

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1470

By: Bush

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6 AS INTRODUCED

7 An Act relating to civil procedure; amending 12 O.S.
8 2011, Section 95, which relates to the statute of
9 limitations for civil actions; deleting time
10 limitations for civil actions based on childhood
11 sexual abuse incidents; establishing new time
12 limitation for civil actions; deleting evidentiary
and discovery requirements; allowing retroactive
claims for childhood sexual abuse under certain
circumstances; providing treble damages for
successful counterclaims; and providing an effective
date.

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

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

18 Section 95. A. Civil actions other than for the recovery of
19 real property can only be brought within the following periods,
20 after the cause of action shall have accrued, and 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 1-1-105
23 of Title 10A 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 action~~
8 ~~pursuant to this paragraph is tolled for a child until the child~~
9 ~~reaches the age of eighteen (18) years or until five (5) years after~~
10 ~~the perpetrator is released from the custody of a state, federal or~~
11 ~~local correctional facility or jail, whichever is later shall be~~
12 ~~commenced by the forty-fifth birthday of the alleged victim. No~~
13 ~~action may be brought against the alleged perpetrator or the estate~~
14 ~~of the alleged perpetrator after the death of such alleged~~
15 ~~perpetrator, unless the perpetrator was convicted of a crime of~~
16 ~~sexual abuse involving the claimant. An action pursuant to this~~
17 ~~paragraph must be based upon objective verifiable evidence in order~~
18 ~~for the victim to recover damages for injuries suffered by reason of~~
19 ~~such sexual abuse, exploitation, or incest. The evidence should~~
20 ~~include both proof that the victim had psychologically repressed the~~
21 ~~memory of the facts upon which the claim was predicated and that~~
22 ~~there was corroborating evidence that the sexual abuse,~~
23 ~~exploitation, or incest actually occurred. The victim need not~~
24 ~~establish which act in a series of continuing sexual abuse~~

1 incidents, exploitation incidents, or incest caused the injury
2 complained of, ~~but may compute the date of discovery from the date~~
3 ~~of discovery of the last act by the same perpetrator which is part~~
4 ~~of a common scheme or plan of sexual abuse, exploitation, or incest.~~
5 ~~Provided further, any action based on intentional conduct specified~~
6 ~~in paragraph 7 of this section must be commenced within twenty (20)~~
7 ~~years of the victim reaching the age of eighteen (18).~~ For a period
8 of two (2) years following November 1, 2017, plaintiffs of any age
9 who were time barred from filing a civil action for injuries
10 resulting from childhood sexual abuse or exploitation due to the
11 expiration of the statute of limitations in effect on October 31,
12 2017, shall be permitted to file such actions against the individual
13 alleged to have committed such abuse or exploitation before November
14 1, 2019, thereby reviving those civil actions which had lapsed or
15 technically expired under the law in effect on October 31, 2017.
16 The revival of a claim as provided in this paragraph shall not apply
17 to:
18 a. any claim that has been litigated to finality on the
19 merits in a court of competent jurisdiction prior to
20 November 1, 2017. Termination of a prior civil action
21 on the basis of the expiration of the statute of
22 limitations shall not constitute a claim that has been
23 litigated to finality on the merits, and
24

1 b. any written settlement agreement which has been
2 entered into between a plaintiff and a defendant when
3 the plaintiff was represented by an attorney who was
4 admitted to practice law in this state at the time of
5 the settlement, and the plaintiff signed such
6 agreement;

7 Any party bringing an action against an individual in which the
8 defendant is ultimately found not liable for the complaint will be
9 subject to treble damages if and when the defendant pursues a
10 counterclaim and receives a compensatory or punitive judgement.

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

- 16 a. at any time during the incarceration of the offender
17 for the offense on which the action is based, or
18 b. within five (5) years after the perpetrator is
19 released from the custody of a state, federal or local
20 correctional facility, if the defendant was serving
21 time for the offense on which the action is based;

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

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

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

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

9 a. the State of Oklahoma,

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

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

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

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

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

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SECTION 2. This act shall become effective November 1, 2017.

56-1-6649 GRS 01/17/17