

STORAGE NAME: h0505.hcc.doc
DATE: April 4, 2001

HOUSE OF REPRESENTATIVES
COUNCIL FOR HEALTHY COMMUNITIES
ANALYSIS

BILL #: HB 505
RELATING TO: Sex Crimes/Time Limitations
SPONSOR(S): Representative Cusack
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:
(1) CRIME PREVENTION, CORRECTIONS & SAFETY YEAS 8 NAYS 0
(2) JUDICIAL OVERSIGHT YEAS 6 NAYS 0
(3) COUNCIL FOR HEALTHY COMMUNITIES YEAS 13 NAYS 0
(4)
(5)

I. SUMMARY:

HB 505 amends s. 775.15 to provide that if the victim of a sexual battery, of a lewd and lascivious offense or of incest is under the age of 18, the applicable period of limitation does not begin to run until the victim has reached the age of 18 or until the crime is reported to law enforcement. Under current law, the statute of limitations begins to run when the victim reaches the age of 16 or when the crime is reported to law enforcement. This bill makes no changes to the current statute providing that there is no statute of limitations for capital felonies or life felonies.

The bill takes effect on July 1, 2001.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 775.15, F.S. provides statutes of limitation for criminal offenses. The section provides in part:

- A prosecution for a capital felony, a life felony or a felony which resulted in a death may be commenced at any time. s. 775.15(1), F.S.
- A prosecution for a first degree felony must be commenced within 4 years after it is committed. s. 775.15(2)(a), F.S.
- A prosecution for a second or third degree felony must be commenced within 3 years after it is committed. s. 775.15(2)(b), F.S.
- A prosecution for a first degree misdemeanor must be commenced within two years after it is committed. A prosecution for a second degree misdemeanor or a noncriminal violation must be commenced within one year after it is committed. s. 775.15(2)(d), F.S.
- If the victim of sexual battery, of a lewd and lascivious act or of incest is under the age of 16, the applicable period of limitation, if any, does not begin to run until the victim has reached the age of 16 or the violation is reported to a law enforcement agency, whichever occurs earlier. s. 775.15(7), F.S.
- A prosecution for a first or second degree felony violation of s. 794.011 which includes several different sexual battery offenses, if reported to a law enforcement agency within 72 hours after commission of the crime, may be commenced at any time. s. 775.15(1)(b), F.S.

C. EFFECT OF PROPOSED CHANGES:

The bill will amend s. 775.15(7), F.S. to provide that if the victim of a sexual battery¹ or of a lewd and lascivious offense² or of incest³ is under the age of 18, the applicable period of limitation, if any⁴

¹ s. 794.011, F.S.

² s. 800.04, F.S.

³ s. 826.04, F.S.

does not begin to run until the victim has reached the age of 18, rather than the age of 16, or the violation is reported to a law enforcement agency, whichever occurs earlier. For example, if a 13 year old child is a victim of sexual battery, an offense that is a second degree felony, the statute of limitations would not begin to run⁵ until the victim has reached the age of 18. s. 794.011(5), F.S. Therefore, because the statute of limitations for a second degree felony is four years, the statute of limitations would not expire until the victim reached the age of 22, rather than the age of 20 as under the current statute.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amending 775.15(7), F.S. revising the victim's age at which the time limitations begin to run for prosecution of certain sex crimes.

Section 2: Providing effective date of July 1, 2001.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Although it is possible that this bill will allow prosecutions to be commenced in situations where the statute of limitations would have expired without the passage of this bill, it is expected that this bill will have an insignificant prison bed impact on the Department of Corrections.

⁴ A prosecution for a capital felony or a life felony can be commenced at any time. Thus, a rape of a child under the age of 12 may be commenced at any time. s. 794.011(2), F.S.

⁵ If the crime is reported to law enforcement before the victim's is 18 but not within 72 hours of the offense, the statute of limitations would expire four years from the date that the crime was reported.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Trina Kramer

Staff Director:

David De La Paz

AS REVISED BY THE COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

L. Michael Billmeier

Staff Director:

Lynne Overton

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AS FURTHER REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:

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Mary Pat Moore