

By the Committee on Children and Families; and Senator Bennett

300-2283-03

1 A bill to be entitled
2 An act relating to child abuse and abuse of
3 vulnerable adults; amending s. 95.11, F.S.;
4 revising language with respect to the statute
5 of limitations in certain actions; providing a
6 time period for suits with respect to
7 intentional torts based on abuse of a
8 vulnerable adult, for intentional torts based
9 upon abuse of a child, and for intentional
10 torts based upon childhood sexual abuse;
11 providing for severability; providing an
12 effective date.

14 Be It Enacted by the Legislature of the State of Florida:

16 Section 1. Paragraph (o) of subsection (3) and
17 subsection (7) of section 95.11, Florida Statutes, are
18 amended, present subsection (8) is renumbered as subsection
19 (10) and new subsections (8) and (9) are added to that
20 section, to read:

21 95.11 Limitations other than for the recovery of real
22 property.--Actions other than for recovery of real property
23 shall be commenced as follows:

24 (3) WITHIN FOUR YEARS.--

25 (o) An action for assault, battery, false arrest,
26 malicious prosecution, malicious interference, false
27 imprisonment, or any other intentional tort, except as
28 provided in subsections (4), (5), ~~and (7)~~, (9) and (10).

29 (7) FOR INTENTIONAL TORTS BASED ON ABUSE OF A
30 VULNERABLE ADULT.--Notwithstanding any other provision of law
31 to the contrary:

1 (a) An action founded on alleged abuse, as defined in
2 ~~s. 39.01, s. 415.102, or s. 984.03,~~ or incest, as defined in
3 s. 826.04, of a vulnerable adult may be commenced ~~at any time~~
4 ~~within 7 years after the age of majority,~~ or within 4 years
5 after the injured person leaves the dependency of the abuser,
6 or within 4 years from the time of discovery by the injured
7 party or by a person who is in a position of trust and
8 confidence, as defined in s. 415.102, of both the injury and
9 the causal relationship between the injury and the abuse,
10 whichever occurs later. In any event, the action must be begun
11 within 7 years after the act, event, or occurrence giving rise
12 to the action.

13 (b) As used in this subsection, the term "vulnerable
14 adult" means a person 18 years of age or older whose ability
15 to perform the normal activities of daily living or to provide
16 for his or her own care or protection is impaired due to a
17 mental, emotional, physical, or developmental disability or
18 dysfunctioning, brain damage, or the infirmities of aging.

19 (8) FOR INTENTIONAL TORTS BASED ON ABUSE OF A CHILD.--

20 (a) An action founded on alleged abuse of a child, as
21 defined in s. 39.01 or s. 984.03, or incest, as defined in s.
22 826.04, may be commenced at any time within 7 years after the
23 age of majority, or within 4 years after the injured person
24 leaves the dependency of the abuser, or within 4 years from
25 the time of discovery by the injured party of both the injury
26 and the causal relationship between the injury and the abuse,
27 whichever occurs later.

28 (b) As used in this subsection, the term "child" means
29 any unmarried person under the age of 18 years who has not
30 been emancipated by order of the court.

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1 (c) As used in this subsection, the term "abuse" does
2 not include sexual abuse.

3 (9) FOR INTENTIONAL TORTS BASED ON CHILDHOOD SEXUAL
4 ABUSE.--

5 (a) "Childhood sexual abuse," as used in this
6 subsection, includes any act committed against the injured
7 party that occurred when the injured party was under the age
8 of 18 years and that is defined in s. 39.01, s. 794.011,
9 s.800.04, s. 827.03, or s. 984.03, or incest, as defined in s.
10 826.04, or any prior laws of this state of similar effect at
11 the time the act was committed. Nothing in this paragraph
12 limits the availability of causes of action permitted under
13 this paragraph, including causes of action against persons or
14 entities other than the alleged perpetrator of the abuse.

15 (b) An action founded on alleged childhood sexual
16 abuse, as defined in s. 39.01, s. 794.011, s. 800.04, s.
17 827.03, or s. 984.03, or incest, as defined in s. 826.04, may
18 be commenced within 7 years after the age of majority, or
19 within 4 years after the injured person leaves the dependency
20 of the abuser, or within 4 years from the date the injured
21 person discovers or reasonably should have discovered that
22 psychological injury or other illness was caused by the abuse,
23 whichever period expires later, for any of the following
24 actions:

25 1. An action against any person for committing an act
26 of childhood sexual abuse.

27 2. An action for liability against any person or
28 entity who owed a duty of care to the injured person, wherein
29 a wrongful, intentional, or negligent act by that person or
30 entity was a legal cause of the childhood sexual abuse that
31 resulted in the harm to the injured person.

1 3. An action for liability against any person or
2 entity wherein an intentional act by that person or entity was
3 a legal cause of the childhood sexual abuse that resulted in
4 the harm to the injured person.

5 (c) No action described in subparagraph (b)2. or (b)3.
6 may be commenced on or after the injured person's 25th
7 birthday. This paragraph does not apply if the person or
8 entity, knew or had reason to know of any complaint against an
9 employee, volunteer, representative, or agent of the entity
10 for unlawful sexual conduct and failed to take reasonable
11 steps to avoid similar acts of unlawful sexual acts in the
12 future. For purposes of this paragraph, providing or requiring
13 counseling is not sufficient, in and of itself, to constitute
14 a reasonable step or reasonable safeguard.

15 (d) Notwithstanding any other provision of law, any
16 action described in subparagraph (b)2. or subparagraph (b)3.
17 that is permitted to be filed pursuant to paragraph (b) that
18 would otherwise be barred as of January 1, 2004, solely
19 because the applicable statute of limitations has or had
20 expired, is revived, and, in that case, a cause of action may
21 be commenced within 1 year after January 1, 2004. Nothing in
22 this section shall be construed to alter the applicable
23 statute of limitations period of an action that is not time
24 barred as of January 1, 2004.

25 (e) Paragraph (d) does not apply to either of the
26 following:

27 1. Any claim that has been litigated to finality on
28 the merits in any court of competent jurisdiction prior to
29 January 1, 2004. Termination of a prior action on the basis of
30 the statute of limitations does not constitute a claim that
31 has been litigated to finality on the merits.

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

6 ~~(10)(8)~~ WITHIN 30 DAYS FOR ACTIONS CHALLENGING
7 CORRECTIONAL DISCIPLINARY PROCEEDINGS.--Any court action
8 challenging prisoner disciplinary proceedings conducted by the
9 Department of Corrections pursuant to s. 944.28(2) must be
10 commenced within 30 days after final disposition of the
11 prisoner disciplinary proceedings through the administrative
12 grievance process under chapter 33, Florida Administrative
13 Code. Any action challenging prisoner disciplinary
14 proceedings shall be barred by the court unless it is
15 commenced within the time period provided by this section.

16 Section 2. If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 invalidity does not affect other provisions or applications of
19 the act which can be given effect without the invalid
20 provision or application, and to this end the provisions of
21 this act are severable.

22 Section 3. This act shall take effect October 1, 2003.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1834
4 Removes the provisions that shift the list of professionals
5 required to report child abuse from the requirement to report
6 provision to the provision in ch. 39, F.S., requiring the
7 reporter to provide his or her name."
8 Removes the addition of priests, rabbis, practitioners of
9 Christian Science, and ministers of other denominations to the
10 list of professionals who are required to provide their names
11 when reporting child abuse.
12 Removes the provisions that do not permit the application of
13 privileged communication when the communication pertains to
14 child abuse, sexual battery, and lewd and lascivious offenses.
15 Amends the intentional tort based on childhood sexual abuse
16 pertaining to actions that may be sought.
17 Removes the elevation of the penalty for sexual battery under
18 certain circumstances.
19 Removes the newly created duty to report lewd and lascivious
20 acts.
21 Provides a severability clause.
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