

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1023

By: HAMILTON (Jeff)

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 1991, Section 752, as amended by Section 3, Chapter 301, O.S.L. 1992 (22 O.S. Supp. 1992, Section 752), which relates to the admissibility of recorded statements of a child twelve years of age or younger; requiring such child to take oath prior to commencement of recording; requiring the presence of certain attorneys; providing purpose for certain presence of child; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 752, as amended by Section 3, Chapter 301, O.S.L. 1992 (22 O.S. Supp. 1992, Section 752), is amended to read as follows:

Section 752. A. This section shall apply only to a proceeding in the prosecution of an offense alleged to have been committed against a child twelve (12) years of age or younger, and shall apply only to the statement of that child or other child witness.

B. The recording of an oral statement of the child made before the proceedings begin is admissible into evidence if:

1. The recording is made under circumstances which substantially comply with the procedures set forth in Section 753 et seq. of this title; or

2. The following conditions are present:

- a. the court determines that the time, content and circumstances of the statement provide sufficient indicia of reliability,
- b. ~~no attorney~~ the attorneys for ~~any party~~ is all parties are present when the statement is made, and the attorneys for all parties are authorized to question the child,
- c. the child is placed under oath immediately prior to commencement of the recorded session,
- d. the recording is both visual and aural and is recorded on film or videotape or by other electronic means,
- ~~e.~~ e. the recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered,
- ~~e.~~ f. the statement is not made in response to questioning calculated to lead the child to make a particular statement or is clearly shown to be the child's statement and not made solely as a result of a leading or suggestive question,
- ~~f.~~ g. every voice on the recording is identified,
- ~~g.~~ h. the person conducting the interview of the child in the recording is present at the proceeding and is available to testify or be cross-examined by any party,
- ~~h.~~ i. each party to the proceeding is afforded an opportunity to view the recording at least ten (10) days before trial, unless such time is

shortened by leave of the court for good cause shown, and

~~i.~~ j. the child is available to testify under oath and be cross-examined at the proceedings or pursuant to Section 753 et seq. of this title in order for the jury to observe the witness to determine the demeanor and credibility of the same.

SECTION 2. This act shall become effective September 1, 1993.

44-1-5093

MCD