

## 2023 Kansas Statutes

- 21-5107. Time limitations for commencement of prosecution.** (a) (1) A prosecution for any of the following crimes may be commenced at any time:
- (A) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and amendments thereto;
  - (B) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 21-5504(b), and amendments thereto;
  - (C) murder as described in K.S.A. 21-3401, 21-3402 or 21-3439, prior to their repeal, or K.S.A. 21-5401, 21-5402 or 21-5403, and amendments thereto;
  - (D) terrorism as defined in K.S.A. 21-3449, prior to its repeal, or K.S.A. 21-5421, and amendments thereto; or
  - (E) illegal use of weapons of mass destruction as defined in K.S.A. 21-3450, prior to its repeal, or K.S.A. 21-5422, and amendments thereto.
- (2) A prosecution for childhood sexual abuse may be commenced at any time. As used in this paragraph, "childhood sexual abuse" means any of the following crimes when the victim is under 18 years of age:
- (A) Indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 21-5506(a), and amendments thereto;
  - (B) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 21-5506(b), and amendments thereto;
  - (C) criminal sodomy as defined in K.S.A. 21-3505(a)(2) and (a)(3), prior to its repeal, or K.S.A. 21-5504(a)(3) and (a)(4), and amendments thereto;
  - (D) enticement of a child as defined in K.S.A. 21-3509, prior to its repeal;
  - (E) indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 21-5508(a), and amendments thereto;
  - (F) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments thereto;
  - (G) sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 21-5510, and amendments thereto;
  - (H) aggravated sexual battery as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 21-5505(b), and amendments thereto;
  - (I) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 21-5604(b), and amendments thereto;
  - (J) aggravated human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;
  - (K) internet trading in child pornography or aggravated internet trading in child pornography as defined in K.S.A. 21-5514, and amendments thereto; or
  - (L) commercial sexual exploitation of a child as defined in K.S.A. 21-6422, and amendments thereto.
- (b) Except as provided in subsection (e), a prosecution for any crime shall be commenced within 10 years after its commission if the victim is the Kansas public employees retirement system.
- (c) Except as provided in subsections (a) and (e), a prosecution for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto:
- (1) When the victim is 18 years of age or older shall be commenced within 10 years or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later; or
  - (2) when the victim is under 18 years of age shall be commenced within 10 years of the date the victim turns 18 years of age or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later.
- (d) Except as provided in subsection (e), a prosecution for any crime as defined in K.S.A. 21-5102, and amendments thereto, not governed by subsection (a), (b) or (c) shall be commenced within five years after it is committed.
- (e) The period within which a prosecution shall be commenced shall not include any period in which:
- (1) The accused is absent from the state;
  - (2) the accused is concealed within the state so that process cannot be served upon

the accused;

(3) the fact of the crime is concealed;

(4) a prosecution is pending against the defendant for the same conduct, even if the indictment or information which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal;

(5) an administrative agency is restrained by court order from investigating or otherwise proceeding on a matter before it as to any criminal conduct defined as a violation of any of the provisions of article 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, which may be discovered as a result thereof regardless of who obtains the order of restraint; or

(6) whether the fact of the crime is concealed by the active act or conduct of the accused, there is substantially competent evidence to believe two or more of the following factors are present:

(A) The victim was a child under 15 years of age at the time of the crime;

(B) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted a crime;

(C) the victim was prevented by a parent or other legal authority from making known to law enforcement authorities the fact of the crime whether or not the parent or other legal authority is the accused; and

(D) there is substantially competent expert testimony indicating the victim psychologically repressed such victim's memory of the fact of the crime, and in the expert's professional opinion the recall of such memory is accurate and free of undue manipulation, and substantial corroborating evidence can be produced in support of the allegations contained in the complaint or information but in no event may a prosecution be commenced as provided in subsection (e)(6) later than the date the victim turns 28 years of age. Corroborating evidence may include, but is not limited to, evidence the defendant committed similar acts against other persons or evidence of contemporaneous physical manifestations of the crime.

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

(g) A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution. No such prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.

(h) As used in this section, "parent or other legal authority" shall include, but not be limited to, natural and stepparents, grandparents, aunts, uncles or siblings.

**History:** L. 2010, ch. 136, § 7; L. 2012, ch. 157, § 1; L. 2013, ch. 5, § 1; L. 2014, ch. 102, § 2; L. 2023, ch. 28, § 2; July 1.