

1-1 By: Hilderbran (Senate Sponsor - Nelson) H.B. No. 253
1-2 (In the Senate - Received from the House April 18, 2011;
1-3 April 20, 2011, read first time and referred to Committee on Health
1-4 and Human Services; May 11, 2011, reported favorably by the
1-5 following vote: Yeas 7, Nays 0; May 11, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the protection of children by ensuring reports of abuse
1-9 or neglect, protecting children from abuse and neglect, ensuring
1-10 that births are reported, and prosecuting the offense of bigamy;
1-11 providing criminal penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Article 12.01, Code of Criminal Procedure, is
1-14 amended to read as follows:

1-15 Art. 12.01. FELONIES. Except as provided in Article 12.03,
1-16 felony indictments may be presented within these limits, and not
1-17 afterward:

1-18 (1) no limitation:

1-19 (A) murder and manslaughter;

1-20 (B) sexual assault under Section 22.011(a)(2),
1-21 Penal Code, or aggravated sexual assault under Section
1-22 22.021(a)(1)(B), Penal Code;

1-23 (C) sexual assault, if during the investigation
1-24 of the offense biological matter is collected and subjected to
1-25 forensic DNA testing and the testing results show that the matter
1-26 does not match the victim or any other person whose identity is
1-27 readily ascertained;

1-28 (D) continuous sexual abuse of young child or
1-29 children under Section 21.02, Penal Code;

1-30 (E) indecency with a child under Section 21.11,
1-31 Penal Code; or

1-32 (F) an offense involving leaving the scene of an
1-33 accident under Section 550.021, Transportation Code, if the
1-34 accident resulted in the death of a person;

1-35 (2) ten years from the date of the commission of the
1-36 offense:

1-37 (A) theft of any estate, real, personal or mixed,
1-38 by an executor, administrator, guardian or trustee, with intent to
1-39 defraud any creditor, heir, legatee, ward, distributee,
1-40 beneficiary or settlor of a trust interested in such estate;

1-41 (B) theft by a public servant of government
1-42 property over which he exercises control in his official capacity;

1-43 (C) forgery or the uttering, using or passing of
1-44 forged instruments;

1-45 (D) injury to an elderly or disabled individual
1-46 punishable as a felony of the first degree under Section 22.04,
1-47 Penal Code;

1-48 (E) sexual assault, except as provided by
1-49 Subdivision (1); or

1-50 (F) arson;

1-51 (3) seven years from the date of the commission of the
1-52 offense:

1-53 (A) misapplication of fiduciary property or
1-54 property of a financial institution;

1-55 (B) securing execution of document by deception;

1-56 (C) a felony violation under Chapter 162, Tax
1-57 Code;

1-58 (D) false statement to obtain property or credit
1-59 under Section 32.32, Penal Code;

1-60 (E) money laundering;

1-61 (F) credit card or debit card abuse under Section
1-62 32.31, Penal Code; ~~or~~

1-63 (G) fraudulent use or possession of identifying
1-64 information under Section 32.51, Penal Code; or

2-1 (H) bigamy under Section 25.01, Penal Code,
2-2 except as provided by Subdivision (6);
2-3 (4) five years from the date of the commission of the
2-4 offense:
2-5 (A) theft or robbery;
2-6 (B) except as provided by Subdivision (5),
2-7 kidnapping or burglary;
2-8 (C) injury to an elderly or disabled individual
2-9 that is not punishable as a felony of the first degree under Section
2-10 22.04, Penal Code;
2-11 (D) abandoning or endangering a child; or
2-12 (E) insurance fraud;
2-13 (5) if the investigation of the offense shows that the
2-14 victim is younger than 17 years of age at the time the offense is
2-15 committed, 20 years from the 18th birthday of the victim of one of
2-16 the following offenses:
2-17 (A) sexual performance by a child under Section
2-18 43.25, Penal Code;
2-19 (B) aggravated kidnapping under Section
2-20 20.04(a)(4), Penal Code, if the defendant committed the offense
2-21 with the intent to violate or abuse the victim sexually; or
2-22 (C) burglary under Section 30.02, Penal Code, if
2-23 the offense is punishable under Subsection (d) of that section and
2-24 the defendant committed the offense with the intent to commit an
2-25 offense described by Subdivision (1)(B) or (D) of this article or
2-26 Paragraph (B) of this subdivision;
2-27 (6) ten years from the 18th birthday of the victim of
2-28 the offense:
2-29 (A) injury to a child under Section 22.04, Penal
2-30 Code; or
2-31 (B) bigamy under Section 25.01, Penal Code, if
2-32 the investigation of the offense shows that the person, other than
2-33 the legal spouse of the defendant, whom the defendant marries or
2-34 purports to marry or with whom the defendant lives under the
2-35 appearance of being married is younger than 18 years of age at the
2-36 time the offense is committed; or
2-37 (7) three years from the date of the commission of the
2-38 offense: all other felonies.
2-39 SECTION 2. Section 262.1015(b), Family Code, is amended to
2-40 read as follows:
2-41 (b) A court may issue a temporary restraining order in a
2-42 suit by the department for the removal of an alleged perpetrator
2-43 under Subsection (a) if the department's petition states facts
2-44 sufficient to satisfy the court that:
2-45 (1) there is an immediate danger to the physical
2-46 health or safety of the child or the child has been a victim of
2-47 sexual abuse;
2-48 (2) there is no time, consistent with the physical
2-49 health or safety of the child, for an adversary hearing;
2-50 (3) the child is not in danger of abuse from a parent
2-51 or other adult with whom the child will continue to reside in the
2-52 residence of the child; ~~and~~
2-53 (4) the parent or other adult with whom the child will
2-54 continue to reside in the child's home is likely to:
2-55 (A) make a reasonable effort to monitor the
2-56 residence; and
2-57 (B) report to the department and the appropriate
2-58 law enforcement agency any attempt by the alleged perpetrator to
2-59 return to the residence; and
2-60 (5) the issuance of the order is in the best interest
2-61 of the child.
2-62 SECTION 3. Section 195.004, Health and Safety Code, is
2-63 amended by amending Subsection (d) and adding Subsection (d-1) to
2-64 read as follows:
2-65 (d) Except as provided by Subsection (d-1), an [An] offense
2-66 under this section is a Class C misdemeanor.
2-67 (d-1) An offense under this section for failure to perform a
2-68 duty required by Section 192.003 is a Class A misdemeanor.
2-69 SECTION 4. Section 25.01(e), Penal Code, is amended to read

3-1 as follows:

3-2 (e) An offense under this section is a felony of the third
3-3 degree, except that if at the time of the commission of the offense,
3-4 the person whom the actor marries or purports to marry or with whom
3-5 the actor lives under the appearance of being married is:

3-6 (1) 17 [~~16~~] years of age [~~or older~~], the offense is a
3-7 felony of the second degree; or

3-8 (2) [~~younger than~~] 16 years of age or younger, the
3-9 offense is a felony of the first degree.

3-10 SECTION 5. The change in law made by this Act to Section
3-11 25.01, Penal Code, applies only to an offense committed on or after
3-12 the effective date of this Act. An offense committed before the
3-13 effective date of this Act is governed by the law in effect when the
3-14 offense was committed, and the former law is continued in effect for
3-15 that purpose. For purposes of this section, an offense is committed
3-16 before the effective date of this Act if any element of the offense
3-17 occurs before that date.

3-18 SECTION 6. The change in law made by this Act to Article
3-19 12.01, Code of Criminal Procedure, does not apply to an offense if
3-20 the prosecution of that offense becomes barred by limitation before
3-21 the effective date of this Act. The prosecution of that offense
3-22 remains barred as if this Act had not taken effect.

3-23 SECTION 7. The change in law made by this Act to Section
3-24 262.1015(b), Family Code, applies only to a petition for a
3-25 temporary restraining order in a suit by the Department of Family
3-26 and Protective Services filed on or after the effective date of this
3-27 Act. A petition filed before the effective date of this Act is
3-28 governed by the law in effect on the date the petition was filed,
3-29 and the former law is continued in effect for that purpose.

3-30 SECTION 8. This Act takes effect September 1, 2011.

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