

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1002

By: Bush

4
5 AS INTRODUCED

6 An Act relating to civil procedure; amending 12 O.S.
7 2011, Section 95, as last amended by Section 1,
8 Chapter 378, O.S.L. 2017 (12 O.S. Supp. 2020, Section
9 95), which relates to limitations of civil actions;
10 eliminating time limitations for civil actions based
11 on childhood sexual abuse incidents; allowing
12 retroactive claims for childhood sexual abuse under
13 certain circumstances; providing treble damages for
14 successful counterclaims; and providing an effective
15 date.

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

17 SECTION 1. AMENDATORY 12 O.S. 2011, Section 95, as last
18 amended by Section 1, Chapter 378, O.S.L. 2017 (12 O.S. Supp. 2020,
19 Section 95), is amended to read as follows:

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

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

2. Within three (3) years: An action upon a contract express
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-
23 105 of Title 10A of the Oklahoma Statutes, or incest against the
24 actual perpetrator ~~shall~~ may be commenced ~~by the forty-fifth~~

1 ~~birthday of the alleged victim~~ at any time. If the person
2 committing the act of sexual abuse against a child was employed by
3 an institution, agency, firm, business, corporation or other public
4 or private legal entity that owed a duty of care to the victim, or
5 the accused and the child were engaged in some activity over which
6 the legal entity had some degree of responsibility or control, the
7 action must be brought against such employer or legal entity within
8 two (2) years; provided, that the time limit for commencement of an
9 action pursuant to this paragraph is tolled for a child until the
10 child reaches the age of eighteen (18) years. No action may be
11 brought against the alleged perpetrator or the estate of the alleged
12 perpetrator after the death of such alleged perpetrator, unless the
13 perpetrator was convicted of a crime of sexual abuse involving the
14 claimant. An action pursuant to this paragraph must be based upon
15 objective, verifiable evidence in order for the victim to recover
16 damages for injuries suffered by reason of such sexual abuse,
17 exploitation, or incest. The victim need not establish which act in
18 a series of continuing sexual abuse incidents, exploitation
19 incidents, or incest caused the injury complained of.

20 For a period of ten (10) years following November 1, 2021,
21 plaintiffs of any age who were time-barred from filing a civil
22 action for injuries resulting from childhood sexual abuse,
23 exploitation or incest due to the expiration of the statute of
24 limitations in effect on October 31, 2021, shall be permitted to

1 file such actions against the individual alleged to have committed
2 such abuse, exploitation or incest before November 1, 2031, thereby
3 reviving those civil actions which had lapsed or technically expired
4 under the law in effect on October 31, 2021. The revival of a claim
5 as provided in this paragraph shall not apply to:

6 a. any claim that has been litigated to finality on the
7 merits in a court of competent jurisdiction prior to
8 November 1, 2021. Termination of a prior civil action
9 on the basis of the expiration of the statute of
10 limitations shall not constitute a claim that has been
11 litigated to finality on the merits, and

12 b. any written settlement agreement which has been
13 entered into between a plaintiff and a defendant when
14 the plaintiff was represented by an attorney who was
15 admitted to practice law in this state at the time of
16 the settlement and the plaintiff signed such
17 agreement;

18 Any party bringing an action against an individual in which the
19 defendant is ultimately found not liable for the complaint shall be
20 subject to treble damages if, and when, the defendant pursues a
21 counterclaim and receives a compensatory or punitive judgment;

22 7. An action based on intentional conduct brought by any person
23 for recovery of damages for injury suffered as a result of criminal
24 actions, as defined by the Oklahoma Statutes, may be brought against

1 any person incarcerated or under the supervision of a state, federal
2 or local correctional facility on or after November 1, 2003:

- 3 a. at any time during the incarceration of the offender
4 for the offense on which the action is based, or
- 5 b. within five (5) years after the perpetrator is
6 released from the custody of a state, federal or local
7 correctional facility, if the defendant was serving
8 time for the offense on which the action is based;

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

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

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

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

- 20 a. the State of Oklahoma,
 - 21 b. a contractor of the State of Oklahoma, or
 - 22 c. a political subdivision of the State of Oklahoma,
- 23 to include, but not be limited to, the revocation of earned credits
24 and claims for injury to the rights of another, shall be commenced

1 within one (1) year after the cause of action shall have accrued;
2 and

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

6 B. Collection of debts owed by inmates who have received damage
7 awards pursuant to Section 566.1 of Title 57 of the Oklahoma
8 Statutes shall be governed by the time limitations imposed by that
9 section.

10 SECTION 2. This act shall become effective November 1, 2021.

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12 58-1-5051 GRS 11/18/20

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