

An Act

ENROLLED HOUSE
BILL NO. 1566

By: Duel and Stark of the House

and

Weaver of the Senate

An Act relating to mental health; creating Neil's Law; creating the Oklahoma Elder Exploitation and Abuse Act; declaring purpose and intent; defining terms; providing construing provision; authorizing the filing of certain claims in district court; establishing venue for claims; providing for relief; allowing for the recovery of attorney fees and costs; subjecting claims to laws governing civil claims; declaring who may bring claims; authorizing the court to grant access to certain records; allowing claims to survive the death of a vulnerable adult; authorizing district courts to issue restraining orders under certain circumstances; declaring that certain privileged relationships shall not be grounds for excluding evidence; providing for noncodification; providing for codification; and providing an effective date.

SUBJECT: Mental health

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as "Neil's Law".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 14-101 of Title 43A, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 7 of this act shall be known and may be cited as the "Oklahoma Elder Exploitation and Abuse Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 14-102 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. The purpose of the Oklahoma Elder Exploitation and Abuse Act is to promote the general welfare of all citizens by establishing a civil action for incapacitated persons and vulnerable adults which provides for the protection of their rights and affords them a right of civil action against those who neglect, exploit, or abuse them.

B. The purpose of the Oklahoma Elder Exploitation and Abuse Act is to allow incapacitated persons and vulnerable adults, through their legal representatives, to pursue claims against persons who neglect, exploit, or abuse the incapacitated person or vulnerable adult if he or she lacks the capacity to pursue such claims on his or her own behalf.

C. The Oklahoma Elder Exploitation and Abuse Act does not preclude an individual's mandatory responsibility to report to Adult Protective Services or law enforcement if there is reasonable cause to believe a vulnerable adult is being abused, neglected, or exploited.

D. It is the intent of the Oklahoma Legislature:

1. That the district court shall exercise the authority conferred by the Oklahoma Elder Exploitation and Abuse Act to encourage the development of maximum self-reliance and independence of incapacitated persons and vulnerable adults and make appointive and other orders only to the extent necessitated by the mental and adaptive limitations of other conditions of the incapacitated or partially incapacitated person warranting the action; and

2. That in performing their duties and exercising their powers, legal representatives bringing claims under this act for incapacitated persons and vulnerable adults shall:

a. assure, to the extent reasonably possible, that the rights of the persons for whom they are appointed are protected, and

- b. encourage, to the extent reasonably possible, incapacitated persons and vulnerable adults to participate to the maximum extent of their abilities in all decisions which affect them concerning the claims afforded them under this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 14-103 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. When used in the Oklahoma Elder Exploitation and Abuse Act:

1. "Abuse" means causing or permitting:

- a. the infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, mental anguish or personal degradation, or
- b. the deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a vulnerable adult by a caretaker or other person providing services to a vulnerable adult;

2. "Caretaker" means a person who has:

- a. the responsibility for the care of a vulnerable adult or the financial management of the resources of a vulnerable adult as a result of a family relationship,
- b. assumed the responsibility for the care of a vulnerable adult voluntarily, by contract, or as a result of the ties of friendship, or
- c. been appointed a guardian, limited guardian, or conservator pursuant to the Oklahoma Guardianship and Conservatorship Act;

3. "Exploitation" or "exploit" means an unjust or improper use of the resources of a vulnerable adult for the profit or advantage, pecuniary or otherwise, of a person other than the vulnerable adult through the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense;

4. "Financial neglect" means repeated instances by a caretaker, or other person, who has assumed the role of financial management, of failure to use the resources available to restore or maintain the health and physical well-being of a vulnerable adult, including, but not limited to:

- a. squandering or negligently mismanaging the money, property, or accounts of a vulnerable adult,
- b. refusing to pay for necessities or utilities in a timely manner, or
- c. providing substandard care to a vulnerable adult despite the availability of adequate financial resources;

5. "Incapacitated person" means:

- a. any person eighteen (18) years of age or older:
 - (1) who is impaired by reason of mental or physical illness or disability, dementia or related disease, developmental or intellectual disability or other cause, and
 - (2) whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that such person lacks the capacity to manage his or her financial resources or to meet essential requirements for his or her mental or physical health or safety without assistance from others, or
- b. a person for whom a guardian, limited guardian, or conservator has been appointed pursuant to the Oklahoma Guardianship and Conservatorship Act;

6. "Indecent exposure" means forcing or requiring a vulnerable adult to:

- a. look upon the body or private parts of another person or upon sexual acts performed in the presence of the vulnerable adult, or

- b. touch or feel the body or private parts of another;

7. "Neglect" means:

- a. the failure to provide protection for a vulnerable adult who is unable to protect his or her own interest,
- b. the failure to provide a vulnerable adult with adequate shelter, nutrition, health care, or clothing, or
- c. negligent acts or omissions that result in harm or the unreasonable risk of harm to a vulnerable adult through the action, inaction, or lack of supervision by a caretaker providing direct services;

8. "Personal degradation" means a willful act by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a vulnerable adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. Personal degradation includes the taking, transmitting, or displaying of an electronic image of a vulnerable adult by a caretaker, where the caretaker's actions constitute a willful act intended to shame, degrade, humiliate or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation or harm to the personal dignity of a reasonable person. Personal degradation does not include:

- a. the taking, transmitting, or displaying of an electronic image of a vulnerable adult for the purpose of reporting vulnerable adult abuse to law enforcement, the Department of Human Services or other regulatory agency that oversees caretakers or enforces abuse or neglect laws or rules,
- b. the taking, transmitting, or displaying of an electronic image of a vulnerable adult for the purpose of treatment or diagnosis, or
- c. the taking, transmitting, or displaying of an electronic image of a vulnerable adult as part of an ongoing investigation;

9. "Sexual abuse" means:

- a. oral, anal, or vaginal penetration of a vulnerable adult by or through the union with the sexual organ of a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult with any other object, or
- b. for the purpose of sexual gratification, the touching, feeling or observation of the body or private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult, or
- c. indecent exposure by a caretaker or other person providing services to the vulnerable adult;

10. "Sexual exploitation" includes, but is not limited to, a caretaker's causing, allowing, permitting, or encouraging a vulnerable adult to engage in prostitution or in the lewd, obscene, or pornographic photographing, filming, or depiction of the vulnerable adult as those acts are defined by state law;

11. "Verbal abuse" means the use of words, sounds, or other communication, including, but not limited to, gestures, actions, or behaviors, by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame, or degradation; and

12. "Vulnerable adult" means an individual who is an incapacitated person or who, because of physical or mental disability, including persons with Alzheimer's disease or other dementias, incapacity, or other disability, is substantially impaired in the ability to provide adequately for the care or custody of himself or herself, or is unable to manage his or her property and financial affairs effectively, or to meet essential requirements for mental or physical health or safety, or to protect himself or herself from abuse, neglect, or exploitation without assistance from others.

B. Nothing in this section shall be construed to mean a vulnerable adult is abused or neglected for the sole reason the

vulnerable adult, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the practices of a recognized religious method of healing, for the treatment or cure of disease or remedial care, or a caretaker or other person responsible, in good faith, is furnishing such vulnerable adult spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, for the treatment or cure of disease or remedial care in accordance with the practices of or express consent of the vulnerable adult.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 14-104 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. A claim for elder neglect, exploitation, or abuse, as prescribed in this section, may be brought in any district court within the county in the State of Oklahoma in which the vulnerable adult lives or maintains his or her residence or was living at the time of the act or omission giving rise to the claim.

B. A person who commits neglect or financial neglect against a vulnerable adult, proven by a preponderance of the evidence, shall be liable for actual damages in an amount that compensates the vulnerable adult for the loss he or she has incurred as a result thereof and shall be liable for punitive damages as Oklahoma law otherwise allows.

C. A person who commits exploitation or abuse of a vulnerable adult, proven by a preponderance of the evidence, shall be liable for damages three times the actual damages incurred by the vulnerable adult as a result thereof and shall be liable for punitive damages as Oklahoma law otherwise allows.

D. The prevailing party in the claims prescribed in subsections B and C of this section shall be entitled to recover reasonable attorney fees and costs.

E. The claims prescribed in this section shall follow and otherwise be subject to the general laws governing civil claims under Oklahoma law, including, without limitation, the provisions found in Titles 12 and 23 of the Oklahoma Statutes.

F. The claims provided for by this section may be brought by the vulnerable adult or on behalf of the vulnerable adult by his or her guardian, limited guardian, conservator, agent under an

appropriate power of attorney, duly appointed representative of the estate of the vulnerable adult, if deceased, or other legal representative approved by the court.

G. In addition to any other documents or records to which the vulnerable adult or his or her legal representative may be entitled in pursuit of the claim or claims prescribed in this section, the court may authorize or direct the vulnerable adult and his or her legal representative access to and copies of financial, legal, mental health, and physical health records of the vulnerable adult in the possession of any physician, hospital, other health care provider, firm, financial institution, lawyer, accountant, counselor, broker, caregiver, corporation, other business entity, or other facility or party. These records, upon order of the court, shall be produced within ten (10) days, unless the court orders a shorter time, and the records shall not be disclosed for any purpose other than the purpose for which they have been obtained.

H. The claims provided for in this section survive the death of the vulnerable adult.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 14-105 of Title 43A, unless there is created a duplication in numbering, reads as follows:

The district court in which a claim authorized in this act is filed may, upon proper application, issue a restraining order or other injunctive relief to prohibit any further violation of this act, regardless of the existence of any other remedy at law and in addition thereto.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 14-106 of Title 43A, unless there is created a duplication in numbering, reads as follows:

Subject to a specific court order, the physician-patient privilege nor spousal privilege shall be grounds for excluding evidence regarding the neglect, exploitation, or abuse of a vulnerable adult or the cause thereof in any judicial proceeding arising under this act.

SECTION 8. This act shall become effective November 1, 2025.

Passed the House of Representatives the 13th day of March, 2025.

Presiding Officer of the House
of Representatives

Passed the Senate the 5th day of May , 2025.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____