

1 **SENATE FLOOR VERSION**
2 April 15, 2025

3 ENGROSSED HOUSE
4 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 for civil actions; providing for venue; providing for relief; providing who may bring a claim; authorizing the court to grant access to certain records; providing that claim survives death of vulnerable adult; providing that certain privileged relationships are not grounds for excluding evidence; providing for noncodification; providing for codification; and providing an effective date.

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".

1 SECTION 3. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 14-102 of Title 43A, unless

3 there is created a duplication in numbering, reads as follows:

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

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

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

20 D. It is the intent of the Oklahoma Legislature:

21 1. That the district court shall exercise the authority
22 conferred by the Oklahoma Elder Exploitation and Abuse Act to
23 encourage the development of maximum self-reliance and independence
24 of incapacitated persons and vulnerable adults and make appointive

1 and other orders only to the extent necessitated by the mental and
2 adaptive limitations of other conditions of the incapacitated or
3 partially incapacitated person warranting the action; and

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

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

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

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

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

19 1. "Abuse" means causing or permitting:

20 a. the infliction of physical pain, injury, sexual abuse,
21 sexual exploitation, unreasonable restraint or
22 confinement, mental anguish or personal degradation,
23 or
24

- 1 b. the deprivation of nutrition, clothing, shelter,
2 health care, or other care or services without which
3 serious physical or mental injury is likely to occur
4 to a vulnerable adult by a caretaker or other person
5 providing services to a vulnerable adult;
- 6 2. "Caretaker" means a person who has:
- 7 a. the responsibility for the care of a vulnerable adult
8 or the financial management of the resources of a
9 vulnerable adult as a result of a family relationship,
- 10 b. assumed the responsibility for the care of a
11 vulnerable adult voluntarily, by contract, or as a
12 result of the ties of friendship, or
- 13 c. been appointed a guardian, limited guardian, or
14 conservator pursuant to the Oklahoma Guardianship and
15 Conservatorship Act;
- 16 3. "Exploitation" or "exploit" means an unjust or improper use
17 of the resources of a vulnerable adult for the profit or advantage,
18 pecuniary or otherwise, of a person other than the vulnerable adult
19 through the use of undue influence, coercion, harassment, duress,
20 deception, false representation or false pretense;
- 21 4. "Financial neglect" means repeated instances by a caretaker,
22 or other person, who has assumed the role of financial management,
23 of failure to use the resources available to restore or maintain the

1 health and physical well-being of a vulnerable adult, including, but
2 not limited to:

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

10 5. "Incapacitated person" means:

- 11 a. any person eighteen (18) years of age or older:
 - 12 (1) who is impaired by reason of mental or physical
13 illness or disability, dementia or related
14 disease, developmental or intellectual disability
15 or other cause, and
 - 16 (2) whose ability to receive and evaluate information
17 effectively or to make and to communicate
18 responsible decisions is impaired to such an
19 extent that such person lacks the capacity to
20 manage his or her financial resources or to meet
21 essential requirements for his or her mental or
22 physical health or safety without assistance from
23 others, or

1 b. a person for whom a guardian, limited guardian, or
2 conservator has been appointed pursuant to the
3 Oklahoma Guardianship and Conservatorship Act;

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

- 6 a. look upon the body or private parts of another person
7 or upon sexual acts performed in the presence of the
8 vulnerable adult, or
9 b. touch or feel the body or private parts of another;

10 7. "Neglect" means:

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

21 8. "Personal degradation" means a willful act by a caretaker
22 intended to shame, degrade, humiliate, or otherwise harm the
23 personal dignity of a vulnerable adult, or where the caretaker knew
24 or reasonably should have known the act would cause shame,

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

10 a. the taking, transmitting, or displaying of an
11 electronic image of a vulnerable adult for the purpose
12 of reporting vulnerable adult abuse to law
13 enforcement, the Department of Human Services or other
14 regulatory agency that oversees caretakers or enforces
15 abuse or neglect laws or rules,

16 b. the taking, transmitting, or displaying of an
17 electronic image of a vulnerable adult for the purpose
18 of treatment or diagnosis, or

19 c. the taking, transmitting, or displaying of an
20 electronic image of a vulnerable adult as part of an
21 ongoing investigation;

22 9. "Sexual abuse" means:

23 a. oral, anal, or vaginal penetration of a vulnerable
24 adult by or through the union with the sexual organ of

1 a caretaker or other person providing services to the
2 vulnerable adult, or the anal or vaginal penetration
3 of a vulnerable adult by a caretaker or other person
4 providing services to the vulnerable adult with any
5 other object, or

- 6 b. for the purpose of sexual gratification, the touching,
7 feeling or observation of the body or private parts of
8 a vulnerable adult by a caretaker or other person
9 providing services to the vulnerable adult, or
10 c. indecent exposure by a caretaker or other person
11 providing services to the vulnerable adult;

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

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

23 12. "Vulnerable adult" means an individual who is an
24 incapacitated person or who, because of physical or mental

1 disability, including persons with Alzheimer's disease or other
2 dementias, incapacity, or other disability, is substantially
3 impaired in the ability to provide adequately for the care or
4 custody of himself or herself, or is unable to manage his or her
5 property and financial affairs effectively, or to meet essential
6 requirements for mental or physical health or safety, or to protect
7 himself or herself from abuse, neglect, or exploitation without
8 assistance from others.

9 B. Nothing in this section shall be construed to mean a
10 vulnerable adult is abused or neglected for the sole reason the
11 vulnerable adult, in good faith, selects and depends upon spiritual
12 means alone through prayer, in accordance with the practices of a
13 recognized religious method of healing, for the treatment or cure of
14 disease or remedial care, or a caretaker or other person
15 responsible, in good faith, is furnishing such vulnerable adult
16 spiritual means alone through prayer, in accordance with the tenets
17 and practices of a recognized church or religious denomination, for
18 the treatment or cure of disease or remedial care in accordance with
19 the practices of or express consent of the vulnerable adult.

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

23 A. A claim for elder neglect, exploitation, or abuse, as
24 prescribed in this section, may be brought in any district court

1 within the county in the State of Oklahoma in which the vulnerable
2 adult lives or maintains his or her residence or was living at the
3 time of the act or omission giving rise to the claim.

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

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

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

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

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

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

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

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

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

22 The district court in which a claim authorized in this act is
23 filed may, upon proper application, issue a restraining order or
24 other injunctive relief to prohibit any further violation of this

1 act, regardless of the existence of any other remedy at law and in
2 addition thereto.

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

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

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

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
April 15, 2025 - DO PASS

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