

News & Insights

Tulsa Trusts & Estates Attorney Jim Milton for the Journal Record - Oklahoma Legislature Addresses Trust and Estate Reform

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This session, the Oklahoma legislature has taken up several issues for reform in trust and estate law.

House Bill 3962, authored by Rep. Jon Echols and Sen. Adam Pugh, enacts the Oklahoma Trust Reform Act of 2024. This Act includes the Oklahoma Uniform Directed Trust Act of 2024, which implements a framework for trust directors, also known as trust protectors or advisors. Estate planners and their clients will be able to use trust directors for any number of purposes, including investment management. This is part of a national trend to allow duties customarily held by a single trustee to be distributed among multiple professionals or entities.

The second segment of House Bill 3962 brings to Oklahoma a statutory scheme for asset protection trusts, derived from South Dakota law. Other issues addressed by this bill include perpetual trusts, nonjudicial settlements, payment of fees for attorneys representing trustees, and the statute of limitations that applies to trustees. The bill also abolishes the so-called fiduciary exception to attorney-client privilege.

House Bill 3962 was approved by the House and Senate, with amendments added by the Senate. The bill has now been returned to the House where it is likely to go to conference for review of the amendments.

Senate Bill 468, authored by Sen. Brent Howard and Rep. Chris Kannady, enacts the Uniform Electronic Estate Planning Documents Act, which allows electronic execution of non-testamentary documents. Non-testamentary documents are estate planning documents other than wills. These include trusts, memoranda of trusts, exercises of powers of appointment, powers of attorney, advance directives, nominations of guardian, and other, similar documents that address the person's property or healthcare after the person is incapacitated or deceased. The House adopted a floor amendment that adds the Uniform Electronic Wills Act, which will add wills and codicils to the estate planning documents that can be executed electronically. The bill has been returned to the Senate where the House amendments will either be adopted or sent to conference.

House Bill 3778, authored by Rep. Collin Duel, enacts the Revised Uniform Fiduciary Access to Digital Assets Act, also known as RUFADAA. The vast majority of other states have enacted RUFADAA, which is designed to ensure uniform standards for access to social media and other digital media after a person

becomes incapacitated or dies. This bill passed the House and Senate by overwhelming margins, and was approved by the Governor on April 23, 2024.

Attorneys

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