

SENATE AMENDMENTS

2nd Printing

By: Thompson of Harris, Moody, Guillen

H.B. No. 189

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the elimination of the statute of limitations for the
3 offenses of sexual assault and aggravated sexual assault.

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

5 SECTION 1. Article 12.01, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 12.01. FELONIES. Except as provided in Article 12.03,
8 felony indictments may be presented within these limits, and not
9 afterward:

10 (1) no limitation:

11 (A) murder and manslaughter;

12 (B) sexual assault under Section 22.011(a)(2),
13 Penal Code, or aggravated sexual assault under Section
14 22.021(a)(1)(B), Penal Code;

15 (C) sexual assault, if:

16 (i) during the investigation of the offense
17 biological matter is collected and subjected to forensic DNA
18 testing and the testing results show that the matter does not match
19 the victim or any other person whose identity is readily
20 ascertained; or

21 (ii) probable cause exists to believe that
22 the defendant has committed the same or a similar sexual offense
23 against five or more victims;

24 (D) continuous sexual abuse of young child or

1 children under Section 21.02, Penal Code;

2 (E) indecency with a child under Section 21.11,
3 Penal Code;

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

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

9 (H) continuous trafficking of persons under
10 Section 20A.03, Penal Code;

11 (2) ten years from the date of the commission of the
12 offense:

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

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

19 (C) forgery or the uttering, using or passing of
20 forged instruments;

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

24 (E) sexual assault, except as provided by
25 Subdivision (1);

26 (F) arson;

27 (G) trafficking of persons under Section

1 20A.02(a)(1), (2), (3), or (4), Penal Code; or

2 (H) compelling prostitution under Section
3 43.05(a)(1), Penal Code;

4 (3) seven years from the date of the commission of the
5 offense:

6 (A) misapplication of fiduciary property or
7 property of a financial institution;

8 (B) securing execution of document by deception;

9 (C) a felony violation under Chapter 162, Tax
10 Code;

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

13 (E) money laundering;

14 (F) credit card or debit card abuse under Section
15 32.31, Penal Code;

16 (G) fraudulent use or possession of identifying
17 information under Section 32.51, Penal Code;

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

20 (I) bigamy under Section 25.01, Penal Code,
21 except as provided by Subdivision (6);

22 (4) five years from the date of the commission of the
23 offense:

24 (A) theft or robbery;

25 (B) except as provided by Subdivision (5),
26 kidnapping or burglary;

27 (C) injury to an elderly or disabled individual

1 that is not punishable as a felony of the first degree under Section
2 22.04, Penal Code;

3 (D) abandoning or endangering a child; or

4 (E) insurance fraud;

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

9 (A) sexual performance by a child under Section
10 43.25, Penal Code;

11 (B) aggravated kidnapping under Section
12 20.04(a)(4), Penal Code, if the defendant committed the offense
13 with the intent to violate or abuse the victim sexually; or

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

19 (6) ten years from the 18th birthday of the victim of
20 the offense:

21 (A) trafficking of persons under Section
22 20A.02(a)(5) or (6), Penal Code;

23 (B) injury to a child under Section 22.04, Penal
24 Code;

25 (C) compelling prostitution under Section
26 43.05(a)(2), Penal Code; or

27 (D) bigamy under Section 25.01, Penal Code, if

1 the investigation of the offense shows that the person, other than
2 the legal spouse of the defendant, whom the defendant marries or
3 purports to marry or with whom the defendant lives under the
4 appearance of being married is younger than 18 years of age at the
5 time the offense is committed; or

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

8 SECTION 2. The change in law made by this Act does not apply
9 to an offense if the prosecution of that offense becomes barred by
10 limitation before the effective date of this Act. The prosecution
11 of that offense remains barred as if this Act had not taken effect.

12 SECTION 3. This Act takes effect September 1, 2015.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 24 2015

BY: Van Taylor

Kathy Spaw
Secretary of the Senate

1 Amend H.B. No. 189 (senate committee report) by adding
2 the following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Section 16.0045, Civil Practice and Remedies
5 Code, is amended to read as follows:

6 Sec. 16.0045. [~~FIVE-YEAR~~] LIMITATIONS PERIOD FOR CLAIMS
7 ARISING FROM CERTAIN OFFENSES. (a) A person may [~~must~~] bring
8 suit for personal injury at any time [~~not later than five years~~
9 ~~after the day the cause of action accrues~~] if the injury arises
10 as a result of conduct that violates:

11 (1) Section 22.011(a)(2) [~~22.011~~], Penal Code (sexual
12 assault of a child);

13 (2) Section 22.021(a)(1)(B) [~~22.021~~], Penal Code
14 (aggravated sexual assault of a child);

15 (3) Section 21.02, Penal Code (continuous sexual
16 abuse of young child or children);

17 (4) Section 20A.02(a)(7)(A), (B), (C), (D), or (H) or
18 Section 20A.02(a)(8) involving an activity described by Section
19 20A.02(a)(7)(A), (B), (C), (D), or (H) or sexual conduct with a
20 child trafficked in the manner described by Section 20A.02(a)(7)
21 [20A.02], Penal Code (certain sexual trafficking of a child
22 [persons]); [~~or~~]

23 (5) Section 43.05(a)(2) [~~43.05~~], Penal Code
24 (compelling prostitution by a child); or

25 (6) Section 21.11, Penal Code (indecent with a
26 child).

27 (b) A person must bring suit for personal injury not later
28 than five years after the day the cause of action accrues if the
29 injury arises as a result of conduct that violates:

1 (1) Section 22.011(a)(1), Penal Code (sexual
2 assault);

3 (2) Section 22.021(a)(1)(A), Penal Code (aggravated
4 sexual assault);

5 (3) Section 20A.02, Penal Code (trafficking of
6 persons), other than conduct described by Subsection (a)(4); or

7 (4) Section 43.05(a)(1), Penal Code (compelling
8 prostitution).

9 (c) In an action for injury resulting in death arising as
10 a result of conduct described by Subsection (a) or (b), the
11 cause of action accrues on the death of the injured person.

12 (d) A [~~(e)~~—The] limitations period under this section is
13 tolled for a suit on the filing of a petition by any person in
14 an appropriate court alleging that the identity of the defendant
15 in the suit is unknown and designating the unknown defendant as
16 "John or Jane Doe." The person filing the petition shall
17 proceed with due diligence to discover the identity of the
18 defendant and amend the petition by substituting the real name
19 of the defendant for "John or Jane Doe" not later than the 30th
20 day after the date that the defendant is identified to the
21 plaintiff. The limitations period begins running again on the
22 date that the petition is amended.

23 SECTION _____. The change in law made by this Act applies
24 only to a cause of action that accrues on or after the effective
25 date of this Act. A cause of action that accrued before the
26 effective date of this Act is governed by the law applicable to
27 the cause of action immediately before the effective date of
28 this Act, and that law is continued in effect for that purpose.

29 SECTION _____. This Act takes effect September 1, 2015.

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 25, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB189 by Thompson, Senfronia (Relating to the elimination of the statute of limitations for the offenses of sexual assault and aggravated sexual assault.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Code of Criminal Procedure to eliminate the statute of limitations for aggravated sexual assault crimes and for sexual assault crimes if probable cause exists that the defendant committed the same or a similar sexual offense against five or more victims. The bill also amends the Civil Practice and Remedies Code to define the types of conduct for which a person may bring suit for personal injury at any time and the types of conduct for which a person must bring suit for personal injury not later than five years after the day the cause of action accrues.

Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, MW, GDz

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 20, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB189 by Thompson, Senfronia (Relating to the elimination of the statute of limitations for the offenses of sexual assault and aggravated sexual assault.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to eliminate the statute of limitations for aggravated sexual assault crimes and for sexual assault crimes if probable cause exists that the defendant committed the same or a similar sexual offense against five or more victims.

Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, MW, GDz

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 10, 2015

TO: Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB189 by Thompson, Senfronia (Relating to the elimination of the statute of limitations for the offenses of sexual assault and aggravated sexual assault.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to eliminate the statute of limitations for sexual assault and aggravated sexual assault crimes.

Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, MW, GDz