

ENROLLED SENATE
BILL NO. 1793

By: Justice, Lawler, Leftwich,
Johnson (Constance) and
Garrison of the Senate

and

Richardson, Shelton, Roan,
Askins, Kiesel, Ingmire,
Case, Blackwell, Nance,
Duncan, Perry, Auffet,
Dank, DePue, Kern,
McMullen, Terrill,
Wesselhoft, Jackson and
Worthen of the House

An Act relating to crimes and punishments;
prohibiting exploitation of certain persons;
providing penalties; defining terms; amending 22 O.S.
2001, Section 152, as last amended by Section 1 of
Enrolled House Bill No. 2480 of the 1st Session of
the 50th Oklahoma Legislature, which relates to
statute of limitation for prosecutions; adding
certain offenses to certain limitation to
prosecution; providing for codification; providing an
effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 843.4 of Title 21, unless there
is created a duplication in numbering, reads as follows:

A. As used in this section, "exploitation of an elderly person
or disabled adult" means:

1. Knowingly, by deception or intimidation, obtaining or using,
or endeavoring to obtain or use, an elderly person's or disabled
adult's funds, assets, or property with the intent to temporarily or
permanently deprive the elderly person or disabled adult of the use,
benefit, or possession of the funds, assets, or property, or to
benefit someone other than the elderly person or disabled adult, by
a person who:

- a. stands in a position of trust and confidence with the
elderly person or disabled adult, or
- b. has a business relationship with the elderly person or
disabled adult, or

2. Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who knows or reasonably should know that the elderly person or disabled adult lacks the capacity to consent.

B. 1. If the funds, assets, or property involved in the exploitation of the elderly person or disabled adult are valued at One Hundred Thousand Dollars (\$100,000.00) or more, the violator commits a felony punishable by imprisonment in the custody of the Department of Corrections for a term not more than fifteen (15) years and by a fine in an amount not exceeding Ten Thousand Dollars (\$10,000.00).

2. If the funds, assets, or property involved in the exploitation of the elderly person or disabled adult are valued at less than One Hundred Thousand Dollars (\$100,000.00), the violator commits a felony punishable by imprisonment in the custody of the Department of Corrections for a term not more than ten (10) years and by a fine in an amount not exceeding Ten Thousand Dollars (\$10,000.00).

C. For purposes of this section, "elderly person" means any person sixty-two (62) years of age or older.

SECTION 2. AMENDATORY 22 O.S. 2001, Section 152, as last amended by Section 1 of Enrolled House Bill No. 2480 of the 1st Session of the 50th Oklahoma Legislature, 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 criminal conspiracy, ~~or~~ the crime of embezzlement, pursuant to Sections 1451 through 1462 of Title 21 of the Oklahoma Statutes, or the financial exploitation of a vulnerable adult, pursuant to Sections 843.1 and 843.3 of Title 21 of the Oklahoma Statutes and Section 1 of this act, 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. 1. Prosecutions for the crime of rape or forcible sodomy, sodomy, lewd or indecent proposals or acts against children, involving minors in pornography pursuant to Section 886, 888, 1111, 1111.1, 1113, 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 twelve (12) years after the discovery of the crime.

2. However, prosecutions for the crimes listed in paragraph 1 of this subsection may be commenced at any time after the commission of the offense if:

- a. the victim notified law enforcement within twelve (12) years after the discovery of the crime,
- b. physical evidence is collected and preserved that is capable of being tested to obtain a profile from deoxyribonucleic acid (DNA), and
- c. the identity of the offender is subsequently established through the use of a DNA profile using evidence listed in subparagraph b of this paragraph.

A prosecution under this exception must be commenced within three (3) years from the date on which the identity of the suspect is established by DNA testing.

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 Section 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. Prosecution for the crime of false or bogus check, Section 1541.1, 1541.2, 1541.3 or 1541.4 of Title 21 of the Oklahoma Statutes, shall be commenced within five (5) years after the commission of such offense.

G. Prosecution for the crime of solicitation for murder in the first degree pursuant to Section 701.16 of Title 21 of the Oklahoma Statutes shall be commenced within seven (7) years after the discovery of the crime. For purposes of this subsection, "discovery" means the date upon which the crime is made known to anyone other than a person involved in the solicitation.

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

I. As used in paragraph 1 of 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 3. This act shall become effective July 1, 2006.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 19th day of May, 2006.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of May, 2006.

Presiding Officer of the House
of Representatives