

BILL ANALYSIS

Senate Research Center

H.B. 2019
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since the passage of the Lavinia Masters Act in 2019, more funding has been allocated toward the testing of rape kits. This funding has allowed for more DNA collected at crime scenes to be tested.

However, many rape kits have been waiting to be tested for more than five years. The current five-year statute of limitations for burglary of a habitation with intent to commit sexual assault means that even when these rape kits are tested and a match is found after that time, the person who committed the sexual assault cannot be charged or prosecuted with a first degree felony, which is the current penalty for that burglary offense. Legislation is needed to address this narrow gap in the law for cases where DNA was collected but may have not been tested within five years. Currently, this short statute of limitations for the offense of burglary of a habitation with intent to commit sexual assault can limit a prosecutor's ability to properly charge an accused offender and ensure public safety because prosecutors can only charge such a crime as a sexual assault once the five-year statute of limitations has passed.

BILL SUMMARY:

H.B. 2019 seeks to ensure that individuals can be charged with burglary of a habitation with intent to commit sexual assault with which they would have otherwise been charged, but for the delay in DNA testing of rape kits, by removing the five-year statute of limitations for that burglary offense when DNA has been collected but either has not yet been subjected to testing or produces results showing that the tested DNA does not match the victim or any other person whose identity is readily ascertained.

H.B. 2019 amends current law relating to the statute of limitations for certain burglary offenses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 12.01, Code of Criminal Procedure, as follows:

Art. 12.01. FELONIES. Authorizes felony indictments, except as provided in Article 12.03 (Classification of Misdemeanors), to be presented within these limits, and not afterward:

(1) no limitation:

(A)-(H) makes no changes to these paragraphs;

(H)-(I) makes nonsubstantive changes to these paragraphs; or

(J) burglary under Section 30.02 (Burglary), Penal Code, if:

(i) the offense is punishable under Subsection (d) (relating to providing that an offense under this section is a felony of the first degree if certain criteria are met) of that section because the defendant entered a habitation with the intent to commit an offense under Section 22.011 (Sexual Assault) or 22.021 (Aggravated Sexual Assault), Penal Code; and

(ii) during the investigation of the offense biological matter is collected and the matter:

(a) has not yet been subjected to forensic DNA testing; or

(b) has been 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;

(2)-(3) makes no changes to these subdivisions;

(4) creates an exception under Subdivision (1) or (5) and makes a nonsubstantive change;

(5) if the investigation of the offense shows that the victim is younger than 17 years of age at the time the offense is committed, 20 years from the 18th birthday of the victim of one of certain offenses, including, subject to Subdivision (1)(J), burglary under Section 30.02, Penal Code, if the offense is punishable under Subsection (d) of that section because the defendant entered a habitation, rather than if the offense is punishable under Subsection (d) of that section and the defendant committed the offense, with a certain intent; or

(6)-(8) makes no changes to these subdivisions.

SECTION 2. Provides that 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. Provides that the prosecution of that offense remains barred as if this Act had not taken effect.

SECTION 3. Effective date: September 1, 2023.