

HOUSE BILL No. 1052

DIGEST OF INTRODUCED BILL

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

Synopsis: Statute of limitations for certain sex crimes. Allows the prosecution of Level 1 and Level 2 felony sex offenses to be commenced at any time. Makes conforming changes.

Effective: July 1, 2024.

Zimmerman

January 8, 2024, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1052

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.3-2023,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: 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 (for a crime
7 committed before July 1, 2014) or a Level 3, Level 4, Level 5, or
8 Level 6 felony (for a crime committed after June 30, 2014); or
9 (2) within two (2) years after the commission of the offense, in the
10 case of a misdemeanor.
11 (b) A prosecution for a Class B or Class C felony (for a crime
12 committed before July 1, 2014) or a Level 3, Level 4, or Level 5 felony
13 (for a crime committed after June 30, 2014) that would otherwise be
14 barred under this section may be commenced within one (1) year after
15 the earlier of the date on which the state:
16 (1) first discovers evidence sufficient to charge the offender with
17 the offense through DNA (deoxyribonucleic acid) analysis; or



- 1 (2) could have discovered evidence sufficient to charge the
 2 offender with the offense through DNA (deoxyribonucleic acid)
 3 analysis by the exercise of due diligence.
- 4 However, if the offense is a sex offense against a child described in
 5 subsection (m), a prosecution otherwise barred under this section may
 6 be prosecuted in accordance with subsection (p).
- 7 (c) ~~Except as provided in subsection (e)~~; A prosecution for a Class
 8 A felony (for a crime committed before July 1, 2014) or a Level 1
 9 felony or Level 2 felony (for a crime committed after June 30, 2014)
 10 may be commenced at any time.
- 11 (d) A prosecution for murder may be commenced:
- 12 (1) at any time; and
- 13 (2) regardless of the amount of time that passes between:
- 14 (A) the date a person allegedly commits the elements of
 15 murder; and
- 16 (B) the date the alleged victim of the murder dies.
- 17 (e) Except as provided in subsection (p), a prosecution for ~~the~~
 18 ~~following offenses a Class B or Class C felony (for a crime~~
 19 ~~committed before July 1, 2014) or a Level 3, Level 4, or Level 5~~
 20 ~~felony (for a crime committed after June 30, 2014)~~ is barred for the
 21 ~~following offenses~~ unless commenced before the date that the alleged
 22 victim of the offense reaches thirty-one (31) years of age:
- 23 (1) IC 35-42-4-3 (Child molesting).
 24 (2) IC 35-42-4-5 (Vicarious sexual gratification).
 25 (3) IC 35-42-4-6 (Child solicitation).
 26 (4) IC 35-42-4-7 (Child seduction).
 27 (5) IC 35-42-4-9 (Sexual misconduct with a minor).
 28 (6) IC 35-46-1-3 (Incest).
- 29 (f) A prosecution for forgery of an instrument for payment of
 30 money, or for the uttering of a forged instrument, under IC 35-43-5-2,
 31 is barred unless it is commenced within five (5) years after the maturity
 32 of the instrument.
- 33 (g) If a complaint, indictment, or information is dismissed because
 34 of an error, defect, insufficiency, or irregularity, a new prosecution may
 35 be commenced within ninety (90) days after the dismissal even if the
 36 period of limitation has expired at the time of dismissal, or will expire
 37 within ninety (90) days after the dismissal.
- 38 (h) The period within which a prosecution must be commenced does
 39 not include any period in which:
- 40 (1) the accused person is not usually and publicly resident in
 41 Indiana or so conceals himself or herself that process cannot be
 42 served;



1 (2) the accused person conceals evidence of the offense, and
2 evidence sufficient to charge the person with that offense is
3 unknown to the prosecuting authority and could not have been
4 discovered by that authority by exercise of due diligence; or
5 (3) the accused person is a person elected or appointed to office
6 under statute or constitution, if the offense charged is theft or
7 conversion of public funds or bribery while in public office.

8 (i) For purposes of tolling the period of limitation only, a
9 prosecution is considered commenced on the earliest of these dates:

10 (1) The date of filing of an indictment, information, or complaint
11 before a court having jurisdiction.

12 (2) The date of issuance of a valid arrest warrant.

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

16 (j) A prosecution is considered timely commenced for any offense
17 to which the defendant enters a plea of guilty, notwithstanding that the
18 period of limitation has expired.

19 (k) The following apply to the specified offenses:

20 (1) A prosecution for an offense under IC 30-2-9-7(b) (misuse of
21 funeral trust funds) is barred unless commenced within five (5)
22 years after the date of death of the settlor (as described in
23 IC 30-2-9).

24 (2) A prosecution for an offense under IC 30-2-10-9(b) (misuse
25 of funeral trust funds) is barred unless commenced within five (5)
26 years after the date of death of the settlor (as described in
27 IC 30-2-10).

28 (3) A prosecution for an offense under IC 30-2-13-38(f) (misuse
29 of funeral trust or escrow account funds) is barred unless
30 commenced within five (5) years after the date of death of the
31 purchaser (as defined in IC 30-2-13-9).

32 (l) A prosecution for an offense under IC 23-2-6, IC 23-2.5,
33 IC 23-14-48-9, or IC 23-19 is barred unless commenced within five (5)
34 years after the earlier of the date on which the state:

35 (1) first discovers evidence sufficient to charge the offender with
36 the offense; or

37 (2) could have discovered evidence sufficient to charge the
38 offender with the offense by the exercise of due diligence.

39 (m) Except as provided in subsection (p), a prosecution for a sex
40 offense listed in IC 11-8-8-4.5 that is committed against a child and
41 that is not:

42 (1) a Class A felony (for a crime committed before July 1, 2014)



1 or a Level 1 felony or Level 2 felony (for a crime committed after
2 June 30, 2014); or

3 (2) listed in subsection (e);

4 is barred unless commenced within ten (10) years after the commission
5 of the offense, or within four (4) years after the person ceases to be a
6 dependent of the person alleged to have committed the offense,
7 whichever occurs later.

8 (n) A prosecution for rape (IC 35-42-4-1) as a Class B felony (for a
9 crime committed before July 1, 2014) or as a Level 3 felony (for a
10 crime committed after June 30, 2014) that would otherwise be barred
11 under this section may be commenced not later than five (5) years after
12 the earlier of the date on which:

13 (1) the state first discovers evidence sufficient to charge the
14 offender with the offense through DNA (deoxyribonucleic acid)
15 analysis;

16 (2) the state first becomes aware of the existence of a recording
17 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
18 to charge the offender with the offense; or

19 (3) a person confesses to the offense.

20 (o) A prosecution for criminal deviate conduct (IC 35-42-4-2)
21 (repealed) as a Class B felony for a crime committed before July 1,
22 2014, that would otherwise be barred under this section may be
23 commenced not later than five (5) years after the earliest of the date on
24 which:

25 (1) the state first discovers evidence sufficient to charge the
26 offender with the offense through DNA (deoxyribonucleic acid)
27 analysis;

28 (2) the state first becomes aware of the existence of a recording
29 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
30 to charge the offender with the offense; or

31 (3) a person confesses to the offense.

32 (p) A prosecution for an offense described in subsection (e) or
33 ~~subsection (m)~~ that would otherwise be barred under this section may
34 be commenced not later than five (5) years after the earliest of the date
35 on which:

36 (1) the state first discovers evidence sufficient to charge the
37 offender with the offense through DNA (deoxyribonucleic acid)
38 analysis;

39 (2) the state first becomes aware of the existence of a recording
40 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
41 to charge the offender with the offense; or

42 (3) a person confesses to the offense.

