

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2500

By: Peterson of the House

and

Crain of the Senate

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10                                   COMMITTEE SUBSTITUTE

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

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

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

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

1 on the child or incapacitated person by another, is admissible in  
2 criminal and juvenile proceedings in the courts in this state if:

3 1. The court finds, in a hearing conducted outside the presence  
4 of the jury, that the time, content and totality of circumstances  
5 surrounding the taking of the statement provide sufficient indicia  
6 of reliability so as to render it inherently trustworthy. In  
7 determining such trustworthiness, the court may consider, among  
8 other things, the following factors: the spontaneity and consistent  
9 repetition of the statement, the mental state of the declarant,  
10 whether the terminology used is unexpected of a child of similar age  
11 or of an incapacitated person, and whether a lack of motive to  
12 fabricate exists; and

13 2. The child or incapacitated person either:

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

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

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

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

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9 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/28/2012 - DO  
10 PASS, As Amended and Coauthored.

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UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.