

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 1470

By: Bush

COMMITTEE SUBSTITUTE

An Act relating to civil procedure; amending 12 O.S. 2011, Section 95, which relates to the statute of limitations for civil actions; deleting time limitations for civil actions based on childhood sexual abuse incidents; establishing new time limitation for civil actions; providing for the award of damages against legal entities under certain circumstances; deleting evidentiary and discovery requirements; allowing retroactive claims for childhood sexual abuse under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 2011, Section 95, is amended to read as follows:

Section 95. A. 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;

1 2. Within three (3) years: An action upon a contract express
2 or implied not in writing; an action upon a liability created by
3 statute other than a forfeiture or penalty; and an action on a
4 foreign judgment;

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

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

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

22 6. An action based on intentional conduct brought by any person
23 for recovery of damages for injury suffered as a result of childhood
24 sexual abuse incidents or exploitation as defined by Section 1-1-105

1 of Title 10A of the Oklahoma Statutes or incest ~~can only be brought~~
2 ~~within the latter of the following periods:~~

3 a. ~~within two (2) years of the act alleged to have caused~~
4 ~~the injury or condition, or~~

5 b. ~~within two (2) years of the time the victim discovered~~
6 ~~or reasonably should have discovered that the injury~~
7 ~~or condition was caused by the act or that the act~~
8 ~~caused the injury for which the claim is brought.~~

9 ~~Provided, however, that the time limit for commencement of an action~~
10 ~~pursuant to this paragraph is tolled for a child until the child~~
11 ~~reaches the age of eighteen (18) years or until five (5) years after~~
12 ~~the perpetrator is released from the custody of a state, federal or~~
13 ~~local correctional facility or jail, whichever is later shall be~~
14 ~~commenced by the forty-fifth birthday of the alleged victim. If the~~
15 ~~person committing the act of sexual abuse against a child was~~
16 ~~employed by an institution, agency, firm, business, corporation or~~
17 ~~other public or private legal entity that owed a duty of care to the~~
18 ~~victim, or the accused and the child were engaged in some activity~~
19 ~~over which the legal entity had some degree of responsibility or~~
20 ~~control, damages against the legal entity shall be awarded only if~~
21 ~~there is a finding of gross negligence on the part of the legal~~
22 ~~entity. No action may be brought against the alleged perpetrator or~~
23 ~~the estate of the alleged perpetrator after the death of such~~
24 ~~alleged perpetrator, unless the perpetrator was convicted of a crime~~

1 of sexual abuse involving the claimant. An action pursuant to this
2 paragraph must be based upon objective verifiable evidence in order
3 for the victim to recover damages for injuries suffered by reason of
4 such sexual abuse, exploitation, or incest. ~~The evidence should~~
5 ~~include both proof that the victim had psychologically repressed the~~
6 ~~memory of the facts upon which the claim was predicated and that~~
7 ~~there was corroborating evidence that the sexual abuse,~~
8 ~~exploitation, or incest actually occurred.~~ The victim need not
9 establish which act in a series of continuing sexual abuse
10 incidents, exploitation incidents, or incest caused the injury
11 complained of, ~~but may compute the date of discovery from the date~~
12 ~~of discovery of the last act by the same perpetrator which is part~~
13 ~~of a common scheme or plan of sexual abuse, exploitation, or incest.~~
14 ~~Provided further, any action based on intentional conduct specified~~
15 ~~in paragraph 7 of this section must be commenced within twenty (20)~~
16 ~~years of the victim reaching the age of eighteen (18).~~ For a period
17 of two (2) years following November 1, 2017, plaintiffs of any age
18 who were time barred from filing a civil action for injuries
19 resulting from childhood sexual abuse or exploitation due to the
20 expiration of the statute of limitations in effect on October 31,
21 2017, shall be permitted to file such actions against the individual
22 alleged to have committed such abuse or exploitation before November
23 1, 2019, thereby reviving those civil actions which had lapsed or
24 technically expired under the law in effect on October 31, 2017.

1 The revival of a claim as provided in this paragraph shall not apply
2 to:

- 3 a. any claim that has been litigated to finality on the
4 merits in a court of competent jurisdiction prior to
5 November 1, 2017. Termination of a prior civil action
6 on the basis of the expiration of the statute of
7 limitations shall not constitute a claim that has been
8 litigated to finality on the merits, and
9 b. any written settlement agreement which has been
10 entered into between a plaintiff and a defendant when
11 the plaintiff was represented by an attorney who was
12 admitted to practice law in this state at the time of
13 the settlement, and the plaintiff signed such
14 agreement;

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

- 20 a. at any time during the incarceration of the offender
21 for the offense on which the action is based, or
22 b. within five (5) years after the perpetrator is
23 released from the custody of a state, federal or local
24

1 correctional facility, if the defendant was serving
2 time for the offense on which the action is based;

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

6 9. An action to establish paternity can be brought by a child
7 in accordance with Section 7700-606 of Title 10 of the Oklahoma
8 Statutes;

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

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

14 a. the State of Oklahoma,

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

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

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

21 12. An action for relief, not hereinbefore provided for, can
22 only be brought within five (5) years after the cause of action
23 shall have accrued.
24

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, 2017.

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