

By: Naishtat

H.B. No. 3351

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the punishment for certain conduct constituting the
3 offense of official oppression and to the statute of limitation on
4 prosecution of that conduct.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article 12.01, Code of Criminal Procedure, as
7 amended by Chapters 285 (H.B. 716), 593 (H.B. 8), 640 (H.B. 887),
8 and 841 (H.B. 959), Acts of the 80th Legislature, Regular Session,
9 2007, is reenacted and amended to read as follows:

10 Art. 12.01. FELONIES. Except as provided in Article 12.03,
11 felony indictments may be presented within these limits, and not
12 afterward:

13 (1) no limitation:

14 (A) murder and manslaughter;

15 (B) sexual assault under Section 22.011(a)(2),
16 Penal Code, or aggravated sexual assault under Section
17 22.021(a)(1)(B), Penal Code;

18 (C) sexual assault, if during the investigation
19 of the offense biological matter is collected and subjected to
20 forensic DNA testing and the testing results show that the matter
21 does not match the victim or any other person whose identity is
22 readily ascertained;

23 (D) continuous sexual abuse of young child or
24 children under Section 21.02, Penal Code;

1 (E) indecency with a child under Section 21.11,
2 Penal Code; [~~or~~]

3 (F) an offense involving leaving the scene of an
4 accident under Section 550.021, Transportation Code, if the
5 accident resulted in the death of a person; or

6 (G) official oppression under Section 39.03,
7 Penal Code, if the offense is punishable under Subsection (e) of
8 that section;

9 (2) ten years from the date of the commission of the
10 offense:

11 (A) theft of any estate, real, personal or mixed,
12 by an executor, administrator, guardian or trustee, with intent to
13 defraud any creditor, heir, legatee, ward, distributee,
14 beneficiary or settlor of a trust interested in such estate;

15 (B) theft by a public servant of government
16 property over which he exercises control in his official capacity;

17 (C) forgery or the uttering, using or passing of
18 forged instruments;

19 (D) injury to an elderly or disabled individual
20 punishable as a felony of the first degree under Section 22.04,
21 Penal Code;

22 (E) sexual assault, except as provided by
23 Subdivision (1) [~~or (5)~~]; or

24 (F) arson;

25 (3) seven years from the date of the commission of the
26 offense:

27 (A) misapplication of fiduciary property or

1 property of a financial institution;

2 (B) securing execution of document by deception;

3 (C) a violation under Sections 162.403(22)-(39),
4 Tax Code;

5 (D) false statement to obtain property or credit
6 under Section 32.32, Penal Code;

7 (E) money laundering;

8 (F) [~~(D)~~] credit card or debit card abuse under
9 Section 32.31, Penal Code; or

10 (G) [~~(F)~~] fraudulent use or possession of
11 identifying information under Section 32.51, Penal Code;

12 (4) five years from the date of the commission of the
13 offense:

14 (A) theft or robbery;

15 (B) except as provided by Subdivision (5),
16 kidnapping or burglary;

17 (C) injury to an elderly or disabled individual
18 that is not punishable as a felony of the first degree under Section
19 22.04, Penal Code;

20 (D) abandoning or endangering a child; or

21 (E) insurance fraud;

22 (5) if the investigation of the offense shows that the
23 victim is younger than 17 years of age at the time the offense is
24 committed, 20 years from the 18th birthday of the victim of one of
25 the following offenses:

26 (A) sexual performance by a child under Section
27 43.25, Penal Code;

1 (B) aggravated kidnapping under Section
2 20.04(a)(4), Penal Code, if the defendant committed the offense
3 with the intent to violate or abuse the victim sexually; or

4 (C) burglary under Section 30.02, Penal Code, if
5 the offense is punishable under Subsection (d) of that section and
6 the defendant committed the offense with the intent to commit an
7 offense described by Subdivision (1)(B) or (D) of this article or
8 Paragraph (B) of this subdivision; ~~or~~

9 (6) ~~[(5)]~~ ten years from the 18th birthday of the
10 victim of the offense:

11 ~~[(A) indecency with a child under Section~~
12 ~~21.11(a)(1) or (2), Penal Code;~~

13 ~~[(B) except as provided by Subdivision (1),~~
14 ~~sexual assault under Section 22.011(a)(2), Penal Code, or~~
15 ~~aggravated sexual assault under Section 22.021(a)(1)(B), Penal~~
16 ~~Code; or~~

17 ~~[(C)]~~ injury to a child under Section 22.04,
18 Penal Code; or

19 (7) ~~[(6)]~~ three years from the date of the commission
20 of the offense: all other felonies.

21 SECTION 2. Section 39.03, Penal Code, is amended by
22 amending Subsection (d) and adding Subsection (e) to read as
23 follows:

24 (d) Except as provided by Subsection (e), an [An] offense
25 under this section is a Class A misdemeanor.

26 (e) An offense under this section is a state jail felony if
27 the conduct constituting the offense consists of the suppression of

1 evidence favorable to a defendant and material to the defendant's
2 guilt or punishment in a criminal trial.

3 SECTION 3. (a) The change in law made by this Act to Section
4 39.03, Penal Code, applies only to an offense committed on or after
5 the effective date of this Act. An offense committed before the
6 effective date of this Act is covered by the law in effect when the
7 offense was committed, and the former law is continued in effect for
8 that purpose. For purposes of this subsection, an offense was
9 committed before the effective date of this Act if any element of
10 the offense occurred before that date.

11 (b) The change in law made by this Act to Article 12.01, Code
12 of Criminal Procedure, does not apply to an offense if the
13 prosecution of that offense becomes barred by limitation before the
14 effective date of this Act. The prosecution of that offense remains
15 barred as if this Act had not taken effect.

16 SECTION 4. This Act takes effect September 1, 2009.