

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

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

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 692

By: Griffin, David and Newhouse  
of the Senate

and

Biggs of the House

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10                                   COMMITTEE SUBSTITUTE

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

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

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

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

1           1. The court finds, in a hearing conducted outside the presence  
2 of the jury, that the time, content and circumstances of the  
3 statement provide sufficient safeguards of reliability. In making  
4 its determination, the court may consider the mental and physical  
5 age and maturity of the declarant, the nature and duration of the  
6 abuse or offense, the relationship of the declarant to the offender,  
7 the reliability of the assertion, the reliability of the declarant  
8 and any other factor the court deems appropriate; and

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

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

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

1 D. As used in this section:

2 1. "Incapacitated person" means any person thirteen (13) years  
3 of age or older who is impaired by reason of mental or physical  
4 illness or disability, dementia or related disease, mental  
5 retardation, developmental disability or other cause and whose  
6 ability to receive and evaluate information effectively or to make  
7 and to communicate responsible decisions is impaired to such an  
8 extent that the person lacks the capacity to manage his or her  
9 financial resources or to meet essential requirements for his or her  
10 mental or physical health or safety without assistance from others;  
11 and

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

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

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23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL JUSTICE AND  
24 CORRECTIONS, dated 04/13/2017 - DO PASS, As Amended and Coauthored.