

HOUSE BILL No. 1027

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-41-4-2.

Synopsis: Sex crime statute of limitations. Eliminates the statute of limitations for criminal actions involving certain sex crimes.

Effective: July 1, 2012.

Cheatham

January 9, 2012, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1027



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, AS AMENDED BY P.L.143-2009,
2 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 2. (a) Except as otherwise provided in this section,
4 a prosecution for an offense is barred unless it is commenced:
5 (1) within five (5) years after the commission of the offense, in
6 the case of a Class B, Class C, or Class D felony; or
7 (2) within two (2) years after the commission of the offense, in the
8 case of a misdemeanor.
9 (b) A prosecution for a Class B or Class C felony that would
10 otherwise be barred under this section may be commenced within one
11 (1) year after the earlier of the date on which the state:
12 (1) first discovers evidence sufficient to charge the offender with
13 the offense through DNA (deoxyribonucleic acid) analysis; or
14 (2) could have discovered evidence sufficient to charge the
15 offender with the offense through DNA (deoxyribonucleic acid)
16 analysis by the exercise of due diligence.
17 (c) A prosecution for a Class A felony may be commenced at any



- 1 time.
- 2 (d) A prosecution for murder may be commenced:
- 3 (1) at any time; and
- 4 (2) regardless of the amount of time that passes between:
- 5 (A) the date a person allegedly commits the elements of
- 6 murder; and
- 7 (B) the date the alleged victim of the murder dies.
- 8 (e) A prosecution for the following offenses is barred unless an
- 9 **offense under IC 35-42-4 or IC 35-46-1-3 may be** commenced before
- 10 **the date that the alleged victim of the offense reaches thirty-one (31)**
- 11 **years of age: at any time.**
- 12 (1) ~~IC 35-42-4-3(a) (Child molesting):~~
- 13 (2) ~~IC 35-42-4-5 (Vicarious sexual gratification):~~
- 14 (3) ~~IC 35-42-4-6 (Child solicitation):~~
- 15 (4) ~~IC 35-42-4-7 (Child seduction):~~
- 16 (5) ~~IC 35-46-1-3 (Incest):~~
- 17 (f) A prosecution for forgery of an instrument for payment of
- 18 money, or for the uttering of a forged instrument, under IC 35-43-5-2,
- 19 is barred unless it is commenced within five (5) years after the maturity
- 20 of the instrument.
- 21 (g) If a complaint, indictment, or information is dismissed because
- 22 of an error, defect, insufficiency, or irregularity, a new prosecution may
- 23 be commenced within ninety (90) days after the dismissal even if the
- 24 period of limitation has expired at the time of dismissal, or will expire
- 25 within ninety (90) days after the dismissal.
- 26 (h) The period within which a prosecution must be commenced does
- 27 not include any period in which:
- 28 (1) the accused person is not usually and publicly resident in
- 29 Indiana or so conceals himself or herself that process cannot be
- 30 served;
- 31 (2) the accused person conceals evidence of the offense, and
- 32 evidence sufficient to charge the person with that offense is
- 33 unknown to the prosecuting authority and could not have been
- 34 discovered by that authority by exercise of due diligence; or
- 35 (3) the accused person is a person elected or appointed to office
- 36 under statute or constitution, if the offense charged is theft or
- 37 conversion of public funds or bribery while in public office.
- 38 (i) For purposes of tolling the period of limitation only, a
- 39 prosecution is considered commenced on the earliest of these dates:
- 40 (1) The date of filing of an indictment, information, or complaint
- 41 before a court having jurisdiction.
- 42 (2) The date of issuance of a valid arrest warrant.

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- 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 (j) A prosecution is considered timely commenced for any offense
- 5 to which the defendant enters a plea of guilty, notwithstanding that the
- 6 period of limitation has expired.
- 7 (k) The following apply to the specified offenses:
- 8 (1) A prosecution for an offense under IC 30-2-9-7(b) (misuse of
- 9 funeral trust funds) is barred unless commenced within five (5)
- 10 years after the date of death of the settlor (as described in
- 11 IC 30-2-9).
- 12 (2) A prosecution for an offense under IC 30-2-10-9(b) (misuse
- 13 of funeral trust funds) is barred unless commenced within five (5)
- 14 years after the date of death of the settlor (as described in
- 15 IC 30-2-10).
- 16 (3) A prosecution for an offense under IC 30-2-13-38(f) (misuse
- 17 of funeral trust or escrow account funds) is barred unless
- 18 commenced within five (5) years after the date of death of the
- 19 purchaser (as defined in IC 30-2-13-9).
- 20 (l) A prosecution for an offense under IC 23-14-48-9 is barred
- 21 unless commenced within five (5) years after the earlier of the date on
- 22 which the state:
- 23 (1) first discovers evidence sufficient to charge the offender with
- 24 the offense; or
- 25 (2) could have discovered evidence sufficient to charge the
- 26 offender with the offense by the exercise of due diligence.

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