STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

HOUSE BILL HB1051 By: Fields

AS INTRODUCED

An Act relating to civil procedure; amending 12 O.S. 1991, Section 95, as last amended by Section 1, Chapter 233, O.S.L. 1996 (12 O.S. Supp. 2000, Section 95), which relates to limitation of actions; providing statute of limitations for civil actions against land surveyors; 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, as last amended by Section 1, Chapter 233, O.S.L. 1996 (12 O.S. Supp. 2000, 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:

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

2. 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;

3. 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;

4. 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;

5. 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;

6. 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 the act or that the act caused the injury for which the claim is brought.

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. No action may be brought against the alleged perpetrator or the estate of the alleged perpetrator after the death of such alleged perpetrator. An action pursuant to this paragraph must be based upon objective verifiable evidence in order for the victim to recover damages for injuries suffered by reason of such sexual abuse, exploitation, or incest. The evidence should include both proof that the victim had psychologically repressed the memory of the facts upon which the claim was predicated and that there was corroborating evidence that

the sexual abuse, exploitation, or incest actually occurred. 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~~ paragraph must be commenced within twenty (20) years of the victim reaching the age of eighteen (18);

7. An action to establish paternity and to enforce support obligations can be brought any time before the child reaches the age of eighteen (18);

8. An action to establish paternity can be brought by a child if commenced within one (1) year after the child reaches the age of eighteen (18);

9. Court-ordered child support is owed until it is paid in full and it is not subject to a statute of limitations; ~~and~~

10. An action to recover damages for any deficiency, defect, omission, error or miscalculation in a survey or plat can be brought against registered surveyors or their employees engaged in the practice of land surveying who performed or furnished such survey or plat if commenced within six (6) years of the date of the survey or plat. The cause of action in such cases shall accrue when such services are rendered as shown from the date on the survey or plat; and

11. 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 November 1, 2001.

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