

An Act

ENROLLED HOUSE
BILL NO. 2343

By: Biggs of the House

and

Griffin and Ivester of the
Senate

An Act relating to civil procedure; amending 12 O.S. 2011, Section 2804, which relates to the Oklahoma Evidence Code; providing for the inclusion of certain statements; and providing an effective date.

SUBJECT: Oklahoma Evidence Code

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

SECTION 1. AMENDATORY 12 O.S. 2011, Section 2804, is amended to read as follows:

Section 2804. A. "Unavailability as a witness," as used in this section, includes the situation in which the declarant:

1. Is exempt by ruling of the court on the ground of privilege from testifying concerning the subject matter or of the declarant's statement;

2. Persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so;

3. Testifies to a lack of memory of the subject matter of the declarant's statement;

4. Is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity;
or

5. Is absent from the hearing and the proponent of the declarant's statement has been unable to procure the declarant's attendance or, in the case of a hearsay exception under paragraphs 2, 3 or 4 of subsection B of this section, the declarant's attendance or testimony, by process or other reasonable means. A declarant is not unavailable as a witness if the declarant's exemption, refusal, claim of lack of memory, inability or absence is due to an act by the proponent of the declarant's statement for the purpose of preventing the witness from attending or testifying.

B. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

1. Testimony given as a witness at another hearing of the same or another proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered or, in a civil action or proceeding, a predecessor in interest had an opportunity and similar motive to develop the testimony by direct, cross or redirect examination;

2. In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be the declarant's impending death;

3. A statement which was at the time of its making contrary to the declarant's pecuniary or proprietary interest, or which tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, and which a reasonable person in the declarant's position would not have made unless the declarant believed it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement. A statement or confession offered against the accused in a criminal case, made by a codefendant or other individual implicating both the codefendant or other individual and the accused, is not within this exception; ~~and~~

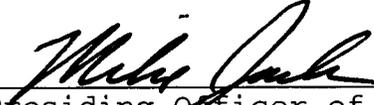
4. A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, ancestry, relationship to another person or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the

matter stated; or statement concerning the foregoing matters or death of another person, if the declarant was related to that person by blood, adoption or marriage or was so intimately associated with the person's family as to be likely to have accurate information concerning the matter declared; and

5. A statement offered against a party that wrongfully caused or acquiesced in wrongfully causing the declarant's unavailability as a witness, and did so intending that result.

SECTION 2. This act shall become effective November 1, 2014.

Passed the House of Representatives the 4th day of March, 2014.


Presiding Officer of the House
of Representatives

Passed the Senate the 15th day of April, 2014.


Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 11th
day of April, 20 14, at 3:20 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 22nd
day of April, 20 14, at 2:50 o'clock P M.


Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 22nd
day of April, 20 14, at 4:17 o'clock P M.

By: Chris Benze