

By: Guillen, et al.

H.B. No. 3789

A BILL TO BE ENTITLED

AN ACT

relating to the statute of limitations for tampering with certain physical evidence.

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

SECTION 1. 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 the matter:

(a) has not yet been subjected to forensic DNA testing; or

(b) has been 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

1 the defendant has committed the same or a similar sex offense
2 against five or more victims;

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

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

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

10 (G) trafficking of persons under Section
11 20A.02(a)(7) or (8), Penal Code;

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

14 (I) compelling prostitution under Section
15 43.05(a)(2), Penal Code; or

16 (J) tampering with physical evidence under
17 Section 37.09(a)(1) or (d)(1), Penal Code, if:

18 (i) the evidence tampered with is a human
19 corpse, as defined by that section; or

20 (ii) the investigation of the offense shows
21 that a reasonable person in the position of the defendant at the
22 time of the commission of the offense would have cause to believe
23 that the evidence tampered with is related to a criminal homicide
24 under Chapter 19, Penal Code;

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

27 (A) theft of any estate, real, personal or mixed,

1 by an executor, administrator, guardian or trustee, with intent to
2 defraud any creditor, heir, legatee, ward, distributee,
3 beneficiary or settlor of a trust interested in such estate;

4 (B) theft by a public servant of government
5 property over which the public servant exercises control in the
6 public servant's official capacity;

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

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

12 (E) sexual assault, except as provided by
13 Subdivision (1) or (7);

14 (F) arson;

15 (G) trafficking of persons under Section
16 20A.02(a)(1), (2), (3), or (4), Penal Code; or

17 (H) compelling prostitution under Section
18 43.05(a)(1), Penal Code;

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

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

23 (B) securing execution of document by deception;

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

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

1 (E) money laundering;

2 (F) credit card or debit card abuse under Section
3 32.31, Penal Code;

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

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

8 (I) health care fraud under Section 35A.02, Penal
9 Code; or

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

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;

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

11 (A) trafficking of persons under Section
12 20A.02(a)(5) or (6), Penal Code;

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

15 (C) bigamy under Section 25.01, Penal Code, if
16 the investigation of the offense shows that the person, other than
17 the legal spouse of the defendant, whom the defendant marries or
18 purports to marry or with whom the defendant lives under the
19 appearance of being married is younger than 18 years of age at the
20 time the offense is committed;

21 (7) two years from the date the offense was
22 discovered: sexual assault punishable as a state jail felony under
23 Section 22.011(f)(2), Penal Code; or

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

26 SECTION 2. Article 12.01, Code of Criminal Procedure, as
27 amended by this Act, does not apply to an offense if the prosecution

1 of that offense becomes barred by limitation before the effective
2 date of this Act. The prosecution of that offense remains barred as
3 if this Act had not taken effect.

4 SECTION 3. This Act takes effect September 1, 2021.