

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **Substitute for SB 307** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee amendments, as follows:

On page 1, following line 6, by inserting:

"Section 1. K.S.A. 2011 Supp. 21-5107 is hereby amended to read as follows: 21-5107. (a) A prosecution for murder, terrorism or illegal use of weapons of mass destruction may be commenced at any time.

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

(c) Except as provided in subsection (e), a prosecution for a sexually violent offense as defined in K.S.A. 22-3717, and amendments thereto, shall be commenced within the limitation of time provided by the law pertaining to such offense or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later.

(d) Except as provided by subsection (e), a prosecution for any crime, as defined in K.S.A. 2011 Supp. 21-5102, and amendments thereto, not governed by subsections (a), (b) or (c) shall be commenced within five years after it is committed.

(e) The period within which a prosecution shall be commenced shall not include

any period in which:

- (1) The accused is absent from the state;
- (2) the accused is concealed within the state so that process cannot be served upon the accused;
- (3) the fact of the crime is concealed;
- (4) a prosecution is pending against the defendant for the same conduct, even if the indictment or information which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal;
- (5) an administrative agency is restrained by court order from investigating or otherwise proceeding on a matter before it as to any criminal conduct defined as a violation of any of the provisions of article 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, which may be discovered as a result thereof regardless of who obtains the order of restraint; or
- (6) whether the fact of the crime is concealed by the active act or conduct of the accused, there is substantially competent evidence to believe two or more of the following factors are present:
  - (A) The victim was a child under 15 years of age at the time of the crime;
  - (B) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted a crime;
  - (C) the victim was prevented by a parent or other legal authority from making known to law enforcement authorities the fact of the crime whether or not the parent or

other legal authority is the accused; and

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

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

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

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

On page 2, by striking all in lines 9 through 19 and inserting:

"Sec. 3. K.S.A. 2011 Supp. 21-5909 is hereby amended to read as follows: 21-5909. (a) Intimidation of a witness or victim is preventing or dissuading, or attempting to prevent or dissuade, with an intent to vex, annoy, harm or injure in any way another person or an intent to thwart or interfere in any manner with the orderly administration of justice:

(1) Any witness or victim from attending or giving testimony at any civil or criminal trial, proceeding or inquiry authorized by law; or

(2) any witness, victim or person acting on behalf of a victim from:

(A) Making any report of the victimization of a victim to any law enforcement officer, prosecutor, probation officer, parole officer, correctional officer, community correctional services officer or judicial officer, the secretary of the department of social and rehabilitation services or any agent or representative of the secretary, or any person required to make a report pursuant to K.S.A. 2011 Supp. 38-2223, and amendments thereto;

(B) causing a complaint, indictment or information to be sought and prosecuted, or causing a violation of probation, parole or assignment to a community correctional services program to be reported and prosecuted, and assisting in its prosecution;

(C) causing a civil action to be filed and prosecuted and assisting in its

prosecution; or

(D) arresting or causing or seeking the arrest of any person in connection with the victimization of a victim.

(b) Aggravated intimidation of a witness or victim is intimidation of a witness or victim, as defined in subsection (a), when the:

(1) Act is accompanied by an expressed or implied threat of force or violence against a witness, victim or other person or the property of any witness, victim or other person;

(2) act is in furtherance of a conspiracy;

(3) the act is committed by a person who has been previously convicted of corruptly influencing a witness or has been convicted of a violation of this section or any federal or other state's statute which, if the act prosecuted was committed in this state, would be a violation of this section;

(4) witness or victim is under 18 years of age; or

(5) act is committed for pecuniary gain or for any other consideration by a person acting upon the request of another person.

(c) (1) Intimidation of a witness or victim is a class B person misdemeanor.

(2) Aggravated intimidation of a witness or victim is a severity level 6, person felony.";

On page 3, in line 40, after "(g)" by inserting "If the defendant, or defendant's attorney in consultation with the defendant, requests a delay and such delay is granted,

the delay shall be charged to the defendant regardless of the reasons for making the request, unless there is prosecutorial misconduct related to such delay.";

And by renumbering sections accordingly;

On page 4, in line 22, by striking "21-5109" and inserting "21-5107, 21-5109 and 21-5909";

On page 1, in the title, in line 2, following the first "to" by inserting "the statute of limitations for sexually violent crimes when the victim is a child;"; also in line 2, by striking "relating to" and inserting "intimidation of a witness;"; in line 4, by striking "21-5109" and inserting "21-5107, 21-5109 and 21-5909";

And your committee on conference recommends the adoption of this report.

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Conferees on part of House

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Conferees on part of Senate