

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 1793

By: Justice, Lawler, Leftwich
and Johnson (Constance)
of the Senate

and

Richardson of the House

(crimes and punishments - exploitation of elderly
persons - penalties - codification - effective date -
emergency)

AUTHORS: Add the following House Coauthors: Shelton, Roan, Askins,
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AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert

"An Act relating to crimes and punishments; amending
16 O.S. 2001, Section 2, which relates to witnesses
for real estate transactions; adding certain
exception; providing for affidavit for conveying
certain interests in real estate; providing
exception; defining term; prohibiting certain
unlawful acts; providing penalties; defining term;
providing for codification; providing an effective
date; and declaring an emergency.

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

SECTION 1. AMENDATORY 16 O.S. 2001, Section 2, is
amended to read as follows:

Section 2. No subscribing witness shall be necessary to the
validity of any deed, mortgage, contract, lease, bond, or other
instrument conveying, affecting or relating to real estate, except
as provided in Section 2 of this act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 91 of Title 16, unless there is created a duplication in numbering, reads as follows:

A. Upon the effective date of this act, any person entitled to convey any mineral or royalty interest in real property shall execute an affidavit to be witnessed by two (2) persons. At a minimum the affidavit shall include:

1. The name of the grantor;

2. The type of interest and amount of interest being conveyed;
and

3. A statement that the grantor is of sound mind and understands the results of the conveyance.

The affidavit shall be filed along with the deed executed for the conveyance as prescribed by law.

B. This section shall not apply to those interests devised by the owner to a devisee or an heir entitled to such interest of an owner that dies intestate.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 843.4 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. As used in this section, "exploitation of an elderly person or disabled adult" means:

1. Knowingly, by deception or intimidation, obtaining or using, or endeavoring to obtain or use, an elderly person's or disabled person's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who:

a. stands in a position of trust and confidence with the elderly person or disabled adult, or

b. has a business relationship with the elderly person or disabled adult, or

2. Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who knows or reasonably should know that the elderly person or disabled adult lacks the capacity to consent.

B. 1. If the funds, assets, or property involved in the exploitation of the elderly person or disabled adult are valued at One Hundred Thousand Dollars (\$100,000.00) or more, the violator commits a felony punishable by imprisonment in the custody of the Department of Corrections for a term not more than fifteen (15) years and by a fine in an amount not exceeding Ten Thousand Dollars (\$10,000.00).

2. If the funds, assets, or property involved in the exploitation of the elderly person or disabled adult are valued at less than One Hundred Thousand Dollars (\$100,000.00), the violator commits a felony punishable by imprisonment in the custody of the Department of Corrections for a term not more than ten (10) years and by a fine in an amount not exceeding Ten Thousand Dollars (\$10,000.00).

C. For purposes of this section, "elderly person" means any person sixty-two (62) years of age or older.

SECTION 4. This act shall become effective July 1, 2006.

SECTION 5. 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."

Passed the House of Representatives the 10th day of April, 2006.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2006.

Presiding Officer of the Senate