



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5112

by Rep. Keith R. Wheeler

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/3-5  
720 ILCS 5/3-6

from Ch. 38, par. 3-5  
from Ch. 38, par. 3-6

Amends the Criminal Code of 2012. Provides that a prosecution for criminal sexual assault, aggravated criminal sexual assault, or aggravated criminal sexual abuse may be commenced at any time (rather than within 10 years of the commission of the offense if the victim reported the offense to law enforcement authorities within 3 years after the commission of the offense). Makes conforming changes.

LRB100 17754 SLF 32930 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing  
5 Sections 3-5 and 3-6 as follows:

6 (720 ILCS 5/3-5) (from Ch. 38, par. 3-5)

7 Sec. 3-5. General limitations.

8 (a) A prosecution for: (1) first degree murder, attempt to  
9 commit first degree murder, second degree murder, involuntary  
10 manslaughter, reckless homicide, ~~or~~ a violation of  
11 subparagraph (F) of paragraph (1) of subsection (d) of Section  
12 11-501 of the Illinois Vehicle Code for the offense of  
13 aggravated driving under the influence of alcohol, other drug  
14 or drugs, or intoxicating compound or compounds, or any  
15 combination thereof when the violation was a proximate cause of  
16 a death, leaving the scene of a motor vehicle accident  
17 involving death or personal injuries under Section 11-401 of  
18 the Illinois Vehicle Code, failing to give information and  
19 render aid under Section 11-403 of the Illinois Vehicle Code,  
20 concealment of homicidal death, treason, arson, residential  
21 arson, aggravated arson, forgery, child pornography under  
22 paragraph (1) of subsection (a) of Section 11-20.1, or  
23 aggravated child pornography under paragraph (1) of subsection

1 (a) of Section 11-20.1B, or (2) any offense involving sexual  
2 conduct or sexual penetration, as defined by Section 11-0.1 of  
3 this Code ~~in which the DNA profile of the offender is obtained~~  
4 ~~and entered into a DNA database within 10 years after the~~  
5 ~~commission of the offense,~~ may be commenced at any time. ~~Clause~~  
6 ~~(2) of this subsection (a) applies if either: (i) the victim~~  
7 ~~reported the offense to law enforcement authorities within 3~~  
8 ~~years after the commission of the offense unless a longer~~  
9 ~~period for reporting the offense to law enforcement authorities~~  
10 ~~is provided in Section 3-6 or (ii) the victim is murdered~~  
11 ~~during the course of the offense or within 2 years after the~~  
12 ~~commission of the offense.~~

13 (a-5) A prosecution for theft of property exceeding  
14 \$100,000 in value under Section 16-1, identity theft under  
15 subsection (a) of Section 16-30, aggravated identity theft  
16 under subsection (b) of Section 16-30, financial exploitation  
17 of an elderly person or a person with a disability under  
18 Section 17-56; or any offense set forth in Article 16H or  
19 Section 17-10.6 may be commenced within 7 years of the last act  
20 committed in furtherance of the crime.

21 (b) Unless the statute describing the offense provides  
22 otherwise, or the period of limitation is extended by Section  
23 3-6, a prosecution for any offense not designated in subsection  
24 (a) or (a-5) must be commenced within 3 years after the  
25 commission of the offense if it is a felony, or within one year  
26 and 6 months after its commission if it is a misdemeanor.

1 (Source: P.A. 99-820, eff. 8-15-16; 100-149, eff. 1-1-18;  
2 revised 10-5-17.)

3 (720 ILCS 5/3-6) (from Ch. 38, par. 3-6)

4 Sec. 3-6. Extended limitations. The period within which a  
5 prosecution must be commenced under the provisions of Section  
6 3-5 or other applicable statute is extended under the following  
7 conditions:

8 (a) A prosecution for theft involving a breach of a  
9 fiduciary obligation to the aggrieved person may be commenced  
10 as follows:

11 (1) If the aggrieved person is a minor or a person  
12 under legal disability, then during the minority or legal  
13 disability or within one year after the termination  
14 thereof.

15 (2) In any other instance, within one year after the  
16 discovery of the offense by an aggrieved person, or by a  
17 person who has legal capacity to represent an aggrieved  
18 person or has a legal duty to report the offense, and is  
19 not himself or herself a party to the offense; or in the  
20 absence of such discovery, within one year after the proper  
21 prosecuting officer becomes aware of the offense. However,  
22 in no such case is the period of limitation so extended  
23 more than 3 years beyond the expiration of the period  
24 otherwise applicable.

25 (b) A prosecution for any offense based upon misconduct in

1 office by a public officer or employee may be commenced within  
2 one year after discovery of the offense by a person having a  
3 legal duty to report such offense, or in the absence of such  
4 discovery, within one year after the proper prosecuting officer  
5 becomes aware of the offense. However, in no such case is the  
6 period of limitation so extended more than 3 years beyond the  
7 expiration of the period otherwise applicable.

8 (b-5) When the victim is under 18 years of age at the time  
9 of the offense, a prosecution for involuntary servitude,  
10 involuntary sexual servitude of a minor, or trafficking in  
11 persons and related offenses under Section 10-9 of this Code  
12 may be commenced within 25 years of the victim attaining the  
13 age of 18 years.

14 (c) (Blank).

15 (d) A prosecution for child pornography, aggravated child  
16 pornography, indecent solicitation of a child, soliciting for a  
17 juvenile prostitute, juvenile pimping, exploitation of a  
18 child, or promoting juvenile prostitution except for keeping a  
19 place of juvenile prostitution may be commenced within one year  
20 of the victim attaining the age of 18 years. However, in no  
21 such case shall the time period for prosecution expire sooner  
22 than 3 years after the commission of the offense.

23 (e) Except as otherwise provided in subdivision (j), a  
24 prosecution for any offense involving sexual conduct or sexual  
25 penetration, as defined in Section 11-0.1 of this Code, where  
26 the defendant was within a professional or fiduciary

1 relationship or a purported professional or fiduciary  
2 relationship with the victim at the time of the commission of  
3 the offense may be commenced within one year after the  
4 discovery of the offense by the victim.

5 (f) A prosecution for any offense set forth in Section 44  
6 of the "~~Environmental Protection Act~~", ~~approved June 29, 1970,~~  
7 ~~as amended~~, may be commenced within 5 years after the discovery  
8 of such an offense by a person or agency having the legal duty  
9 to report the offense or in the absence of such discovery,  
10 within 5 years after the proper prosecuting officer becomes  
11 aware of the offense.

12 (f-5) A prosecution for any offense set forth in Section  
13 16-30 of this Code may be commenced within 5 years after the  
14 discovery of the offense by the victim of that offense.

15 (g) (Blank).

16 (h) (Blank).

17 (i) Except as otherwise provided in subdivision (j), a  
18 prosecution for criminal sexual assault, aggravated criminal  
19 sexual assault, or aggravated criminal sexual abuse may be  
20 commenced at any time ~~within 10 years of the commission of the~~  
21 ~~offense if the victim reported the offense to law enforcement~~  
22 ~~authorities within 3 years after the commission of the offense.~~

23 Nothing in this subdivision (i) shall be construed to  
24 shorten a period within which a prosecution must be commenced  
25 under any other provision of this Section.

26 (i-5) A prosecution for armed robbery, home invasion,

1 kidnapping, or aggravated kidnaping may be commenced within 10  
2 years of the commission of the offense if it arises out of the  
3 same course of conduct and meets the criteria under one of the  
4 offenses in subsection (i) of this Section.

5 (j) (1) When the victim is under 18 years of age at the  
6 time of the offense, a prosecution for criminal sexual assault,  
7 aggravated criminal sexual assault, predatory criminal sexual  
8 assault of a child, aggravated criminal sexual abuse, or felony  
9 criminal sexual abuse may be commenced at any time.

10 (2) When the victim is under 18 years of age at the time of  
11 the offense, a prosecution for failure of a person who is  
12 required to report an alleged or suspected commission of  
13 criminal sexual assault, aggravated criminal sexual assault,  
14 predatory criminal sexual assault of a child, aggravated  
15 criminal sexual abuse, or felony criminal sexual abuse under  
16 the Abused and Neglected Child Reporting Act may be commenced  
17 within 20 years after the child victim attains 18 years of age.

18 (3) When the victim is under 18 years of age at the time of  
19 the offense, a prosecution for misdemeanor criminal sexual  
20 abuse may be commenced within 10 years after the child victim  
21 attains 18 years of age.

22 (4) Nothing in this subdivision (j) shall be construed to  
23 shorten a period within which a prosecution must be commenced  
24 under any other provision of this Section.

25 (j-5) A prosecution for armed robbery, home invasion,  
26 kidnapping, or aggravated kidnaping may be commenced at any

1 time if it arises out of the same course of conduct and meets  
2 the criteria under one of the offenses in subsection (j) of  
3 this Section.

4 (k) (Blank).

5 (l) A prosecution for any offense set forth in Section 26-4  
6 of this Code may be commenced within one year after the  
7 discovery of the offense by the victim of that offense.

8 (m) The prosecution shall not be required to prove at trial  
9 facts which extend the general limitations in Section 3-5 of  
10 this Code when the facts supporting extension of the period of  
11 general limitations are properly pled in the charging document.  
12 Any challenge relating to the extension of the general  
13 limitations period as defined in this Section shall be  
14 exclusively conducted under Section 114-1 of the Code of  
15 Criminal Procedure of 1963.

16 (Source: P.A. 99-234, eff. 8-3-15; 99-820, eff. 8-15-16;  
17 100-80, eff. 8-11-17; 100-318, eff. 8-24-17; 100-434, eff.  
18 1-1-18; revised 10-5-17.)