

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 HOUSE BILL 3552

By: Boatman

7 AS INTRODUCED

8 An Act relating to guardian and ward; providing for
9 the transfer or conveyance of property to protective
10 arrangements; specifying the petition process;
11 defining term; providing for notice and hearing;
12 exempting transfer or conveyance of property to
13 protective arrangements from definitions and
14 regulations of sale; providing for bonds for transfer
15 or conveyance of property to protective arrangements;
16 providing for codification; and providing an
17 effective date.

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

16 SECTION 1. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 4-710 of Title 30, unless there
18 is created a duplication in numbering, reads as follows:

19 A. If a ward is the owner of any real or personal property that
20 is or may be deemed an available resource by the United States
21 Social Security Administration or by the applicable Medicaid rules
22 promulgated by the Oklahoma Health Care Authority or other state
23 agency, the guardian may petition the court for permission to
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1 transfer or convey such property to a protective arrangement in
2 accordance with this section.

3 1. The guardian shall file a verified petition setting forth
4 what specific property is or may be deemed a resource by the federal
5 or state authority, including an affirmative statement that such
6 resource will or may affect the ward's receipt of public benefits
7 unless such resource is transferred to a protective arrangement. As
8 used in this section, "protective arrangement" includes, but is not
9 limited to, any of the following transfers or conveyances of the
10 ward's resources:

- 11 a. to a first-party Medicaid payback trust, also known as
12 a d4A trust,
- 13 b. to a pooled trust approved by the Oklahoma Department
14 of Human Services, also known as a d4C trust,
- 15 c. as permitted by the administrative rules promulgated
16 by the Oklahoma Health Care Authority, such as to a
17 spouse or qualified disabled child of the ward,
- 18 d. to a sole benefit trust for the benefit of the spouse
19 or qualified disabled child of the ward,
- 20 e. to a sole benefit trust for any qualified disabled
21 person,
- 22 f. to a qualified disabled child or caregiving child of
23 the ward who qualifies pursuant to administrative
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1 rules by providing caregiving services for the
2 required period of time, or

- 3 g. to a qualified Achieving a Better Life Experience
4 (ABLE) account within or without the State of
5 Oklahoma.

6 2. The court shall set the petition for a hearing not less than
7 ten (10) days nor more than thirty (30) days from the date of
8 filing.

- 9 a. Notice of the hearing shall be given to those persons
10 entitled to notice of the guardian's annual report. If
11 the court has previously waived the filing of the
12 guardian's annual report, then notice shall be given
13 to those persons entitled to notice pursuant to
14 Section 3-110 of Title 30 of the Oklahoma Statutes.

- 15 b. If all persons entitled to notice have waived such
16 notice, no notice shall be given and the court shall
17 proceed without delay to hear the petition.

- 18 c. At the hearing, the court shall hear testimony
19 regarding the public benefits that may be beneficial
20 to the ward or others and if and how the transfer or
21 conveyance of the ward's property to a protective
22 arrangement may allow the ward or others to receive
23 such public benefits.
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1 B. If the court approves the petition and authorizes the
2 guardian to transfer or convey the ward's property that is or may be
3 deemed an available resource to a protective arrangement, such
4 transfer or conveyance shall not be considered a sale of the
5 property and shall not be subject to the provisions of Sections 4-
6 751 through 4-770 of Title 30 of the Oklahoma Statutes. Sections 380
7 through 512 of Title 58 of the Oklahoma Statutes shall not apply to
8 any transfer or conveyance of the ward's assets to a protective
9 arrangement pursuant to this section.

10 C. If a bond was previously required by the court, the court
11 may continue the bond to include assets transferred or conveyed to a
12 protective arrangement, require a new bond in a lesser amount due to
13 the transfer of some or all of the ward's resources or waive the
14 requirement of a bond on the value of the transferred assets.

15 SECTION 2. This act shall become effective November 1, 2020.

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17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/06/2020 - DO
18 PASS.
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