

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:

1 Delete everything after the enacting clause and insert the following:

2

3 SECTION 1. IC 35-41-4-2, AS AMENDED BY P.L.1-2002,
4 SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2004]: Sec. 2. (a) Except as otherwise provided in this section,
6 a prosecution for an offense is barred unless it is commenced:

7 (1) within five (5) years after the commission **of the offense, in**
8 **the case** of a Class B, Class C, or Class D felony; or

9 (2) within two (2) years after the commission **of the offense, in**
10 **the case** of a misdemeanor.

11 (b) **A prosecution for either of the following Class B felony**
12 **sex offenses is barred unless it is commenced within twenty (20)**
13 **years after the commission of the offense:**

14 (1) **IC 35-42-4-1(a) (rape).**

15 (2) **IC 35-42-4-2(a) (criminal deviate conduct).**

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

19 (1) first discovers the identity of the offender with DNA
20 (deoxyribonucleic acid) evidence; or

21 (2) could have discovered the identity of the offender with DNA
22 (deoxyribonucleic acid) evidence by the exercise of due diligence.

23 However, for a Class B or Class C felony in which the state first
24 discovered the identity of an offender with DNA (deoxyribonucleic

1 acid) evidence after the time otherwise allowed for prosecution and
 2 before July 1, 2001, the one (1) year period provided in this subsection
 3 is extended to July 1, 2002.

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

6 ~~(d)~~ (e) A prosecution for murder may be commenced:

7 (1) at any time; and

8 (2) regardless of the amount of time that passes between:

9 (A) the date a person allegedly commits the elements of
 10 murder; and

11 (B) the date the alleged victim of the murder dies.

12 ~~(e)~~ (f) A prosecution for the following offenses is barred unless
 13 commenced before the date that the alleged victim of the offense
 14 reaches thirty-one (31) years of age:

15 (1) IC 35-42-4-3(a) (Child molesting).

16 (2) IC 35-42-4-5 (Vicarious sexual gratification).

17 (3) IC 35-42-4-6 (Child solicitation).

18 (4) IC 35-42-4-7 (Child seduction).

19 (5) IC 35-46-1-3 (Incest).

20 ~~(f) Notwithstanding subsection (c)(1); a prosecution for child~~
 21 ~~molesting under IC 35-42-4-3(c) or IC 35-42-4-3(d) where a person~~
 22 ~~who is at least sixteen (16) years of age allegedly commits the offense~~
 23 ~~against a child who is not more than two (2) years younger than the~~
 24 ~~older person; is barred unless commenced within five (5) years after the~~
 25 ~~commission of the offense.~~

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

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

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

37 (1) the accused person is not usually and publicly resident in
 38 Indiana or so conceals himself **or herself** that process cannot be
 39 served on ~~him; the person;~~

40 (2) the accused person conceals evidence of the offense, and
 41 evidence sufficient to charge him with that offense is unknown
 42 to the prosecuting authority and could not have been discovered
 43 by that authority by exercise of due diligence; or

44 (3) the accused person is a person elected or appointed to office
 45 under statute or constitution, if the offense charged is theft or
 46 conversion of public funds or bribery while in public office.

47 (j) For purposes of tolling the period of limitation only, a
 48 prosecution is considered commenced on the earliest of these dates:

49 (1) The date of filing of an indictment, information, or complaint

- 1 before a court having jurisdiction.
- 2 (2) The date of issuance of a valid arrest warrant.
- 3 (3) The date of arrest of the accused person by a law
- 4 enforcement officer without a warrant, if the officer has
- 5 authority to make the arrest.
- 6 (k) A prosecution is considered timely commenced for any offense
- 7 to which the defendant enters a plea of guilty, notwithstanding that the
- 8 period of limitation has expired.
- 9 **SECTION 2. IC 35-41-4-2, as amended by this act, only**
- 10 **applies to crimes committed after June 30, 1999.**
 (Reference is to SB 122 as introduced.)

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

GARTON Chairperson