

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 56th Legislature (2017)

4 HOUSE BILL 1544

                                  By: Virgin

7                                   AS INTRODUCED

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

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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 2807 of Title 12, unless there  
16           is created a duplication in numbering, reads as follows:

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

22           1.   The court finds, in a hearing conducted outside the presence  
23           of the jury, that the time, content and totality of circumstances  
24           surrounding the taking of the statement provide sufficient indicia

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

7 2. The person either:

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

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

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

20 SECTION 2. This act shall become effective November 1, 2017.  
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22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL AND  
23 ENVIRONMENTAL, dated 02/21/2017 - DO PASS.  
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