

BILL ANALYSIS

S.B. 787
By: Nelson
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Bigamy is not a victimless crime. It often involves fraud and abuse that can continue for years undetected, even by the victim(s). This legislation will allow the state to combat con artists, sexual predators, and potentially dangerous foreign nationals who have used fraudulent, bigamist marriages to enter the nation illegally.

S.B. 787 makes changes to current law relating to the statute of limitations on prosecution of the offense of bigamy.

RULEMAKING AUTHORITY

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

ANALYSIS

SECTION 1. Reenacts Article 12.01, Code of Criminal Procedure, as amended by Chapters 285 (H.B. 716), 593 (H.B. 8), 640 (H.B. 887), and 841 (H.B. 959), Acts of the 80th Legislature, Regular Session, 2007, and amends it as follows:

Art. 12.01. FELONIES. Authorizes felony indictments, except as provided by Article 12.03 (Aggravated Offenses, Attempt, Conspiracy, Solicitation, Organized Criminal Activity), to be presented within these limits, and not afterward:

- (1) no limitation on certain offenses;
- (2) ten years from the date of the commission of certain offenses including sexual assault, except as provided by Subdivision (1), rather than by Subdivision (1) or (5);
- (3) seven years from the date of the commission of certain offenses including bigamy under Section 25.01 (Bigamy), Penal Code, except as provided by Subdivision (6). Makes nonsubstantive changes;
- (4) five years from the date of the commission of certain offenses;
- (5) if the investigation of the offense shows that the victim is younger than 17 years of age at the time the offense is committed, 20 years from the 18th birthday of the victim of one of certain offenses;
- (6) ten years from the 18th birthday of a victim of certain offenses, including bigamy under Section 25.01, Penal Code, if the investigation of the offense shows that the person, other than the legal spouse of the defendant, whom the defendant marries or purports to marry or with whom the defendant lives under the appearance of being married is younger than 18 years of age at the time the offense is committed. Deletes existing text relating to indecency with a child under Section 21.11(a)(1) (relating to an offense if a person engages in sexual contact with a child or causes a child to engage in sexual contact) or (2) (relating to an offense if a person commits certain actions with intent to arouse or gratify

the sexual desire of any person), Penal Code; except as provided by Subdivision (1), sexual assault under Section 22.011(a)(2) (relating to the provision that a person commits sexual assault if the person intentionally or knowingly commits certain acts), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B) (relating to the provision that a person commits an offense if the person intentionally or knowingly commits certain acts), Penal Code; or

(7) three years from the date of the commission of the offense: all other felonies.

SECTION 2. Provides that the change in law made by this Act does not apply to an offense if the prosecution of that offense becomes 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. Provides that to the extent of any conflict, this Act prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 4. Effective date: September 1, 2009.

EFFECTIVE DATE

September 1, 2009.