

HB 0387

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A bill to be entitled

An act relating to limitations on actions involving abuse of children or vulnerable adults; amending s. 95.11, F.S.; providing an exception to the limitation on actions for negligence in circumstances involving allegations of childhood sexual abuse; providing definitions; revising the limitations for intentional torts based on abuse; providing limitations on actions founded on alleged abuse or incest committed against a vulnerable adult, alleged abuse of a child other than childhood sexual abuse, and alleged childhood sexual abuse; limiting the application of the act; reenacting s. 63.182, F.S., relating to the statute of repose for adoption, to incorporate the amendment to s. 95.11, F.S., in a reference thereto; providing an effective date.

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

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

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

(3) WITHIN FOUR YEARS.--

(a) An action founded on negligence, except that when the action is against any person or entity alleged to owe a duty of care to the injured person and is collateral to an action alleging childhood sexual abuse as described in subsection (7), such action must be commenced within 15 years after the injured

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30 person attains the age of majority, within 4 years after the
 31 injured person leaves the dependency or care of the person or
 32 entity, or within 4 years after the date the injured person,
 33 having attained the age of majority, discovers or reasonably
 34 should have discovered the causal relationship between the abuse
 35 and the significant impairment to his or her physical, mental,
 36 or emotional health, whichever date is latest. However, such
 37 action shall not commence on or after the injured person's 33rd
 38 birthday unless the action is supported by a good faith
 39 allegation that the person or, in the case of an entity, a
 40 designated representative knew or had reasonable cause to
 41 suspect any childhood sexual abuse by any employee, volunteer,
 42 representative, or agent of the person or entity and the person
 43 or representative failed to notify law enforcement or the
 44 statewide central abuse hotline as required by law.

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

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

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

48 2. "Vulnerable adult" has the same meaning as in s.
 49 415.102.

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

51 4. "Abuse" with respect to a child includes any act
 52 described in the definition of "abuse" in s. 39.01, any act
 53 described in the definition of "abuse" in s. 984.03, or the
 54 prohibited acts described in s. 827.03.

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

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

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59 7. "Childhood sexual abuse" means any willful act or
 60 threatened act that results in any sexual injury or harm that
 61 causes or is likely to cause significant impairment to the
 62 physical, mental, or emotional health of a person who was under
 63 the age of 18 at the time of such act. "Childhood sexual abuse"
 64 also includes those acts described in the definition of "sexual
 65 abuse of a child" in s. 39.01, as well as the prohibited acts
 66 described in ss. 794.011, 800.04, and 826.04.

67 (b) Abuse of vulnerable adults.--An action founded on
 68 alleged abuse, as defined in s. 39.01, s. 415.102, or s. 984.03,
 69 or incest, as defined in s. 826.04, committed against a
 70 vulnerable adult must ~~may~~ be commenced at any time within 7
 71 years after the age of majority, or within 4 years after the
 72 injured person leaves the care or dependency of the alleged
 73 abuser, or within 4 years from the time of discovery by the
 74 injured party or by a person other than the alleged abuser who
 75 is in a position of trust and confidence with the injured party
 76 of both the injury and the causal relationship between the
 77 injury and the abuse, whichever date is ~~occurs~~ later. However,
 78 in no event shall such action be commenced later than 7 years
 79 from the date of the act, incident, or occurrence out of which
 80 the cause of action arose.

81 (c) Abuse of a child other than childhood sexual
 82 abuse.--Except as provided in paragraph (d), an action founded
 83 on alleged abuse of a child must be commenced within 7 years
 84 after the injured person attains the age of majority, within 4
 85 years after the injured person leaves the dependency or care of
 86 the alleged abuser, or within 4 years from the time of discovery
 87 by the injured person of both the injury and the causal

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88 relationship between the injury and the abuse, whichever date is
 89 latest.

90 (d) Childhood sexual abuse.--An action founded on alleged
 91 childhood sexual abuse must be commenced within 15 years after
 92 the injured person attains the age of majority, within 4 years
 93 after the injured person leaves the dependency or care of the
 94 alleged abuser, or within 4 years after the date the injured
 95 person, having attained the age of majority, discovers or
 96 reasonably should have discovered the causal relationship
 97 between the abuse and the significant impairment to his or her
 98 physical, mental, or emotional health, whichever date is latest.
 99 Nothing in this paragraph shall be construed to limit the
 100 availability of any cause of action permitted under paragraph
 101 (c) or paragraph (3)(a), including such actions commenced
 102 against persons or entities other than the alleged perpetrator
 103 of the abuse.

104 Section 2. This act does not apply to any written,
 105 compromised settlement agreement that has been entered into
 106 between a plaintiff and a defendant in which the plaintiff was
 107 represented by an attorney who was admitted to practice law in
 108 this state at the time of the settlement and the plaintiff
 109 signed the agreement.

110 Section 3. For the purpose of incorporating the amendment
 111 to section 95.11, Florida Statutes, in a reference thereto,
 112 section 63.182, Florida Statutes, is reenacted to read:

113 63.182 Statute of repose.--Notwithstanding s. 95.031 or s.
 114 95.11 or any other statute, an action or proceeding of any kind
 115 to vacate, set aside, or otherwise nullify a judgment of
 116 adoption or an underlying judgment terminating parental rights

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117 | on any ground may not be filed more than 1 year after entry of
118 | the judgment terminating parental rights.

119 | Section 4. This act shall take effect October 1, 2004.