

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1116

By: Biggs

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7 COMMITTEE SUBSTITUTE

8 An Act relating to the Oklahoma Evidence Code;
9 authorizing the admissibility of statements made by
10 vulnerable or incapacitated persons in certain
11 circumstances; requiring notice to adverse party;
12 defining terms; providing for codification; and
13 providing an effective date.

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

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2803.3 of Title 12, unless there
17 is created a duplication in numbering, reads as follows:

18 A. A statement made by a vulnerable or incapacitated person,
19 which describes any act of abuse or neglect, any act of financial
20 exploitation or any violent act on said person, not otherwise
21 admissible, is admissible in criminal and juvenile proceedings in
22 the courts in this state if:

23 1. The court finds, in a hearing conducted outside the presence
24 of the jury, that the time, content and circumstances of the
statement provide sufficient safeguards of reliability. In making

1 its determination, the court may consider the mental and physical
2 age and maturity of the declarant, the nature and duration of the
3 abuse or offense, the relationship of the declarant to the offender,
4 the reliability of the assertion, the reliability of the declarant
5 and any other factor the court deems appropriate; and

6 2. The declarant is unavailable as a witness, as defined in
7 Section 2804 of Title 12 of the Oklahoma Statutes, provided that
8 there is corroborative evidence of the act.

9 B. A statement may not be admitted under this section unless
10 the proponent of the statement makes known to the adverse party an
11 intention to offer the statement and the particulars of the
12 statement at least ten (10) days in advance of the proceedings to
13 provide the adverse party with an opportunity to prepare to answer
14 the statement. The notice shall include a written statement of the
15 content of the vulnerable or incapacitated person's statement, the
16 time at which the statement was made, the circumstances surrounding
17 the statement which indicate its reliability and such other
18 particulars as necessary to provide full disclosure of the
19 statement.

20 C. The court shall make specific findings of fact, on the
21 record, as to the basis for its ruling pursuant to this section.

22 D. As used in this section:

23 1. "Incapacitated person" means any person thirteen (13) years
24 of age or older who is impaired by reason of mental or physical

1 illness or disability, dementia or related disease, mental
2 retardation, developmental disability or other cause and whose
3 ability to receive and evaluate information effectively or to make
4 and to communicate responsible decisions is impaired to such an
5 extent that the person lacks the capacity to manage his or her
6 financial resources or to meet essential requirements for his or her
7 mental or physical health or safety without assistance from others;
8 and

9 2. "Vulnerable adult" means an individual who is an
10 incapacitated person or who, because of physical or mental
11 disability, incapacity or other disability, is substantially
12 impaired in the ability to provide adequately for the care or
13 custody of himself or herself, is unable to manage his or her
14 property and financial affairs effectively, is unable to meet
15 essential requirement for mental or physical health or safety, or is
16 unable to protect himself or herself from physical abuse, verbal
17 abuse, neglect or exploitation without assistance from others.

18 SECTION 2. This act shall become effective November 1, 2017.

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20 56-1-6806 GRS 02/08/17

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