

SUBJECT: Statute of limitations of 10 years from 18th birthday for injury to a child

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Pena, Vaught, Escobar, Hodge, Mallory Caraway, Pierson
0 nays
3 absent — Riddle, Moreno, Talton

WITNESSES: For — (*Registered, but did not testify*: Ruby Ramos, Texans Care for Children; Charles S. Wagner)
Against — None

BACKGROUND: Code of Criminal Procedure, Art.12.01 establishes statutes of limitations for filing criminal charges. Charges relating to first-degree felony injury to a child must be filed within 10 years from the date of the commission of the offense. Injury to a child is considered a first-degree felony when certain acts done intentionally or knowingly cause children serious bodily injury or serious mental deficiency, impairment, or injury. Other offenses of injury to a child have a limit of five years from the commission of the offense.

The limit is 10 years from the 18th birthday of the victim for indecency with a child, sexual assault of a child, and aggravated sexual assault of a child.

DIGEST: HB 959 would make the statute of limitations for all offenses of injury to a child 10 years from a victim's 18th birthday.

The bill would take effect September 1, 2007, and would apply to offenses whose prosecution was not barred on that date.

SUPPORTERS SAY: Changing the statute of limitations for injury to a child is warranted because of the special circumstances surrounding child victims and the seriousness of these crimes. Current law does not protect adequately children who may be trapped in abusive environments for longer than the

statute of limitations. A longer statute of limitations for these crimes would allow for both punishment of offenders and healing and closure for victims.

Child victims often are unable to speak out immediately about their abuse because they are traumatized, fearful, or still living with the abusers. When relatives are involved in injuring a child, victims often speak out only after they are older and no longer dependent on their families. The statute of limitations should be extended for all cases of injury to a child so that all young victims would have an adequate chance to mature and gain the financial and emotional stability necessary to speak out about those who abuse them. Lengthening the statute of limitations would recognize that some victims take longer than others to gain the ability to speak out.

HB 959 would make the time limit for filing charges for injury to a child the same as the one now used for certain sex crimes against children. This would be appropriate because both types of crimes are serious offenses committed against some of the most vulnerable members of society. This actually would encourage more reporting of these crimes, not discourage it. Using the 18th birthday of the victim as the trigger to start the statute of limitations would be in line with the allowance made in civil suits if a person was under age 18 years old when a cause of action accrued.

Because of the problems and pain that can arise from accusing someone of injuring a child or of child abuse, false accusations would be rare. As in all crimes, defendants would be presumed innocent, and accusations still would have to be proven beyond a reasonable doubt. Prosecutors would have to prove the actual injury to the child. Because proving older cases would be difficult, prosecutors would use discretion and be especially cautious about pursuing questionable cases with weak or little evidence. Accusations stemming from ulterior motives, such as anger at being cut out of a will, would be questioned by defense attorneys and prosecutors alike. In addition, current law includes penalties for false testimony.

**OPPONENTS
SAY:**

Although injury to a child is a terrible crime that should be punished severely, these crimes should not be equated with serious sex offenses that have a statute of limitations of 10 years from a victim's 18th birthday. The current limit of 10 years from the time of the offense for the most serious cases of injury to a child already is one of the longest available and adequately balances the need to give children time to speak out about

serious abuse and defendants a reasonable chance to defend themselves. The current five-year limit on filing charges for less serious offenses maintains this balance by allowing more serious offenses to be handled with a more generous statute of limitations. Extending the limits could encourage people to wait to report these cases.

Extending the statute of limitations for injury to a child could render defendants unable to defend themselves adequately and could infringe on their right to due process. Over time, witnesses' memories fade, and evidence becomes more difficult to obtain. A longer statute of limitations could give false hope to victims that prosecutors might take up old cases resting on evidence that was too weak to obtain a conviction.

Extending the statute of limitations could result in an increased number of false accusations of child abuse, which could lead to the conviction of innocent people. Children and adults occasionally make false accusations either because of an ulterior motive to hurt the accused or other reasons that are, in fact, false. In these cases, the highly charged atmosphere surrounding child victims can lead to an overreaction by the criminal justice system and to proceedings in which defendants effectively are presumed guilty and innocent people go to jail.