

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 28, 2015
Date

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 189 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Van Taylor
V. Taylor

Joan Huffman
Huffman

Jim Holkhorst
Holkhorst

Menéndez
Menéndez

Ch Perry
On the part of the Senate
Perry

Seafonia Thompson

S. Thompson
S. Thompson

Bohac
Bohac

Clardy
Clardy

Raymond
On the part of the House
Sheets

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 189

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the statute of limitations for a suit for personal
3 injury arising from certain offenses constituting sexual abuse of a
4 child or for certain sexual assault offenses.

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

6 SECTION 1. Section 16.0045, Civil Practice and Remedies
7 Code, is amended to read as follows:

8 Sec. 16.0045. [~~FIVE-YEAR~~] LIMITATIONS PERIOD FOR CLAIMS
9 ARISING FROM CERTAIN OFFENSES. (a) A person must bring suit for
10 personal injury not later than 15 [~~five~~] years after the day the
11 cause of action accrues if the injury arises as a result of conduct
12 that violates:

13 (1) Section 22.011(a)(2) [~~22.011~~], Penal Code (sexual
14 assault of a child);

15 (2) Section 22.021(a)(1)(B) [~~22.021~~], Penal Code
16 (aggravated sexual assault of a child);

17 (3) Section 21.02, Penal Code (continuous sexual abuse
18 of young child or children);

19 (4) Section 20A.02(a)(7)(A), (B), (C), (D), or (H) or
20 Section 20A.02(a)(8), Penal Code, involving an activity described
21 by Section 20A.02(a)(7)(A), (B), (C), (D), or (H) or sexual conduct
22 with a child trafficked in the manner described by Section
23 20A.02(a)(7) [~~20A.02~~], Penal Code (certain sexual trafficking of a
24 child [~~persons~~]); [~~or~~]

1 (5) Section 43.05(a)(2) [~~43.05~~], Penal Code
2 (compelling prostitution by a child); or
3 (6) Section 21.11, Penal Code (indecency with a
4 child).

5 (b) A person must bring suit for personal injury not later
6 than five years after the day the cause of action accrues if the
7 injury arises as a result of conduct that violates:

8 (1) Section 22.011(a)(1), Penal Code (sexual
9 assault);

10 (2) Section 22.021(a)(1)(A), Penal Code (aggravated
11 sexual assault);

12 (3) Section 20A.02, Penal Code (trafficking of
13 persons), other than conduct described by Subsection (a)(4); or

14 (4) Section 43.05(a)(1), Penal Code (compelling
15 prostitution).

16 (c) In an action for injury resulting in death arising as a
17 result of conduct described by Subsection (a) or (b), the cause of
18 action accrues on the death of the injured person.

19 (d) A [~~(c)~~ ~~The~~] limitations period under this section is
20 tolled for a suit on the filing of a petition by any person in an
21 appropriate court alleging that the identity of the defendant in
22 the suit is unknown and designating the unknown defendant as "John
23 or Jane Doe." The person filing the petition shall proceed with due
24 diligence to discover the identity of the defendant and amend the
25 petition by substituting the real name of the defendant for "John or
26 Jane Doe" not later than the 30th day after the date that the
27 defendant is identified to the plaintiff. The limitations period

1 begins running again on the date that the petition is amended.

2 SECTION 2. Article 12.01, Code of Criminal Procedure, is
3 amended to read as follows:

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

7 (1) no limitation:

8 (A) murder and manslaughter;

9 (B) sexual assault under Section 22.011(a)(2),
10 Penal Code, or aggravated sexual assault under Section
11 22.021(a)(1)(B), Penal Code;

12 (C) sexual assault, if:

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

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

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

23 (E) indecency with a child under Section 21.11,
24 Penal Code;

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

1 (G) trafficking of persons under Section
2 20A.02(a)(7) or (8), Penal Code; or

3 (H) continuous trafficking of persons under
4 Section 20A.03, Penal Code;

5 (2) ten years from the date of the commission of the
6 offense:

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

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

13 (C) forgery or the uttering, using or passing of
14 forged instruments;

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

18 (E) sexual assault, except as provided by
19 Subdivision (1);

20 (F) arson;

21 (G) trafficking of persons under Section
22 20A.02(a)(1), (2), (3), or (4), Penal Code; or

23 (H) compelling prostitution under Section
24 43.05(a)(1), Penal Code;

25 (3) seven years from the date of the commission of the
26 offense:

27 (A) misapplication of fiduciary property or

- 1 property of a financial institution;
- 2 (B) securing execution of document by deception;
- 3 (C) a felony violation under Chapter 162, Tax
4 Code;
- 5 (D) false statement to obtain property or credit
6 under Section 32.32, Penal Code;
- 7 (E) money laundering;
- 8 (F) credit card or debit card abuse under Section
9 32.31, Penal Code;
- 10 (G) fraudulent use or possession of identifying
11 information under Section 32.51, Penal Code;
- 12 (H) Medicaid fraud under Section 35A.02, Penal
13 Code; or
- 14 (I) bigamy under Section 25.01, Penal Code,
15 except as provided by Subdivision (6);
- 16 (4) five years from the date of the commission of the
17 offense:
- 18 (A) theft or robbery;
- 19 (B) except as provided by Subdivision (5),
20 kidnapping or burglary;
- 21 (C) injury to an elderly or disabled individual
22 that is not punishable as a felony of the first degree under Section
23 22.04, Penal Code;
- 24 (D) abandoning or endangering a child; or
- 25 (E) insurance fraud;
- 26 (5) if the investigation of the offense shows that the
27 victim is younger than 17 years of age at the time the offense is

1 committed, 20 years from the 18th birthday of the victim of one of
2 the following offenses:

3 (A) sexual performance by a child under Section
4 43.25, Penal Code;

5 (B) aggravated kidnapping under Section
6 20.04(a)(4), Penal Code, if the defendant committed the offense
7 with the intent to violate or abuse the victim sexually; or

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

13 (6) ten years from the 18th birthday of the victim of
14 the offense:

15 (A) trafficking of persons under Section
16 20A.02(a)(5) or (6), Penal Code;

17 (B) injury to a child under Section 22.04, Penal
18 Code;

19 (C) compelling prostitution under Section
20 43.05(a)(2), Penal Code; or

21 (D) bigamy under Section 25.01, Penal Code, if
22 the investigation of the offense shows that the person, other than
23 the legal spouse of the defendant, whom the defendant marries or
24 purports to marry or with whom the defendant lives under the
25 appearance of being married is younger than 18 years of age at the
26 time the offense is committed; or

27 (7) three years from the date of the commission of the

1 offense: all other felonies.

2 SECTION 3. Section 16.0045, Civil Practice and Remedies
3 Code, as amended by this Act, applies only to a cause of action that
4 accrues on or after the effective date of this Act. A cause of
5 action that accrued before the effective date of this Act is
6 governed by the law applicable to the cause of action immediately
7 before the effective date of this Act, and that law is continued in
8 effect for that purpose.

9 SECTION 4. Article 12.01, Code of Criminal Procedure, as
10 amended by this Act, does not apply to an offense if the prosecution
11 of that offense becomes barred by limitation before the effective
12 date of this Act. The prosecution of that offense remains barred as
13 if this Act had not taken effect.

14 SECTION 5. This Act takes effect September 1, 2015.

House Bill 189
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Article 12.01, Code of Criminal Procedure, is amended.

SECTION 2. *The change in law made by this Act* does not apply to an offense if the prosecution of that offense becomes barred by limitation before the effective date of this Act. The prosecution of that offense remains barred as if this Act had not taken effect.

No equivalent provision.

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

SECTION __. Section 16.0045, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 16.0045. ~~[FIVE-YEAR]~~ LIMITATIONS PERIOD FOR CLAIMS ARISING FROM CERTAIN OFFENSES.

(a) A person ~~may~~ **must** bring suit for personal injury at any time ~~[not later than five years after the day the cause of action accrues]~~ if the injury arises as a result of conduct that violates:

- (1) Section ~~22.011(a)(2)~~ [22.011], Penal Code (sexual assault of a child);
- (2) Section ~~22.021(a)(1)(B)~~ [22.021], Penal Code (aggravated sexual assault of a child);
- (3) Section 21.02, Penal Code (continuous sexual abuse of young child or children);
- (4) Section ~~20A.02(a)(7)(A), (B), (C), (D), or (H)~~ or Section ~~20A.02(a)(8)~~ involving an activity described by Section ~~20A.02(a)(7)(A), (B), (C), (D), or (H)~~ or sexual conduct with a child trafficked in the manner described by Section ~~20A.02(a)(7)~~ [20A.02], Penal Code (certain sexual trafficking of a child ~~[persons]~~); ~~[or]~~
- (5) Section ~~43.05(a)(2)~~ [43.05], Penal Code (compelling

CONFERENCE

SECTION 2. Same as House version.

SECTION 4. *Article 12.01, Code of Criminal Procedure, as amended by this Act*, does not apply to an offense if the prosecution of that offense becomes barred by limitation before the effective date of this Act. The prosecution of that offense remains barred as if this Act had not taken effect.

SECTION 1. Section 16.0045, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 16.0045. ~~[FIVE-YEAR]~~ LIMITATIONS PERIOD FOR CLAIMS ARISING FROM CERTAIN OFFENSES.

(a) A person **must** bring suit for personal injury *not later than 15 [five] years after the day the cause of action accrues* if the injury arises as a result of conduct that violates:

- (1) Section ~~22.011(a)(2)~~ [22.011], Penal Code (sexual assault of a child);
- (2) Section ~~22.021(a)(1)(B)~~ [22.021], Penal Code (aggravated sexual assault of a child);
- (3) Section 21.02, Penal Code (continuous sexual abuse of young child or children);
- (4) Section ~~20A.02(a)(7)(A), (B), (C), (D), or (H)~~ or Section ~~20A.02(a)(8)~~, **Penal Code**, involving an activity described by Section ~~20A.02(a)(7)(A), (B), (C), (D), or (H)~~ or sexual conduct with a child trafficked in the manner described by Section ~~20A.02(a)(7)~~ [20A.02], Penal Code (certain sexual trafficking of a child ~~[persons]~~); ~~[or]~~
- (5) Section ~~43.05(a)(2)~~ [43.05], Penal Code (compelling

House Bill 189
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

prostitution by a child); or
(6) Section 21.11, Penal Code (indecenty with a child).

prostitution by a child); or
(6) Section 21.11, Penal Code (indecenty with a child).

(b) A person must bring suit for personal injury not later than five years after the day the cause of action accrues if the injury arises as a result of conduct that violates:

(b) Same as Senate version.

(1) Section 22.011(a)(1), Penal Code (sexual assault);

(2) Section 22.021(a)(1)(A), Penal Code (aggravated sexual assault);

(3) Section 20A.02, Penal Code (trafficking of persons), other than conduct described by Subsection (a)(4); or

(4) Section 43.05(a)(1), Penal Code (compelling prostitution).

(c) In an action for injury resulting in death arising as a result of conduct described by Subsection (a) or (b), the cause of action accrues on the death of the injured person.

(c) Same as Senate version.

(d) A [~~(e)~~The] limitations period under this section is tolled for a suit on the filing of a petition by any person in an appropriate court alleging that the identity of the defendant in the suit is unknown and designating the unknown defendant as "John or Jane Doe." The person filing the petition shall proceed with due diligence to discover the identity of the defendant and amend the petition by substituting the real name of the defendant for "John or Jane Doe" not later than the 30th day after the date that the defendant is identified to the plaintiff. The limitations period begins running again on the date that the petition is amended. [FA1]

(d) Same as Senate version.

[The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.]

House Bill 189
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SECTION 3. This Act takes effect September 1, 2015.

No equivalent provision.

SENATE VERSION (IE)

SECTION __. *The change in law made by this Act* applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose.
[FA1]

SECTION 3. Same as House version.

SECTION __. This Act takes effect September 1, 2015.
[FA1]

CONFERENCE

SECTION 3. *Section 16.0045, Civil Practice and Remedies Code, as amended by this Act*, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. Same as House version.

Same as House version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 29, 2015

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB189 by Thompson, Senfronia (Relating to the statute of limitations for a suit for personal injury arising from certain offenses constituting sexual abuse of a child or for certain sexual assault offenses.), **Conference Committee Report**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Civil Practice and Remedies Code to define the types of conduct for which a person may bring suit for personal injury not later than 15 years after the day the cause of action accrues and types of conduct for which a person may bring suit for personal injury not later than five years after the day the cause of action accrues. The bill would also amend the Code of Criminal Procedure to eliminate the statute of limitations for aggravated sexual assault crimes and for sexual assault crimes if probable cause exists that the defendant committed the same or a similar sexual offense against five or more victims. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

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, MW, GDz

**Certification of Compliance with
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on HB 189 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.

Stephonia Thompson
(name)

May 29, 2015
(date)