

Hall of the House of Representatives
87th General Assembly - Regular Session, 2009
Amendment Form

Subtitle of House Bill No. 1058

"AN ACT TO REMOVE THE STATUTE OF LIMITATIONS FOR THE OFFENSES OF RAPE
AND SEXUAL ASSAULT IN THE FIRST DEGREE."

Amendment No. 1 to House Bill No. 1058.

Amend House Bill No. 1058 as originally introduced:

Page 1, lines 11 and 12, delete "RAPE AND SEXUAL ASSAULT IN THE FIRST DEGREE"
and substitute "RAPE, KIDNAPPING, AND SEXUAL ASSAULT IN THE FIRST DEGREE"

AND

Page 1, lines 16 and 17, delete "OFFENSES OF RAPE AND SEXUAL ASSAULT IN THE
FIRST DEGREE" and substitute "OFFENSES OF RAPE, KIDNAPPING, AND SEXUAL
ASSAULT IN THE FIRST DEGREE"

AND

Delete Section 1 in its entirety and replace with:

" SECTION 1. Arkansas Code § 5-1-109 is amended to read as follows:
5-1-109. Statute of limitations.

(a) A prosecution for murder, rape, § 5-14-103, kidnapping, § 5-11-
102, or sexual assault in the first degree, § 5-14-124, may be commenced at
any time.

(b) Except as otherwise provided in this section, a prosecution for
another offense shall be commenced within the following periods of limitation
after the offense's commission:

(1)~~(A)~~ Class Y felony or Class A felony, six (6) years;

~~(B) However, for rape, § 5-14-103, the period of
limitation may be extended to fifteen (15) years during which extended time a
prosecution for rape may be commenced if based upon forensic deoxyribonucleic
acid (DNA) testing or another test that may become available through an
advance in technology;~~

(2) Class B felony, Class C felony, Class D felony, or an
unclassified felony, three (3) years; and

(3) Misdemeanor or violation, one (1) year.

(c) If the period prescribed in subsection (b) of this section has
expired, a prosecution may nevertheless be commenced for:



(1) Any offense involving either fraud or breach of a fiduciary obligation, within one (1) year after the offense is discovered or should reasonably have been discovered by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense; and

(2)(A) Any offense that is concealed involving felonious conduct in office by a public servant at any time within five (5) years after he or she leaves public office or employment or within five (5) years after the offense is discovered or should reasonably have been discovered, whichever is sooner.

(B) However, in no event does this subdivision (c)(2) extend the period of limitation by more than ten (10) years after the commission of the offense.

(d) A defendant may be convicted of any offense included in the offense charged, notwithstanding that the period of limitation has expired for the included offense, if as to the offense charged the period of limitation has not expired or there is no period of limitation, and there is sufficient evidence to sustain a conviction for the offense charged.

(e)(1) For the purposes of this section, an offense is committed either when:

(A) Every element occurs; or

(B) If a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time the course of conduct or the defendant's complicity in the course of conduct is terminated.

(2) Time starts to run on the day after the offense is committed.

(f) A prosecution is commenced when an arrest warrant or other process is issued based on an indictment, information, or other charging instrument if the arrest warrant or other process is sought to be executed without unreasonable delay.

(g) The period of limitation does not run:

(1)(A) During any time when the accused is continually absent from the state or has no reasonably ascertainable place of abode or work within the state.

(B) However, in no event does this subdivision (g)(1) extend the period of limitation otherwise applicable by more than three (3) years; or

(2) During any period when a prosecution against the accused for the same conduct is pending in this state.

(h) If the period prescribed in subsection (b) of this section has expired, a prosecution may nevertheless be commenced for a violation of the following offenses if, when the alleged violation occurred, the offense was committed against a minor, the violation has not previously been reported to a law enforcement agency or prosecuting attorney, and the period prescribed in subsection (b) of this section has not expired since the victim has reached eighteen (18) years of age:

(1) Battery in the first degree, § 5-13-201;

(2) Battery in the second degree, § 5-13-202;

(3) Aggravated assault, § 5-13-204;

(4) Terroristic threatening in the first degree, § 5-13-301;

~~(5) Kidnapping, § 5-11-102;~~

~~(6)~~(5) False imprisonment in the first degree, § 5-11-103;

~~(7)~~(6) Permanent detention or restraint, § 5-11-106;
~~(8)~~ Rape, § 5-14-103;
~~(9)~~ Sexual assault in the first degree, § 5-14-124;
~~(10)~~(7) Sexual assault in the second degree, § 5-14-125;
~~(11)~~(8) Sexual assault in the third degree, § 5-14-126;
~~(12)~~(9) Sexual assault in the fourth degree, § 5-14-127;
~~(13)~~(10) Incest, § 5-26-202;
~~(14)~~(11) Endangering the welfare of a minor in the first degree,
§ 5-27-205;
~~(15)~~(12) Permitting abuse of a minor, § 5-27-221(a)(1) and (3);
~~(16)~~(13) Engaging children in sexually explicit conduct for use
in visual or print medium, § 5-27-303;
~~(17)~~(14) Transportation of minors for prohibited sexual conduct,
§ 5-27-305;
~~(18)~~(15) Employing or consenting to the use of a child in a
sexual performance, § 5-27-402;
~~(19)~~(16) Producing, directing, or promoting a sexual performance
by a child, § 5-27-403;
~~(20)~~(17) Computer child pornography, § 5-27-603;
~~(21)~~(18) Computer exploitation of a child in the first degree, §
5-27-605; and
~~(22)~~(19) Criminal attempt, criminal solicitation, or criminal
conspiracy to commit any offense listed in this subsection, §§ 5-3-201, 5-3-
202, 5-3-301, and 5-3-401.

(i) If there is biological evidence connecting a person with the commission of an offense and that person's identity is unknown, the prosecution is commenced if an indictment or information is filed against the unknown person and the indictment contains the genetic information of the unknown person and the genetic information is accepted to be likely to be applicable only to the unknown person.

(j) When deoxyribonucleic acid (DNA) testing implicates a person previously identified through a search of the State DNA Data Base or National DNA Index System, no statute of limitation that would otherwise preclude prosecution of the offense precludes the prosecution until a period of time following the implication of the person by deoxyribonucleic acid (DNA) testing has elapsed that is equal to the otherwise applicable limitation period."

The Amendment was read _____

By: Representative D. Creekmore

BPG/BCS - 01-16-2009 15:44

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Chief Clerk