

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3552

By: Boatman

6 AS INTRODUCED

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

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

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

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

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

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

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

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

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

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

16          c.   At the hearing, the court shall hear testimony  
17                regarding the public benefits that may be beneficial  
18                to the ward or others and if and how the transfer or  
19                conveyance of the ward's property to a protective  
20                arrangement may allow the ward or others to receive  
21                such public benefits.

22          B.   If the court approves the petition and authorizes the  
23   guardian to transfer or convey the ward's property that is or may be  
24   deemed an available resource to a protective arrangement, such

1 transfer or conveyance shall not be considered a sale of the  
2 property and shall not be subject to the provisions of Sections 4-  
3 751 through 4-770 of Title 30 of the Oklahoma Statutes. Sections 380  
4 through 512 of Title 58 of the Oklahoma Statutes shall not apply to  
5 any transfer or conveyance of the ward's assets to a protective  
6 arrangement pursuant to this section.

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

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

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14 57-2-9811 AB 01/15/20  
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