

BILL ANALYSIS

S.B. 413
By: Carona
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The charging instrument in Class C misdemeanor cases is the complaint, the filing of which tolls the statute of limitations. However, complaints are not filed in most Class C cases because defendants may enter a plea to a citation or fail to appear in response to a citation for the offense, therefore not entering a plea. Consequently, from this failure to appear, the statute of limitations is not tolled. Once the generally accepted two-year statute of limitations period has run, the Class C offense can no longer be prosecuted.

Only when a defendant pleads "not guilty" to the citation is the state required, under the Code of Criminal Procedure, to prepare and file a complaint. Requiring the state to file a complaint when a defendant fails to appear and enter a plea would serve to toll the statute of limitations and permit prosecutions for Class C offenses more than two years after the date of the offense.

As proposed, S.B. 413 requires the state to file a complaint when a defendant fails to appear and enter a plea to a citation in a Class C misdemeanor case.

RULEMAKING AUTHORITY

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

ANALYSIS

SECTION 1. Amends Article 27.14(d), Code of Criminal Procedure, to include text providing that if the defendant fails to appear based on the written notice of an offense, for which maximum possible punishment is by fine only, a complaint is required to be filed that conforms to Chapter 45 (Justice and Municipal Courts) and that complaint serves as an original complaint.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.

EFFECTIVE DATE

September 1, 2009.