

SUBJECT: Removing the statute of limitations for tampering with certain evidence

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Collier, K. Bell, Cason, Cook, Crockett, Hinojosa, A. Johnson,
Murr, Vasut

0 nays

WITNESSES: For — Audrey Louis, 81st Judicial District Attorney; Gary Sweet, TMPA; Mary Lewis, Williamson County Sheriff's Office; (*Registered, but did not testify*: Jennifer Szimanski, Combined Law Enforcement Associations of Texas (CLEAT); M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; Frederick Frazier, Dallas Police Association/FOP716 State FOP Director; James Parnell, Dallas Police Association; David Sinclair, Game Warden Peace Officers Association; Ray Hunt, HPOU; John Hubert, Kleberg & Kenedy Counties District Attorney's Office; Jimmy Rodriguez, San Antonio Police Officers Association; Tom Maddox, Sheriffs Association of Texas; Thomas Parkinson)

Against — None

BACKGROUND: Penal Code sec. 37.09 governs the offense of tampering with or fabricating evidence. Under secs. 37.09(a)(1) and 37.09(d)(1), a person commits the offense if, knowing that an investigation or official proceeding is pending or in progress, or knowing that an offense has been committed, the person alters, destroys, or conceals any record, document, or thing with intent to impair its verity, legibility, or availability as evidence in the investigation or official proceeding or as evidence in any subsequent investigation or official proceeding related to the offense.

Under Code of Criminal Procedure art. 12.01, a felony indictment for tampering with or fabricating evidence must be presented within three years of the date the offense was committed.

Concerns have been raised about the difficulty of solving many cold case murders due to possible destruction of or tampering with evidence, and some have suggested that removing the statute of limitations for the offense of tampering with evidence in certain circumstances could mitigate commission of the offense and provide law enforcement with another tool to prosecute offenders involved in a murder case.

DIGEST: HB 3789 would remove the statute of limitations for the felony offense of tampering with or fabricating evidence as specified under the applicable sections of the Penal Code if:

- the evidence tampered with was a human corpse; or
- the investigation of the offenses showed that a reasonable person in the position of the defendant at the time of the commission of the offense would have cause to believe that the evidence tampered with was related to a criminal homicide.

The bill would take effect September 1, 2021, and would not apply to offenses for which the prosecution was barred by the limitation in effect before the bill's effective date.