

1 **SENATE FLOOR VERSION**

2 April 11, 2017

3 ENGROSSED HOUSE
4 BILL NO. 1468

By: Bush, McDugle, Loring, West
(Josh), Osborn (Leslie),
Derby and Goodwin of the
House

6 and

7 Holt of the Senate

8
9
10 An Act relating to criminal procedure; creating the
11 Hidden Predator Act; amending 22 O.S. 2011, Section
12 152, as last amended by Section 1, Chapter 19, O.S.L.
2016 (22 O.S. Supp. 2016, Section 152), which relates
13 to the statute of limitations for criminal offenses;
14 modifying time limitations for prosecuting certain
15 sexual offenses; prohibiting prosecutions based on
16 certain evidence; providing penalty for false claims;
17 providing for noncodification; and providing an
18 effective date.

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

20 SECTION 1. NEW LAW A new section of law not to be
21 codified in the Oklahoma Statutes reads as follows:

22 This act shall be known and may be cited as the "Hidden Predator
23 Act".

24 SECTION 2. AMENDATORY 22 O.S. 2011, Section 152, as last
amended by Section 1, Chapter 19, O.S.L. 2016 (22 O.S. Supp. 2016,
Section 152), is amended to read as follows:

1 Section 152. A. Prosecutions for the crimes of bribery,
2 embezzlement of public money, bonds, securities, assets or property
3 of the state or any county, school district, municipality or other
4 subdivision thereof, or of any misappropriation of public money,
5 bonds, securities, assets or property of the state or any county,
6 school district, municipality or other subdivision thereof,
7 falsification of public records of the state or any county, school
8 district, municipality or other subdivision thereof, and conspiracy
9 to defraud the State of Oklahoma or any county, school district,
10 municipality or other subdivision thereof in any manner or for any
11 purpose shall be commenced within seven (7) years after the
12 discovery of the crime; provided, however, prosecutions for the
13 crimes of embezzlement or misappropriation of public money, bonds,
14 securities, assets or property of any school district, including
15 those relating to student activity funds, or the crime of
16 falsification of public records of any independent school district,
17 the crime of criminal conspiracy, the crime of embezzlement,
18 pursuant to Sections 1451 through 1461 of Title 21 of the Oklahoma
19 Statutes, the crime of False Personation or Identity Theft, pursuant
20 to Sections 1531 through 1533.3 of Title 21 of the Oklahoma
21 Statutes, the financial exploitation of a vulnerable adult, pursuant
22 to Sections 843.1, 843.3 and 843.4 of Title 21 of the Oklahoma
23 Statutes, or Medicaid fraud pursuant to Section 1005 of Title 56 of
24

1 the Oklahoma Statutes, shall be commenced within five (5) years
2 after the discovery of the crime.

3 B. Prosecutions for criminal violations of any state income tax
4 laws shall be commenced within five (5) years after the commission
5 of such violation.

6 C. 1. Prosecutions for ~~the crime of~~ sexual crimes against
7 children, specifically rape or forcible sodomy, sodomy, lewd or
8 indecent proposals or acts against children, involving minors in
9 pornography pursuant to Section 886, 888, 1111, 1111.1, 1113, 1114,
10 1021.2, 1021.3, 1040.12a or 1123 of Title 21 of the Oklahoma
11 Statutes, child abuse pursuant to Section 843.5 of Title 21 of the
12 Oklahoma Statutes, and child trafficking pursuant to Section 866 of
13 Title 21 of the Oklahoma Statutes shall be commenced ~~within twelve~~
14 ~~(12) years after the discovery of the crime~~ by the forty-fifth
15 birthday of the alleged victim. Prosecutions for such crimes
16 committed against victims eighteen (18) years of age or older shall
17 be commenced within twelve (12) years after the discovery of the
18 crime.

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

22 a. ~~the victim notified law enforcement within twelve (12)~~
23 ~~years after the discovery of the crime,~~

1 ~~b.~~ physical evidence is collected and preserved that is
2 capable of being tested to obtain a profile from
3 deoxyribonucleic acid (DNA), and

4 ~~e.~~ b. the identity of the offender is subsequently
5 established through the use of a DNA profile using
6 evidence listed in subparagraph ~~b~~ a of this paragraph.

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

10 D. Prosecutions for criminal violations of any provision of the
11 Oklahoma Wildlife Conservation Code shall be commenced within three
12 (3) years after the commission of such offense.

13 E. Prosecutions for the crime of criminal fraud or workers'
14 compensation fraud pursuant to Section 1541.1, 1541.2, 1662 or 1663
15 of Title 21 of the Oklahoma Statutes shall commence within three (3)
16 years after the discovery of the crime, but in no event greater than
17 seven (7) years after the commission of the crime.

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

22 G. Prosecution for the crime of solicitation for murder in the
23 first degree pursuant to Section 701.16 of Title 21 of the Oklahoma
24 Statutes shall be commenced within seven (7) years after the

1 discovery of the crime. For purposes of this subsection,
2 "discovery" means the date upon which the crime is made known to
3 anyone other than a person involved in the solicitation.

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

6 I. Prosecution for the crime of accessory after the fact must
7 be commenced within the same statute of limitations as that of the
8 felony for which the person acted as an accessory.

9 J. Prosecution for the crime of arson pursuant to Section 1401,
10 1402, 1403, 1404 or 1405 of Title 21 of the Oklahoma Statutes shall
11 be commenced within seven (7) years after the commission of the
12 crime.

13 K. Prosecutions for criminal violations in which a deadly
14 weapon is used to commit a felony or prosecutions for criminal
15 violations in which a deadly weapon is used in an attempt to commit
16 a felony shall be commenced within seven (7) years after the
17 commission of the crime.

18 L. ~~As used in paragraph 1 of~~ No prosecution under subsection C
19 of this section, ~~"discovery" means the date that a physical or~~
20 ~~sexually related crime involving a victim under the age of eighteen~~
21 ~~(18) years of age is reported to a law enforcement agency, up to and~~
22 ~~including one (1) year from the eighteenth birthday of the child~~
23 shall be based upon the memory of the victim that has been recovered
24

1 through psychotherapy unless there is some evidence independent of
2 such repressed memory.

3 Any person who knowingly and willfully makes a false claim
4 pursuant to subsection C of this section or a claim that the person
5 knows lacks factual foundation may be reported to local law
6 enforcement for criminal investigation and, upon conviction, shall
7 be guilty of a felony.

8 M. As used in paragraph 1 of subsection C of this section,
9 "discovery" means the date that a physical or sexually related crime
10 involving a victim eighteen (18) years of age or older is reported
11 to a law enforcement agency.

12 SECTION 3. This act shall become effective November 1, 2017.

13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
14 April 11, 2017 - DO PASS
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