ENGROSSED HOUSE
BILL NO. 1914

BY: VAUGHN (Ray) and WEBB of the HOUSE

and

WEEDN of the SENATE

AN ACT RELATING TO CIVIL PROCEDURE; AMENDING 12 O.S. 1991, SECTION 95, WHICH RELATES TO LIMITATIONS FOR COMMENCEMENT OF CERTAIN CIVIL ACTIONS; PROVIDING LIMITATIONS ON COMMENCEMENT OF CIVIL ACTIONS BASED ON CHILD SEXUAL ABUSE AND EXPLOITATION OR INCEST; PROVIDING FOR TOLLING OF SUCH ACTIONS; SPECIFYING CERTAIN COMPUTATIONS FOR DATE OF DISCOVERY OF CERTAIN ACTS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12 O.S. 1991, Section 95, is amended to read as follows:

Section 95. Civil actions other than for the recovery of real property can only be brought within the following periods, after the cause of action shall have accrued, and not afterwards:

First. Within five (5) years: An action upon any contract, agreement or promise in writing.

Second. Within three (3) years: An action upon a contract express or implied not in writing; an action upon a liability created by statute other than a forfeiture or penalty; and an action on a foreign judgment.

Third. Within two (2) years: An action for trespass upon real property; an action for taking, detaining or injuring personal property, including actions for the specific recovery of personal property; an action for injury to the rights of another, not arising on contract, and not hereinafter enumerated; an action for relief on the ground of fraud - the cause of action in such case shall not be deemed to have accrued until the discovery of the fraud.

Fourth. Within one (1) year: An action for libel, slander, assault, battery, malicious prosecution, or false imprisonment; an action upon a statute for penalty or forfeiture, except where the statute imposing it prescribes a different limitation.

Fifth. An action upon the official bond or undertaking of an executor, administrator, guardian, sheriff, or any other officer, or upon the bond or undertaking given in attachment, injunction, arrest or in any case whatever required by the statute, can only be brought within five (5) years after the cause of action shall have accrued.

Sixth. An action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse incidents or exploitation as defined by Section 845 of Title 21 of the Oklahoma Statutes or incest can only be brought within the latter of the following periods:

a. Within two (2) years of the act alleged to have caused the injury or condition; or

b. Within two (2) years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by said act.

Provided, however, that the time limit for commencement of an action pursuant to this paragraph is tolled for a child until the child reaches the age of eighteen (18) years. The victim need not establish which act in a series of continuing sexual abuse incidents, exploitation incidents or incest caused the injury complained of, but may compute the date of discovery from the date

of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse, exploitation or incest. Provided further, any action based on intentional conduct specified in paragraph 6 of this section must be commenced within ten (10) years of the victim reaching the age of eighteen (18).

Seventh. An action for relief, not hereinbefore provided for, can only be brought within five (5) years after the cause of action shall have accrued.

SECTION 2. This act shall become effective September 1, 1992.

Passed the House of Representatives the 27th day of February, 1992.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1992.

President of the Senate