

SENATE BILL No. 329

AN ACT concerning the revised Kansas juvenile justice code; relating to time limitations; orders relating to parents; amending K.S.A. 2013 Supp. 38-2303 and 38-2362 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2013 Supp. 38-2303 is hereby amended to read as follows: 38-2303. (a) Proceedings under this code involving acts committed by a juvenile which, if committed by an adult, would constitute a violation of ~~K.S.A. 21-3401 or 21-3402, prior to their repeal, or K.S.A. 2013 Supp. 21-5402 or 21-5403, and amendments thereto,~~ any of the following statutes may be commenced at any time: (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto; (2) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto; (3) murder as described in K.S.A. 21-3401, 21-3402 or 21-3439, prior to their repeal, or K.S.A. 2013 Supp. 21-5401, 21-5402 or 21-5403, and amendments thereto; (4) terrorism as defined in K.S.A. 21-3449, prior to its repeal, or K.S.A. 2013 Supp. 21-5421, and amendments thereto; or (5) illegal use of weapons of mass destruction as defined in K.S.A. 21-3450, prior to its repeal, or K.S.A. 2013 Supp. 21-5422, and amendments thereto.

(b) Except as provided by subsections ~~(d)~~(c) and ~~(f)~~(e), a proceeding under this code for any act committed by a juvenile which, if committed by an adult, would constitute a violation of any of the following statutes shall be commenced within five years after its commission if the victim is less than 16 years of age: (1) ~~Indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5506, and amendments thereto,~~ (2) ~~aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5506, and amendments thereto,~~ (3) Lewd and lascivious behavior as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2013 Supp. 21-5513, and amendments thereto; (4) ~~indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5508, and amendments thereto,~~ (5) ~~aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5508, and amendments thereto,~~ (6) sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2013 Supp. 21-5510, and amendments thereto; (7) (2) unlawful voluntary sexual relations as defined in K.S.A. 21-3522, prior to its repeal, or K.S.A. 2013 Supp. 21-5507, and amendments thereto; or (8) (3) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5604, and amendments thereto.

(c) Except as provided by subsections (d) and (f), a prosecution for rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto, or aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto, shall be commenced within five years after its commission.

(d) (1) Except as provided in subsection (f), a prosecution for any offense provided in subsection (b) or 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. *Except as provided in subsection (e), a proceeding under this code for any act committed by a juvenile which, if committed by an adult, would constitute a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto:*

(1) When the victim is 18 years of age or older shall be commenced within 10 years or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later; or

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

~~(2)~~(3) For the purposes of this subsection, “DNA” means deoxyribonucleic acid.

~~(e)~~(d) Except as provided by subsection ~~(f)~~(e), proceedings under this code not governed by subsections (a), (b); or (c) ~~or (d)~~ shall be com-

menced within two years after the act giving rise to the proceedings is committed.

~~(f)~~(e) The period within which the proceedings must be commenced shall not include any period in which:

- (1) The accused is absent from the state;
- (2) the accused is so concealed within the state that process cannot be served upon the accused;
- (3) the fact of the offense is concealed; or
- (4) whether or not the fact of the offense is concealed by the active act or conduct of the accused, there is substantial 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 offense; (B) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted an offense; (C) the victim was prevented by a parent or other legal authority from making known to law enforcement authorities the fact of the offense whether or not the parent or other legal authority is the accused; and (D) there is substantial competent expert testimony indicating the victim psychologically repressed such victim's memory of the fact of the offense, and in the expert's professional opinion the recall of such memory is accurate, 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 proceeding be commenced as provided in subsection ~~(f)~~(e)(4) later than the date the victim turns 28 years of age. Corroborating evidence may include, but is not limited to, evidence the alleged juvenile offender committed similar acts against other persons or evidence of contemporaneous physical manifestations of the offense. Parent or other legal authority shall include, but not be limited to, natural and stepparents, grandparents, aunts, uncles or siblings.

(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 alleged juvenile offender's complicity therein is terminated. Time starts to run on the day after the offense is committed.*

(g) *A proceeding under this code 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 proceeding shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.*

Sec. 2. K.S.A. 2013 Supp. 38-2362 is hereby amended to read as follows: 38-2362. (a) When sentencing a juvenile offender, the court may order a juvenile offender's parent to participate in *any evidence-based program designed to rehabilitate the juvenile, including, but not limited to: (1) Counseling, mediation sessions or an alcohol and drug evaluation and treatment program ordered as part of the juvenile offender's sentence under K.S.A. 2013 Supp. 38-2361, and amendments thereto, or to participate in*; or (2) parenting classes.

(1) Upon entering an order requiring a juvenile offender's parent to attend counseling sessions or mediation, the court shall give the parent notice of the order. The notice shall inform the parent of the parent's right to request a hearing within 14 days after entry of the order and the parent's right to employ an attorney to represent the parent at the hearing or, if the parent is financially unable to employ an attorney, the parent's right to request the court to appoint an attorney to represent the parent.

(2) If the parent does not request a hearing within 14 days after entry of the order, the order shall take effect at that time.

(3) If the parent requests a hearing, the court shall set the matter for hearing and, if requested, shall appoint an attorney to represent the parent. The expense and fees of the appointed attorney may be allowed and assessed as provided by K.S.A. 2013 Supp. 38-2306, and amendments thereto.

(b) In addition to any other orders provided for by this section, the parent of a juvenile offender may be held responsible for the costs of sanctions or the support of the juvenile offender as follows:

(1) The board of county commissioners of a county may provide by resolution that the parent of any juvenile offender placed under a house arrest program pursuant to subsection (a)(9) of K.S.A. 2013 Supp. 38-

2361, and amendments thereto, shall be required to pay to the county the cost of such house arrest program. The board of county commissioners shall prepare a sliding financial scale based on the ability of the parent to pay for such a program.

(2) If child support has been requested and a parent has a duty to support the juvenile offender, the court may order, and when custody is placed with the commissioner shall order, one or both parents to pay child support. The court shall determine, for each parent separately, whether the parent already is subject to an order to pay support for the juvenile. If the parent currently is not ordered to pay support for the juvenile and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 2013 Supp. 38-2319, and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to K.S.A. 2013 Supp. 23-3101 et seq., and amendments thereto, for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent ordered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A. 2013 Supp. 38-2321, and amendments thereto. The parent also shall be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed by law. Failure to provide this notice shall not affect the validity of the child support order.

Sec. 3. K.S.A. 2013 Supp. 38-2303 and 38-2362 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.