

BILL ANALYSIS

S.B. 410
By: Carona
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Article 12.02 (Misdemeanors), Code of Criminal Procedure, is the only Texas statute that addresses the statute of limitations in misdemeanor cases. The statute states that an indictment or information for any misdemeanor must be presented within two years from the date of the commission of the offense. Indictments and information serve as charging instruments in Class A and Class B misdemeanor cases. The charging instrument in Class C misdemeanor cases, however, is the complaint. The statute does not create a statute of limitations for an action initiated by a complaint.

Currently, the prevailing view is that despite the statute's failure to include complaints, Class C misdemeanor cases are subject to a two-year statute of limitations.

S.B. 410 amends current law relating to the statute of limitations for a misdemeanor.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Article 12.02, Code of Criminal Procedure, as follows:

Art. 12.02. MISDEMEANORS. (a) Creates this subsection from existing text. Authorizes an indictment or information for any Class A or Class B misdemeanor to be presented within two years from the date of the commission of the offense, and not afterward.

(b) Authorizes a complaint or information for any Class C misdemeanor to be presented within two years from the date of the commission of the offense, and not afterward.

SECTION 2. Provides that the change in law made by Article 12.02, Code of Criminal procedure, as amended by this Act, does not apply to an offense if the prosecution of that offense became barred by limitation before the effective date of this Act. Provides that the prosecution of that offense remains barred as if this Act had not taken effect.

SECTION 3. Effective date: September 1, 2009.

EFFECTIVE DATE

September 1, 2009.