

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1411

By: Daniels

4  
5  
6 AS INTRODUCED

7 An Act relating to civil procedure; amending 12 O.S.  
8 2021, Sections 683 and 684, which relate to dismissal  
9 of actions; modifying statutory reference; modifying  
10 procedural requirements for certain dismissals;  
11 requiring certain dismissals to operate as  
12 adjudication on merits; and providing an effective  
13 date.

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

15 SECTION 1. AMENDATORY 12 O.S. 2021, Section 683, is  
16 amended to read as follows:

17 Section 683. Except as provided in Section ~~684.1~~ 684 of this  
18 title, an action may be dismissed, without prejudice to a future  
19 action:

20 1. ~~By the plaintiff, before the final submission of the case to  
the jury, or to the court, where the trial is by the court;~~

21 ~~2.~~ By the court, where the plaintiff fails to appear on the  
22 trial;

23 ~~3.~~ 2. By the court, for the want of necessary parties;

1       4. 3. By the court, on the application of some of the  
2 defendants, where there are others whom the plaintiff fails to  
3 prosecute with diligence;

4       5. 4. By the court, for disobedience by the plaintiff of an  
5 order concerning the proceedings in the action; and

6       6. 5. In all other cases, upon the trial of the action, the  
7 decision must be upon the merits.

8       SECTION 2.       AMENDATORY       12 O.S. 2021, Section 684, is  
9 amended to read as follows:

10       Section 684. A. ~~An~~ Subject to subsection E of Section 2023 and  
11 Sections 2023.1 and 2023.2 of this title or any applicable state or  
12 federal statute, an action may be dismissed by the plaintiff without  
13 an order of court by filing a notice of dismissal ~~at any time before~~  
14 ~~pretrial. After the pretrial hearing, an action may only be~~  
15 ~~dismissed by agreement of the parties or by the court~~ before the  
16 opposing party serves an answer or a motion for summary judgment.  
17 Unless otherwise stated in the notice of dismissal or stipulation,  
18 the dismissal is without prejudice. If the plaintiff previously  
19 dismissed any action in federal or state court based on or including  
20 the same claim, a notice of dismissal shall operate as an  
21 adjudication on the merits.

22       B. Except as provided in subsection A of this section, an  
23 action shall not be dismissed at the plaintiff's request except upon  
24 order of the court and upon such terms and conditions as the court

1 deems proper. If a counterclaim has been pleaded by a defendant  
2 prior to the service upon the defendant of the plaintiff's motion to  
3 dismiss, the action shall not be dismissed against the defendant's  
4 objection unless the counterclaims can remain pending for  
5 independent adjudication by the court. Unless otherwise specified  
6 in the order, a dismissal under this subsection is without  
7 prejudice.

8 C. For failure of the plaintiff to prosecute or to comply with  
9 the provisions of this section or any order of court, a defendant  
10 may move for dismissal of an action or of any claim against the  
11 defendant. Unless the dismissal order states otherwise, a dismissal  
12 under this subsection or under any other section of law, except for  
13 lack of jurisdiction, improper venue, or failure to join a party  
14 under Section 2019 of this title, shall operate as an adjudication  
15 on the merits.

16 D. The provisions of this section apply to the dismissal of any  
17 counterclaim, cross-claim, or third-party claim. A voluntary  
18 dismissal by the claimant alone pursuant to subsection A of this  
19 section shall be made before a responsive pleading is served or, if  
20 there is none, before the introduction of evidence at the trial or  
21 hearing.

22 If a plaintiff who has once dismissed an action in any court  
23 commences an action based upon or including the same claim against  
24 the same defendant, the court may make such order for the payment of  
25

1 costs of the action previously dismissed as it may deem proper and  
2 may stay the proceedings in the action until the plaintiff has  
3 complied with the order.

4 SECTION 3. This act shall become effective November 1, 2022.

5  
6 58-2-2629 TEK 1/19/2022 1:05:24 PM  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25