

1 **SENATE FLOOR VERSION**

2 February 17, 2015

3 SENATE BILL NO. 449

By: Brooks of the Senate

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5  
6 An Act relating to adult guardianship and protective  
7 proceedings; amending 30 O.S. 2011, Section 3-110,  
8 which relates to notice of hearing; requiring notice  
9 to certain persons under certain conditions; and  
10 providing an effective date.

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

12 SECTION 1. AMENDATORY 30 O.S. 2011, Section 3-110, is  
13 amended to read as follows:

14 Section 3-110. A. The court shall cause notice to be served of  
15 the time and place of the hearing on the petition requesting the  
16 appointment of a guardian for an incapacitated or partially  
17 incapacitated person on:

18 1. The subject of the proceeding; and

19 2. The following persons, other than the petitioner, who are  
20 known to the petitioner or whose existence and address can be  
21 ascertained by the petitioner with reasonably diligent efforts:

22 a. the spouse, if any, of the subject of the proceeding,

23 b. the attorney, if any, of the subject of the

24 proceeding,

- 1 c. all adult children of the subject of the proceeding,  
2 d. if there is no such adult child, the then living  
3 parent or parents of the subject of the proceeding, or  
4 e. if there is no such parent, all adult brothers and  
5 sisters of the subject of the proceeding, and all  
6 adult children of any deceased brothers or sisters of  
7 the subject of the proceeding, and all adult  
8 grandchildren of the subject of the proceeding;

9 3. In case no person listed in paragraph 2 of this subsection  
10 is given notice, notice shall be given to at least one and not more  
11 than three of the nearest adult relatives of the subject of the  
12 proceeding who are known to the petitioner or whose existence and  
13 address can be ascertained with reasonably diligent efforts;

14 4. If not the petitioner, any person or organization which, in  
15 the petition, is proposed to serve as guardian or limited guardian  
16 or, to the extent such nomination is known to the petitioner, who is  
17 nominated by will or other writing to serve as guardian or limited  
18 guardian;

19 5. To the extent known to the petitioner:

20 a. the person or facility having care or custody of the  
21 subject of the proceeding, and

22 b. the Department of Human Services or the Department of  
23 Mental Health and Substance Abuse Services, if ~~said~~

1                    the Departments are providing services to the subject  
2                    of the proceeding;

3             6. As appropriate, the Veterans Administration pursuant to  
4 Section 126.8 of Title 72 of the Oklahoma Statutes; and

5             7. Any other person as directed by the court.

6             B. A copy of the pleading which gave rise to the notice shall  
7 be attached to any notice served pursuant to this section.

8             C. Except for actions appointing a special guardian pursuant to  
9 Section 3-115 of this title:

10            1. Notice shall be served personally on the individual who is  
11 the subject of the proceeding at least ten (10) days before the time  
12 set for hearing. Such personal service may be made by the attorney  
13 for the petitioner, sheriff, or licensed process server. The person  
14 making such services shall make proper return thereof.

15            2. Notice to other persons entitled to notice of a hearing on  
16 the original petition requesting the appointment of a guardian shall  
17 be mailed by regular first-class mail at least ten (10) days before  
18 the time set for the hearing. Such service by mail may be made by  
19 the court clerk, deputy court clerk or attorney for the petitioner.

20            D. The notice to the subject of the proceeding shall set forth  
21 the date, time, place, and purpose of the hearing to which the  
22 notice refers. Such notice shall be substantially in the following  
23 form:

24                                   NOTICE OF HEARING

1 TO: \_\_\_\_\_

2 (Name of subject of proceeding)

3 Service Address \_\_\_\_\_

4 You are hereby notified that a petition has been filed alleging that  
5 you are an \_\_ incapacitated, \_\_ partially incapacitated person and  
6 are incapable of \_\_ caring for yourself, \_\_ managing your property.

7 The petition requests that a \_\_ guardian, \_\_ limited guardian be  
8 appointed by the court to make decisions for you regarding \_\_  
9 yourself, \_\_ your property. A copy of the petition is attached.

10 The hearing on the petition will be held on

11 \_\_\_\_\_.

12 (date, time, and place of the hearing)

13 At the hearing a ( ) guardian, ( ) limited guardian may be appointed  
14 for your ( ) person, ( ) property. The judge will explain to you  
15 the nature, purpose, and effect of the proceedings.

16 You have the right to attend the hearing. You may confront and  
17 cross-examine all witnesses and present your own witnesses. You  
18 have the right to request that your hearing be closed to the public.

19 You may request that an expert be appointed to examine you and if  
20 the judge believes that an examination is necessary, the judge will  
21 order an evaluation to be done.

22 You have the right to hire an attorney of your choice to represent  
23 you. If you do not have an attorney and you wish to be represented  
24 by an attorney at the hearing, the court will appoint one for you.

1 You may request the appointment of an attorney orally or in writing  
2 prior to the hearing or at the hearing. If you are able, you will  
3 be required to pay the cost of an attorney appointed by the court.

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

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
6 February 17, 2015 - DO PASS  
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