

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1031

By: Perryman

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5  
6 AS INTRODUCED

7 An Act relating to wills and succession; prohibiting  
8 persons convicted of certain crimes from inheriting  
9 from the victim; describing distribution of property;  
10 providing for exception; limiting liability for  
11 property holder; providing limited liability for  
12 certain types of holders; directing full cooperation  
13 of property holder; permitting civil action; granting  
14 court discretion in ruling; providing for  
15 codification; and providing an effective date.

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

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

20 A. No person who is convicted of abuse, neglect, or  
21 exploitation by a caretaker, verbal abuse by a caretaker, or  
22 exploitation of an elderly person or disabled adult or another crime  
23 listed in Sections 843.1, 843.2 and 843.4 of Title 21 of the  
24 Oklahoma Statutes shall inherit from the victim, or receive any  
interest in the estate of the victim, or take by devise or legacy,  
or as a designated beneficiary of an account or security with a

1 payable on death (POD) or transfer on death (TOD) designation, or as  
2 a surviving joint tenant, or by descent or distribution, from the  
3 victim, any portion of the victim's estate.

4 B. Except as provided in subsection F of this section, the  
5 property, benefit, or other interest shall pass as if the person  
6 convicted of the abuse, neglect, or exploitation of an elderly  
7 person or disabled adult listed in subsection A of this section died  
8 before the decedent; provided, that with respect to joint tenancy  
9 property the interest possessed prior to the death by the person  
10 convicted of the abuse, neglect, or exploitation shall not be  
11 diminished by the application of this section. A person convicted  
12 of financial exploitation, abuse, or neglect of an elderly person or  
13 disabled adult shall be entitled to receive property, a benefit, or  
14 an interest in any capacity and under any circumstances described if  
15 it is demonstrated by clear and convincing evidence that the victim  
16 of that offense knew of the conviction and subsequent to the  
17 conviction, expressed or ratified an intent to transfer the  
18 property, benefit, or interest to the person convicted of abuse,  
19 neglect, or exploitation in any manner.

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

1           2. If the holder is a financial institution, trust company,  
2 trustee, or similar entity or person, the holder shall not be liable  
3 for any distribution or release of the property, benefit, or other  
4 interest to the person convicted unless the holder knowingly  
5 distributes or releases the property, benefit, or other interest to  
6 the person so convicted after first having received actual written  
7 notice of the conviction in sufficient time to act upon the notice.

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

23           E. A civil action against a person for financial exploitation  
24 may be brought by an interested person, pursuant to this section,

1 after the death of the victim or during the lifetime of the victim  
2 if the victim is adjudicated disabled. A guardian is under no duty  
3 to bring a civil action under this subsection during the ward's  
4 lifetime, but may do so if the guardian believes it is in the best  
5 interests of the ward.

6 F. The court may, in its discretion, consider facts and  
7 circumstances it deems appropriate to allow the person convicted or  
8 found civilly liable for abuse, neglect, or financial exploitation  
9 to receive a reduction in interest or benefit rather than no  
10 interest or benefit as stated under subsection B of this section.

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

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13 55-1-5774 EK 12/24/14  
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