

HOUSE BILL NO. 701

INTRODUCED BY S. MORIGEAU

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CRIMINAL LAWS; EXTENDING THE CRIMINAL STATUTE OF LIMITATIONS FOR CERTAIN SEX OFFENSES; INCREASING THE FINE FOR THE OFFENSE OF AGGRAVATED SEXUAL INTERCOURSE WITHOUT CONSENT; AMENDING SECTIONS 45-1-205 AND 45-5-508, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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

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

(b) Except as provided in subsection (9), a prosecution for a felony offense under 45-5-502, 45-5-503, 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 45-5-705 may be commenced within 10 years after it is committed, except that it may be commenced within 20 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred. A prosecution for a misdemeanor offense under those provisions may be commenced within 1 year after the offense is committed, except that it may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.

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

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

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:



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

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

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

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

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

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

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

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

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

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

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

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6 **Section 2.** Section 45-5-508, MCA, is amended to read:

7 **"45-5-508. Aggravated sexual intercourse without consent.** (1) A person who uses force while  
8 knowingly having sexual intercourse with another person without consent or with another person who is incapable  
9 of consent commits the offense of aggravated sexual intercourse without consent.

10 (2) A person convicted of aggravated sexual intercourse without consent shall be punished by life  
11 imprisonment or by imprisonment in the state prison for a term of not less than 10 years or more than 100 years  
12 and may be fined not more than ~~\$50,000~~ \$75,000, except as provided in 46-18-219 and 46-18-222."

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14 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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16 NEW SECTION. **Section 4. Applicability.** (1) [Section 1] applies:

- 17 (a) to offenses committed on or after [the effective date of this act]; and
- 18 (b) to offenses committed before [the effective date of this act] and for which the statute of limitations has
- 19 not expired on [the effective date of this act].

20 (2) [Section 2] applies to offenses committed on or after [the effective date of this act].

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