

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2252

By Representatives Finch, Victors, Ballard, Bridges, Claeys, Clayton, Dove, Finney, Hawkins, Houser, Houston, Menghini, Osterman, Peterson, Rooker, Rubin, Ruiz, Tietze, Waymaster, Whipple and Wolfe Moore

2-6

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**
8 **sodomy**, murder, terrorism or illegal use of weapons of mass destruction
9 may be 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 ten~~ **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

1 conduct, even if the indictment or information which commences the
2 prosecution is quashed or the proceedings thereon are set aside, or are
3 reversed on appeal;

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

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

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

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

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

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

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

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

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

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

5 Sec. 3. This act shall take effect and be in force from and after its
6 publication in the statute book.