STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1881 By: Wilt

COMMITTEE SUBSTITUTE

An Act relating to civil and criminal procedure; amending 12 O.S. 1991, Section 2609, which relates to impeachment by evidence of conviction of crime; authorizing use of prior conviction of child abuse entered more than ten years prior to current offense; amending Section 435, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 51.2), which relates to second or subsequent offenses ten years after completion of first sentence; authorizing use of prior conviction for child abuse entered more than ten years prior to current offense; amending 22 O.S. 1991, Section 152, as amended by Section 2, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (22 O.S. Supp. 1999, Section 152), which relates to statute of limitations; modifying limitation term for certain crimes; defining term; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 2609, is amended to read as follows:

Section 2609. A. For the purpose of attacking the credibility of a witness:

1. Evidence that a witness other than an accused has been convicted of a crime shall be admitted, subject to Section 2403 of this title, if the crime was punishable by death or imprisonment in excess of one (1) year pursuant to the law under which the witness was convicted, and evidence that an accused has been convicted of such a crime shall be admitted if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused; and

2. Evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.

B. Evidence of a conviction under this section is not admissible if a period of more than ten (10) years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is later, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. <u>However, if the witness is a defendant currently charged with a sexual offense involving a child, testifying at a criminal proceeding regarding the current charge of the defendant and has a prior conviction for a sexual offense involving a child, the conviction of the prior sexual offense involving a child is admissible for the purpose of impeachment of the defendant regardless of the age of the prior conviction.</u> Evidence of a conviction more than ten (10) years old, as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

C. Evidence of a conviction is not admissible under this Code if:

1. The conviction has been the subject of a pardon, annulment, certificate of rehabilitation or other equivalent procedure based on a finding of the rehabilitation of the person convicted, and that person has not been convicted of a subsequent crime which was punishable by death or imprisonment in excess of one (1) year; or

2. The conviction has been the subject of a pardon, annulment or other equivalent procedure based on a finding of innocence.

D. Evidence of juvenile adjudications is not admissible under this Code. The court in a criminal case may, however, allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

E. The pendency of an appeal from the conviction does not render evidence of that conviction inadmissible. Evidence of the pendency of an appeal is admissible.

SECTION 2. AMENDATORY Section 435, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 51.2), is amended to read as follows:

Section 51.2 No person shall be sentenced as a second and subsequent offender under Section ~~434~~ 51.1 of this ~~act~~ title, or any other section of the Oklahoma Statutes, when a period of ten (10) years has elapsed since the completion of the sentence imposed on the former conviction; provided, said person has not, in the meantime, been convicted of a misdemeanor involving moral turpitude or a felony. Nothing in this section shall prohibit the use of a prior conviction for physical or sexually related child abuse as a prior conviction for second and subsequent offender purposes if the person is presently charged with a felony crime involving physical or sexually related child abuse.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 152, as amended by Section 2, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (22 O.S. Supp. 1999, Section 152), is amended to read as follows:

Section 152. A. Prosecutions for the crimes of bribery, embezzlement of public money, bonds, securities, assets or property of the state or any county, school district, municipality or other subdivision thereof, or of any misappropriation of public money,

bonds, securities, assets or property of the state or any county, school district, municipality or other subdivision thereof, falsification of public records of the state or any county, school district, municipality or other subdivision thereof, and conspiracy to defraud the State of Oklahoma or any county, school district, municipality or other subdivision thereof in any manner or for any purpose shall be commenced within seven (7) years after the discovery of the crime; provided, however, prosecutions for the crimes of embezzlement or misappropriation of public money, bonds, securities, assets or property of any school district, including those relating to student activity funds, or the crime of falsification of public records of any independent school district, ~~the crime of lewd or indecent proposals or acts against children, pursuant to Section 1123 of Title 21 of the Oklahoma Statutes, the crimes of involving minors in pornography, pursuant to Sections 1021.2 and 1021.3 of Title 21 of the Oklahoma Statutes, the crime of sodomy,~~ the crime of criminal conspiracy, or the crime of embezzlement, pursuant to Sections 1451 through 1462 of Title 21 of the Oklahoma Statutes shall be commenced within five (5) years after the discovery of the crime.

B. Prosecutions for criminal violations of any state income tax laws shall be commenced within five (5) years after the commission of such violation.

C. Prosecutions for the crime of rape or forcible sodomy, sodomy, lewd or indecent proposals or acts against children, involving minors in pornography pursuant to Sections 886, 888, 1111, 1111.1, 1113 ~~or~~, 1114, 1021.2, 1021.3 or 1123 of Title 21 of the Oklahoma Statutes, and child abuse pursuant to Section 7115 of Title 10 of the Oklahoma Statutes, shall be commenced within seven (7) years after the discovery of the crime.

D. Prosecutions for criminal violations of any provision of the Oklahoma Wildlife Conservation Code shall be commenced within three (3) years after the commission of such offense.

E. Prosecutions for the crime of criminal fraud or workers' compensation fraud pursuant to Sections 1541.1, 1541.2, 1662 or 1663 of Title 21 of the Oklahoma Statutes shall commence within three (3) years after the discovery of the crime, but in no event greater than seven (7) years after the commission of the crime.

F. In all other cases a prosecution for a public offense must be commenced within three (3) years after its commission.

G. As used in subsection C of this section, "discovery" means the date that a physical or sexually related crime involving a victim under the age of eighteen (18) years of age is reported to a law enforcement agency, up to and including one (1) year from the eighteenth birthday of the child.

SECTION 4. This act shall become effective November 1, 2000.

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