

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 2199

By: Moore

4
5 AS INTRODUCED

6 An Act relating to civil procedure; amending 12 O.S.
7 2001, Section 95, as last amended by Section 4,
8 Chapter 99, O.S.L. 2008 (12 O.S. Supp. 2008, Section
9 95), which relates to limitations of actions;
10 providing statute of limitations for products
11 liability actions; defining term; and providing an
12 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 4, Chapter 99, O.S.L. 2008 (12 O.S. Supp. 2008,
16 Section 95), is amended to read as follows:

17 Section 95. A. Civil actions other than for the recovery of
18 real property ~~can~~ shall only be brought within the following
19 periods, after the cause of action shall have accrued, and not
20 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~~ may
18 only be brought within five (5) years after the cause of action
19 shall have 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~~ may 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~~ shall be based upon objective verifiable evidence in
17 order for the victim to recover damages for injuries suffered by
18 reason of such sexual abuse, exploitation, or incest. The evidence
19 ~~should~~ may include both proof that the victim had psychologically
20 repressed the memory of the facts upon which the claim was
21 predicated and that there was corroborating evidence that the sexual
22 abuse, exploitation, or incest actually occurred. The victim need
23 not 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~~ shall be commenced within twenty
6 (20) 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~~ may be brought any time before the child reaches the
20 age of eighteen (18);

21 9. An action to establish paternity ~~can~~ may be brought by a
22 child in accordance with Section 7700-606 of Title 10 of the
23 Oklahoma Statutes;

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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 may only be brought within five (5) years after the cause of action
15 shall have accrued; and

16 13. An action based on products liability shall be brought
17 within three (3) years. For purposes of this paragraph, "products
18 liability" means liability for damages because of any personal
19 injury, death, emotional harm, consequential economic damage, or
20 property damage, including but not limited to damages resulting from
21 the loss of use of property, arising out of the manufacture, design,
22 importation, distribution, packaging, labeling, lease or sale of a
23 product.

1 B. Collection of debts owed by inmates who have received damage
2 awards pursuant to Section 566.1 of Title 57 of the Oklahoma
3 Statutes shall be governed by the time limitations imposed by that
4 section.

5 SECTION 2. This act shall become effective November 1, 2009.

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