



January 23, 2004

SENATE BILL No. 122

DIGEST OF SB 122 (Updated January 22, 2004 11:04 am - DI nm)

Citations Affected: IC 35-41; noncode.

Synopsis: Statute of limitations for sex crimes. Extends, from five years to twenty years after the commission of the offense, the period within which a prosecution for rape or criminal deviant conduct as a Class B felony must be commenced. Applies only to crimes committed after June 30, 1999. Removes obsolete references to the child molesting statute.

Effective: July 1, 2004.

Zakas

January 6, 2004, read first time and referred to Committee on Rules and Legislative Procedure.
January 22, 2004, amended; reassigned to Committee on Criminal, Civil and Public Policy.

C
o
p
y

SB 122—LS 6076/DI 13+



January 23, 2004

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

C
O
P
Y

SENATE BILL No. 122



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.1-2002,
- 2 SECTION 149, IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Except as otherwise provided
- 4 in this section, a prosecution for an offense is barred unless it is
- 5 commenced:
- 6 (1) within five (5) years after the commission **of the offense, in**
- 7 **the case** of a Class B, Class C, or Class D felony; or
- 8 (2) within two (2) years after the commission **of the offense, in**
- 9 **the case** of a misdemeanor.
- 10 (b) **A prosecution for either of the following Class B felony sex**
- 11 **offenses is barred unless it is commenced within twenty (20) years**
- 12 **after the commission of the offense:**
- 13 (1) **IC 35-42-4-1(a) (rape).**
- 14 (2) **IC 35-42-4-2(a) (criminal deviate conduct).**
- 15 (c) 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:

SB 122—LS 6076/DI 13+



1 (1) first discovers the identity of the offender with DNA
 2 (deoxyribonucleic acid) evidence; or
 3 (2) could have discovered the identity of the offender with DNA
 4 (deoxyribonucleic acid) evidence by the exercise of due diligence.
 5 However, for a Class B or Class C felony in which the state first
 6 discovered the identity of an offender with DNA (deoxyribonucleic
 7 acid) evidence after the time otherwise allowed for prosecution and
 8 before July 1, 2001, the one (1) year period provided in this subsection
 9 is extended to July 1, 2002.

10 ~~(c)~~ (d) A prosecution for a Class A felony may be commenced at
 11 any time.

12 ~~(d)~~ (e) A prosecution for murder may be commenced:
 13 (1) at any time; and
 14 (2) regardless of the amount of time that passes between:
 15 (A) the date a person allegedly commits the elements of
 16 murder; and
 17 (B) the date the alleged victim of the murder dies.

18 ~~(e)~~ (f) A prosecution for the following offenses is barred unless
 19 commenced before the date that the alleged victim of the offense
 20 reaches thirty-one (31) years of age:
 21 (1) IC 35-42-4-3(a) (Child molesting).
 22 (2) IC 35-42-4-5 (Vicarious sexual gratification).
 23 (3) IC 35-42-4-6 (Child solicitation).
 24 (4) IC 35-42-4-7 (Child seduction).
 25 (5) IC 35-46-1-3 (Incest).

26 ~~(f)~~ Notwithstanding subsection ~~(e)~~(1), a prosecution for child
 27 molesting under IC 35-42-4-3(c) or IC 35-42-4-3(d) where a person
 28 who is at least sixteen (16) years of age allegedly commits the offense
 29 against a child who is not more than two (2) years younger than the
 30 older person; is barred unless commenced within five (5) years after the
 31 commission of the offense:

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

36 (h) If a complaint, indictment, or information is dismissed because
 37 of an error, defect, insufficiency, or irregularity, a new prosecution may
 38 be commenced within ninety (90) days after the dismissal even if the
 39 period of limitation has expired at the time of dismissal, or will expire
 40 within ninety (90) days after the dismissal.

41 (i) The period within which a prosecution must be commenced does
 42 not include any period in which:

C
O
P
Y



1 (1) the accused person is not usually and publicly resident in
 2 Indiana or so conceals himself **or herself** that process cannot be
 3 served on ~~him~~; **the person**;
 4 (2) the accused person conceals evidence of the offense, and
 5 evidence sufficient to charge him with that offense is unknown to
 6 the prosecuting authority and could not have been discovered by
 7 that authority by exercise of due diligence; or
 8 (3) the accused person is a person elected or appointed to office
 9 under statute or constitution, if the offense charged is theft or
 10 conversion of public funds or bribery while in public office.
 11 (j) For purposes of tolling the period of limitation only, a
 12 prosecution is considered commenced on the earliest of these dates:
 13 (1) The date of filing of an indictment, information, or complaint
 14 before a court having jurisdiction.
 15 (2) The date of issuance of a valid arrest warrant.
 16 (3) The date of arrest of the accused person by a law enforcement
 17 officer without a warrant, if the officer has authority to make the
 18 arrest.
 19 (k) A prosecution is considered timely commenced for any offense
 20 to which the defendant enters a plea of guilty, notwithstanding that the
 21 period of limitation has expired.
 22 SECTION 2. **IC 35-41-4-2, as amended by this act, only applies**
 23 **to crimes committed after June 30, 1999.**

C
o
p
y



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 122, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Criminal, Civil and Public Policy.

(Reference is to SB 122 as introduced.)

GARTON, Chairperson

C
O
P
Y

