

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1116

By: Biggs

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5  
6 AS INTRODUCED

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

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

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

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

22 1. The court finds, in a hearing conducted outside the presence  
23 of the jury, that the time, content and circumstances of the  
24 statement provide sufficient safeguards of reliability. In making  
its determination, the court may consider the mental and physical

1 age and maturity of the declarant, the nature and duration of the  
2 abuse or offense, the relationship of the declarant to the offender,  
3 the reliability of the assertion, the reliability of the declarant  
4 and any other factor the court deems appropriate; and

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

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

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

21 D. As used in this section:

22 1. "Incapacitated person" means any person eighteen (18) years  
23 of age or older who is impaired by reason of mental or physical  
24 illness or disability, dementia or related disease, mental

1 retardation, developmental disability or other cause and whose  
2 ability to receive and evaluate information effectively or to make  
3 and to communicate responsible decisions is impaired to such an  
4 extent that the person lacks the capacity to manage his or her  
5 financial resources or to meet essential requirements for his or her  
6 mental or physical health or safety without assistance from others;  
7 and

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

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

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