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## CRIMINAL PROCEDURE Felonies Against Minors: Extend Statute of Limitations

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## CRIMINAL PROCEDURE

### *Felonies Against Minors: Extend Statute of Limitations*

CODE SECTION: O.C.G.A. § 17-3-1 (amended)  
BILL NUMBER: HB 33  
ACT NUMBER: 494  
SUMMARY: The Act extends the statute of limitations from four to seven years for prosecuting felonies, except for murder or for felonies punishable by death or life imprisonment, committed against victims who are less than fourteen years of age.  
EFFECTIVE DATE: July 1, 1987

#### *History*

O.C.G.A. § 17-3-1 establishes time limits for bringing criminal prosecutions. Under the limitations established by this statute, if an indictment is not filed against a criminal defendant within these time limits, the state is barred from prosecuting the offense.<sup>1</sup> Generally, the statute of limitations begins running when the crime is committed and continues running until an indictment is filed.<sup>2</sup>

The previous statute was enacted in 1968.<sup>3</sup> Similar time limitations have been statutorily enacted in Georgia since the Penal Code of 1910.<sup>4</sup> Previously, in Georgia criminal statutes of limitations were based solely on the severity of the crime to determine the maximum time allowed for initiating prosecution.<sup>5</sup> The more severe the crime, the longer the state had to begin prosecution.<sup>6</sup>

#### *HB 33*

The Act amends O.C.G.A. § 17-3-1(c) by allowing the state three addi-

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1. See *State v. Brannon*, 154 Ga. App. 285, 267 S.E.2d 888 (1980).
  2. *Cain v. State*, 144 Ga. App. 249, 240 S.E.2d 750 (1977). O.C.G.A. § 17-3-2(2) (1982), tolls the statute of limitations when "the person committing the crime is unknown or the crime is unknown."
  3. GA. CODE ANN. § 26-502 (Harrison 1933), enacted by 1968 Ga. Laws 1249, 1266.
  4. See PENAL CODE of 1910 § 30; GA. CODE ANN. § 27-601 (Harrison 1933), repealed by implication 1981. See editorial note to GA. CODE ANN. § 27-601.
  5. O.C.G.A. § 17-3-1 (1982); GA. CODE ANN. § 27-601 (Harrison 1933); GA. PENAL CODE of 1910 § 30.
  6. O.C.G.A. § 17-3-1 (1982).

tional years to bring an indictment against a person accused of a felony when the victim of the felony is less than fourteen years of age. Under this amendment the statute of limitations is increased from four to seven years for felony prosecutions, other than prosecutions for murder or crimes that are punishable by death or life imprisonment, when the victim is less than fourteen years of age.<sup>7</sup> The bill was introduced because prosecutors were concerned that this increased time was necessary when sexual crimes were committed against children.<sup>8</sup> Due to the child's immaturity and the close relationship that often exists between the abused child and the criminal offender, a child generally is reluctant to tell an adult about the criminal conduct. Allowing the additional three years for prosecution permits more time for the child to mature and come forward with the information regarding the sexual abuse. This additional time should enable the state to more effectively prosecute criminal defendants who commit a felony against children under fourteen years of age.<sup>9</sup>

Initially, HB 33 increased the statute of limitations from four years to ten years. The House Judiciary Committee was concerned that this time period was excessive<sup>10</sup> and offered a committee substitute reducing the ten year statute of limitation to seven years.<sup>11</sup> This substitute was accepted in the final version of the Act.

In addition to including victims who were under fourteen years of age, the bill also applied when victims were incompetent. The Senate Judiciary Committee amended the bill to eliminate this category because the committee was concerned that including this category created uncertainty in the Act. This uncertainty is contrary to one purpose of the statute of limitations, which is to establish certainty in criminal prosecutions.<sup>12</sup> The amendment also was accepted in the final version of the Act.

The Act applies only to offenses committed on or after July 1, 1987.<sup>13</sup>

*J. Cronin*

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7. O.C.G.A. § 17-3-1(c) (Supp. 1987).

8. Telephone interview with Representative Tommy Chambless, House District No. 133 (Mar. 16, 1987).

9. *Id.*

10. *Id.*

11. *Id.*

12. Telephone interview with Representative Tommy Chambless, House District No. 133 (May 19, 1987).

13. HB 33 § 2 (AP), 1987 Ga. Gen. Assem.