

As Amended by House Committee

Session of 2014

SENATE BILL No. 258

By Committee on Judiciary

1-14

1 AN ACT concerning the Kansas juvenile justice code; relating to time  
2 limitations; sex crimes; amending K.S.A. 2013 Supp. 38-2303 and  
3 repealing the existing section.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2013 Supp. 38-2303 is hereby amended to read as  
7 follows: 38-2303. (a) Proceedings under this code involving acts  
8 committed by a juvenile which, if committed by an adult, would constitute  
9 a violation of ~~K.S.A. 21-3401 or 21-3402, prior to their repeal, or K.S.A.~~  
10 ~~2013 Supp. 21-5402 or 21-5403, and amendments thereto, or rape as~~  
11 ~~defined in K.S.A. 2013 Supp. 21-5503, and amendments thereto, or~~  
12 ~~aggravated criminal sodomy as defined in K.S.A. 2013 Supp. 21-5504, and~~  
13 ~~amendments thereto;~~ any of the following statutes may be commenced at  
14 any time: **(1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or**  
15 **K.S.A. 2013 Supp. 21-5503, and amendments thereto; (2) aggravated**  
16 **criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or**  
17 **subsection (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto;**  
18 **(3) murder as described in K.S.A. 21-3401, 21-3402 or 21-3439, prior**  
19 **to their repeal, or K.S.A. 2013 Supp. 21-5401, 21-5402 or 21-5403, and**  
20 **amendments thereto; (4) terrorism as defined in K.S.A. 21-3449, prior**  
21 **to its repeal, or K.S.A. 2013 Supp. 21-5421, and amendments thereto;**  
22 **or (5) illegal use of weapons of mass destruction as defined in K.S.A.**  
23 **21-3450, prior to its repeal, or K.S.A. 2013 Supp. 21-5422, and**  
24 **amendments thereto.**

25 (b) Except as provided by subsections ~~(d)~~(c) and ~~(f)~~(e), a proceeding  
26 under this code for any act committed by a juvenile which, if committed  
27 by an adult, would constitute a violation of any of the following statutes  
28 shall be commenced within five years after its commission if the victim is  
29 less than 16 years of age: ~~(1) Indecent liberties with a child as defined in~~  
30 ~~K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp.~~  
31 ~~21-5506, and amendments thereto; (2) aggravated indecent liberties with a~~  
32 ~~child as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of~~  
33 ~~K.S.A. 2013 Supp. 21-5506, and amendments thereto; (3) Lewd and~~  
34 ~~lascivious behavior as defined in K.S.A. 21-3508, prior to its repeal, or~~  
35 ~~K.S.A. 2013 Supp. 21-5513, and amendments thereto; (4) indecent~~  
36 ~~solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or~~

1 subsection (a) of K.S.A. 2013 Supp. 21-5508, and amendments thereto; (5)  
2 aggravated indecent solicitation of a child as defined in K.S.A. 21-3511,  
3 prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5508, and  
4 amendments thereto; (6) sexual exploitation of a child as defined in K.S.A.  
5 21-3516, prior to its repeal, or K.S.A. 2013 Supp. 21-5510, and  
6 amendments thereto; (7)(2) unlawful voluntary sexual relations as defined  
7 in K.S.A. 21-3522, prior to its repeal, or K.S.A. 2013 Supp. 21-5507, and  
8 amendments thereto; or (8)(3) aggravated incest as defined in K.S.A. 21-  
9 3603, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5604,  
10 and amendments thereto.

11 (c) Except as provided by subsections (d) and (f), a prosecution for  
12 rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013  
13 Supp. 21-5503, and amendments thereto, or aggravated criminal sodomy,  
14 as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of  
15 K.S.A. 2013 Supp. 21-5504, and amendments thereto, shall be commenced  
16 within five years after its commission.

17 (d) (1) Except as provided in subsection (f), a prosecution for any  
18 offense provided in subsection (b) or a sexually violent offense as defined  
19 in K.S.A. 22-3717, and amendments thereto, shall be commenced within  
20 the limitation of time provided by the law pertaining to such offense or one  
21 year from the date on which the identity of the suspect is conclusively  
22 established by DNA testing, whichever is later. *Except as provided in*  
23 *subsection (e), a prosecution for proceeding under this code for any act*  
24 *committed by a juvenile which, if committed by an adult, would*  
25 *constitute a sexually violent crime as defined in K.S.A. 22-3717, and*  
26 *amendments thereto:*

27 (1) *When the victim is 18 years of age or older shall be commenced*  
28 *within 10 years or one year from the date on which the identity of the*  
29 *suspect is conclusively established by DNA testing, whichever is later; or*

30 (2) *when the victim is under 18 years of age shall be commenced*  
31 *within 10 years of the date the victim turns 18 years of age or one year*  
32 *from the date on which the identity of the suspect is conclusively*  
33 *established by DNA testing, whichever is later.*

34 (2)(3) For the purposes of this subsection, "DNA" means  
35 deoxyribonucleic acid.

36 (e)(d) Except as provided by subsection (f)(e), proceedings under this  
37 code not governed by subsections (a), (b); or (c) or (d) shall be  
38 commenced within two years after the act giving rise to the proceedings is  
39 committed.

40 (f)(e) The period within which the proceedings must be commenced  
41 shall not include any period in which:

42 (1) The accused is absent from the state;

43 (2) the accused is so concealed within the state that process cannot be

1 served upon the accused;

2 (3) the fact of the offense is concealed; or

3 (4) whether or not the fact of the offense is concealed by the active  
4 act or conduct of the accused, there is substantial competent evidence to  
5 believe two or more of the following factors are present: (A) The victim  
6 was a child under 15 years of age at the time of the offense; (B) the victim  
7 was of such age or intelligence that the victim was unable to determine  
8 that the acts constituted an offense; (C) the victim was prevented by a  
9 parent or other legal authority from making known to law enforcement  
10 authorities the fact of the offense whether or not the parent or other legal  
11 authority is the accused; and (D) there is substantial competent expert  
12 testimony indicating the victim psychologically repressed such victim's  
13 memory of the fact of the offense, and in the expert's professional opinion  
14 the recall of such memory is accurate, free of undue manipulation, and  
15 substantial corroborating evidence can be produced in support of the  
16 allegations contained in the complaint or information; but in no event may  
17 a proceeding be commenced as provided in subsection ~~(f)~~(e)(4) later than  
18 the date the victim turns 28 years of age. Corroborating evidence may  
19 include, but is not limited to, evidence the alleged juvenile offender  
20 committed similar acts against other persons or evidence of  
21 contemporaneous physical manifestations of the offense. Parent or other  
22 legal authority shall include, but not be limited to, natural and stepparents,  
23 grandparents, aunts, uncles or siblings.

24 **(f) An offense is committed either when every element occurs, or,**  
25 **if a legislative purpose to prohibit a continuing offense plainly**  
26 **appears, at the time when the course of conduct or the alleged juvenile**  
27 **offender's complicity therein is terminated. Time starts to run on the**  
28 **day after the offense is committed.**

29 **(g) A proceeding under this code is commenced when a complaint**  
30 **or information is filed, or an indictment returned, and a warrant**  
31 **thereon is delivered to the sheriff or other officer for execution. No**  
32 **such proceeding shall be deemed to have been commenced if the**  
33 **warrant so issued is not executed without unreasonable delay.**

34 Sec. 2. K.S.A. 2013 Supp. 38-2303 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its  
36 publication in the statute book.