

# SENATE BILL No. 137

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Statute of limitations on rape. Eliminates the statute of limitations for rape. Makes conforming amendments.

**Effective:** July 1, 2016.

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## Mrvan

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January 5, 2016, read first time and referred to Committee on Corrections & Criminal Law.

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Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

# SENATE BILL No. 137

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.72-2015,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2016]: 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 (c) A prosecution for a Class A felony (for a crime committed  
5 before July 1, 2014) or a Level 1 felony or Level 2 felony (for a crime  
6 committed after June 30, 2014) may be commenced at any time.
- 7 **(d) A prosecution for rape (IC 35-42-4-1) may be commenced at**  
8 **any time.** 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) rape (IC 35-42-4-1); or**

38 ~~(2)~~ **(3)** listed in subsection (e);

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



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

7           (1) the state first discovers evidence sufficient to charge the  
8 offender with the offense through DNA (deoxyribonucleic acid)  
9 analysis;

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

13          (3) a person confesses to the offense.

