

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H1/22/09 H1/30/09

A Bill

HOUSE BILL 1058

5 By: Representative D. Creekmore
6 By: Senator Broadway
7
8

For An Act To Be Entitled

9
10 AN ACT TO REMOVE THE STATUTE OF LIMITATIONS FOR
11 THE OFFENSE OF RAPE; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 AN ACT TO REMOVE THE STATUTE OF
15 LIMITATIONS FOR THE OFFENSE OF RAPE.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 5-1-109 is amended to read as follows:

21 5-1-109. Statute of limitations.

22 (a) A prosecution for murder or rape, § 5-14-103, may be commenced at
23 any time.

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

27 (1)~~(A)~~ Class Y felony or Class A felony, six (6) years; ;
28 ~~(B) However, for rape, § 5-14-103, the period of~~
29 ~~limitation may be extended to fifteen (15) years during which extended time a~~
30 ~~prosecution for rape may be commenced if based upon forensic deoxyribonucleic~~
31 ~~acid (DNA) testing or another test that may become available through an~~
32 ~~advance in technology;—~~

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

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

36 (c) If the period prescribed in subsection (b) of this section has



1 expired, a prosecution may nevertheless be commenced for:

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

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

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

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

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

22 (A) Every element occurs; or

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

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

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

32 (g) The period of limitation does not run:

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

36 (B) However, in no event does this subdivision (g)(1)

1 extend the period of limitation otherwise applicable by more than three (3)
2 years; or

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

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

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

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

14 (3) Aggravated assault, § 5-13-204;

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

16 (5) Kidnapping, § 5-11-102;

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

18 (7) Permanent detention or restraint, § 5-11-106;

19 ~~(8) Rape, § 5-14-103;~~

20 ~~(9)~~(8) Sexual assault in the first degree, § 5-14-124;

21 ~~(10)~~(9) Sexual assault in the second degree, § 5-14-125;

22 ~~(11)~~(10) Sexual assault in the third degree, § 5-14-126;

23 ~~(12)~~(11) Sexual assault in the fourth degree, § 5-14-127;

24 ~~(13)~~(12) Incest, § 5-26-202;

25 ~~(14)~~(13) Endangering the welfare of a minor in the first degree,
26 § 5-27-205;

27 ~~(15)~~(14) Permitting abuse of a minor, § 5-27-221(a)(1) and (3);

28 ~~(16)~~(15) Engaging children in sexually explicit conduct for use
29 in visual or print medium, § 5-27-303;

30 ~~(17)~~(16) Transportation of minors for prohibited sexual conduct,
31 § 5-27-305;

32 ~~(18)~~(17) Employing or consenting to the use of a child in a
33 sexual performance, § 5-27-402;

34 ~~(19)~~(18) Producing, directing, or promoting a sexual performance
35 by a child, § 5-27-403;

36 ~~(20)~~(19) Computer child pornography, § 5-27-603;

