

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1544

By: Virgin

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5
6 AS INTRODUCED

7 An Act relating to civil procedure; adding hearsay
8 exception; authorizing admissibility of statements in
9 criminal proceedings under certain circumstances;
10 providing notice requirement; providing for
11 codification; and providing an effective date.

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

13 SECTION 1. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2807 of Title 12, unless there
15 is created a duplication in numbering, reads as follows:

16 A. A statement made by a person who is seventy (70) years of
17 age or older which describes any act of physical abuse against the
18 person or any act of sexual contact performed with or on the person
19 by another, is admissible in criminal proceedings in the courts in
20 this state if:

21 1. The court finds, in a hearing conducted outside the presence
22 of the jury, that the time, content and totality of circumstances
23 surrounding the taking of the statement provide sufficient indicia
24 of reliability so as to render the statement inherently trustworthy.

1 In determining such trustworthiness, the court may consider, among
2 other things, the following factors: the spontaneity and consistent
3 repetition of the statement, the mental state of the declarant,
4 whether the terminology used is unexpected of a person of similar
5 age and whether a lack of motive to fabricate exists; and

6 2. The person either:

7 a. testifies or is available to testify at the
8 proceedings in open court, or

9 b. is unavailable as a witness as defined in Section 2804
10 of Title 12 of the Oklahoma Statutes. When the person
11 is unavailable, such statement may be admitted only if
12 there is corroborative evidence of the act.

13 B. A statement may not be admitted under this section unless
14 the proponent of the statement makes known to the adverse party an
15 intention to offer the statement and the particulars of the
16 statement at least ten (10) days in advance of the proceedings to
17 provide the adverse party with an opportunity to prepare to answer
18 the statement.

19 SECTION 2. This act shall become effective November 1, 2017.
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21 56-1-6167 SD 12/29/16
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