

SENATE BILL No. 167

By Senators Faust-Goudeau, Smith, Arpke, Francisco, King and Petersen

2-11

1 AN ACT concerning crimes, criminal procedure and punishment; relating
2 to the statute of limitations for rape prosecutions; amending K.S.A.
3 2012 Supp. 21-5107 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2012 Supp. 21-5107 is hereby amended to read as
7 follows: 21-5107.(a) A prosecution for *rape*, ***aggravated criminal sodomy***,
8 murder, terrorism or illegal use of weapons of mass destruction may be
9 commenced at any time.

10 (b) Except as provided in subsection (e), a prosecution for any crime
11 shall be commenced within 10 years after its commission if the victim is
12 the Kansas public employees retirement system.

13 (c) Except as provided in subsection (e), a prosecution for a sexually
14 violent ~~offense~~ *crime* as defined in K.S.A. 22-3717, and amendments
15 thereto;:

16 (1) *When the victim is 18 years of age or older shall be commenced*
17 ~~within the limitation of time provided by the law pertaining to such offense~~
18 ***10 years*** or one year from the date on which the identity of the suspect is
19 conclusively established by DNA testing, whichever is later; *or*

20 (2) *when the victim is under 18 years of age shall be commenced*
21 *within 10 years of the date the victim turns 18 years of age or one year*
22 *from the date on which the identity of the suspect is conclusively*
23 *established by DNA testing, whichever is later.*

24 (d) Except as provided by subsection (e), a prosecution for any crime,
25 as defined in K.S.A. 2012 Supp. 21-5102, and amendments thereto, not
26 governed by subsection (a), (b) or (c) shall be commenced within five
27 years after it is committed.

28 (e) The period within which a prosecution shall be commenced shall
29 not include any period in which:

30 (1) The accused is absent from the state;

31 (2) the accused is concealed within the state so that process cannot be
32 served upon the accused;

33 (3) the fact of the crime is concealed;

34 (4) a prosecution is pending against the defendant for the same
35 conduct, even if the indictment or information which commences the
36 prosecution is quashed or the proceedings thereon are set aside, or are

1 reversed on appeal;

2 (5) an administrative agency is restrained by court order from
3 investigating or otherwise proceeding on a matter before it as to any
4 criminal conduct defined as a violation of any of the provisions of article
5 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes
6 Annotated, and amendments thereto, which may be discovered as a result
7 thereof regardless of who obtains the order of restraint; or

8 (6) whether the fact of the crime is concealed by the active act or
9 conduct of the accused, there is substantially competent evidence to
10 believe two or more of the following factors are present:

11 (A) The victim was a child under 15 years of age at the time of the
12 crime;

13 (B) the victim was of such age or intelligence that the victim was
14 unable to determine that the acts constituted a crime;

15 (C) the victim was prevented by a parent or other legal authority from
16 making known to law enforcement authorities the fact of the crime
17 whether or not the parent or other legal authority is the accused; and

18 (D) there is substantially competent expert testimony indicating the
19 victim psychologically repressed such witness' memory of the fact of the
20 crime, and in the expert's professional opinion the recall of such memory is
21 accurate and free of undue manipulation, and substantial corroborating
22 evidence can be produced in support of the allegations contained in the
23 complaint or information but in no event may a prosecution be
24 commenced as provided in subsection (e)(6) later than the date the victim
25 turns 28 years of age. Corroborating evidence may include, but is not
26 limited to, evidence the defendant committed similar acts against other
27 persons or evidence of contemporaneous physical manifestations of the
28 crime.

29 (f) An offense is committed either when every element occurs, or, if a
30 legislative purpose to prohibit a continuing offense plainly appears, at the
31 time when the course of conduct or the defendant's complicity therein is
32 terminated. ~~Time starts to run on the day after the offense is committed~~
33 ~~except if the offense charged is a sexually violent crime as defined in~~
34 ~~K.S.A. 22-3717, and amendments thereto, and the victim was under 18~~
35 ~~years of age at the time of the offense, then time shall start to run on the~~
36 ~~day after the victim's 18th birthday.~~

37 (g) A prosecution is commenced when a complaint or information is
38 filed, or an indictment returned, and a warrant thereon is delivered to the
39 sheriff or other officer for execution. No such prosecution shall be deemed
40 to have been commenced if the warrant so issued is not executed without
41 unreasonable delay.

42 (h) As used in this section, "parent or other legal authority" shall
43 include, but not be limited to, natural and stepparents, grandparents, aunts,

1 uncles or siblings.

2 Sec. 2. K.S.A. 2012 Supp. 21-5107 is hereby repealed.

3 Sec. 3. This act shall take effect and be in force from and after its

4 publication in the statute book.