

- SUBJECT:** Statute of limitations for sexual assault, aggravated sexual assault
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 6 ayes — Herrero, Moody, Canales, Hunter, Leach, Simpson
1 nay — Shaheen
- WITNESSES:** For — Elizabeth Donegan, Austin Police; (*Registered, but did not testify:* Jason Sabo, Children at Risk; Ann Hettinger, Concerned Women for America of Texas; Bill Elkin, Houston Police Retired Officers Association; Katherine Barillas, One Voice Texas; Chris Kaiser, Texas Association Against Sexual Assault; Jennifer Allmon, the Texas Catholic Conference of Bishops; Lon Craft, Texas Municipal Police Association; Julie Bassett)
- Against — (*Registered, but did not testify:* Mark Bennett, Harris County Criminal Lawyers Association)
- On — Kristin Etter, Texas Criminal Defense Lawyers Association
- BACKGROUND:** Code of Criminal Procedure, art. 12.01 establishes statutes of limitations for filing criminal charges. There is no statute of limitations for sexual assault of a child, aggravated sexual assault of a child, or sexual assaults if during the investigation biological matter was collected and subjected to DNA testing and the testing showed that the matter did not match the victim or anyone else whose identity was known.
- For all other sexual assaults, the statute of limitations is 10 years from the date of the offense. This means that formal charges in a case must be presented within 10 years from the date of the commission of the offense.
- DIGEST:** HB 189 would remove the statute of limitation for all sexual assault and aggravated sexual assault offenses, leaving those offenses with no limitation.

The bill would take effect September 1, 2015, and would not apply to prosecution of offenses barred by the law before that date.

**SUPPORTERS
SAY:**

HB 189 would change the statute of limitations for sexual assault and aggravated sexual assault, which is warranted because of the seriousness of these crimes and the special circumstances that can limit when these victims are ready to speak out about the crime. Despite these circumstances, a measure of justice always should be available to victims of these crimes.

Removing the statute of limitations in these cases would not burden or be unfair to defendants. As in all cases, defendants would be presumed innocent, and accusations would have to be proven beyond a reasonable doubt. Because proving older cases could be difficult, prosecutors would use discretion and be cautious about pursuing questionable cases with weak or little evidence.

**OPPONENTS
SAY:**

HB 189 would be too broad. The current statute of limitations adequately balances the needs of both prosecutors and the accused by allowing no statute of limitations only in narrow circumstances, including those involving a child and those in which there was DNA evidence.

Eliminating the limit for all sexual assault and aggravated sexual assault cases could result in prosecutions in which accused persons were unable to defend themselves adequately. This could be especially true in sexual assault cases with no DNA evidence, which could hinge on the word of one person. Over time, witnesses' memories fade and evidence becomes more difficult to obtain.

**OTHER
OPPONENTS
SAY:**

Rather than eliminate the statute of limitations for all sexual assault and aggravated sexual assault cases, it would be better to limit such a change to cases with multiple victims and the same defendant. This would address the unique circumstances of serial abusers with several victims. In these cases, victims might not come forward until they know of the existence of other victims, or outcry may be delayed for other reasons.

NOTES:

The author plans to offer a floor amendment that would change the statute of limitation only for certain sexual assault cases involving multiple victims. Under the planned amendment, there would be no statute of limitation if there were probable cause to believe the defendant repeatedly committed the same or similar offense against five or more victims.