

ENGROSSED SENATE
BILL NO. 860

BY: WILKERSON of the SENATE

and

WILLIAMS of the HOUSE

[EVIDENCE IN RAPE CASES - REPEALING 22 O.S. 1991,
SECTION 750 -

EMERGENCY]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1116.1 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. Evidence of specific instances of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct shall not be admitted under Sections 1111 to 1116 of Title 21 of the Oklahoma Statutes unless and only to the extent that the judge finds that the following proposed evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value:

1. Evidence of the victim's past sexual conduct with the defendant; or

2. Evidence of specific instances of sexual activity showing the source or origin of semen, pregnancy, or disease.

B. If the defendant proposes to offer evidence described in subsection A of this section, the defendant within ten (10) days

after the arraignment on the information shall file a written motion and offer of proof. The court may order an in camera hearing to determine whether the proposed evidence is admissible under subsection A of this section. If new information is discovered during the course of the trial that may make the evidence described in subsection A of this section admissible, the judge may order an in camera hearing to determine whether the proposed evidence is admissible under subsection A of this section.

SECTION 2. REPEALER 22 O.S. 1991, Section 750, is hereby repealed.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 27th day of February, 1992.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1992.

Speaker of the House of Representatives