



January 14, 2000

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## SENATE BILL No. 7

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DIGEST OF SB0007 (Updated January 12, 2000 7:26 PM - DI 76)

**Citations Affected:** IC 35-41; noncode.

**Synopsis:** Murder prosecutions. Specifies that a prosecution for murder may be commenced at any time regardless of the amount of time that passes between: (1) the date a person allegedly commits the elements of murder; and (2) the date the alleged victim of the murder dies.

**Effective:** July 1, 2000.

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**Wyss, Meeks R, Meeks C, Alexa,  
Ford**

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November 16, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.  
January 13, 2000, reported favorably — Do Pass.

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SB 7—LS 6136/DI 69+



January 14, 2000

Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

## SENATE BILL No. 7



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 35-41-4-2 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) Except as
- 3 otherwise provided in this section, a prosecution for an offense is
- 4 barred unless it is commenced:
  - 5 (1) within five (5) years after the commission of a Class B, Class
  - 6 C, or Class D felony; or
  - 7 (2) within two (2) years after the commission of a misdemeanor.
- 8 (b) A prosecution for ~~murder or~~ a Class A felony may be
- 9 commenced at any time.
- 10 (c) **A prosecution for murder may be commenced:**
  - 11 (1) **at any time; and**
  - 12 (2) **regardless of the amount of time that passes between:**
    - 13 (A) **the date a person allegedly commits the elements of**
    - 14 **murder; and**
    - 15 (B) **the date the alleged victim of the murder dies.**
- 16 (d) A prosecution for the following offenses is barred unless
- 17 commenced before the date that the alleged victim of the offense

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1 reaches thirty-one (31) years of age:

- 2 (1) IC 35-42-4-3(a) (Child molesting).  
 3 (2) IC 35-42-4-5 (Vicarious sexual gratification).  
 4 (3) IC 35-42-4-6 (Child solicitation).  
 5 (4) IC 35-42-4-7 (Child seduction).  
 6 (5) IC 35-46-1-3 (Incest).

7 ~~(d)~~ (e) Notwithstanding subsection (c)(1), a prosecution for child  
 8 molesting under IC 35-42-4-3(c) or IC 35-42-4-3(d) where a person  
 9 who is at least sixteen (16) years of age allegedly commits the offense  
 10 against a child who is not more than two (2) years younger than the  
 11 older person, is barred unless commenced within five (5) years after the  
 12 commission of the offense.

13 ~~(e)~~ (f) A prosecution for forgery of an instrument for payment of  
 14 money, or for the uttering of a forged instrument, under IC 35-43-5-2,  
 15 is barred unless it is commenced within five (5) years after the maturity  
 16 of the instrument.

17 ~~(f)~~ (g) If a complaint, indictment, or information is dismissed  
 18 because of an error, defect, insufficiency, or irregularity, a new  
 19 prosecution may be commenced within ninety (90) days after the  
 20 dismissal even if the period of limitation has expired at the time of  
 21 dismissal, or will expire within ninety (90) days after the dismissal.

22 ~~(g)~~ (h) The period within which a prosecution must be commenced  
 23 does not include any period in which:

- 24 (1) the accused person is not usually and publicly resident in  
 25 Indiana or so conceals himself that process cannot be served on  
 26 him;  
 27 (2) the accused person conceals evidence of the offense, and  
 28 evidence sufficient to charge him with that offense is unknown to  
 29 the prosecuting authority and could not have been discovered by  
 30 that authority by exercise of due diligence; or  
 31 (3) the accused person is a person elected or appointed to office  
 32 under statute or constitution, if the offense charged is theft or  
 33 conversion of public funds or bribery while in public office.

34 ~~(h)~~ (i) For purposes of tolling the period of limitation only, a  
 35 prosecution is considered commenced on the earliest of these dates:

- 36 (1) The date of filing of an indictment, information, or complaint  
 37 before a court having jurisdiction.  
 38 (2) The date of issuance of a valid arrest warrant.  
 39 (3) The date of arrest of the accused person by a law enforcement  
 40 officer without a warrant, if the officer has authority to make the  
 41 arrest.

42 ~~(i)~~ (j) A prosecution is considered timely commenced for any

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1 offense to which the defendant enters a plea of guilty, notwithstanding  
2 that the period of limitation has expired.

3 SECTION 2. [EFFECTIVE JULY 1, 2000] **IC 35-41-4-2, as**  
4 **amended by this act, only applies to offenses committed after June**  
5 **30, 2000.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 7, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 7 as introduced.)

MEEKS R, Chairperson

Committee Vote: Yeas 10, Nays 0.

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