

By Senator Aronberg

27-1440-04

See HB 387

1 A bill to be entitled
2 An act relating to limitations on actions
3 involving abuse of children or vulnerable
4 adults; amending s. 95.11, F.S.; providing an
5 exception to the limitation on actions for
6 negligence in circumstances involving
7 allegations of childhood sexual abuse;
8 providing definitions; revising the limitations
9 for intentional torts based on abuse; providing
10 limitations on actions founded on alleged abuse
11 or incest committed against a vulnerable adult,
12 alleged abuse of a child other than childhood
13 sexual abuse, and alleged childhood sexual
14 abuse; limiting the application of the act;
15 reenacting s. 63.182, F.S., relating to the
16 statute of repose for adoption, to incorporate
17 the amendment to s. 95.11, F.S., in a reference
18 thereto; providing an effective date.

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

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22 Section 1. Paragraph (a) of subsection (3) and
23 subsection (7) of section 95.11, Florida Statutes, are amended
24 to read:

25 95.11 Limitations other than for the recovery of real
26 property.--Actions other than for recovery of real property
27 shall be commenced as follows:

28 (3) WITHIN FOUR YEARS.--

29 (a) An action founded on negligence, except that when
30 the action is against any person or entity alleged to owe a
31 duty of care to the injured person and is collateral to an

1 action alleging childhood sexual abuse as described in
2 subsection (7), such action must be commenced within 15 years
3 after the injured person attains the age of majority, within 4
4 years after the injured person leaves the dependency or care
5 of the person or entity, or within 4 years after the date the
6 injured person, having attained the age of majority, discovers
7 or reasonably should have discovered the causal relationship
8 between the abuse and the significant impairment to his or her
9 physical, mental, or emotional health, whichever date is
10 latest. However, such action shall not commence on or after
11 the injured person's 33rd birthday unless the action is
12 supported by a good faith allegation that the person or, in
13 the case of an entity, a designated representative knew or had
14 reasonable cause to suspect any childhood sexual abuse by any
15 employee, volunteer, representative, or agent of the person or
16 entity and the person or representative failed to notify law
17 enforcement or the statewide central abuse hotline as required
18 by law.

19 (7) FOR INTENTIONAL TORTS BASED ON ABUSE.--

20 (a) Definitions.--For purposes of this subsection:

21 1. "Child" has the same meaning as in s. 39.01.

22 2. "Vulnerable adult" has the same meaning as in s.
23 415.102.

24 3. "Incest" has the same meaning as in s. 826.04.

25 4. "Abuse" with respect to a child includes any act
26 described in the definition of "abuse" in s. 39.01, any act
27 described in the definition of "abuse" in s. 984.03, or the
28 prohibited acts described in s. 827.03.

29 5. "Abuse" with respect to a vulnerable adult has the
30 same meaning as in s. 415.102.

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1 6. "Position of trust and confidence" with respect to
2 a vulnerable adult has the same meaning as in s. 415.102.

3 7. "Childhood sexual abuse" means any willful act or
4 threatened act that results in any sexual injury or harm that
5 causes or is likely to cause significant impairment to the
6 physical, mental, or emotional health of a person who was
7 under the age of 18 at the time of such act. "Childhood sexual
8 abuse" also includes those acts described in the definition of
9 "sexual abuse of a child" in s. 39.01, as well as the
10 prohibited acts described in ss. 794.011, 800.04, and 826.04.

11 (b) Abuse of vulnerable adults.--An action founded on
12 alleged abuse, ~~as defined in s. 39.01, s. 415.102, or s.~~
13 ~~984.03, or incest, as defined in s. 826.04, committed against~~
14 a vulnerable adult must ~~may~~ be commenced at any time within 7
15 years after the age of majority, or within 4 years after the
16 injured person leaves the care or dependency of the alleged
17 abuser, or within 4 years from the time of discovery by the
18 injured party or by a person other than the alleged abuser who
19 is in a position of trust and confidence with the injured
20 party of both the injury and the causal relationship between
21 the injury and the abuse, whichever date is ~~occurs~~ later.
22 However, in no event shall such action be commenced later than
23 7 years from the date of the act, incident, or occurrence out
24 of which the cause of action arose.

25 (c) Abuse of a child other than childhood sexual
26 abuse.--Except as provided in paragraph (d), an action founded
27 on alleged abuse of a child must be commenced within 7 years
28 after the injured person attains the age of majority, within 4
29 years after the injured person leaves the dependency or care
30 of the alleged abuser, or within 4 years from the time of
31 discovery by the injured person of both the injury and the

1 causal relationship between the injury and the abuse,
2 whichever date is latest.

3 (d) Childhood sexual abuse.--An action founded on
4 alleged childhood sexual abuse must be commenced within 15
5 years after the injured person attains the age of majority,
6 within 4 years after the injured person leaves the dependency
7 or care of the alleged abuser, or within 4 years after the
8 date the injured person, having attained the age of majority,
9 discovers or reasonably should have discovered the causal
10 relationship between the abuse and the significant impairment
11 to his or her physical, mental, or emotional health, whichever
12 date is latest. Nothing in this paragraph shall be construed
13 to limit the availability of any cause of action permitted
14 under paragraph (c) or paragraph (3)(a), including such
15 actions commenced against persons or entities other than the
16 alleged perpetrator of the abuse.

17 Section 2. This act does not apply to any written,
18 compromised settlement agreement that has been entered into
19 between a plaintiff and a defendant in which the plaintiff was
20 represented by an attorney who was admitted to practice law in
21 this state at the time of the settlement and the plaintiff
22 signed the agreement.

23 Section 3. For the purpose of incorporating the
24 amendment to section 95.11, Florida Statutes, in a reference
25 thereto, section 63.182, Florida Statutes, is reenacted to
26 read:

27 63.182 Statute of repose.--Notwithstanding s. 95.031
28 or s. 95.11 or any other statute, an action or proceeding of
29 any kind to vacate, set aside, or otherwise nullify a judgment
30 of adoption or an underlying judgment terminating parental
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1 rights on any ground may not be filed more than 1 year after
2 entry of the judgment terminating parental rights.
3 Section 4. This act shall take effect October 1, 2004.
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