
**Criminal Justice & Corrections
Committee**

SSB 5042

Brief Description: Tolling the statute of limitations for felony sex offenses.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senator McCaslin).

Brief Summary of Substitute Bill

- Changes the point in time at which the current statutes of limitations for prosecuting felony sex offenses begins to run to the later of (a) the date of the commission of the crime; or (b) one year from the date on which the identity of the suspect is conclusively established by DNA testing.

Hearing Date: 3/25/05

Staff: Kathryn Leathers (786-7114).

Background:

Except for sex offense registration requirements (which includes gross misdemeanors and misdemeanors), a "sex offense" means any of the following felonies:

- rape in the first, second, and third degree;
- rape of a child in the first, second, and third degree;
- child molestation in the first, second, and third degree;
- sexual misconduct with a minor in the first degree;
- indecent liberties;
- sexually violating human remains;
- voyeurism;
- incest in the first and second degree;
- sexual exploitation of a minor;
- dealing in depictions of minor engaged in sexually explicit conduct;
- sending, bringing into state depictions of minor engaged in sexually explicit conduct;
- communication with a minor for immoral purposes, if the offender has a prior felony conviction for communicating with a minor for immoral purposes or for any felony sex offense;
- patronizing a juvenile prostitute;
- a felony criminal attempt, criminal solicitation, or criminal conspiracy to commit any of the above listed crimes;

- any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense under the laws of this state;
- a felony with a finding of sexual motivation; and
- any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense.

The length of the statute of limitations varies for the above felony sex offenses. The limitations period begins to run for each of these offenses on the date that the crime is committed. In some cases, the limitations period is extended beyond the expiration of the limitations period to a date certain established by statute. For example, in the case of rape in the first degree, if the crime is reported within one year of the commission of the crime, the 10-year limitations period begins to run on the date of the crime. However, if the victim is under the age of 14 at the time the crime is committed, the limitations period may be extended to three years after the victim's 18th birthday even if the 10-year period has expired.

Summary of Bill:

This bill establishes that current limitations periods for prosecuting felony sex offenses begin to run from the later of: (a) the date the crime is committed; or (b) one year from the date on which the identity of the offender is conclusively established by DNA testing. No change is made to the length of the current limitations periods.

As applied to current statutes of limitations, this bill appears to have the following effect:

I. Rape in the First and Second Degree

(1) If reported within one year of crime, regardless of the age of the victim, the 10-year statute of limitations begins to run on the later of (a) the date of crime; or (b) if the identity of the offender is ever conclusively established through DNA evidence, one year after the date on which DNA evidence is so established;

(2) If the crime is not reported within one year of crime and the victim is 14 years or older, then the three-year statute of limitations begins to run on the later of: (a) the date of crime; or (b) if the identity of the offender is ever conclusively established through DNA evidence, one year after the date on which DNA evidence is so established; and

(3) If the crime is not reported within one-year of crime and the victim is under 14, then the seven-year statute of limitations begins to run on the later of: (a) the date of crime; or (b) if the identity of the offender is ever conclusively established through DNA evidence, one year after the date on which DNA evidence is so established.

II. Rape of a Child in the First and Second Degree

Child Molestation in the First and Second Degree

Indecent Liberties with an Incapacitated Person

Incest in the First and Second Degree

The seven-year statute of limitations begins to run on the later of: (a) the date of the crime; or (b) if the identity of the offender is ever conclusively established through DNA evidence, then one year after the date on which DNA evidence is so established.

III. Voyeurism

The three-year statute of limitations begins to run on the later of: (a) the date of crime; or (b) if the identity of the offender is ever conclusively established through DNA evidence, then one year

after the date on which DNA evidence is so established. (Note: DNA evidence is not typically at issue in voyeurism cases.)

IV. Rape in the Third Degree

Rape of a Child in the Third Degree

Child Molestation in the Third Degree

Sexual Misconduct with a Minor in the First Degree

Indecent Liberties with anyone other than incapacitated person

Sexual Violation of Human Remains

Custodial Sexual Misconduct in the First Degree

Sexual Exploitation of a Minor

Dealings in Depictions of Minors in Sexually Explicit Conduct

Sending Depictions of Minors in Sexually Explicit Conduct

Communicating with a Minor for Immoral Purposes

Patronizing a Juvenile Prostitute

The three-year statute of limitations begins to run on the later of: (a) the date of crime; or (b) if the identity of the offender is ever conclusively established through DNA evidence, one year after the date on which DNA evidence is so established. (Note: DNA evidence is not typically at issue in all crimes in this category.)

V. Sexual Misconduct with a Minor in the Second Degree

Custodial Sexual Misconduct in the Second Degree

The two-year statute of limitations begins to run on the later of: (a) two years from the date of the crime; or (b) if the identity of the offender is ever conclusively established through DNA evidence, then one year after the date on which DNA evidence is so established.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.