

SUBJECT: Revised statute of limitations for bigamy and sex offenses against a child

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Gallego, Christian, Fletcher, Miklos, Moody, Riddle, Vaught, Vo

0 nays

3 absent — Hodge, Kent, Pierson

SENATE VOTE: On final passage, April 23 — 30-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Penal Code sec. 25.01 makes bigamy — marriage to more than one person — a criminal offense. If the offense is committed with a person 16 years old or older, it is a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000). If the offense is committed with someone younger than 16, it is a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000).

The current statute of limitations for bigamy is three years. This means that charges relating to bigamy must be filed within three years from the date of the commission of the offense.

DIGEST: SB 787 would increase the statute of limitations for bigamy from three to seven years, unless the victim was younger than 18 years old, in which case it would be 10 years from the 18th birthday of the victim.

The bill also would remove the statute of limitations of 10 years from the 18th birthday of the victim for indecency with a child, sexual assault of a child, and aggravated sexual assault of a child, leaving those offenses among those with no limitation.

The bill would take effect September 1, 2009, and would apply to offenses whose prosecution was not barred on that date.

SUPPORTERS
SAY:

SB 787 would give prosecutors a stronger tool to combat the serious crime of bigamy. In many cases of bigamy, persons did not know that they were victims until after the three-year statute of limitations was over. SB 787 would recognize that these cases often take longer to come to light than other crimes by extending the time that law enforcement officers could bring charges against these criminals from three years to seven years or to 10 years from the 18th birthday of child victims.

Bigamy is a serious crime that warrants longer than three years for charges to be brought. Some bigamists are con artists who take advantage of vulnerable people by having multiple spouses from whom they swindle money. Others use the Internet to meet and seduce victims. Still other bigamists abuse children and others by forcing them into plural marriages, such as in the situation in El Dorado, Texas. There also are foreign nationals using fraudulent, bigamist marriages to enter the United States illegally. U.S. Immigration and Customs has identified marriage fraud as a serious threat to national security and public safety, in that it creates a vulnerability that could allow terrorists, criminals and illegal aliens into the United States.

Changing the statute of limitations for child victims to run 10 years from a victim's 18th birthday is necessary because child victims often do not speak out about abuse, or may not even know they were abused, until they are older. Child victims often are unable to speak out immediately because they are traumatized, fearful, or still living with the abusers. Using the 18th birthday of the victim as the point to start the statute of limitations would be in line with the statute of limitations for injury to a child, which has similar circumstances warranting this limit.

Although in some cases, prosecutors could bring other charges against bigamists, SB 787 would give them another effective tool to use if they wanted to use a bigamy charge. Prosecutors would have the flexibility to use the charges that fit the situation best and offered the most appropriate punishment.

SB 787 would not burden defendants unduly. Prosecutors would have to prove that a crime was committed, and defendants would be able to defend themselves. Because proving older cases would be difficult, prosecutors would use discretion and be cautious about pursuing questionable cases with weak or little evidence.

SB 787 also would reconcile the statutes of limitations for indecency with a child, sexual assault of a child, and aggravated sexual assault of a child with changes made to those laws in 2007 that placed them into the category of no limitation.

**OPPONENTS
SAY:**

The current statute of limitation adequately balances the needs of both prosecutors and the accused. Extending the statute of limitations for bigamy could render accused persons unable to defend themselves adequately. Over time, witnesses' memories fade, and evidence becomes more difficult to obtain.

It is unnecessary to single out a certain type of bigamy for an especially long statute of limitations. The vast majority of cases of bigamy with child victims would be prosecuted more effectively for other serious offenses, such as sexual assault.