

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)
COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1223

By: Thomas

COMMITTEE SUBSTITUTE

An Act relating to trusts; prohibiting certain trusts or trust provisions which have specified purposes or effects; providing for use of certain funds; making certain trusts void and invalid; making certain trust an available resource; providing for criteria; defining terms; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 175.56 of Title 60, unless there is created a duplication in numbering, reads as follows:

A Trustor shall not create a trust whose purpose or effect is to shelter monies from consideration by the Department of Human Services in the operation of the Aid to Families with Dependent Children or Medicaid programs. A clause or provision in a trust of which the purpose or effect is to shelter monies or prevent monies from being considered available income or resources by the Department of Human Services in determining eligibility for Aid to Families with Dependent Children or Medicaid is invalid and void.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 164.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Funds held in a discretionary trust are an available resource for purposes of determining eligibility for Aid to Families with Dependent Children and Medicaid.

B. Any trust provision or clause is invalid and void if such trust contains:

1. An exculpatory clause; or

2. A clause of which the purpose or effect is to shelter monies or prevent monies from being considered available resources or income by the Department of Human Services in determining eligibility for Aid to Families with Dependent Children and Medicaid.

C. For purposes of this section:

1. "Discretionary trust" means a trust in which the trustee has express or implicit authority to determine whether, when or in what amounts distributions will be made to beneficiaries of the trust; and

2. "Exculpatory clause" is a clause which expressly or implicitly restricts the use of funds that could otherwise prevent eligibility for public assistance benefits administered by the Department of Human Services, or limits a trustee's authority regarding distribution of funds to actions that would not diminish a trust beneficiary's receipt or potential receipt of public assistance benefits administered by the Department of Human Services.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-6565

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