

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 HOUSE BILL 1349

 By: Rousselot of the House

5 and

6 Anderson of the Senate

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8
9 AS INTRODUCED

10 An Act relating to wills and succession; prohibiting
11 persons convicted of certain crime from inheriting
12 from the victim; describing distribution of property;
13 providing for exception; limiting liability for
14 property holder; providing limited liability for
15 certain types of holders; excepting real property
16 acquired by bona fide purchaser unless certain
17 document is recorded; directing full cooperation of
18 property holder; permitting civil action; granting
19 court discretion in ruling; providing for
20 codification; and providing an effective date.

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

25 SECTION 1. NEW LAW A new section of law to be codified
26 in the Oklahoma Statutes as Section 233 of Title 84, unless there is
27 created a duplication in numbering, reads as follows:

28 A. No person who is convicted of exploitation of an elderly
29 person or disabled adult as defined by Section 843.4 of Title 21 of
30 the Oklahoma Statutes shall inherit from the victim, or receive any

1 interest in the estate of the victim, or take by devise or legacy,
2 or as a designated beneficiary of an account or security with a
3 payable on death (POD) or transfer on death (TOD) designation, or as
4 a surviving joint tenant, or by descent or distribution, from the
5 victim, any portion of the victim's estate.

6 B. Except as provided in subsection F of this section, the
7 property, benefit, or other interest shall pass as if the person
8 convicted of the exploitation of an elderly person or disabled adult
9 listed in subsection A of this section died before the decedent;
10 provided, that with respect to joint tenancy property the interest
11 possessed by the person convicted of the exploitation shall not be
12 diminished by the application of this section. This section shall
13 not apply if it is demonstrated by clear and convincing evidence
14 that the victim of that offense knew of the conviction and
15 subsequent to the conviction, expressed or ratified in writing an
16 intent to transfer the property, benefit, or interest to the person
17 convicted of the exploitation.

18 C. 1. The holder of any property subject to the provisions of
19 this section shall not be liable for distributing or releasing the
20 property to the person convicted of the exploitation of an elderly
21 person or disabled adult if the distribution or release occurs prior
22 to the conviction.

23 2. If the holder is a financial institution, trust company,
24 trustee, or similar entity or person, the holder shall not be liable

1 for any distribution or release of the property, benefit, or other
2 interest to the person convicted unless the holder knowingly
3 distributes or releases the property, benefit, or other interest to
4 the person so convicted after first having received actual written
5 notice of the conviction in sufficient time to act upon the notice.

6 3. This section shall not apply to an interest in real property
7 acquired from the person convicted of the exploitation by a bona
8 fide purchaser for value unless a certified copy of the judgment and
9 sentence evidencing the conviction is recorded in the office of the
10 county clerk of the county in which the real property is located.

11 D. If the holder of any property subject to the provisions of
12 this section knows that a potential beneficiary has been convicted
13 of exploitation of an elderly person or disabled adult as defined by
14 Section 843.4 of Title 21 of the Oklahoma Statutes, the holder shall
15 fully cooperate with law enforcement and court orders in connection
16 with any investigation of the exploitation. If the holder is a
17 person or entity that is subject to regulation by a regulatory
18 agency pursuant to the laws of this or any other state or pursuant
19 to the laws of the United States, including but not limited to the
20 business of a financial institution, corporate fiduciary, or
21 insurance company, then the person or entity shall not be deemed to
22 be in violation of this section to the extent that privacy laws and
23 regulations applicable to the person or entity prevent it from
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1 voluntarily providing law enforcement authorities or judicial
2 officers with information.

3 E. A civil action against a person for exploitation may be
4 brought by an interested person, pursuant to this section, after the
5 death of the victim or during the lifetime of the victim if the
6 victim is adjudicated disabled. A guardian is under no duty to
7 bring a civil action under this subsection during the ward's
8 lifetime, but may do so if the guardian believes it is in the best
9 interests of the ward.

10 F. The court may, in its discretion, consider facts and
11 circumstances it deems appropriate to allow the person convicted of
12 the exploitation to receive a reduction in interest or benefit
13 rather than no interest or benefit as stated under subsection B of
14 this section.

15 SECTION 2. This act shall become effective November 1, 2015.

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17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND CIVIL PROCEDURE,
18 dated 02/05/2015 - DO PASS, As Coauthored.
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