

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 HOUSE BILL 1544

 By: Virgin

7 AS INTRODUCED

8 An Act relating to civil procedure; adding hearsay
9 exception; authorizing admissibility of statements in
10 criminal proceedings under certain circumstances;
 providing notice requirement; providing for
 codification; and providing an effective date.

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

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2807 of Title 12, unless there
16 is created a duplication in numbering, reads as follows:

17 A. A statement made by a person who is seventy (70) years of
18 age or older which describes any act of physical abuse against the
19 person or any act of sexual contact performed with or on the person
20 by another, is admissible in criminal proceedings in the courts in
21 this state if:

22 1. The court finds, in a hearing conducted outside the presence
23 of the jury, that the time, content and totality of circumstances
24 surrounding the taking of the statement provide sufficient indicia

1 of reliability so as to render the statement inherently trustworthy.
2 In determining such trustworthiness, the court may consider, among
3 other things, the following factors: the spontaneity and consistent
4 repetition of the statement, the mental state of the declarant,
5 whether the terminology used is unexpected of a person of similar
6 age and whether a lack of motive to fabricate exists; and

7 2. The person either:

8 a. testifies or is available to testify at the
9 proceedings in open court, or

10 b. is unavailable as a witness as defined in Section 2804
11 of Title 12 of the Oklahoma Statutes. When the person
12 is unavailable, such statement may be admitted only if
13 there is corroborative evidence of the act.

14 B. A statement may not be admitted under this section unless
15 the proponent of the statement makes known to the adverse party an
16 intention to offer the statement and the particulars of the
17 statement at least ten (10) days in advance of the proceedings to
18 provide the adverse party with an opportunity to prepare to answer
19 the statement.

20 SECTION 2. This act shall become effective November 1, 2017.
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22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL AND
23 ENVIRONMENTAL, dated 02/21/2017 - DO PASS.
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