

SUBJECT: Extending statutes of limitations for certain crimes

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Hinojosa, Keel, Talton, Garcia, Kitchen, Martinez Fischer
0 nays
3 absent — Dunnam, Green, Shields

SENATE VOTE: On final passage, February 20 — voice vote

WITNESSES: For — Pam Traylor, Montgomery County District Attorney's Office;
Registered but did not testify: Nancy Ghigna and Naneen M. Halwas,
Montgomery County District Attorney's Office

Against — None

BACKGROUND: Code of Criminal Procedure, art. 12.01 sets time limitations on when felony indictments can be presented for certain crimes. The limitation on felony offenses not covered by the article is three years from the date of the commission of the offense. Felony abandonment or endangerment of a child, injury to a child, elderly person, or disabled person, and kidnapping are subject to this three-year limitation. Sexual assault of a child and aggravated sexual assault of a child have a 10-year limitation from the victim's 18th birthday. Other felony sexual assault offenses are subject to a five-year limitation.

DIGEST: SB 214 would extend to five years from the date of the offense the limitation on presenting an indictment for kidnapping, abandoning or endangering a child, or felony injury to a child, elderly person, or disabled person not punishable as a first-degree felony. The bill would extend the statute of limitations to 10 years from the commission of the offense for first-degree felony injury to a child, elderly person, or disabled person and for sexual assault offenses in which the victim was an adult. It would not affect the current limitation on prosecuting sexual assault of a child and aggravated sexual assault of a child.

This bill would take effect September 1, 2001, and would not apply to an offense if the prosecution of that offense was barred by limitation before that date.

**SUPPORTERS
SAY:**

Statutes of limitations are, in effect, acts of amnesty to criminals. Violent criminals like kidnappers and those who injure children, the elderly, or the disabled do not deserve amnesty only three years after they commit these crimes. Likewise, rapists do not deserve amnesty after only five years.

Extending the statute of limitations to five years for kidnapping and for injury to a child or to an elderly or disabled person would be an appropriate way for the Legislature to demonstrate to victims that the state takes these crimes at least as seriously as theft, burglary, robbery, and arson — other crimes already covered by the five-year limitation. These crimes can be difficult to solve quickly, so expanding the time period for an indictment to be presented would assist law enforcement and prosecutors in making sure that criminals are held accountable for their actions.

It would be appropriate to extend the statute of limitations to 10 years when a person intentionally or knowingly caused serious bodily or mental injury to a child or to an elderly or disabled person, because these victims are least able to defend themselves. Many times, the perpetrators of these crimes are family members, and the victims are unable or afraid to tell authorities until years later — often after the three-year statute of limitations has expired.

Recent advances in DNA testing have enabled law enforcement to connect perpetrators with sexual assault cases years after the offense was committed. Expanding the statute of limitations on these cases from five to 10 years would give law enforcement officials more time to investigate sexual assault cases and ultimately would result in more rapists being held accountable.

**OPPONENTS
SAY:**

Expanding the statute of limitations would not produce a more reliable verdict, but rather could mean that innocent people would be more likely to lose their liberty. As more time elapses between an alleged crime and the prosecution of the crime, witness testimony becomes shakier and an alleged victim's possible ulterior motives become obscured. Defendants have a harder time defending themselves as evidence that could prove them innocent, such as documentation of their whereabouts or other witness

testimony, fades away. This bill potentially could result in innocent people being sent to prison, which is the reason for the limitations period.

NOTES:

A related bill, SB 328 by Jackson, which also would extend the statute of limitations to 10 years from the commission of the offense for first-degree felony injury to a child, elderly person, or disabled person, passed the Senate by voice vote on February 8, was reported favorably, without amendment, by the House Criminal Jurisprudence Committee on May 10, and was set on the House General State Calendar for May 16.