



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0224

Introduced 1/20/2009, by Rep. Careen M Gordon

SYNOPSIS AS INTRODUCED:

720 ILCS 5/3-6
720 ILCS 5/12-12

from Ch. 38, par. 3-6
from Ch. 38, par. 12-12

Amends the Criminal Code of 1961. Provides that, except as otherwise provided in the Code, a prosecution for any offense involving sexual conduct or sexual penetration where the victim and defendant are family members may be commenced within 10 years (rather than one year) of the victim attaining the age of 18 years. Provides that for the purposes of the offenses of criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, and aggravated criminal sexual abuse, "family member" includes a brother, sister, aunt, uncle, great-aunt, great-uncle, niece, nephew, cousin of the first degree, step-brother, or step-sister, and where the victim is a child under 18 years of age, an accused who has resided in the household with such child continuously for at least 6 months (rather than one year).

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Sections 3-6 and 12-12 as follows:

6 (720 ILCS 5/3-6) (from Ch. 38, par. 3-6)

7 Sec. 3-6. Extended limitations. The period within which a
8 prosecution must be commenced under the provisions of Section
9 3-5 or other applicable statute is extended under the following
10 conditions:

11 (a) A prosecution for theft involving a breach of a
12 fiduciary obligation to the aggrieved person may be commenced
13 as follows:

14 (1) If the aggrieved person is a minor or a person
15 under legal disability, then during the minority or legal
16 disability or within one year after the termination
17 thereof.

18 (2) In any other instance, within one year after the
19 discovery of the offense by an aggrieved person, or by a
20 person who has legal capacity to represent an aggrieved
21 person or has a legal duty to report the offense, and is
22 not himself or herself a party to the offense; or in the
23 absence of such discovery, within one year after the proper

1 prosecuting officer becomes aware of the offense. However,
2 in no such case is the period of limitation so extended
3 more than 3 years beyond the expiration of the period
4 otherwise applicable.

5 (b) A prosecution for any offense based upon misconduct in
6 office by a public officer or employee may be commenced within
7 one year after discovery of the offense by a person having a
8 legal duty to report such offense, or in the absence of such
9 discovery, within one year after the proper prosecuting officer
10 becomes aware of the offense. However, in no such case is the
11 period of limitation so extended more than 3 years beyond the
12 expiration of the period otherwise applicable.

13 (c) Except as otherwise provided in subsection (a) of
14 Section 3-5 of this Code and subdivision (i) or (j) of this
15 Section, a prosecution for any offense involving sexual conduct
16 or sexual penetration, as defined in Section 12-12 of this
17 Code, where the victim and defendant are family members, as
18 defined in Section 12-12 of this Code, may be commenced within
19 10 years ~~one year~~ of the victim attaining the age of 18 years.

20 (d) A prosecution for child pornography, indecent
21 solicitation of a child, soliciting for a juvenile prostitute,
22 juvenile pimping or exploitation of a child may be commenced
23 within one year of the victim attaining the age of 18 years.
24 However, in no such case shall the time period for prosecution
25 expire sooner than 3 years after the commission of the offense.
26 When the victim is under 18 years of age, a prosecution for

1 criminal sexual abuse may be commenced within one year of the
2 victim attaining the age of 18 years. However, in no such case
3 shall the time period for prosecution expire sooner than 3
4 years after the commission of the offense.

5 (e) Except as otherwise provided in subdivision (j), a
6 prosecution for any offense involving sexual conduct or sexual
7 penetration, as defined in Section 12-12 of this Code, where
8 the defendant was within a professional or fiduciary
9 relationship or a purported professional or fiduciary
10 relationship with the victim at the time of the commission of
11 the offense may be commenced within one year after the
12 discovery of the offense by the victim.

13 (f) A prosecution for any offense set forth in Section 44
14 of the "Environmental Protection Act", approved June 29, 1970,
15 as amended, may be commenced within 5 years after the discovery
16 of such an offense by a person or agency having the legal duty
17 to report the offense or in the absence of such discovery,
18 within 5 years after the proper prosecuting officer becomes
19 aware of the offense.

20 (f-5) A prosecution for any offense set forth in Section
21 16G-15 or 16G-20 of this Code may be commenced within 5 years
22 after the discovery of the offense by the victim of that
23 offense.

24 (g) (Blank).

25 (h) (Blank).

26 (i) Except as otherwise provided in subdivision (j), a

1 prosecution for criminal sexual assault, aggravated criminal
2 sexual assault, or aggravated criminal sexual abuse may be
3 commenced within 10 years of the commission of the offense if
4 the victim reported the offense to law enforcement authorities
5 within 3 years after the commission of the offense.

6 Nothing in this subdivision (i) shall be construed to
7 shorten a period within which a prosecution must be commenced
8 under any other provision of this Section.

9 (j) When the victim is under 18 years of age at the time of
10 the offense, a prosecution for criminal sexual assault,
11 aggravated criminal sexual assault, predatory criminal sexual
12 assault of a child, or aggravated criminal sexual abuse or a
13 prosecution for failure of a person who is required to report
14 an alleged or suspected commission of any of these offenses
15 under the Abused and Neglected Child Reporting Act may be
16 commenced within 20 years after the child victim attains 18
17 years of age.

18 Nothing in this subdivision (j) shall be construed to
19 shorten a period within which a prosecution must be commenced
20 under any other provision of this Section.

21 (k) A prosecution for theft involving real property
22 exceeding \$100,000 in value under Section 16-1, identity theft
23 under Section 16G-15, aggravated identity theft under Section
24 16G-20, or any offense set forth in Article 16H may be
25 commenced within 7 years of the last act committed in
26 furtherance of the crime.

1 (Source: P.A. 94-253, eff. 1-1-06; 94-990, eff. 1-1-07; 95-548,
2 eff. 8-30-07.)

3 (720 ILCS 5/12-12) (from Ch. 38, par. 12-12)

4 Sec. 12-12. Definitions. For the purposes of Sections 12-13
5 through 12-18 of this Code, the terms used in these Sections
6 shall have the following meanings ascribed to them:

7 (a) "Accused" means a person accused of an offense
8 prohibited by Sections 12-13, 12-14, 12-15 or 12-16 of this
9 Code or a person for whose conduct the accused is legally
10 responsible under Article 5 of this Code.

11 (b) "Bodily harm" means physical harm, and includes, but is
12 not limited to, sexually transmitted disease, pregnancy and
13 impotence.

14 (c) "Family member" means a parent, grandparent, ~~or~~ child,
15 brother, sister, aunt, uncle, great-aunt, great-uncle, niece,
16 nephew, or cousin of the first degree, whether by whole blood,
17 half-blood or adoption and includes a step-grandparent,
18 step-parent, ~~or~~ step-child, step-brother, or step-sister.
19 "Family member" also means, where the victim is a child under
20 18 years of age, an accused who has resided in the household
21 with such child continuously for at least 6 months ~~one year~~.

22 (d) "Force or threat of force" means the use of force or
23 violence, or the threat of force or violence, including but not
24 limited to the following situations:

25 (1) when the accused threatens to use force or violence

1 on the victim or on any other person, and the victim under
2 the circumstances reasonably believed that the accused had
3 the ability to execute that threat; or

4 (2) when the accused has overcome the victim by use of
5 superior strength or size, physical restraint or physical
6 confinement.

7 (e) "Sexual conduct" means any intentional or knowing
8 touching or fondling by the victim or the accused, either
9 directly or through clothing, of the sex organs, anus or breast
10 of the victim or the accused, or any part of the body of a child
11 under 13 years of age, or any transfer or transmission of semen
12 by the accused upon any part of the clothed or unclothed body
13 of the victim, for the purpose of sexual gratification or
14 arousal of the victim or the accused.

15 (f) "Sexual penetration" means any contact, however
16 slight, between the sex organ or anus of one person by an
17 object, the sex organ, mouth or anus of another person, or any
18 intrusion, however slight, of any part of the body of one
19 person or of any animal or object into the sex organ or anus of
20 another person, including but not limited to cunnilingus,
21 fellatio or anal penetration. Evidence of emission of semen is
22 not required to prove sexual penetration.

23 (g) "Victim" means a person alleging to have been subjected
24 to an offense prohibited by Sections 12-13, 12-14, 12-15 or
25 12-16 of this Code.

26 (Source: P.A. 91-116, eff. 1-1-00.)