

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3959

By: Kannady

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6 AS INTRODUCED

7 An Act relating to probate procedure; amending 58  
8 O.S. 2021, Sections 102 and 126, which relate to  
9 executors, administrators, and administratrices;  
10 removing the prohibition against an individual  
11 convicted of an infamous crime from serving as an  
12 executor; providing guidelines for the court to  
13 consider in determining whether a person is suitable  
14 to serve as an executor; providing the court  
15 discretion in appointing an executor with pending  
16 criminal charges or convictions; providing the court  
17 discretion in appointing an executor struggling with  
18 insolvency or who has declared bankruptcy; removing  
19 the prohibition against an individual convicted of an  
20 infamous crime from serving as an administrator or  
21 administratrix; providing guidelines for the court to  
22 consider in determining whether a person is suitable  
23 to serve as administrator or administratrix;  
24 providing the court discretion in appointing an  
administrator or administratrix with pending criminal  
charges or convictions; providing the court  
discretion in appointing an administrator or  
administratrix struggling with insolvency or who has  
declared bankruptcy; and providing an effective date.

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

SECTION 1. AMENDATORY 58 O.S. 2021, Section 102, is  
amended to read as follows:

1 Section 102. A. No person is competent to serve as executor  
2 who at the time the will is admitted to probate is:

3 1. Under the age of majority~~;~~ or

4 2. ~~Convicted of an infamous crime.~~

5 ~~3.~~ Adjudged by the court incompetent to execute the duties of  
6 the trust by reason of drunkenness, improvidence, or want of  
7 understanding and integrity.

8 B. In conducting an inquiry to determine whether a person is  
9 suitable to serve as executor, the court shall determine if:

10 1. The person proposed to serve as executor has a record of one  
11 or more criminal convictions, protective orders, or pending criminal  
12 charges; and

13 2. The person proposed to serve as executor is currently  
14 insolvent or has declared bankruptcy during the five (5) years prior  
15 to the date of filing of the petition proposing that said person  
16 serve as executor.

17 C. If the person proposed to serve as executor has a criminal  
18 conviction, protective order, pending criminal charge, or other  
19 criminal matter in state or federal court, the person shall plead  
20 the nature of such conviction, order, charge, or matter and the  
21 surrounding circumstances and why the underlying circumstances do  
22 not give rise to a reasonable belief that the person proposed to  
23 serve will be unfaithful to or neglectful of the fiduciary  
24 responsibilities of the executor. The court shall appoint said

1 person proposed to serve only upon determining that the facts  
2 underlying the circumstances do not give rise to a reasonable belief  
3 that the person proposed to serve will be unfaithful to or  
4 neglectful of the fiduciary responsibilities of the executor.

5 D. If the person proposed to serve as executor is insolvent or  
6 has declared bankruptcy within five (5) years prior to the date of  
7 filing of the petition proposing that said person serve, the court  
8 shall appoint said person only after giving due consideration to the  
9 nature and extent of the property of the estate and the anticipated  
10 actions necessary to manage the estate.

11 SECTION 2. AMENDATORY 58 O.S. 2021, Section 126, is  
12 amended to read as follows:

13 Section 126. A. No person is competent to serve as  
14 administrator or administratrix, who, when appointed, is:

- 15 1. Under the age of majority-; or
- 16 2. ~~Convicted of an infamous crime.~~

17 ~~3.~~ Adjudged by the court incompetent to execute the duties of  
18 the trust by reason of drunkenness, improvidence or want of  
19 understanding or integrity.

20 B. In conducting an inquiry to determine whether a person is  
21 suitable to serve as administrator or administratrix, the court  
22 shall determine if:

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1       1. The person proposed to serve as administrator or  
2 administratrix has a record of one or more criminal convictions,  
3 protective orders, or pending criminal charges; and

4       2. The person proposed to serve as administrator or  
5 administratrix is insolvent or has declared bankruptcy during five  
6 (5) years prior to the date of filing of the petition proposing said  
7 person to serve as administrator or administratrix.

8       C. If the person proposed to serve as administrator or  
9 administratrix has a criminal conviction, pending criminal charge,  
10 or other criminal matter in state or federal court, the person shall  
11 plead the nature of such conviction, order, charge, or matter and  
12 the surrounding circumstances and why the underlying circumstances  
13 do not give rise to a reasonable belief that the person proposed to  
14 serve will be unfaithful to or neglectful of the fiduciary  
15 responsibilities of the administrator or administratrix. The court  
16 shall appoint said person proposed to serve only upon determining  
17 that the facts underlying the circumstances do not give rise to a  
18 reasonable belief that the person proposed to serve will be  
19 unfaithful to or neglectful of the fiduciary responsibilities of the  
20 administrator or administratrix.

21       D. If the person proposed to serve as administrator or  
22 administratrix is insolvent or has declared bankruptcy within five  
23 (5) years prior to the date of filing of the pleading proposing that  
24 such person serve, the court shall appoint said person only after

1 giving due consideration to the nature and extent of the property of  
2 the estate and the anticipated actions necessary to manage the  
3 estate.

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

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