



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2135

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.

LRB101 04900 SLF 49909 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, a violation of subparagraph
11 (F) of paragraph (1) of subsection (d) of Section 11-501 of the
12 Illinois Vehicle Code for the offense of aggravated driving
13 under the influence of alcohol, other drug or drugs, or
14 intoxicating compound or compounds, or any combination thereof
15 when the violation was a proximate cause of a death, leaving
16 the scene of a motor vehicle accident involving death or
17 personal injuries under Section 11-401 of the Illinois Vehicle
18 Code, failing to give information and render aid under Section
19 11-403 of the Illinois Vehicle Code, concealment of homicidal
20 death, treason, arson, residential arson, aggravated arson,
21 forgery, child pornography under paragraph (1) of subsection
22 (a) of Section 11-20.1, or aggravated child pornography under
23 paragraph (1) of subsection (a) of Section 11-20.1B, or (2) any

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

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

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

26 (Source: P.A. 99-820, eff. 8-15-16; 100-149, eff. 1-1-18;

1 100-863, eff. 8-14-18.)

2 (720 ILCS 5/3-6) (from Ch. 38, par. 3-6)

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

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

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

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

24 (b) A prosecution for any offense based upon misconduct in
25 office by a public officer or employee may be commenced within

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

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

13 (c) (Blank).

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

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

1 relationship with the victim at the time of the commission of
2 the offense may be commenced within one year after the
3 discovery of the offense by the victim.

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

10 (f-5) A prosecution for any offense set forth in Section
11 16-30 of this Code may be commenced within 5 years after the
12 discovery of the offense by the victim of that offense.

13 (g) (Blank).

14 (h) (Blank).

15 (i) Except as otherwise provided in subdivision (j), a
16 prosecution for criminal sexual assault, aggravated criminal
17 sexual assault, or aggravated criminal sexual abuse may be
18 commenced at any time ~~within 10 years of the commission of the~~
19 ~~offense if the victim reported the offense to law enforcement~~
20 ~~authorities within 3 years after the commission of the offense.~~
21 If the victim consented to the collection of evidence using an
22 Illinois State Police Sexual Assault Evidence Collection Kit
23 under the Sexual Assault Survivors Emergency Treatment Act, it
24 shall constitute reporting for purposes of this Section.

25 Nothing in this subdivision (i) shall be construed to
26 shorten a period within which a prosecution must be commenced

1 under any other provision of this Section.

2 (i-5) A prosecution for armed robbery, home invasion,
3 kidnapping, or aggravated kidnaping may be commenced within 10
4 years of the commission of the offense if it arises out of the
5 same course of conduct and meets the criteria under one of the
6 offenses in subsection (i) of this Section.

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

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

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

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

1 (j-5) A prosecution for armed robbery, home invasion,
2 kidnapping, or aggravated kidnaping may be commenced at any
3 time if it arises out of the same course of conduct and meets
4 the criteria under one of the offenses in subsection (j) of
5 this Section.

6 (k) (Blank).

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

10 (l-5) A prosecution for any offense involving sexual
11 conduct or sexual penetration, as defined in Section 11-0.1 of
12 this Code, in which the victim was 18 years of age or older at
13 the time of the offense, may be commenced within one year after
14 the discovery of the offense by the victim when corroborating
15 physical evidence is available. The charging document shall
16 state that the statute of limitations is extended under this
17 subsection (l-5) and shall state the circumstances justifying
18 the extension. Nothing in this subsection (l-5) shall be
19 construed to shorten a period within which a prosecution must
20 be commenced under any other provision of this Section or
21 Section 3-5 of this Code.

22 (m) The prosecution shall not be required to prove at trial
23 facts which extend the general limitations in Section 3-5 of
24 this Code when the facts supporting extension of the period of
25 general limitations are properly pled in the charging document.
26 Any challenge relating to the extension of the general

1 limitations period as defined in this Section shall be
2 exclusively conducted under Section 114-1 of the Code of
3 Criminal Procedure of 1963.

4 (n) A prosecution for any offense set forth in subsection
5 (a), (b), or (c) of Section 8A-3 or Section 8A-13 of the
6 Illinois Public Aid Code, in which the total amount of money
7 involved is \$5,000 or more, including the monetary value of
8 food stamps and the value of commodities under Section 16-1 of
9 this Code may be commenced within 5 years of the last act
10 committed in furtherance of the offense.

11 (Source: P.A. 99-234, eff. 8-3-15; 99-820, eff. 8-15-16;
12 100-80, eff. 8-11-17; 100-318, eff. 8-24-17; 100-434, eff.
13 1-1-18; 100-863, eff. 8-14-18; 100-998, eff. 1-1-19; 100-1010,
14 eff. 1-1-19; 100-1087, eff. 1-1-19; revised 10-9-18.)