

<DateSubmitted>

HOUSE OF REPRESENTATIVES  
CONFERENCE COMMITTEE REPORT

Mr. President:  
Mr. Speaker:

The Conference Committee, to which was referred

**HB1116**

By: Sanders of the House and Griffin of the Senate

Title: Evidence Code; authorizing the admissibility of statements made by vulnerable or incapacitated persons in certain circumstances; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

**SENATE CONFEREES**

Griffin	_____
Sykes	_____
Standridge	_____
Newhouse	_____
Holt	_____
Sparks	_____
Matthews	_____

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

CONFERENCE COMMITTEE  
SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 1116

By: Sanders, Biggs and Munson  
of the House

and

Griffin of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

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

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

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

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

1        1. The court finds, in a hearing conducted outside the presence  
2 of the jury, that the time, content and circumstances of the  
3 statement provide sufficient safeguards of reliability. In making  
4 its determination, the court may consider the mental and physical  
5 age and maturity of the declarant, the nature and duration of the  
6 abuse or offense, the relationship of the declarant to the offender,  
7 the reliability of the assertion, the reliability of the declarant  
8 and any other factor the court deems appropriate; and

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

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

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

1 D. As used in this section:

2 1. "Incapacitated person" means any person eighteen (18) years  
3 of age or older who is impaired by reason of mental or physical  
4 illness or disability, dementia or related disease, mental  
5 retardation, developmental disability or other cause and whose  
6 ability to receive and evaluate information effectively or to make  
7 and to communicate responsible decisions is impaired to such an  
8 extent that the person lacks the capacity to manage his or her  
9 financial resources or to meet essential requirements for his or her  
10 mental or physical health or safety without assistance from others;  
11 and

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

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

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23 56-1-7884 EK 05/09/17  
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