

CHAPTER 119

COURTS

HOUSE BILL 06-1088

BY REPRESENTATIVE(S) Marshall, Berens, Borodkin, Boyd, Carroll M., Coleman, Hodge, Madden, McGihon, Romanoff, Stafford, Todd, Vigil, Carroll T., Green, and Ragsdale; also SENATOR(S) Sandoval, Boyd, Fitz-Gerald, Groff, Grossman, Teck, Tupa, Veiga, Williams, and Windels.

AN ACT

CONCERNING THE MODIFICATION OF STATUTES OF LIMITATIONS FOR COMMENCING COURT PROCEEDINGS INVOLVING UNLAWFUL SEXUAL BEHAVIOR TOWARD CHILDREN.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 16-5-401 (1) (a), (1) (c), (6), (7), (8) (a), (8) (a.3), and (8) (a.5), Colorado Revised Statutes, are amended, and the said 16-5-401 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

16-5-401. Limitation for commencing criminal proceedings and juvenile delinquency proceedings. (1) (a) Except as otherwise provided by statute applicable to specific offenses, delinquent acts, or circumstances, no adult person or juvenile shall be prosecuted, tried, or punished for any offense or delinquent act unless the indictment, information, complaint, or petition in delinquency is filed in a court of competent jurisdiction or a summons and complaint or penalty assessment notice is served upon the defendant or juvenile within the period of time after the commission of the offense or delinquent act as specified below:

Murder, kidnapping, treason, ANY SEX OFFENSE AGAINST A CHILD, and any forgery regardless of the penalty provided: No limit

Attempt, conspiracy, or solicitation to commit murder; attempt, conspiracy, or solicitation to commit kidnapping; attempt, conspiracy, or solicitation to commit treason; ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT ANY SEX OFFENSE AGAINST A CHILD; and attempt, conspiracy, or solicitation to commit any forgery regardless of the

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

penalty provided:	No limit
Other felonies:	Three years
Misdemeanors:	Eighteen months
Class 1 and 2 misdemeanor traffic offenses:	One year
Petty offenses:	Six months

(c) For purposes of this section:

(I) "Delinquent act" has the same meaning as defined in section 19-1-103 (36), C.R.S.

(II) "Juvenile" means a child as defined in section 19-1-103 (18), C.R.S.

(III) "Petition in delinquency" means any petition filed by a district attorney pursuant to section 19-2-512, C.R.S.

(IV) "SEX OFFENSE AGAINST A CHILD" MEANS ANY "UNLAWFUL SEXUAL OFFENSE", AS DEFINED IN SECTION 18-3-411 (1), C.R.S., THAT IS A FELONY.

(1.5) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1.5), THE PROVISIONS OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION CONCERNING SEX OFFENSES AGAINST CHILDREN SHALL APPLY TO OFFENSES AND DELINQUENT ACTS COMMITTED ON OR AFTER JULY 1, 1996.

(b) THE PROVISIONS OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION CONCERNING SEX OFFENSES AGAINST CHILDREN SHALL APPLY TO AN OFFENSE OR DELINQUENT ACT COMMITTED BEFORE JULY 1, 1996, IF THE APPLICABLE STATUTE OF LIMITATIONS, AS IT EXISTED PRIOR TO JULY 1, 2006, HAS NOT YET RUN ON JULY 1, 2006.

(c) IT IS THE INTENT OF THE GENERAL ASSEMBLY IN ENACTING THE PROVISIONS OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION CONCERNING SEX OFFENSES AGAINST CHILDREN TO APPLY AN UNLIMITED STATUTE OF LIMITATIONS TO SEX OFFENSES AGAINST CHILDREN COMMITTED ON OR AFTER JULY 1, 1996, AND TO SEX OFFENSES AGAINST CHILDREN COMMITTED BEFORE JULY 1, 1996, FOR WHICH THE APPLICABLE STATUTE OF LIMITATIONS IN EFFECT PRIOR TO JULY 1, 2006, HAS NOT YET RUN ON JULY 1, 2006.

(6) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION PERTAINING TO SEX OFFENSES AGAINST CHILDREN, the period of time during which an adult person or juvenile may be prosecuted shall be extended for an additional seven years as to any offense or delinquent act charged under section 18-3-402 OR 18-6-403, C.R.S., or section 18-3-403, C.R.S., as it existed prior to July 1, 2000, when the victim at the time of the commission of the act is a child under fifteen years of age, or under section 18-3-405, 18-3-405.3, 18-6-302, 18-6-402, 18-6-403, 18-6-404, 18-7-402, 18-7-403, 18-7-403.5, 18-7-404, 18-7-405, 18-7-405.5, or 18-7-406, C.R.S., or charged as criminal attempt, conspiracy, or

solicitation to commit any of the acts specified in ~~any of~~ said sections.

(7) When the victim at the time of the commission of the offense or delinquent act is a child under fifteen years of age, the period of time during which an adult person or juvenile may be prosecuted ~~shall be extended for an additional seven years as to a felony charged under section 18-3-404, C.R.S., or criminal attempt, conspiracy, or solicitation to commit such a felony, and such period shall be extended for an additional three years and six months as to a misdemeanor charged under section 18-3-404, C.R.S., or criminal attempt, conspiracy, or solicitation to commit such a misdemeanor.~~

(8) (a) ~~Notwithstanding the provisions of~~ EXCEPT AS OTHERWISE PROVIDED IN paragraph (a) of subsection (1) of this section PERTAINING TO SEX OFFENSES AGAINST CHILDREN and except as otherwise provided in paragraphs (a.3) and (a.5) of this subsection (8), the period of time during which an adult person or juvenile may be prosecuted shall be ten years after the commission of the offense or delinquent act as to any offense or delinquent act:

(I) Charged under section 18-3-402, C.R.S., SECTION 18-3-403, C.R.S., as ~~it SAID SECTION~~ existed prior to July 1, 2000, OR SECTION 18-6-403, C.R.S.; ~~18-3-405, 18-3-405.3, 18-6-302, 18-6-402, 18-6-403, 18-6-404, 18-7-402, 18-7-403, 18-7-403.5, 18-7-404, 18-7-405, 18-7-405.5, or 18-7-406, C.R.S.;~~

(II) Charged as a felony under section 18-3-404, C.R.S.; or

(III) Charged as criminal attempt, conspiracy, or solicitation to commit any of the offenses specified in subparagraphs (I) and (II) of this paragraph (a).

(a.3) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION CONCERNING SEX OFFENSES AGAINST CHILDREN, if the victim at the time of the commission of an offense or delinquent act is a child under eighteen years of age, the period of time during which an adult person or juvenile may be prosecuted shall be ten years after such victim reaches the age of eighteen years as to any offense or delinquent act:

(I) Charged as a felony under section 18-3-402, C.R.S., SECTION 18-3-403, C.R.S., as ~~it SAID SECTION~~ existed prior to July 1, 2000, OR SECTION 18-3-404, C.R.S.; ~~18-3-405, 18-3-405.3, 18-3-405.5, 18-6-301, 18-6-302, 18-6-402, 18-6-403, 18-6-404, 18-7-402, 18-7-403, 18-7-403.5, 18-7-404, 18-7-405, 18-7-405.5, or 18-7-406, C.R.S.;~~ or

(II) Charged as criminal attempt, conspiracy, or solicitation to commit any of the offenses specified in subparagraph (I) of this paragraph (a.3).

(a.5) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION CONCERNING SEX OFFENSES AGAINST CHILDREN, in any case in which the identity of the defendant is determined, in whole or in part, by patterned chemical structure of genetic information, and in which the offense has been reported to a law enforcement agency, as defined in section 26-1-114 (3) (a) (III) (B), C.R.S., within ten years after the commission of the offense, there shall be no limit on the period of time during which a person may be prosecuted after the

commission of the offense as to any offense charged:

(I) Under section 18-3-402, C.R.S., OR SECTION 18-3-403, C.R.S., as it SAID SECTION existed prior to July 1, 2000; ~~18-3-405, 18-3-405.3, or 18-6-302, C.R.S.;~~ or

(II) As criminal attempt, conspiracy, or solicitation to commit any of the offenses specified in subparagraph (I) of this paragraph (a.5).

SECTION 2. 18-3-405 (2) (d), Colorado Revised Statutes, is amended to read:

18-3-405. Sexual assault on a child. (2) Sexual assault on a child is a class 4 felony, but it is a class 3 felony if:

(d) The actor commits the offense as a part of a pattern of sexual abuse as described in subsection (1) of this section. No specific date or time must be alleged for the pattern of sexual abuse; except that the acts constituting the pattern of sexual abuse, ~~must have been committed within ten years;~~ WHETHER CHARGED IN THE INFORMATION OR INDICTMENT OR COMMITTED prior to or at any time after the offense charged in the information or indictment, SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 16-5-401 (1) (a), C.R.S., CONCERNING SEX OFFENSES AGAINST CHILDREN. The offense charged in the information or indictment shall constitute one of the incidents of sexual contact involving a child necessary to form a pattern of sexual abuse as defined in section 18-3-401 (2.5).

SECTION 3. 18-3-405.3 (2) (b), Colorado Revised Statutes, is amended to read:

18-3-405.3. Sexual assault on a child by one in a position of trust. (2) Sexual assault on a child by one in a position of trust is a class 3 felony if:

(b) The actor commits the offense as a part of a pattern of sexual abuse as described in subsection (1) of this section. No specific date or time need be alleged for the pattern of sexual abuse; except that the acts constituting the pattern of sexual abuse ~~must have been committed within ten years;~~ WHETHER CHARGED IN THE INFORMATION OR INDICTMENT OR COMMITTED prior to or at any time after the offense charged in the information or indictment, SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 16-5-401 (1) (a), C.R.S., CONCERNING SEX OFFENSES AGAINST CHILDREN. The offense charged in the information or indictment shall constitute one of the incidents of sexual contact involving a child necessary to form a pattern of sexual abuse as defined in section 18-3-401 (2.5).

SECTION 4. 18-3-411 (2), Colorado Revised Statutes, is amended to read:

18-3-411. Sex offenses against children - unlawful sexual offense defined - limitation for commencing proceedings - evidence - statutory privilege. (2) (a) ~~No person shall be prosecuted, tried, or punished for an unlawful sexual offense other than the misdemeanor offenses specified in sections 18-3-402 and 18-3-404, unless the indictment, information, complaint, or action for the same is found or instituted within ten years after commission of the offense.~~ No person shall be prosecuted, tried, or punished for a misdemeanor offense specified in section 18-3-402 or 18-3-404, unless the indictment, information, complaint, or

action for the same is found or instituted within five years after the commission of the offense. ~~The ten-year statute of limitations shall apply to all offenses specified in subsection (1) of this section which are alleged to have occurred on or after July 1, 1979, but prior to July 1, 1992.~~

~~(b) No person shall be prosecuted, tried, or punished for an unlawful sexual offense charged as a felony unless the indictment, information, complaint, or action for the same is found or instituted within ten years after the victim reaches the age of eighteen years. The ten-year statute of limitations shall apply to all felony offenses specified in subsection (1) of this section which are alleged to have occurred on or after July 1, 1992.~~ THE LIMITATION FOR COMMENCING CRIMINAL PROCEEDINGS AND JUVENILE DELINQUENCY PROCEEDINGS CONCERNING UNLAWFUL SEXUAL OFFENSES THAT ARE FELONIES SHALL BE GOVERNED BY SECTION 16-5-401 (1) (a), C.R.S.

SECTION 5. Effective date. This act shall take effect July 1, 2006.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 12, 2006