

- SUBJECT:** Extending the statute of limitations for identity theft offenses
- COMMITTEE:** Business and Industry — committee substitute recommended
- VOTE:** 8 ayes — Giddings, Elkins, Bailey, Bohac, Castro, Darby, Martinez, Solomons
- 0 nays
- 1 absent — Zedler
- WITNESSES:** For —John Brewer, Harris County District Attorney’s Office; (*Registered, but did not testify:* Katrina Daniels, Susan D. Reed, Bexar County District Attorney; Allen Place, Texas Land Title Association; Steve Scurlock, Independent Bankers Association of Texas)
- Against —None
- On —(*Registered, but did not testify:* Robert Sells, Department of Public Safety)
- BACKGROUND:** Code of Criminal Procedure, art 12.01 specifies the statute of limitations for the prosecution of various felony offenses. A felony that is not mentioned specifically in the section has a statute of limitations of three years from the date the offense is committed.
- DIGEST:** CSHB 887 would amend Code of Criminal Procedure, art. 12.01 to increase the statute of limitations from three to seven years for the following offenses:
- credit card or debit card abuse under Penal Code, sec. 32.31;
 - false statement to obtain property or credit under Penal Code, sec. 32.32; and
 - fraudulent use or possession of identifying information under Penal Code, sec. 32.51.
- CSHB 887 would take effect September 1, 2007, and would apply only to an offense committed on or after the bill’s effective date.

SUPPORTERS
SAY:

CSHB 887 would allow for the successful prosecution of more identity theft crimes by extending the statute of limitations to seven years for many of these offenses.

Identity theft is a serious and growing crime. It occurs when someone uses another's personal identifying information without permission to commit crimes such as fraud or theft. Thieves use personal information such as social security numbers, driver's license numbers, names, addresses, and birth dates, financial records, or financial institution PIN numbers to use existing credit cards, obtain new credit cards, make purchases, or take over financial accounts. According to the Federal Trade Commission, Texas had more than 26,000 identity theft victims in 2005, and the state ranked fourth nationally that year in the rate of identity theft .

A three-year statute of limitations for the prosecution of identity theft is inadequate to combat the nature of the crime. There are many cases in which identity theft does not surface immediately, and individuals do not discover they have been victimized until well after the statute of limitations period has passed. This happens commonly to senior citizens who own credit cards that they do not use. If this information falls into criminal hands, it may be several years — perhaps not until the card owner seeks to buy a new car, for example — before identity theft victims realize that someone else has been using their credit illegally to make purchases. Under these circumstances, a seven-year statute of limitations would be necessary in many cases to bring identity thieves to justice.

Extending the statute of limitations would provide law enforcement more latitude in prosecuting identity theft offenses and assist victims in correcting the damage made to their personal and financial reputations. A conviction, in some cases, may be the only remedy for victims. For example, a victim whose identity was appropriated by an inmate who entered the correctional system for another crime might be haunted for years by a false impression of a criminal history. Expunging this false criminal history would be easier if the criminal responsible were convicted for identity theft. In addition, a victim who could point to an identity thief behind bars would have more evidence to use in efforts to repair his or her financial affairs.

A seven-year statute of limitations appropriately would group identify theft offenses with the other fraud offenses listed in art. 12.01(3), including misapplication of fiduciary property or property of a financial

institution, securing execution of document by deception, and various tax code violations.

**OPPONENTS
SAY:**

Establishing a seven-year statute of limitations for identity theft would be excessive. It would exceed the statute of limitations applied to violent crimes such as robbery, kidnapping, and injury to a child, plus theft and burglary, among others. While identity theft is a serious crime, it does not rise to the level of these other crimes and should be treated differently under the law.

NOTES:

The bill as introduced would have raised the statute of limitations for credit card or debit abuse and fraudulent use or possession of identifying information from three years to five years, instead of seven. The committee substitute also would apply a seven-year statute of limitations to a false statement to obtain property or credit.