

Chapter 392

S.B. No. 998

AN ACT

relating to the statute of limitations for the offense of exploitation of a child, elderly individual, or disabled individual.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 12.01, Code of Criminal Procedure, is amended to read as follows:

Art. 12.01. FELONIES. Except as provided in Article 12.03, felony indictments may be presented within these limits, and not afterward:

(1) no limitation:

(A) murder and manslaughter;

(B) sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code;

(C) sexual assault, if:

(i) during the investigation of the offense biological matter is collected and subjected to forensic DNA testing and the testing results show that the matter does not match the victim or any other person whose identity is readily ascertained; or

(ii) probable cause exists to believe that the defendant has committed the same or a similar sexual offense against five or more victims;

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1 (D) continuous sexual abuse of young child or
2 children under Section 21.02, Penal Code;

3 (E) indecency with a child under Section 21.11,
4 Penal Code;

5 (F) an offense involving leaving the scene of an
6 accident under Section 550.021, Transportation Code, if the
7 accident resulted in the death of a person;

8 (G) trafficking of persons under Section
9 20A.02(a)(7) or (8), Penal Code;

10 (H) continuous trafficking of persons under
11 Section 20A.03, Penal Code; or

12 (I) compelling prostitution under Section
13 43.05(a)(2), Penal Code;

14 (2) ten years from the date of the commission of the
15 offense:

16 (A) theft of any estate, real, personal or mixed,
17 by an executor, administrator, guardian or trustee, with intent to
18 defraud any creditor, heir, legatee, ward, distributee,
19 beneficiary or settlor of a trust interested in such estate;

20 (B) theft by a public servant of government
21 property over which he exercises control in his official capacity;

22 (C) forgery or the uttering, using or passing of
23 forged instruments;

24 (D) injury to an elderly or disabled individual
25 punishable as a felony of the first degree under Section 22.04,
26 Penal Code;

27 (E) sexual assault, except as provided by

1 Subdivision (1);

2 (F) arson;

3 (G) trafficking of persons under Section

4 20A.02(a)(1), (2), (3), or (4), Penal Code; or

5 (H) compelling prostitution under Section

6 43.05(a)(1), Penal Code;

7 (3) seven years from the date of the commission of the

8 offense:

9 (A) misapplication of fiduciary property or

10 property of a financial institution;

11 (B) securing execution of document by deception;

12 (C) a felony violation under Chapter 162, Tax

13 Code;

14 (D) false statement to obtain property or credit

15 under Section 32.32, Penal Code;

16 (E) money laundering;

17 (F) credit card or debit card abuse under Section

18 32.31, Penal Code;

19 (G) fraudulent use or possession of identifying

20 information under Section 32.51, Penal Code;

21 (H) exploitation of a child, elderly individual,

22 or disabled individual under Section 32.53, Penal Code;

23 (I) Medicaid fraud under Section 35A.02, Penal

24 Code; or

25 (J) [~~I~~] bigamy under Section 25.01, Penal

26 Code, except as provided by Subdivision (6);

27 (4) five years from the date of the commission of the

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1 offense:

2 (A) theft or robbery;

3 (B) except as provided by Subdivision (5),
4 kidnapping or burglary;

5 (C) injury to an elderly or disabled individual
6 that is not punishable as a felony of the first degree under Section
7 22.04, Penal Code;

8 (D) abandoning or endangering a child; or

9 (E) insurance fraud;

10 (5) if the investigation of the offense shows that the
11 victim is younger than 17 years of age at the time the offense is
12 committed, 20 years from the 18th birthday of the victim of one of
13 the following offenses:

14 (A) sexual performance by a child under Section
15 43.25, Penal Code;

16 (B) aggravated kidnapping under Section
17 20.04(a)(4), Penal Code, if the defendant committed the offense
18 with the intent to violate or abuse the victim sexually; or

19 (C) burglary under Section 30.02, Penal Code, if
20 the offense is punishable under Subsection (d) of that section and
21 the defendant committed the offense with the intent to commit an
22 offense described by Subdivision (1)(B) or (D) of this article or
23 Paragraph (B) of this subdivision;

24 (6) ten years from the 18th birthday of the victim of
25 the offense:

26 (A) trafficking of persons under Section
27 20A.02(a)(5) or (6), Penal Code;

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1 (B) injury to a child under Section 22.04, Penal
2 Code; or

3 (C) bigamy under Section 25.01, Penal Code, if
4 the investigation of the offense shows that the person, other than
5 the legal spouse of the defendant, whom the defendant marries or
6 purports to marry or with whom the defendant lives under the
7 appearance of being married is younger than 18 years of age at the
8 time the offense is committed; or

9 (7) three years from the date of the commission of the
10 offense: all other felonies.

11 SECTION 2. Article 12.01, Code of Criminal Procedure, as
12 amended by this Act, does not apply to an offense if the prosecution
13 of that offense becomes barred by limitation before the effective
14 date of this Act. The prosecution of that offense remains barred as
15 if this Act had not taken effect.

16 SECTION 3. This Act takes effect September 1, 2017.

Don Paul
President of the Senate

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 998 passed the Senate on April 3, 2017, by the following vote: Yeas 31, Nays 0. _____

Patsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 998 passed the House on May 19, 2017, by the following vote: Yeas 144, Nays 0, two present not voting. _____

Robert Haney
Chief Clerk of the House

Approved:

5-31-2017
Date

Greg Abbott
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:00 AM O'CLOCK

JUN 01 2017
RRP
Secretary of State

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 6, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB998 by West (Relating to the statute of limitations for the offense of exploitation of a child, elderly individual, or disabled individual.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to add exploitation of a child, elderly individual, or disabled individual to the list of offenses with a statute of limitation of seven years.

The Office of Court Administration indicates it does not anticipate a significant fiscal impact to the state court system. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional agencies.

The bill would take effect September 1, 2017 and would not apply to an offense if the prosecution of that offense becomes barred by limitation before the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, LM, RFL, KJH

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 21, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB998 by West (Relating to the statute of limitations for the offense of exploitation of a child, elderly individual, or disabled individual.), **As Introduced**

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CRIMINAL JUSTICE IMPACT STATEMENT

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IN RE: SB998 by West (Relating to the statute of limitations for the offense of exploitation of a child, elderly individual, or disabled individual.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Code of Criminal Procedure to add exploitation of a child, elderly individual, or disabled individual to the list of offenses with a statute of limitation of seven years. Under existing statute, the statute of limitation for this offense is three years.

Increasing the statute of limitations is expected to result in greater demands on the correctional resources of the counties or of the State due to a potential increase in the number of individuals prosecuted, placed under supervision in the community, or sentenced to a term of confinement within a state correctional institution. In fiscal year 2016, 87 individuals were arrested, 24 were placed under felony community supervision, and 15 were admitted into state correctional institutions for the offense of exploitation of a child, elderly individual, or disabled individual under the existing statute of limitation. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, RFL, LM

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Increasing the statute of limitations is expected to result in greater demands on the correctional resources of the counties or of the State due to an expected increase in the number of individuals prosecuted, sentenced to a term of supervision in the community or to a term of confinement within a state correctional institution, and released to parole supervision. In fiscal year 2016, 87 individuals were arrested, 24 were placed under felony community supervision, and 15 were admitted into state correctional institutions for the offense of exploitation of a child, elderly individual, or disabled individual under the existing statute of limitation. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

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