



*The Florida Justice Reform Institute
Supports Amendment 390827 to HB 837,
Which Would Ensure Parties Timely
Pursue Negligence Claims*

Under current law, a four-year statute of limitations applies to negligence actions. In other words, a party has to bring “[a]n action founded on negligence” within four years of the time that the cause of action accrues (i.e., when the last element of the cause of action occurs). § 95.11(3)(a), Fla. Stat. Statutes of limitation are designed and intended to encourage diligence in the prosecution of claims, eliminate the potential of abuse from a stale claim, and ultimately foster certainty and finality in liability. *See, e.g., Caduceus Props., LLC v. Graney*, 137 So. 3d 987, 992 (Fla. 2014) (“Statutes of limitations are designed to protect defendants from unusually long delays in the filing of lawsuits and to prevent prejudice to defendants from the unexpected enforcement of stale claims.”); *Hawkins v. Barnes*, 661 So. 2d 1271, 1272 (Fla. 5th DCA 1995) (“The purpose of setting a fixed time limit on the right to assert a civil claim is to encourage prompt resolution of controversies and to protect against the risk of injustice. . . . As to each civil action, the applicable statute of limitations serves notice of a potential bar and provides a reasonable time within which the plaintiff can initiate a claim.”).

Providing a four-year limitations period on negligence claims does not further those goals. A party should know whether they have a claim for negligence within a time period far shorter than four years. Indeed, other claims founded on negligence or similar principles, like professional malpractice claims and wrongful death claims, apply a two-year rather than four-year statute of limitations. § 95.11(4)(b) & (d), Fla. Stat.

Thus, the Florida Justice Reform Institute supports Amendment 390827 to HB 837, which would make the statute of limitations period applicable to negligence actions two years:

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.~~

~~(b)~~ An action relating to the determination of paternity, with the time running from the date the child reaches the age of 15 majority.

(4) WITHIN TWO YEARS.—

(a) An action founded on negligence.

Amendment No. 9

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Gregory offered the following:

Amendment (with title amendment)

Between lines 65 and 66, insert:

6 Section 3. Paragraphs (a) and (b) of subsection (3) and
 7 paragraph (a) of subsection (4) of section 95.11, Florida
 8 Statutes, are amended to read:

9 95.11 Limitations other than for the recovery of real
 10 property.—Actions other than for recovery of real property shall
 11 be commenced as follows:

12 (3) WITHIN FOUR YEARS.—

13 (a) ~~An action founded on negligence.~~

14 ~~(b)~~ An action relating to the determination of paternity,
 15 with the time running from the date the child reaches the age of
 16 majority.

Amendment No. 9

- 17 (4) WITHIN TWO YEARS.—
18 (a) An action founded on negligence.
19 (b) An action for professional malpractice, other than
20 medical malpractice, whether founded on contract or tort;
21 provided that the period of limitations shall run from the time
22 the cause of action is discovered or should have been discovered
23 with the exercise of due diligence. However, the limitation of
24 actions herein for professional malpractice shall be limited to
25 persons in privity with the professional.

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T I T L E A M E N D M E N T

28
29 Remove line 8 and insert:
30 lawyer's referral of a client to a medical provider; amending s.
31 95.11, F.S.; reducing the statute of limitations for negligence
32 actions;