5 EXTENDING THE STATUTE OF LIMITATIONS FOR SEX OFFENSES INVOLVING VICTIMS WHO ARE  
 6 ADULTS; ELIMINATING THE STATUTE OF LIMITATIONS FOR SEX OFFENSES INVOLVING VICTIMS WHO  
 7 ARE CHILDREN; AMENDING SECTION 45-1-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
 8 AND APPLICABILITY DATES."

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 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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 12 **Section 1.** Section 45-1-205, MCA, is amended to read:

13 **"45-1-205. General time limitations.** (1) (a) A prosecution for deliberate, mitigated, or negligent  
 14 homicide may be commenced at any time.

15 (b) Except as provided in subsection (9), a prosecution for a felony offense under 45-5-502, 45-5-503,  
 16 45-5-504, ~~45-5-507(4) or (5);~~ 45-5-507, 45-5-508, 45-5-602, 45-5-603, 45-5-625, or 45-5-627, 45-5-704, or  
 17 45-5-705 may be commenced within 10 years after it is committed, except that it may be commenced ~~within 20~~  
 18 ~~years after the victim reaches 18 years of age~~ at any time if the victim was less than 18 years of age at the time  
 19 that the offense occurred. A prosecution for a misdemeanor offense under those provisions may be commenced  
 20 within 1 year after the offense is committed, except that it may be commenced ~~within 5 years after the victim~~  
 21 ~~reaches 18 years of age~~ at any time if the victim was less than 18 years of age at the time that the offense  
 22 occurred.

23 ~~(c) Except as provided in subsection (9), a prosecution under 45-5-507(1), (2), (3), or (6) may be~~  
 24 ~~commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age~~  
 25 ~~at the time that the offense occurred.~~

26 (2) Except as provided in subsection (7)(b) or as otherwise provided by law, prosecutions for other  
 27 offenses are subject to the following periods of limitation:

- 28 (a) A prosecution for a felony must be commenced within 5 years after it is committed.
- 29 (b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.
- 30 (3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach

1 of fiduciary obligation to an aggrieved person as follows:

2 (a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1  
3 year after the termination of the minority or incompetency;

4 (b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by  
5 a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and  
6 is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer  
7 becomes aware of the offense.

8 (4) The period prescribed in subsection (2) must be extended in a prosecution for unlawful use of a  
9 computer, and prosecution must be brought within 1 year after the discovery of the offense by the aggrieved  
10 person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the  
11 offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the  
12 prosecuting officer becomes aware of the offense.

13 (5) The period prescribed in subsection (2) is extended in a prosecution for misdemeanor fish and wildlife  
14 violations under Title 87, and prosecution must be brought within 3 years after an offense is committed.

15 (6) The period prescribed in subsection (2)(b) is extended in a prosecution for misdemeanor violations  
16 of the laws regulating the activities of outfitters and guides under Title 37, chapter 47, and prosecution must be  
17 brought within 3 years after an offense is committed.

18 (7) (a) An offense is committed either when every element occurs or, when the offense is based upon  
19 a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the  
20 day after the offense is committed.

21 (b) A prosecution for theft under 45-6-301 may be commenced at any time during the 5 years following  
22 the date of the theft, whether or not the offender is in possession of or otherwise exerting unauthorized control  
23 over the property at the time the prosecution is commenced. After the 5-year period ends, a prosecution may be  
24 commenced at any time if the offender is still in possession of or otherwise exerting unauthorized control over  
25 the property, except that the prosecution must be commenced within 1 year after the investigating officer  
26 discovers that the offender still possesses or is otherwise exerting unauthorized control over the property.

27 (8) A prosecution is commenced either when an indictment is found or an information or complaint is  
28 filed.

29 (9) If a suspect is conclusively identified by DNA testing after a time period prescribed in subsection  
30 (1)(b) or ~~(1)(c)~~ has expired, a prosecution may be commenced within 1 year after the suspect is conclusively

1 identified by DNA testing.

2 (10) A prosecution for reckless driving resulting in death may be commenced within 3 years after the  
3 offense is committed.

4 (11) A prosecution of careless driving resulting in death may be commenced within 3 years after the  
5 offense is committed."

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7 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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9 NEW SECTION. **Section 3. Applicability.** [This act] applies:

10 (1) to offenses committed on or after [the effective date of this act]; and

11 (2) to offenses committed before [the effective date of this act] and for which the statute of limitations  
12 has not expired on [the effective date of this act].

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