

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2500

By: Grau

7 COMMITTEE SUBSTITUTE

8 An Act relating to civil procedure; amending 12 O.S.
9 2011, Section 2803.1, which relates to hearsay;
10 modifying certain age limitation; and providing an
11 effective date.

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

13 SECTION 1. AMENDATORY 12 O.S. 2011, Section 2803.1, is
14 amended to read as follows:

15 Section 2803.1 A. A statement made by a child who has not
16 attained ~~thirteen (13)~~ eighteen (18) years of age or a person who is
17 an incapacitated person as such term is defined by the provisions of
18 Section 10-103 of Title 43A of the Oklahoma Statutes, which
19 describes any act of physical abuse against the child or
20 incapacitated person or any act of sexual contact performed with or
21 on the child or incapacitated person by another, is admissible in
22 criminal and juvenile proceedings in 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 totality of circumstances

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

9 2. The child or incapacitated person either:

10 a. testifies or is available to testify at the
11 proceedings in open court or through an alternative
12 method pursuant to the provisions of the Uniform Child
13 Witness Testimony by Alternative Methods Act or
14 Section 2611.2 of ~~Title 12 of the Oklahoma Statutes~~
15 this title, or

16 b. is unavailable as defined in Section 2804 of this
17 title as a witness. When the child or incapacitated
18 person is unavailable, such statement may be admitted
19 only if there is corroborative evidence of the act.

20 B. A statement may not be admitted under this section unless
21 the proponent of the statement makes known to the adverse party an
22 intention to offer the statement and the particulars of the
23 statement at least ten (10) days in advance of the proceedings to
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1 provide the adverse party with an opportunity to prepare to answer
2 the statement.

3 SECTION 2. This act shall become effective November 1, 2012.
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