ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 401 By: Henry of the Senate

and

Steidley of the House

An Act relating to evidence; amending 12 O.S. 1991, Sections 3001, as amended by Section 1, Chapter 222, O.S.L. 1992 and 3004 (12 O.S. Supp. 1994, Section 3001), which relate to the Oklahoma Evidence Code; * * * and providing an effective date.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to evidence; amending 12 O.S. 1991, Sections 3001, as amended by Section 1, Chapter 222, O.S.L. 1992 and 3004 (12 O.S. Supp. 1994, Section 3001), which relate to the Oklahoma Evidence Code; expanding definition of duplicate; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 3001, as amended by Section 1, Chapter 222, O.S.L. 1992 (12 O.S. Supp. 1994, Section 3001), is amended to read as follows:

Section 3001. For purposes of this Code:

1. "Writings" and "recordings" consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation;

2. "Photographs" include still photographs, x-ray films, video tapes, and motion pictures;

3. An "original" of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data are stored in a computer or similar device, any print out or other output readable by sight, shown to reflect the data accurately, is an "original"; and

4. A "duplicate" is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic rerecording, or by chemical reproduction, or by other equivalent technique including, but not limited to, storage and reproduction by means of an optical disk, or other forms of mass storage, electronic imaging, or electronic data processing, or a facsimile machine or similar device which reproduces documents transmitted over telephone lines, or similar devices or processes and which accurately ~~reproduces~~ reproduce the original.

SECTION 2. AMENDATORY 12 O.S. 1991, Section 3004, is amended to read as follows:

Section 3004. The original is not required, and a duplicate or other evidence of the contents of a writing, recording, or photograph is admissible if:

1. All originals are lost or have been destroyed unless the proponent lost or destroyed them in bad faith;

2. No original can be obtained by any available judicial process or procedure;

3. At a time when an original was under the control of the party against whom offered, ~~he~~ the party was put on notice, by the pleadings or otherwise, that the contents would be a subject of

proof at the hearings and ~~he~~ the party does not produce the original at the hearing; or

4. The writing, recording, or photograph is not closely related to a controlling issue.

SECTION 3. This act shall become effective November 1, 1995."

Passed the House of Representatives the 10th day of April, 1995.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate