

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1116

By: Sanders and Biggs

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to the Oklahoma Evidence Code;
10 authorizing the admissibility of statements made by
11 vulnerable or incapacitated persons in certain
12 circumstances; requiring notice to adverse party;
13 defining terms; providing for codification; and
14 providing an effective date.

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

16 SECTION 1. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2803.3 of Title 12, unless there
18 is created a duplication in numbering, reads as follows:

19 A. A statement made by a vulnerable or incapacitated person,
20 which describes any act of abuse or neglect, any act of financial
21 exploitation or any violent act on said person, not otherwise
22 admissible, is admissible in criminal and juvenile proceedings in
23 the courts in this state if:

24 1. The court finds, in a hearing conducted outside the presence
of the jury, that the time, content and circumstances of the

1 statement provide sufficient safeguards of reliability. In making
2 its determination, the court may consider the mental and physical
3 age and maturity of the declarant, the nature and duration of the
4 abuse or offense, the relationship of the declarant to the offender,
5 the reliability of the assertion, the reliability of the declarant
6 and any other factor the court deems appropriate; and

7 2. The declarant is unavailable as a witness, as defined in
8 Section 2804 of Title 12 of the Oklahoma Statutes, provided that
9 there is corroborative evidence of the act.

10 B. A statement may not be admitted under this section unless
11 the proponent of the statement makes known to the adverse party an
12 intention to offer the statement and the particulars of the
13 statement at least ten (10) days in advance of the proceedings to
14 provide the adverse party with an opportunity to prepare to answer
15 the statement. The notice shall include a written statement of the
16 content of the vulnerable or incapacitated person's statement, the
17 time at which the statement was made, the circumstances surrounding
18 the statement which indicate its reliability and such other
19 particulars as necessary to provide full disclosure of the
20 statement.

21 C. The court shall make specific findings of fact, on the
22 record, as to the basis for its ruling pursuant to this section.

23 D. As used in this section:
24

1 1. "Incapacitated person" means any person thirteen (13) years
2 of age or older who is impaired by reason of mental or physical
3 illness or disability, dementia or related disease, mental
4 retardation, developmental disability or other cause and whose
5 ability to receive and evaluate information effectively or to make
6 and to communicate responsible decisions is impaired to such an
7 extent that the person lacks the capacity to manage his or her
8 financial resources or to meet essential requirements for his or her
9 mental or physical health or safety without assistance from others;
10 and

11 2. "Vulnerable adult" means an individual who is an
12 incapacitated person or who, because of physical or mental
13 disability, incapacity or other disability, is substantially
14 impaired in the ability to provide adequately for the care or
15 custody of himself or herself, is unable to manage his or her
16 property and financial affairs effectively, is unable to meet
17 essential requirement for mental or physical health or safety, or is
18 unable to protect himself or herself from physical abuse, verbal
19 abuse, neglect or exploitation without assistance from others.

20 SECTION 2. This act shall become effective November 1, 2017.

21
22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL JUSTICE AND
23 CORRECTIONS, dated 02/09/2017 - DO PASS, As Amended and Coauthored.

24