

## **BILL ANALYSIS**

Senate Research Center  
81R3017 KEL-D

S.B. 410  
By: Carona  
Criminal Justice  
2/26/2009  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

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.

As proposed, S.B. 410 creates an explicit two-year statute of limitations in Class C misdemeanor cases. The bill also defines when a complaint is considered as "presented."

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 12.02, Code of Criminal Procedure, to authorize an indictment, information, or complaint for any misdemeanor to be presented within two years from the date of the commission of the offense, and not afterward. Makes nonsubstantive changes.

SECTION 2. Amends Chapter 12, Code of Criminal Procedure, by adding Article 12.08, as follows:

Art. 12.08. A COMPLAINT IS "PRESENTED," WHEN. Provides that a complaint is considered as "presented" when it has been filed by the proper officer in the proper court.

SECTION 3. 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 4. Effective date: September 1, 2009.