

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 698
 SPONSOR: Senator Campbell
 SUBJECT: Statute of Limitations/Sexual Offenses
 DATE: March 27, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Favorable
2.	_____	_____	APJ	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill would amend s. 775.15(7), F.S. to provide that if the victim of a sexual battery, a lewd and lascivious offense, statutory rape under former s. 794.05, F.S., or of incest is under the age of 18, the applicable statute of limitation time period would not begin to run until the victim reached the age of 18 (rather than the current age of 16) or until the violation is reported to a law enforcement agency, whichever occurs earlier.

This bill substantially amends section 775.15 of the Florida Statutes.

II. Present Situation:

The purpose of the statute of limitations for a criminal prosecution is to protect people from being indefinitely threatened by possible criminal prosecution, which might otherwise be delayed until such a time when defense witnesses become unavailable, judges change office, or other time hazards develop which could impede an otherwise good defense. *State v. Hickman*, 189 So.2d 254 (Fla. 2nd DCA 1966), cert. denied, 194 So.2d 618 (1966).

Section 775.15, F.S., controls the time limitations for initiating a criminal prosecution for any felony offense in the following manner:

- For a capital felony, a life felony, or a felony resulting in death, there is no time limitation, s. 775.15(1)(a);
- For a first or second degree felony violation of s. 794.011, F.S., which includes several different sexual battery offenses, if reported to a law enforcement agency within 72 hours after commission of the crime, there is no time limitation, s. 775.15 (1)(b);

- For any felony that resulted in injury to a person when the felony arises from the use of a “destructive device,” there is a ten-year limitation, s. 775.15 (1)(a);
- For a first degree felony, there is a four-year limitation, s. 775.15 (2)(a); and
- For any other felony, there is a three-year limitation, s. 775.15(2)(b).

These general time limitation periods are extended for certain prosecutions, including prosecutions involving certain sexual offenses committed against children less than 16 years of age. s. 775.15(7), F.S. The applicable time limitation in these cases does not begin to run until the crime is reported or until the child turns 16, whichever occurs first.

The sexual crimes that are covered under this extension for children less than 16 years of age are sexual battery, statutory rape under former s. 794.05, F.S., lewd and lascivious offenses committed upon or in the presence of a child, and incest. Thus, if someone commits a third degree felony lewd and lascivious assault on a 14 year old child, the normal three-year time limitation period does not begin to run until that child turns 16 years of age, or until he or she reports the crime, whichever occurs earlier. s. 775.15(7), F.S. See also, *Constantine v. State*, 566 So.2d 321-322 (Fla. 2nd DCA 1990).

III. Effect of Proposed Changes:

The bill would amend s. 775.15(7), F.S., to provide that if the victim of a sexual battery, a lewd and lascivious offense, statutory rape under former s. 794.05, F.S., or of incest is under the age of 18, the applicable limitation period would not begin to run until the victim reached the age of 18, rather than the age of 16, or until the violation is reported to a law enforcement agency, whichever occurs earlier. Thus, under the bill, if a 14 year old child is a victim of a third degree felony lewd and lascivious offense, the three-year statute of limitations would not begin to run until the victim reached the age of 18, or until he or she reports the crime, whichever occurs earlier. Accordingly, the statute of limitations would not expire until the victim reached the age of 21, rather than the age of 19 as under the current statute.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of Economic and Demographic Research has indicated that any prison bed impact as a result of this bill will be insignificant and anticipates that the Criminal Justice Estimating Conference will agree with that finding when it meets to consider this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
