

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 5021

By: Duncan

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5
6 AS INTRODUCED

7 An Act relating to civil procedure; amending 12 O.S.
8 2001, Section 95, as last amended by Section 1,
9 Chapter 159, O.S.L. 2005 (12 O.S. Supp. 2007, Section
10 95), which relates to limitation of actions;
11 modifying reference to judicial authorization; and
12 providing an effective date.

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

14 SECTION 1. AMENDATORY 12 O.S. 2001, Section 95, as last
15 amended by Section 1, Chapter 159, O.S.L. 2005 (12 O.S. Supp. 2007,
16 Section 95), is amended to read as follows:

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

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

23 2. Within three (3) years: An action upon a contract express
24 or implied not in writing; an action upon a liability created by

1 statute other than a forfeiture or penalty; and an action on a
2 foreign judgment;

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

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

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

20 6. An action based on intentional conduct brought by any person
21 for recovery of damages for injury suffered as a result of childhood
22 sexual abuse incidents or exploitation as defined by Section 7102 of
23 Title 10 of the Oklahoma Statutes or incest can only be brought
24 within the latter of the following periods:

- 1 a. within two (2) years of the act alleged to have caused
2 the injury or condition, or
- 3 b. within two (2) years of the time the victim discovered
4 or reasonably should have discovered that the injury
5 or condition was caused by the act or that the act
6 caused the injury for which the claim is brought.

7 Provided, however, that the time limit for commencement of an
8 action pursuant to this paragraph is tolled for a child until the
9 child reaches the age of eighteen (18) years or until five (5) years
10 after the perpetrator is released from the custody of a state,
11 federal or local correctional facility or jail, whichever is later.
12 No action may be brought against the alleged perpetrator or the
13 estate of the alleged perpetrator after the death of such alleged
14 perpetrator, unless the perpetrator was convicted of a crime of
15 sexual abuse involving the claimant. An action pursuant to this
16 paragraph must be based upon objective verifiable evidence in order
17 for the victim to recover damages for injuries suffered by reason of
18 such sexual abuse, exploitation, or incest. The evidence should
19 include both proof that the victim had psychologically repressed the
20 memory of the facts upon which the claim was predicated and that
21 there was corroborating evidence that the sexual abuse,
22 exploitation, or incest actually occurred. The victim need not
23 establish which act in a series of continuing sexual abuse
24 incidents, exploitation incidents, or incest caused the injury

1 complained of, but may compute the date of discovery from the date
2 of discovery of the last act by the same perpetrator which is part
3 of a common scheme or plan of sexual abuse, exploitation, or incest.
4 Provided further, any action based on intentional conduct specified
5 in paragraph 7 of this section must be commenced within twenty (20)
6 years of the victim reaching the age of eighteen (18);

7 7. An action based on intentional conduct brought by any person
8 for recovery of damages for injury suffered as a result of criminal
9 actions, as defined by the Oklahoma Statutes, may be brought against
10 any person incarcerated or under the supervision of a state, federal
11 or local correctional facility on or after November 1, 2003:

12 a. at any time during the incarceration of the offender
13 for the offense on which the action is based, or

14 b. within five (5) years after the perpetrator is
15 released from the custody of a state, federal or local
16 correctional facility, if the defendant was serving
17 time for the offense on which the action is based;

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

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

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

3 11. All actions filed by an inmate or by a person based upon
4 facts that occurred while the person was an inmate in the custody of
5 one of the following:

6 a. the State of Oklahoma,

7 b. a contractor of the State of Oklahoma, or

8 c. a political subdivision of the State of Oklahoma,

9 to include, but not be limited to, the revocation of earned credits
10 and claims for injury to the rights of another, shall be commenced
11 within one (1) year after the cause of action shall have accrued;
12 and

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

16 B. Collection of debts owed by inmates who have received damage
17 awards pursuant to Section 566.1 of Title 57 of the Oklahoma
18 Statutes shall be governed by the time limitations imposed by that
19 section.

20 SECTION 2. This act shall become effective November 1, 2008.

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22 51-2-12005 MAH 11/28/07
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