

1 ENGROSSED HOUSE  
2 BILL NO. 2500

By: Peterson of the House

and

Crain of the Senate

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6  
7 An Act relating to civil procedure; amending 12 O.S.  
8 2011, Section 2803.1, which relates to hearsay;  
9 modifying certain age limitation; and providing an  
10 effective date.

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

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

14 Section 2803.1 A. A statement made by a child who has not  
15 attained ~~thirteen (13)~~ eighteen (18) years of age or a person who is  
16 an incapacitated person as such term is defined by the provisions of  
17 Section 10-103 of Title 43A of the Oklahoma Statutes, which  
18 describes any act of physical abuse against the child or  
19 incapacitated person or any act of sexual contact performed with or  
20 on the child or incapacitated person by another, is admissible in  
21 criminal and juvenile proceedings in the courts in 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 it inherently trustworthy. In  
2 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 child of similar age  
6 or of an incapacitated person, and whether a lack of motive to  
7 fabricate exists; and

8 2. The child or incapacitated person either:

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

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

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

