

- SUBJECT:** Allowing uncorroborated testimony from certain victims of sex offenses
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 5 ayes — Hinojosa, Dunnam, Keel, Green, Kitchen  
0 nays  
2 present, not voting — Garcia, Shields  
2 absent — Talton, Martinez Fischer
- WITNESSES:** For — Naneen M. Halwas, Montgomery County District Attorney’s Office;  
*Registered but did not testify:* Nancy Ghigna and Pam Traylor, Montgomery County District Attorney’s Office  
  
Against — None
- BACKGROUND:** Code of Criminal Procedure, art. 38.07 permits uncorroborated testimony from the victim of a sexual offense to support a conviction if the victim informed anyone, other than the defendant, of the alleged offense within one year after its alleged occurrence. The provision applies to victims of sexual offenses listed under Penal Code, chapter 21 (homosexual conduct, public lewdness, indecent exposure, and indecency with a child), and to victims of sexual assault and aggravated sexual assault. The requirement that the victim inform another person of an alleged offense does not apply if the victim was younger than 18 years of age at the time of the alleged offense.
- DIGEST:** HB 1209 would create an exception to the requirement to tell another person of an alleged offense for a victim who, at the time of alleged offense, was:
- ! 17 years of age or younger;
  - ! 65 years of age or older; or
  - ! 18 years of age or older and unable to satisfy his or her own need for food, shelter, medical care, or protection from harm by reason of age or physical or mental disease, defect, or injury.

This bill would take effect September 1, 2001, and would apply only to an offense committed on or after that date.

SUPPORTERS  
SAY:

HB 1209 would help certain victims by removing the one-year deadline for reporting a sexual offense. Sexually abused persons who are younger than 17, older than 65, or who have a physical or mental disability often depend on their abusers for food, shelter, and medical care and may be unable to tell anyone about the crime or may fear losing their shelter if they do. In Montgomery County, a woman with cerebral palsy was sexually assaulted repeatedly over a period of five years by a brother-in-law with whom she was living and, because of threats he made to her, was afraid to tell anyone about the assaults. The victim could not tell anyone until she found another sister to live with. By then, more than a year had passed since the last assault, and the man never was charged with the crime.

OPPONENTS  
SAY:

HB 1209 should limit uncorroborated testimony to cases in which alleged victims were *unable* to tell another person about the alleged offense within a year because of their advanced age or physical or mental disability. If enacted in its current form, the bill could allow abuse of the law. For example, a 30-year-old woman who had suffered an injury and was unable to work could make an uncorroborated claim during a contentious divorce proceeding that her breadwinner husband had sexually assaulted her years before. Her claim would give her leverage in gaining custody of the children and in procuring financial support, and it could send him to prison — whether or not the allegation was true.

NOTES:

An identical bill in the 76th Legislature, HB 375 by Williams, died in the House Criminal Jurisprudence Committee.