



## 93RD GENERAL ASSEMBLY

### State of Illinois

#### 2003 and 2004

Introduced 02/09/04, by John J. Millner

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/3-6

from Ch. 38, par. 3-6

720 ILCS 5/3-7

from Ch. 38, par. 3-7

Amends the Criminal Code of 1961. Extends the statute of limitations for an offense based upon misconduct in office by a public officer or employee to no more than 6 (rather than 3) years beyond the expiration of the period otherwise applicable. Excludes from the period of limitations any period in which the defendant is a public employee and the offense charged is theft of public funds while in public employment.

LRB093 18853 RLC 44588 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Sections 3-6 and 3-7 as follows:

6 (720 ILCS 5/3-6) (from Ch. 38, par. 3-6)

7 Sec. 3-6. Extended limitations. The period within which a  
8 prosecution must be commenced under the provisions of Section  
9 3-5 or other applicable statute is extended under the following  
10 conditions:

11 (a) A prosecution for theft involving a breach of a  
12 fiduciary obligation to the aggrieved person may be commenced  
13 as follows:

14 (1) If the aggrieved person is a minor or a person  
15 under legal disability, then during the minority or legal  
16 disability or within one year after the termination  
17 thereof.

18 (2) In any other instance, within one year after the  
19 discovery of the offense by an aggrieved person, or by a  
20 person who has legal capacity to represent an aggrieved  
21 person or has a legal duty to report the offense, and is  
22 not himself or herself a party to the offense; or in the  
23 absence of such discovery, within one year after the proper  
24 prosecuting officer becomes aware of the offense. However,  
25 in no such case is the period of limitation so extended  
26 more than 3 years beyond the expiration of the period  
27 otherwise applicable.

28 (b) A prosecution for any offense based upon misconduct in  
29 office by a public officer or employee may be commenced within  
30 one year after discovery of the offense by a person having a  
31 legal duty to report such offense, or in the absence of such  
32 discovery, within one year after the proper prosecuting officer

1 becomes aware of the offense. However, in no such case is the  
2 period of limitation so extended more than 6 ~~3~~ years beyond the  
3 expiration of the period otherwise applicable.

4 (c) Except as otherwise provided in subsection (a) of  
5 Section 3-5 of this Code and subdivision (i) or (j) of this  
6 Section, a prosecution for any offense involving sexual conduct  
7 or sexual penetration, as defined in Section 12-12 of this  
8 Code, where the victim and defendant are family members, as  
9 defined in Section 12-12 of this Code, may be commenced within  
10 one year of the victim attaining the age of 18 years.

11 (d) A prosecution for child pornography, indecent  
12 solicitation of a child, soliciting for a juvenile prostitute,  
13 juvenile pimping or exploitation of a child may be commenced  
14 within one year of the victim attaining the age of 18 years.  
15 However, in no such case shall the time period for prosecution  
16 expire sooner than 3 years after the commission of the offense.  
17 When the victim is under 18 years of age, a prosecution for  
18 criminal sexual abuse may be commenced within one year of the  
19 victim attaining the age of 18 years. However, in no such case  
20 shall the time period for prosecution expire sooner than 3  
21 years after the commission of the offense.

22 (e) Except as otherwise provided in subdivision (j), a  
23 prosecution for any offense involving sexual conduct or sexual  
24 penetration, as defined in Section 12-12 of this Code, where  
25 the defendant was within a professional or fiduciary  
26 relationship or a purported professional or fiduciary  
27 relationship with the victim at the time of the commission of  
28 the offense may be commenced within one year after the  
29 discovery of the offense by the victim.

30 (f) A prosecution for any offense set forth in Section 44  
31 of the "Environmental Protection Act", approved June 29, 1970,  
32 as amended, may be commenced within 5 years after the discovery  
33 of such an offense by a person or agency having the legal duty  
34 to report the offense or in the absence of such discovery,  
35 within 5 years after the proper prosecuting officer becomes  
36 aware of the offense.

1 (g) (Blank).

2 (h) (Blank).

3 (i) Except as otherwise provided in subdivision (j), a  
4 prosecution for criminal sexual assault, aggravated criminal  
5 sexual assault, or aggravated criminal sexual abuse may be  
6 commenced within 10 years of the commission of the offense if  
7 the victim reported the offense to law enforcement authorities  
8 within 2 years after the commission of the offense.

9 Nothing in this subdivision (i) shall be construed to  
10 shorten a period within which a prosecution must be commenced  
11 under any other provision of this Section.

12 (j) When the victim is under 18 years of age at the time of  
13 the offense, a prosecution for criminal sexual assault,  
14 aggravated criminal sexual assault, predatory criminal sexual  
15 assault of a child, or aggravated criminal sexual abuse or a  
16 prosecution for failure of a person who is required to report  
17 an alleged or suspected commission of any of these offenses  
18 under the Abused and Neglected Child Reporting Act may be  
19 commenced within 20 years after the child victim attains 18  
20 years of age.

21 Nothing in this subdivision (j) shall be construed to  
22 shorten a period within which a prosecution must be commenced  
23 under any other provision of this Section.

24 (Source: P.A. 92-752, eff. 8-2-02; 92-801, eff. 8-16-02;  
25 93-356, eff. 7-24-03.)

26 (720 ILCS 5/3-7) (from Ch. 38, par. 3-7)

27 Sec. 3-7. Periods excluded from limitation.

28 The period within which a prosecution must be commenced  
29 does not include any period in which:

30 (a) The defendant is not usually and publicly resident  
31 within this State; or

32 (b) The defendant is a public officer or employee and the  
33 offense charged is theft of public funds while in public office  
34 or employment; or

35 (c) A prosecution is pending against the defendant for the

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

4 (d) A proceeding or an appeal from a proceeding relating to  
5 the quashing or enforcement of a Grand Jury subpoena issued in  
6 connection with an investigation of a violation of a criminal  
7 law of this State is pending. However, the period within which  
8 a prosecution must be commenced includes any period in which  
9 the State brings a proceeding or an appeal from a proceeding  
10 specified in this subsection (d); or

11 (e) A material witness is placed on active military duty or  
12 leave. In this subsection (e), "material witness" includes, but  
13 is not limited to, the arresting officer, occurrence witness,  
14 or the alleged victim of the offense.

15 (Source: P.A. 93-417, eff. 8-5-03.)