

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 196

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WILDBERGER (Sponsor), MOORE, WHORTON, JOLLY, SANDERS BROOKS, MEINERS, BRUNS, ROORDA, SALVA AND MEADOWS (Co-sponsors).

Read 1st time January 11, 2005 and copies ordered printed.

Read 2nd time January 12, 2005 and referred to the Committee on Crime Prevention and Public Safety January 27, 2005.

Reported from the Committee on Crime Prevention and Public Safety April 6, 2005 with recommendation that the bill Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

Reported from the Committee on Rules April 12, 2005 with recommendation that the Bill Do Pass with no time limit for debate.

Taken up for Perfection April 20, 2005. Bill ordered Perfected and printed, as amended.

STEPHEN S. DAVIS, Chief Clerk

0474L.01P

AN ACT

To repeal section 556.036, 569.040, and 569.050, RSMo, and to enact in lieu thereof three new sections relating to the statute of limitation for certain crimes, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 556.036, 569.040, and 569.050, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 556.036, 569.040, and 569.050, to read as follows:

556.036. 1. A prosecution for murder, forcible rape, attempted forcible rape, forcible sodomy, attempted forcible sodomy, or any class A felony may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

(1) For any felony, three years;

(2) For any misdemeanor, one year;

(3) For any infraction, six months.

3. If the period prescribed in subsection 2 of this section has expired, a prosecution may

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9 nevertheless be commenced for:

10 (1) Any offense a material element of which is either fraud or a breach of fiduciary
11 obligation within one year after discovery of the offense by an aggrieved party or by a person
12 who has a legal duty to represent an aggrieved party and who is himself or herself not a party to
13 the offense, but in no case shall this provision extend the period of limitation by more than three
14 years. As used in this subdivision, the term "person who has a legal duty to represent an
15 aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having
16 jurisdiction pursuant to section 407.553, RSMo, for purposes of offenses committed pursuant
17 to sections 407.511 to 407.556, RSMo; and

18 (2) Any offense based upon misconduct in office by a public officer or employee at any
19 time when the defendant is in public office or employment or within two years thereafter, but in
20 no case shall this provision extend the period of limitation by more than three years; and

21 (3) Any offense based upon an intentional and willful fraudulent claim of child support
22 arrearage to a public servant in the performance of his or her duties within one year after
23 discovery of the offense, but in no case shall this provision extend the period of limitation by
24 more than three years[.];

25 **(4) Any violation of sections 569.040 to 569.055, RSMo, within five years.**

26 4. An offense is committed either when every element occurs, or, if a legislative purpose
27 to prohibit a continuing course of conduct plainly appears, at the time when the course of
28 conduct or the defendant's complicity therein is terminated. Time starts to run on the day after
29 the offense is committed.

30 5. A prosecution is commenced either when an indictment is found or an information
31 filed.

32 6. The period of limitation does not run:

33 (1) During any time when the accused is absent from the state, but in no case shall this
34 provision extend the period of limitation otherwise applicable by more than three years; or

35 (2) During any time when the accused is concealing himself from justice either within
36 or without this state; or

37 (3) During any time when a prosecution against the accused for the offense is pending
38 in this state; or

39 (4) During any time when the accused is found to lack mental fitness to proceed pursuant
40 to section 552.020, RSMo.

569.040. 1. A person commits the crime of arson in the first degree when he knowingly
2 damages a building or inhabitable structure, and when any person is then present or in near
3 proximity thereto, by starting a fire or causing an explosion and thereby recklessly places such
4 person in danger of death or serious physical injury[.], **or**

5 **2. A person commits the crime of arson in the first degree when he commits or**
6 **attempts to commit a felony, and in the perpetration or attempted perpetration of such**
7 **felony, damages a building or inhabitable structure, and when any person is then present**
8 **or in near proximity thereto, by causing a fire or an explosion and thereby places such**
9 **person in danger of death or serious physical injury.**

10 [2.] **3.** Arson in the first degree is a class B felony unless a person has suffered serious
11 physical injury or has died as a result of the fire or explosion set by the defendant in which case
12 arson in the first degree is a class A felony.

 569.050. 1. A person commits the crime of arson in the second degree when he
2 knowingly damages a building or inhabitable structure by starting a fire or causing an
3 explosion[.], or

4 **2. A person commits the crime of arson in the second degree when he commits or**
5 **attempts to commit a felony, and in the perpetration or attempted perpetration of such**
6 **felony, damages a building or inhabitable structure by causing a fire or an explosion.**

7 [2.] **3.** A person does not commit a crime under **subsection 1** of this section if:

8 (1) No person other than himself has a possessory, proprietary or security interest in the
9 damaged building, or if other persons have those interests, all of them consented to his conduct;
10 and

11 (2) His sole purpose was to destroy or damage the building for a lawful and proper
12 purpose.

13 [3.] **4.** The defendant shall have the burden of injecting the issue under subsection 2 of
14 this section.

15 [4.] **5.** Arson in the second degree is a class C felony unless a person has suffered serious
16 physical injury or has died as a result of the fire or explosion set by the defendant in which case
17 arson in the second degree is a class B felony.