

SENATE FLOOR VERSION

March 26, 2024

ENGROSSED HOUSE
BILL NO. 3684

By: Kannady of the House

and

Howard of the Senate

An Act relating to civil procedure; amending 12 O.S. 2021, Section 2902, which relates to self-authentication; modifying list of evidence that does not require extrinsic evidence of authenticity as a condition precedent to admissibility; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 2021, Section 2902, is amended to read as follows:

Section 2902. Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

1. A document bearing a seal purporting to be that of the United States or of any state, district, commonwealth, territory or insular possession thereof, including the Panama Canal Zone, or the trust territory of the Pacific Islands, or of a political subdivision, department, office or agency thereof, and a signature purporting to be an attestation or execution;

1 2. A document purporting to bear the signature in his official
2 capacity of an officer or employee of any entity included in
3 paragraph 1 of this section, having no seal, if a public officer
4 having a seal and having official duties in the district or
5 political subdivision of the officer or employee certifies under
6 seal that the signer has the official capacity and that the
7 signature is genuine;

8 3. A document purporting to be executed or attested in his
9 official capacity by a person authorized by the laws of a foreign
10 country to make the execution or attestation, and accompanied by a
11 final certification as to the genuineness of the signature and
12 official position:

- 13 a. of the executing or attesting person, or
- 14 b. of any foreign official whose certificate of
15 genuineness of signature and official position relates
16 to the execution or attestation or is in a chain of
17 certificates of genuineness or signature and official
18 position relating to the execution or attestation. A
19 final certification may be made by a secretary of
20 embassy or legation, consul general, consul, vice
21 consul or consular agent of the United States, or a
22 diplomatic or consular official of the foreign country
23 assigned or accredited to the United States. If
24 reasonable opportunity has been given to all parties

1 to investigate the authenticity and accuracy of
2 official documents, the court may, for good cause
3 shown, order that they be treated as presumptively
4 authentic without final certification or permit them
5 to be evidenced by an attested summary with or without
6 final certification;

7 4. A copy of an official record or report or entry therein, or
8 of a document authorized by law to be recorded or filed and actually
9 recorded or filed in a public office, including data compilations in
10 any form, certified as correct by the custodian or other person
11 authorized to make the certification, by certificate complying with
12 paragraph 1, 2 or 3 of this section or complying with any statute or
13 by rules prescribed by the Supreme Court pursuant to statutory
14 authority;

15 5. Books, pamphlets or other publications purporting to be
16 issued by public authority;

17 6. Printed materials purporting to be newspapers or
18 periodicals;

19 7. Inscriptions, signs, tags or labels purporting to have been
20 affixed in the course of business and indicating ownership, control
21 or origin;

22 8. Records accompanied by a certificate of acknowledgment under
23 the hand and the seal of a notary public or other officer authorized
24 by law to take acknowledgments;

1 9. Commercial paper, signatures thereon, and related records to
2 the extent provided by general commercial law;

3 10. Any signature, record or other matter declared by act of
4 the Legislature to be presumptively or prima facie genuine or
5 authentic;

6 11. The original or a duplicate of a domestic record of acts,
7 events, conditions, opinions, or diagnoses if:

8 a. the document is accompanied by a written declaration
9 under oath of the custodian of the record, or other
10 qualified individual that the record was made, at or
11 near the time of the occurrence of the matters set
12 forth by or from information transmitted by a person
13 having knowledge of those matters; was kept in the
14 course of the regularly conducted business activity;
15 and was made pursuant to the regularly conducted
16 activity,

17 b. the party intending to offer the record in evidence
18 gives notice of that intention to all adverse parties
19 and makes the record available for inspection
20 sufficiently in advance of its offer to provide the
21 adverse parties with a fair opportunity to challenge
22 the record, and

23 c. notice is given to the proponent, sufficiently in
24 advance of the offer to provide the proponent with a

1 fair opportunity to meet the objection or obtain the
2 testimony of a foundation witness, raising a genuine
3 question as to the trustworthiness or authenticity of
4 the record; ~~and~~

5 12. The original or a duplicate of a record from a foreign
6 country of acts, events, conditions, opinions, or diagnoses if:

- 7 a. the document is accompanied by a written declaration
8 under oath of the custodian of the record, or other
9 qualified individual that the record was made, at or
10 near the time of the occurrence of the matters set
11 forth by or from information transmitted by a person
12 having knowledge of those matters; was kept in the
13 course of a regularly conducted business activity; and
14 was made pursuant to the regularly conducted activity,
- 15 b. the party intending to offer the record in evidence
16 gives notice of that intention to all adverse parties
17 and makes the record available for inspection
18 sufficiently in advance of its offer to provide the
19 adverse parties with a fair opportunity to challenge
20 the record, and
- 21 c. notice is given to the proponent, sufficiently in
22 advance of the offer to provide the proponent with a
23 fair opportunity to meet the objection or obtain the
24 testimony of a foundation witness, raising a genuine

1 question as to the trustworthiness or authenticity of
2 the record;

3 13. Records generated by an electronic process or system that
4 produces an accurate result, as shown by a certification of a
5 qualified person that complies with the certification requirements
6 of paragraph 11 or 12 of this section. The proponent shall also
7 meet the notice requirements of paragraph 11 of this section; and

8 14. Data copied from an electronic device, storage medium, or
9 file, if authenticated by a process of digital identification, as
10 shown by a certification of a qualified person that complies with
11 the certification requirements of paragraph 11 or 12 of this
12 section. The proponent shall also meet the notice requirements of
13 paragraph 11 of this section.

14 SECTION 2. This act shall become effective November 1, 2024.

15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
16 March 26, 2024 - DO PASS
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