



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1161

Introduced 02/08/11, by Rep. Richard Morthland

SYNOPSIS AS INTRODUCED:

720 ILCS 5/3-5
720 ILCS 5/3-6

from Ch. 38, par. 3-5
from Ch. 38, par. 3-6

Amends the Criminal Code of 1961. Provides that when the victim is under 18 years of age at the time of the offense, a prosecution for criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual abuse, or felony criminal sexual abuse, or a prosecution for failure of a person who is required to report an alleged or suspected commission of any of these offenses under the Abused and Neglected Child Reporting Act may be commenced at any time.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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 3-5 and 3-6 as follows:

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

7 Sec. 3-5. General Limitations.

8 (a) A prosecution for: (1) first degree murder, attempt to
9 commit first degree murder, second degree murder, involuntary
10 manslaughter, reckless homicide, leaving the scene of a motor
11 vehicle accident involving death or personal injuries under
12 Section 11-401 of the Illinois Vehicle Code, failing to give
13 information and render aid under Section 11-403 of the Illinois
14 Vehicle Code, concealment of homicidal death, treason, arson,
15 aggravated arson, forgery, child pornography under paragraph
16 (1) of subsection (a) of Section 11-20.1, aggravated child
17 pornography under paragraph (1) of subsection (a) of Section
18 11-20.3, ~~or~~ (2) any offense involving sexual conduct or sexual
19 penetration, as defined by Section 12-12 of this Code in which
20 the DNA profile of the offender is obtained and entered into a
21 DNA database within 10 years after the commission of the
22 offense, or (3) criminal sexual assault, aggravated criminal
23 sexual assault, predatory criminal sexual assault of a child,

1 aggravated criminal sexual abuse, or felony criminal sexual
2 abuse, or a prosecution for failure of a person who is required
3 to report an alleged or suspected commission of any of these
4 offenses under the Abused and Neglected Child Reporting Act
5 when the victim of any of these offenses is under 18 years of
6 age at the time of the offense, may be commenced at any time.

7 Clause (2) of this subsection (a) applies if either: (i) the
8 victim reported the offense to law enforcement authorities
9 within 3 years after the commission of the offense unless a
10 longer period for reporting the offense to law enforcement
11 authorities is provided in Section 3-6 or (ii) the victim is
12 murdered during the course of the offense or within 2 years
13 after the commission of the offense.

14 (b) Unless the statute describing the offense provides
15 otherwise, or the period of limitation is extended by Section
16 3-6, a prosecution for any offense not designated in Subsection
17 (a) must be commenced within 3 years after the commission of
18 the offense if it is a felony, or within one year and 6 months
19 after its commission if it is a misdemeanor.

20 (Source: P.A. 95-899, eff. 1-1-09; 96-292, eff. 1-1-10.)

21 (720 ILCS 5/3-6) (from Ch. 38, par. 3-6)

22 Sec. 3-6. Extended limitations. The period within which a
23 prosecution must be commenced under the provisions of Section
24 3-5 or other applicable statute is extended under the following
25 conditions:

1 (a) A prosecution for theft involving a breach of a
2 fiduciary obligation to the aggrieved person may be commenced
3 as follows:

4 (1) If the aggrieved person is a minor or a person
5 under legal disability, then during the minority or legal
6 disability or within one year after the termination
7 thereof.

8 (2) In any other instance, within one year after the
9 discovery of the offense by an aggrieved person, or by a
10 person who has legal capacity to represent an aggrieved
11 person or has a legal duty to report the offense, and is
12 not himself or herself a party to the offense; or in the
13 absence of such discovery, within one year after the proper
14 prosecuting officer becomes aware of the offense. However,
15 in no such case is the period of limitation so extended
16 more than 3 years beyond the expiration of the period
17 otherwise applicable.

18 (b) A prosecution for any offense based upon misconduct in
19 office by a public officer or employee may be commenced within
20 one year after discovery of the offense by a person having a
21 legal duty to report such offense, or in the absence of such
22 discovery, within one year after the proper prosecuting officer
23 becomes aware of the offense. However, in no such case is the
24 period of limitation so extended more than 3 years beyond the
25 expiration of the period otherwise applicable.

26 (c) (Blank).

1 (d) A prosecution for child pornography, indecent
2 solicitation of a child, soliciting for a juvenile prostitute,
3 juvenile pimping or exploitation of a child may be commenced
4 within one year of the victim attaining the age of 18 years.
5 However, in no such case shall the time period for prosecution
6 expire sooner than 3 years after the commission of the offense.
7 When the victim is under 18 years of age, a prosecution for
8 criminal sexual abuse may be commenced within one year of the
9 victim attaining the age of 18 years. However, in no such case
10 shall the time period for prosecution expire sooner than 3
11 years after the commission of the offense.

12 (e) Except as otherwise provided in subdivision (j), a
13 prosecution for any offense involving sexual conduct or sexual
14 penetration, as defined in Section 12-12 of this Code, where
15 the defendant was within a professional or fiduciary
16 relationship or a purported professional or fiduciary
17 relationship with the victim at the time of the commission of
18 the offense may be commenced within one year after the
19 discovery of the offense by the victim.

20 (f) A prosecution for any offense set forth in Section 44
21 of the "Environmental Protection Act", approved June 29, 1970,
22 as amended, may be commenced within 5 years after the discovery
23 of such an offense by a person or agency having the legal duty
24 to report the offense or in the absence of such discovery,
25 within 5 years after the proper prosecuting officer becomes
26 aware of the offense.

1 (f-5) A prosecution for any offense set forth in Section
2 16G-15 or 16G-20 of this Code may be commenced within 5 years
3 after the discovery of the offense by the victim of that
4 offense.

5 (g) (Blank).

6 (h) (Blank).

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

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

16 ~~(j) When the victim is under 18 years of age at the time of~~
17 ~~the offense, a prosecution for criminal sexual assault,~~
18 ~~aggravated criminal sexual assault, predatory criminal sexual~~
19 ~~assault of a child, aggravated criminal sexual abuse, or felony~~
20 ~~criminal sexual abuse, or a prosecution for failure of a person~~
21 ~~who is required to report an alleged or suspected commission of~~
22 ~~any of these offenses under the Abused and Neglected Child~~
23 ~~Reporting Act may be commenced within 20 years after the child~~
24 ~~victim attains 18 years of age.~~ When the victim is under 18
25 years of age at the time of the offense, a prosecution for
26 misdemeanor criminal sexual abuse may be commenced within 10

1 years after the child victim attains 18 years of age.

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

5 (k) A prosecution for theft involving real property
6 exceeding \$100,000 in value under Section 16-1, identity theft
7 under Section 16G-15, aggravated identity theft under Section
8 16G-20, or any offense set forth in Article 16H may be
9 commenced within 7 years of the last act committed in
10 furtherance of the crime.

11 (Source: P.A. 95-548, eff. 8-30-07; 96-233, eff. 1-1-10.)