

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred Senate Bill No. 106, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

1 Page 181, between lines 21 and 22, begin a new paragraph and
2 insert:

3 "SECTION 156. IC 34-24-1-9, AS ADDED BY P.L.174-1999,
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2004]: Sec. 9. (a) Upon motion of a prosecuting attorney
6 under ~~IC 35-33-5-5(i)~~, IC 35-33-5-5(j), property seized under this
7 chapter must be transferred, subject to the perfected liens or other
8 security interests of any person in the property, to the appropriate
9 federal authority for disposition under 18 U.S.C. 981(e), 19 U.S.C.
10 1616a, or 21 U.S.C. 881(e) and any related regulations adopted by the
11 United States Department of Justice.

12 (b) Money received by a law enforcement agency as a result of a
13 forfeiture under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C.
14 881(e) and any related regulations adopted by the United States
15 Department of Justice must be deposited into a nonreverting fund and
16 may be expended only with the approval of:

- 17 (1) the executive (as defined in IC 36-1-2-5), if the money is
18 received by a local law enforcement agency; or
19 (2) the governor, if the money is received by a law enforcement

1 agency in the executive branch.
2 The money received under this subsection must be used solely for the
3 benefit of any agency directly participating in the seizure or forfeiture
4 for purposes consistent with federal laws and regulations."

5 Page 182, between lines 41 and 42, begin a new paragraph and
6 insert:

7 "SECTION 164. IC 35-41-4-2, AS AMENDED BY P.L.1-2002,
8 SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: Sec. 2. (a) Except as otherwise provided in this
10 section, a prosecution for an offense is barred unless it is commenced:

- 11 (1) within five (5) years after the commission **of the offense, in**
12 **the case** of a Class B, Class C, or Class D felony; or
- 13 (2) within two (2) years after the commission **of the offense, in**
14 **the case** of a misdemeanor.

15 (b) A prosecution for a Class B or Class C felony that would
16 otherwise be barred under this section may be commenced within one
17 (1) year after the earlier of the date on which the state:

- 18 (1) first discovers the identity of the offender with DNA
19 (deoxyribonucleic acid) evidence; or
- 20 (2) could have discovered the identity of the offender with DNA
21 (deoxyribonucleic acid) evidence by the exercise of due diligence.

22 However, for a Class B or Class C felony in which the state first
23 discovered the identity of an offender with DNA (deoxyribonucleic
24 acid) evidence after the time otherwise allowed for prosecution and
25 before July 1, 2001, the one (1) year period provided in this subsection
26 is extended to July 1, 2002.

27 (c) A prosecution for a Class A felony may be commenced at any
28 time.

29 (d) A prosecution for murder may be commenced:

- 30 (1) at any time; and
- 31 (2) regardless of the amount of time that passes between:
 - 32 (A) the date a person allegedly commits the elements of
 - 33 murder; and
 - 34 (B) the date the alleged victim of the murder dies.

35 (e) A prosecution for the following offenses is barred unless
36 commenced before the date that the alleged victim of the offense
37 reaches thirty-one (31) years of age:

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

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

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

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

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

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

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

- 35 (1) The date of filing of an indictment, information, or complaint
- 36 before a court having jurisdiction.
- 37 (2) The date of issuance of a valid arrest warrant.

1 (3) The date of arrest of the accused person by a law enforcement
2 officer without a warrant, if the officer has authority to make the
3 arrest.

4 ~~(k)~~ (j) A prosecution is considered timely commenced for any
5 offense to which the defendant enters a plea of guilty, notwithstanding
6 that the period of limitation has expired."

7 Page 196, between lines 20 and 21, begin a new paragraph and
8 insert:

9 "SECTION 176. [EFFECTIVE UPON PASSAGE] **The amendment**
10 **of IC 35-41-4-2(f) by this act does not apply to offenses committed**
11 **under IC 35-42-4-3(c) and IC 35-42-4-3(d) as those provisions**
12 **existed before the amendment of IC 35-42-4-3 by P.L.79-1994,**
13 **SECTION 12."**

14 Page 199, between lines 10 and 11, begin a new paragraph and
15 insert:

16 "SECTION 178. P.L.264-2003, SECTION 15, IS AMENDED TO
17 READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] SECTION 15.
18 (a) IC 6-1.1-10-16 (subject to SECTION ~~13~~ **14** of this act),
19 IC 6-1.1-10-21, and IC 14-33-7-4, all as amended by this act, apply
20 only to property taxes first due and payable after December 31, 2002."

21 Renumber all SECTIONS consecutively.
(Reference is to SB 106 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

Bray

Chairperson