



Reprinted
March 24, 2015

ENGROSSED SENATE BILL No. 94

DIGEST OF SB 94 (Updated March 23, 2015 5:16 pm - DI 106)

Citations Affected: IC 35-41.

Synopsis: Statute of limitations for rape. Provides that a rape charge otherwise barred by the statute of limitations may be brought within five years of the time that: (1) the state first discovers DNA evidence sufficient to charge the offender; (2) the state first becomes aware of the existence of a recording that provides evidence sufficient to charge the offender; or (3) a person confesses to the offense.

Effective: July 1, 2015.

**Crider, Charbonneau, Steele,
Arnold J, Miller Patricia,
Young R Michael, Bassler, Eckerty,
Merritt**

(HOUSE SPONSORS — CHERRY, SMALTZ, HALE, OLTHOFF)

January 6, 2015, read first time and referred to Committee on Rules & Legislative Procedure.

January 14, 2015, amended; reassigned to Committee on Corrections & Criminal Law.

January 22, 2015, amended, reported favorably — Do Pass.

January 26, 2015, read second time, ordered engrossed. Engrossed.

January 27, 2015, read third time, passed. Yeas 49, nays 1.

HOUSE ACTION

March 2, 2015, read first time and referred to Committee on Courts and Criminal Code.

March 19, 2015, reported — Do Pass.

March 23, 2015, read second time, amended, ordered engrossed.

ES 94—LS 6184/DI 13



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First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 94

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.168-2014,
2 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: 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

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



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

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

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

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

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

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

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

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

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

25 (l) A prosecution for an offense under IC 23-14-48-9 is barred
26 unless commenced within five (5) years after the earlier of the date on
27 which the state:

28 (1) first discovers evidence sufficient to charge the offender with
29 the offense; or

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

32 (m) A prosecution for a sex offense listed in IC 11-8-8-4.5 that is
33 committed against a child and that is not:

34 (1) a Class A felony (for a crime committed before July 1, 2014)
35 or a Level 1 felony or Level 2 felony (for a crime committed after
36 June 30, 2014); or

37 (2) listed in subsection (e);

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

42 (n) A prosecution for rape (IC 35-42-4-1) as a Level 3 felony



1 that would otherwise be barred under this section may be
2 commenced not later than five (5) years after the earlier of the date
3 on which:
4 (1) the state first discovers evidence sufficient to charge the
5 offender with the offense through DNA (deoxyribonucleic
6 acid) analysis;
7 (2) the state first becomes aware of the existence of a
8 recording (as defined in IC 35-31.5-2-273) that provides
9 evidence sufficient to charge the offender with the offense; or
10 (3) a person confesses to the offense.



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 94, 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 Corrections & Criminal Law.

(Reference is to SB 94 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 94, 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:

Page 4, delete lines 8 through 11.

and when so amended that said bill do pass.

(Reference is to SB 94 as printed January 15, 2015.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 10, Nays 0.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 94, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 94 as printed January 23, 2015.)

WASHBURN

Committee Vote: Yeas 11, Nays 0

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 94 be amended to read as follows:

Page 4, line 6, delete "or".

Page 4, line 7, after "(2)" insert "**the state first becomes aware of the existence of a recording (as defined in IC 35-31.5-2-273) that provides evidence sufficient to charge the offender with the offense; or (3)**".

(Reference is to ESB 94 as printed March 20, 2015.)

HALE

