

2021 Kansas Statutes

38-2303. Time limitations for commencement of proceeding. (a) Proceedings under this code involving acts committed by a juvenile which, if committed by an adult, would constitute a violation of any of the following statutes may be commenced at any time: (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2021 Supp. 21-5503, and amendments thereto; (2) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2021 Supp. 21-5504, and amendments thereto; (3) murder as described in K.S.A. 21-3401, 21-3402 or 21-3439, prior to their repeal, or K.S.A. 2021 Supp. 21-5401, 21-5402 or 21-5403, and amendments thereto; (4) terrorism as defined in K.S.A. 21-3449, prior to its repeal, or K.S.A. 2021 Supp. 21-5421, and amendments thereto; or (5) illegal use of weapons of mass destruction as defined in K.S.A. 21-3450, prior to its repeal, or K.S.A. 2021 Supp. 21-5422, and amendments thereto.

(b) Except as provided by subsections (c) and (e), a proceeding under this code for any act committed by a juvenile which, if committed by an adult, would constitute a violation of any of the following statutes shall be commenced within five years after its commission if the victim is less than 16 years of age: (1) Lewd and lascivious behavior as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2021 Supp. 21-5513, and amendments thereto; (2) unlawful voluntary sexual relations as defined in K.S.A. 21-3522, prior to its repeal, or K.S.A. 2021 Supp. 21-5507, and amendments thereto; or (3) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2021 Supp. 21-5604, and amendments thereto.

(c) Except as provided in subsection (e), a proceeding under this code for any act committed by a juvenile which, if committed by an adult, would constitute 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.

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

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

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

(1) The accused is absent from the state;

(2) the accused is so concealed within the state that process cannot be served upon the accused;

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

(4) whether or not the fact of the offense is concealed by the active act or conduct of the accused, there is substantial 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 offense; (B) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted an offense; (C) the victim was prevented by a parent or other legal authority from making known to law enforcement authorities the fact of the offense whether or not the parent or other legal authority is the accused; and (D) there is substantial competent expert testimony indicating the victim psychologically repressed such

victim's memory of the fact of the offense, and in the expert's professional opinion the recall of such memory is accurate, 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 proceeding be commenced as provided in subsection (e) (4) later than the date the victim turns 28 years of age. Corroborating evidence may include, but is not limited to, evidence the alleged juvenile offender committed similar acts against other persons or evidence of contemporaneous physical manifestations of the offense. Parent or other legal authority shall include, but not be limited to, natural and stepparents, grandparents, aunts, uncles or siblings.

(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 alleged juvenile offender's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(g) A proceeding under this code 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 proceeding shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.

History: L. 2006, ch. 169, § 3; L. 2011, ch. 30, § 159; L. 2014, ch. 123, § 1; July 1.