

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 ENGROSSED SENATE
5 BILL NO. 706

 By: Pederson, Rader, Stephens,
 and Howard of the Senate

6 and

7 Randleman, Talley, **Lawson**,
8 and **Caldwell (Chad)** of the
 House

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11 An Act relating to the Oklahoma Children's Code;
12 amending 10A O.S. 2021, Section 1-4-505, as amended
13 by Section 1, Chapter 104, O.S.L. 2022 (10A O.S.
14 Supp. 2022, Section 1-4-505), which relates to
15 admissibility of prerecorded statements of child;
16 updating statutory language; modifying requirements
17 for certain hearing; repealing 10A O.S. 2021, Section
18 1-4-502, which relates to jury trials; and providing
19 an effective date.

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

23 SECTION 1. AMENDATORY 10A O.S. 2021, Section 1-4-505, as
24 amended by Section 1, Chapter 104, O.S.L. 2022 (10A O.S. Supp. 2022,
25 Section 1-4-505), is amended to read as follows:

26 Section 1-4-505. A. This section shall apply only to a
27 proceeding brought ~~within the purview of~~ under the Oklahoma
28 Children's Code in which a child is alleged to be deprived, and

1 shall apply only to the statement of ~~that~~ the child or another child
2 witness.

3 B. The recording of an oral statement of the child made before
4 the proceedings begin is admissible into evidence if:

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

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

21 b. is unavailable as a witness as defined in Section 2804
22 of Title 12 of the Oklahoma Statutes. When the child
23 is unavailable, such statement may be admitted only if
24 there is corroborative evidence of the act;

1 2. No attorney for any party is present when the statement is
2 made. However, if appropriate facilities are utilized that allow
3 observation of the child without the child's knowledge or awareness
4 in any way, any such attorney may be present as an observer, but not
5 as a participant, and no such attorney shall have any right to
6 intervene, object, or otherwise make his or her presence known to
7 the child before, after, or during the making of the statement of
8 the child;

9 3. The recording is both visual and aural and is recorded on
10 film or videotape or by other electronic means;

11 4. The recording equipment is capable of making an accurate
12 recording, the operator of the equipment is competent, and the
13 recording is accurate and has not been altered;

14 5. The statement is not made in response to questioning
15 calculated to lead the child to make a particular statement or is
16 otherwise clearly shown to be the child's statement and not made
17 solely as a result of a leading or suggestive question;

18 6. Every voice on the recording is identified;

19 7. The person conducting the interview of the child in the
20 recording is present at the proceeding and is available to testify
21 or be cross-examined by any party;

22 8. Each party to the proceeding is afforded an opportunity to
23 view the recording before the recording is offered into evidence;
24 and

1 9. A copy of a written transcript of the recording transcribed
2 by a licensed or certified court reporter is available to the
3 parties.

4 A statement may not be admitted under this subsection unless the
5 proponent of the statement makes known to the parties an intention
6 to offer the statement and the particulars of the statement at least
7 ten (10) days in advance of the proceedings to provide the parties
8 with an opportunity to prepare to answer the statement.

9 SECTION 2. REPEALER 10A O.S. 2021, Section 1-4-502, is
10 hereby repealed.

11 SECTION 3. This act shall become effective November 1, 2023.

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13 COMMITTEE REPORT BY: COMMITTEE ON CHILDREN, YOUTH AND FAMILY
14 SERVICES, dated 04/06/2023 - DO PASS, As Coauthored.
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