

24-25.23 Prosecutions Brought Under Exceptions To The Statute Of Limitations Normally Applicable (Before January 1, 2018)

A prosecution for _____ must be commenced within _____ after the alleged commission of that offense unless the following exception[s] [(is) (are)] present: _____.

The State has the burden of proving beyond a reasonable doubt that the above exception[s] [(is) (are)] 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 Instruction 24-25.23A.

Insert in the first blank the name of the offense charged.

Insert in the second blank the applicable statutory period of exception relied upon by the State.

Use applicable bracketed material.