By:  Watson S.B. No. 735

A BILL TO BE ENTITLED

AN ACT

relating to the statute of limitations for certain sexual assault offenses.

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

SECTION 1.  Chapter 12, Code of Criminal Procedure, is amended by adding Article 12.051 to read as follows:

Art. 12.051.  TOLLING OF LIMITATION PERIOD IN CERTAIN SEXUAL ASSAULT CASES. (a) This article applies only to sexual assault under Section 22.011, Penal Code, and aggravated sexual assault under Section 22.021, Penal Code.

(b)  If biological matter is collected during the investigation of an offense to which this article applies, the running of the period of limitation for the offense is tolled from the date on which the biological matter is first collected until the date on which forensic DNA testing results show that all DNA profiles derived from the matter match one or more persons, all of whose identities are readily ascertained.

SECTION 2.  Article 12.01, Code of Criminal Procedure, is amended to read as follows:

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

(1)  no limitation:

(A)  murder and manslaughter;

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

(C)  sexual assault, if[~~:~~

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

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

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

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

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

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

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

(I)  compelling prostitution under Section 43.05(a)(2), Penal Code;

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

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

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

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

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

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

(F)  arson;

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

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

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

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

(B)  securing execution of document by deception;

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

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

(E)  money laundering;

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

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

(H)  exploitation of a child, elderly individual, or disabled individual under Section 32.53, Penal Code;

(I)  Medicaid fraud under Section 35A.02, Penal Code; or

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

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

(A)  theft or robbery;

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

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

(D)  abandoning or endangering a child; or

(E)  insurance fraud;

(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 the following offenses:

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

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

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

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

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

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

(C)  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; or

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

SECTION 3.  The changes in law made by this Act do not apply to an offense if the prosecution of that offense becomes barred by limitation before the effective date of this Act. The prosecution of that offense remains barred as if this Act had not taken effect.

SECTION 4.  This Act takes effect September 1, 2019.