

BILL ANALYSIS

Senate Research Center

H.B. 3025
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In April 1995, Deana Hebert's 20-month old child, Bianca, was taken by her father from Texas to Mexico in violation of a court ordered child custody arrangement. Bianca's father was charged with interference with child custody and a court issued a warrant for his arrest. Deana spent over sixteen years trying to find her daughter.

In May 2021, Deana and Bianca were reunited briefly near Cancun, Mexico, after a private investigator tracked down Bianca's father. While Mexican authorities briefly took Bianca's father into custody, they did not extradite him to Texas purportedly because Mexico does not deem interference with child custody to be an extraditable offense under the Geneva Convention. The statute of limitations had also run on charging Bianca's father with kidnapping.

H.B. 3025 amends the Penal Code to help reduce the likelihood of a similar injustice from taking place by removing the statute of limitations for interference with a child custody order, increasing the statute of limitations for kidnapping of a minor to 20 years after the minor's 18th birthday, and permitting prosecution of individuals for kidnapping if they interfere with a child custody order by fleeing the United States.

H.B. 3025 removes the statute of limitations for interference with a child custody order only if an individual takes a child younger than 18 years of age outside of the United States with the intent to deprive a person entitled to possession of or access to the child of that possession or access and without the permission of that person.

H.B. 3025 amends current law relating to the prosecution of the criminal offenses of aggravated kidnapping, kidnapping, and interference with child custody.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as Bianca's Law.

SECTION 2. Amends Article 12.01, Code of Criminal Procedure, as follows:

Art. 12.01. FELONIES. Authorizes felony indictments, except as provided in Article 12.03 (Aggravated Offenses, Attempt, Conspiracy, Solicitation, Organized Criminal Activity), to be presented within these limits, and not afterward:

(1) no limitation for certain offenses, including interference with child custody under Section 25.03(a)(3) (relating to providing that a person commits an offense if the person takes or retains a child younger than 18 years of age outside of the United States with the intent to deprive a person entitled to possession of or access to the child of that possession or access and without the permission of that person), Penal Code;

(2)-(4) makes no changes to these subdivisions;

(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 certain offenses, including kidnapping under Section 20.03 (Kidnapping), Penal Code, or aggravated kidnapping under Section 20.04 (Aggravated Kidnapping), Penal Code, rather than including aggravated kidnapping under Section 20.04(a)(4) (relating to providing that a person commits an offense if he intentionally or knowingly abducts another person with the intent to inflict bodily injury on the person or violate or abuse the person sexually) if the defendant committed the offense with the intent to violate or abuse the victim sexually; or

(6)-(8) makes no changes to these subdivisions.

SECTION 3. Amends Section 25.03, Penal Code, by adding Subsection (e) to authorize the actor, if conduct that constitutes an offense under Subsection (a)(3) also constitutes an offense under Section 20.03, to be prosecuted only under Section 20.03.

SECTION 4. Provides that Article 12.01, Code of Criminal Procedure, as amended by this Act, does not apply to the prosecution of an offense if that prosecution becomes barred by limitation before the effective date of this Act. Provides that the prosecution of the offense remains barred as if this Act had not taken effect.

SECTION 5. Makes application of Section 25.03(e), Penal Code, as added by this Act, prospective.

SECTION 6. Effective date: September 1, 2023.