

24-25.23A Issue In Statute Of Limitations Exceptions (Before January 1, 2018)

_____ Proposition: That an exception permitting this prosecution is present in this case.

Committee Note

P.A. 100-434, effective January 1, 2018, amended 720 ILCS 5/3-6 (extended limitations) and 720 ILCS 5/3-7 (periods excluded from limitations) to provide that the State is no longer required to prove exceptions and exclusions to the general statute of limitations (720 ILCS 5/3-5). Previous case law held that exceptions and exclusions were elements that, if applicable, the State had to prove beyond a reasonable doubt. *People v. Morris*, 135 Ill. 2d 540, 544 N.E.2d 150 (1990). The elimination of an element of an offense affects a defendant's substantive rights and cannot apply retroactively. *People v. Holmes*, 292 Ill. App. 3d 855, 860-61 (2nd Dist. 1997). As a result, this instruction should continue to be used in cases in which the alleged offense was committed before January 1, 2018, and the court determines an exception or exclusion is a material issue.

720 ILCS 5/3-5, 3-6, 3-7, and 3-8 (West, 1999).

Give this proposition as the final proposition in the issues instruction for the offense charged.

Give Instruction 24-25.23, and see the Committee Note to that instruction.

Insert in the blank the number of the proposition.