

By: Dutton

H.B. No. 328

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 1 (S.B. 24), 122 (H.B. 3000), 222 (H.B. 253),
8 and 620 (S.B. 688), Acts of the 82nd Legislature, Regular Session,
9 2011, 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;

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) trafficking of persons under Section
7 20A.02(a)(7) or (8), Penal Code;

8 (H) ~~[(G)]~~ continuous trafficking of persons
9 under Section 20A.03, Penal Code; or

10 (I) official oppression under Section 39.03,
11 Penal Code, if the offense is punishable under Subsection (e) of
12 that section;

13 (2) ten years from the date of the commission of the
14 offense:

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

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

21 (C) forgery or the uttering, using or passing of
22 forged instruments;

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

26 (E) sexual assault, except as provided by
27 Subdivision (1);

1 (F) arson;

2 (G) trafficking of persons under Section
3 20A.02(a)(1), (2), (3), or (4), Penal Code; or

4 (H) compelling prostitution under Section
5 43.05(a)(1), Penal Code;

6 (3) seven years from the date of the commission of the
7 offense:

8 (A) misapplication of fiduciary property or
9 property of a financial institution;

10 (B) securing execution of document by deception;

11 (C) a felony violation under Chapter 162, Tax
12 Code;

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

15 (E) money laundering;

16 (F) credit card or debit card abuse under Section
17 32.31, Penal Code;

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

20 (H) Medicaid fraud under Section 35A.02, Penal
21 Code; or

22 (I) [~~(H)~~] bigamy under Section 25.01, Penal
23 Code, except as provided by Subdivision (6);

24 (4) five years from the date of the commission of the
25 offense:

26 (A) theft or robbery;

27 (B) except as provided by Subdivision (5),

1 kidnapping or burglary;

2 (C) injury to an elderly or disabled individual
3 that is not punishable as a felony of the first degree under Section
4 22.04, Penal Code;

5 (D) abandoning or endangering a child; or

6 (E) insurance fraud;

7 (5) if the investigation of the offense shows that the
8 victim is younger than 17 years of age at the time the offense is
9 committed, 20 years from the 18th birthday of the victim of one of
10 the following offenses:

11 (A) sexual performance by a child under Section
12 43.25, Penal Code;

13 (B) aggravated kidnapping under Section
14 20.04(a)(4), Penal Code, if the defendant committed the offense
15 with the intent to violate or abuse the victim sexually; or

16 (C) burglary under Section 30.02, Penal Code, if
17 the offense is punishable under Subsection (d) of that section and
18 the defendant committed the offense with the intent to commit an
19 offense described by Subdivision (1)(B) or (D) of this article or
20 Paragraph (B) of this subdivision;

21 (6) ten years from the 18th birthday of the victim of
22 the offense:

23 (A) trafficking of persons under Section
24 20A.02(a)(5) or (6), Penal Code;

25 (B) injury to a child under Section 22.04, Penal
26 Code; ~~[or]~~

27 (C) compelling prostitution under Section

1 43.05(a)(2), Penal Code; or

2 (D) [~~(B)~~] bigamy under Section 25.01, Penal
3 Code, if the investigation of the offense shows that the person,
4 other than the legal spouse of the defendant, whom the defendant
5 marries or purports to marry or with whom the defendant lives under
6 the appearance of being married is younger than 18 years of age at
7 the time the offense is committed; or

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

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

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

15 (e) An offense under this section is a felony of the third
16 degree if the conduct constituting the offense consists of the
17 intentional or knowing suppression of evidence favorable to a
18 defendant and material to the defendant's guilt or punishment in a
19 criminal trial.

20 SECTION 3. (a) The change in law made by this Act to Section
21 39.03, Penal Code, applies only to an offense committed on or after
22 the effective date of this Act. An offense committed before the
23 effective date of this Act is governed by the law in effect on the
24 date the offense was committed, and the former law is continued in
25 effect for that purpose. For purposes of this subsection, an
26 offense was committed before the effective date of this Act if any
27 element of the offense occurred before that date.

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

6 SECTION 4. To the extent of any conflict, this Act prevails
7 over another Act of the 83rd Legislature, Regular Session, 2013,
8 relating to nonsubstantive additions to and corrections in enacted
9 codes.

10 SECTION 5. This Act takes effect September 1, 2013.