FIRST REGULAR SESSION

HOUSE BILL NO. 537

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES OSTMANN, RIBACK WILSON (25),
RICHARDSON (Co-sponsors), COLEMAN, COPENHAVER, FARNEN, WILLIAMS AND LONG.

Read 1st time January 24, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

0186L.01I

AN ACT

To repeal sections 442.030, 451.250, 451.260, 451.270, 451.280, 451.300, 452.075, 452.080, 452.110, 452.130, 452.140, 452.170, 452.180, 452.190, 452.200, 452.210, 452.220, 452.230, 452.240, 452.250 and 474.140, RSMo 2000, relating to marriage, and to enact in lieu thereof twenty new sections relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 442.030, 451.250, 451.260, 451.270, 451.280, 451.300, 452.075, 452.080, 452.110, 452.130, 452.140, 452.170, 452.180, 452.190, 452.200, 452.210, 452.220, 452.230, 452.240, 452.250 and 474.140, RSMo 2000, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 442.030, 451.250, 451.260, 451.270, 451.300, 452.075, 452.080, 452.110, 452.130, 452.140, 452.170, 452.180, 452.190, 452.200, 452.210, 452.220, 452.230, 452.240, 452.250 and 474.140, to read as follows:

442.030. A husband and wife may convey the real estate of the **husband or** wife **[**and the wife may relinquish her dower in the real estate of her husband,**]** by their joint deed acknowledged and certified as herein provided. **[**And any covenant expressed or implied in any deed conveying property belonging to the wife shall bind the wife and her heir to the same extent as if such wife was a femme sole. But no covenant in any deed conveying property belonging to the wife shall bind the husband, nor shall any covenant in any deed conveying the property of the husband bind the wife except so far as may be necessary to effectually convey from the husband or wife, so joining therein and not owning the property, all the right, title and interest expressed to be conveyed therein; provided, however, that**]** Where the property conveyed is owned by the husband and wife as an estate by the entirety, then both shall be bound by the

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

covenants therein expressed or implied.

451.250. 1. All real estate and any personal property, including rights in action, belonging to any **man or** woman at **his or** her marriage, or which may have come to **him or** her during coverture, by gift, bequest or inheritance, or by purchase with **his or** her separate money or means, or be due as the wages of **his or** her separate labor, or has grown out of any violation of **his or** her personal rights, shall, together with all income, increase and profits thereof, be and remain **his or** her separate property and under **his or** her sole control, and shall not be liable to be taken by any process of law for the debts of **his wife or** her husband.

2. This section shall not affect the title of any husband **or wife** to any personal property reduced to his **or her** possession with the express assent of his **[**wife**] or her spouse**; provided, that said personal property shall not be deemed to have been reduced to possession by the husband **or wife** by his **or her** use, occupancy, care or protection thereof, but the same shall remain **his or** her separate property, unless by the terms of said assent, in writing, full authority shall have been given by the **husband or** wife to the **[**husband**] spouse** to sell, encumber or otherwise dispose of the same for his **or her** own use and benefit, but such property shall be subject to execution for the payments of the debts of the **[**wife**] spouse** contracted before or during marriage, and for any debt or liability of **his or** her **[**husband**] spouse** created for necessaries for the **[**wife**] spouse** or family; and any such married **man or** woman may, in **his or** her own name and without joining **his or** her **[**husband**] spouse**, as a party plaintiff institute and maintain any action, in any of the courts of this state having jurisdiction, for the recovery of any such personal property, including rights in action, as aforesaid, with the same force and effect as if such married **man or** woman was a **[**femme sole**] not married**; provided, any judgment for costs in any such proceeding rendered against any such married **[**woman**] spouse**, may be satisfied out of any separate property of such married **[**woman**] spouse** subject to execution; provided, that before any such execution shall be levied upon any separate estate of a married **[**woman**] spouse**, **he or** she shall have been made a party to the action, and all questions involved shall have been therein determined, and shall be recited in the judgment and the execution thereon.

451.260. The rents, issues and products of the real estate of any married **[**woman**] person**, and all moneys and obligations arising from the sale of such real estate, and the interest of **[**her husband in her**] such person's spouse in such person's** right in any real estate which belonged to **[**her**] such person** before marriage, or which **he or** she may have acquired by gift, grant, devise or inheritance during coverture, shall, during coverture, be exempt from attachment or levy of execution for the sole debts of **his or** her **[**husband**] spouse**; and no conveyance made during coverture by such **[**husband**] spouse** of such rents, issues and products, or of any interest in such real estate, shall be valid, unless the same be by deed executed by the **[**wife**] spouse** jointly with the [husband] **the other spouse**, and acknowledged by **him or** her in the manner now provided by law [in the case of the conveyance by husband and wife of the real estate of the wife]; provided, such annual products may be attached or levied upon for any debt or liability of **his or** her [husband] **spouse**, created for necessaries for the [wife] **spouse** and family, and for debts for labor or materials furnished upon or for the cultivation or improvement of such real estate.

451.270. [The husband's] **A spouse's** property, except such as may be acquired from the [wife] **other spouse**, shall be exempt from all debts and liabilities contracted or incurred by his [wife] **or her spouse** before their marriage.

> [451.280. When the real estate of any married woman shall be taken for a railroad, way or other public use, or shall be damaged by the laying out of a railroad, way, or by any other public works, the damage or compensation awarded therefor may be so invested and disposed of as to secure to her the same right, use and benefit of, and in the sum so awarded, and the income thereof, that she would have had of and in the real estate, and the income thereof, if it had not been so taken or damaged; and the circuit court shall, on the proper application of any such woman, make such decrees and orders therein as may be necessary and proper to enforce and secure her said rights and interests.]

451.300. The [wife] **spouse** of any [man] **person** who is under conservatorship may join with the conservator in making partition of **his or** her own real estate held in joint tenancy, or in common, and may, jointly with the conservator, make any release or other conveyance necessary and proper for that purpose; and **he or** she may sell and convey **his or** her own real estate by joining with the conservator in such sale and conveyance, to be under the order and supervision of the proper court, and deeds executed jointly by **himself or** herself and such conservator shall have the same force and effect as if done with **his or** her [husband] **spouse** if [he] **such spouse** had been under no disability; and in all cases where the real estate of such [husband] **person** shall be sold by his **or her** conservator in due conformity to law, **he or** she may relinquish **his or** her right [or dower] in such real estate as fully as if **his or** her [husband] **spouse** joined in the deed of release; and when a [wife] **person** is found to be disabled as defined in chapter 475, RSMo, and **his or** her [husband] **spouse** is the owner of real estate in this state that he **or she** desires to convey, then, upon provision made for such disabled [wife] **person**, according to **his or** her needs, and according to the ability, situation in life and circumstances of **his or** her [husband] **spouse**, and to **his or** her safely secured under the order and control of the proper court, the conservator of such disabled [wife] **person** may, under the order and approval of the court, join in a deed, on behalf of such disabled [wife] **person**, for the purpose of conveying **his or** her [dower or homestead, or both her dower and] homestead, interest in such real estate; and if [she have] **he or she has** no conservator, then the court may appoint a guardian ad litem [under] **pursuant to** chapter 475, RSMo, who may, in like manner, upon the conditions and under the order of the court, join with the [husband] **spouse** on **his or** her behalf in such deed; and such conveyance, when executed, as aforesaid, by either the conservator or the guardian ad litem and the [husband] **spouse** of such [woman] **person**, shall be as valid and effectual to convey any land owned by such [husband] **spouse**, including his **or her** homestead, and shall have the effect of releasing the [wife's dower or] **spouse's** homestead[, or both,] in the real estate as fully as if **he or** she had, under no disability, of **his or** her own free will, executed and acknowledged the same; provided, that no such order of conveyance shall be made by the court until application made thereto, in writing, by such [husband] **spouse**, setting forth the facts, and twenty days' public notice given of the time and place of hearing such application has been given by publication in a weekly newspaper of general circulation published in the county.

452.075. When a divorce has been granted, and the court has made an order or decree providing for the payment of alimony and maintenance [of the wife], the remarriage of the former [wife] **spouse** shall relieve the [former husband] **spouse obligated to pay support** from further payment of alimony to the former [wife] **spouse** from the date of the remarriage, without the necessity of further court action, but the remarriage shall not relieve the former [husband] **spouse** from the provisions of any judgment or decree or order providing for the support of any minor children.

452.080. Upon a decree of divorce [in favor of the wife], the court may, in its discretion, decree alimony in gross or from year to year. When alimony is decreed in gross, such decree shall be a general lien on the realty of the party against whom the decree may be rendered, as in the case of other judgments. When such decree is for alimony from year to year, such decree shall not be a lien on the realty as aforesaid, but an execution in the hands of the proper officer, issued for the purpose of enforcing such decree, shall constitute a lien on the real and personal property of the defendant in such execution, so long as the same shall lawfully remain in the possession of such officer unsatisfied. In lieu of the lien of such decree for alimony from year to year, it is hereby provided that the party against whom such decree may be rendered shall be required to give security ample and sufficient for such alimony; but where default has been made in giving such security, the decree for alimony from year to year shall be a lien as in case of general judgments.

452.110. No petition for review of any judgment for divorce, rendered in any case arising [under] **pursuant to** this chapter, shall be allowed, any law or statute to the contrary notwithstanding; but there may be a review of any order or judgment touching the alimony and maintenance of the [wife] **spouse**, and the care, custody and maintenance of the children, or any of them, as in other cases.

452.130. When [the husband] **a person**, without good cause, shall abandon his [wife]

or her spouse, and refuse or neglect to maintain and provide for **him or** her, the circuit court, on **his or** her petition for that purpose, shall order and adjudge such support and maintenance to be provided and paid by [the husband] **such person** for the [wife and her] **spouse and the spouse's** children, or any of them, by that marriage, out of his property, and for such time as the nature of the case and the circumstances of the parties shall require, and compel the [husband] **person** to give security for such maintenance, and from time to time make such further orders touching the same as shall be just, and enforce such judgment by execution, sequestration of property, or by such other lawful means as are in accordance with the practice of the court; and as long as said maintenance is continued, the [husband] **person** shall not be charged with the [wife's] **spouse's** debts, contracted after the judgment for such maintenance.

452.140. No property shall be exempt from attachment or execution in a proceeding instituted by a [married woman] **person** for maintenance, nor from attachment or execution upon a judgment or order issued to enforce a decree for alimony or for the support and maintenance of children. And all wages due to the defendant shall be subject to garnishment on attachment or execution in any proceedings mentioned in this section, whether the wages are due from the garnishee to the defendant for the last thirty days' service or not.

452.170. If any married [woman] **person** shall hold real estate in **his or** her own right, and **his or** her [husband] **spouse**, by criminal conduct toward **him or** her, or by ill usage, shall give **him or** her cause to live separate and apart from him **or her**, [she] **such person** may petition the circuit court, setting forth such facts, and therein pray that such estate may be enjoyed by **him or** her for **his or** her sole use and benefit.

452.180. The circuit court, on due proof of such facts, may, in its discretion, make such order and decree in the premises as shall give such married [woman] **person** the sole use and benefit of such real estate, or such part thereof as it may think reasonable.

452.190. When any married [man] **person** shall abandon his [wife] **or her spouse**, or from worthlessness, drunkenness or other cause fail to make sufficient provision for **his or** her support, the circuit court of the county where **he or** she has **his or** her home and residence may, on **his or** her petition, authorize **him or** her to sell and convey **his or** her real estate, or any part thereof, and also any personal estate which shall, at the time, have come to [the husband] **such person** by reason of the marriage, and which may remain within the state undisposed of by him.

452.200. Any married [woman] **person** may file [her] **a** petition in the circuit court, setting forth that **his or** her [husband] **spouse**, from habitual intemperance, or any other cause, is about to squander and waste the property, money, credits or choses in action to which **he or** she is entitled in **his or** her own right, or any part thereof, or is proceeding fraudulently to convert the same, or any part thereof, to [his] **the spouse's** own use, for the purpose of placing the same beyond **his or** her reach, and depriving **him or** her of the benefit thereof; and the court, upon the hearing of the case, may enjoin the [husband] **spouse** from disposing of or otherwise interfering with such property, moneys, credits and choses in action, and may appoint a receiver to control and manage the same for the benefit of the [wife] **petitioner**, and may also make such other order in the premises as they may deem just and proper, and upon the filing of such petition an injunction may be allowed as in other cases, and such petition shall be filed in the county where said petitioner resides, and the [husband] **spouse** of said petitioner shall be made a party defendant to said petition.

452.210. The court may also, upon the petition of such [wife] **person**, authorize any person holding money or other personal estate to which the [husband] **spouse** is entitled in **his or** her right to pay and deliver the same to the [wife] **petitioner**, and may authorize **him or** her to give a discharge for the same, which discharge shall be as valid as if made by the [husband] **spouse**.

452.220. Such married [woman] **person**, during the period **his or** [husband] **spouse** shall fail to provide for **his or** her support, as stated in section 452.130, shall be entitled to the proceeds of the earnings of **his or** her minor children; and the same shall be under **his or** her sole control and shall not be liable in any manner for [his] **the spouse's** debts.

452.230. All the proceeds of such sales, and all other money and personal estate which shall come to the hands of [the wife] **a person** by force of the provisions of sections 451.250 to 451.300, RSMo, and sections 452.130, 452.140, 452.170 to 452.190 and 452.210 to 452.250, may be used and disposed of by **him or** her for the necessary support of **himself or** herself and family.

452.240. The petition of a married [woman] **person** for any of the purposes before mentioned may be filed and the case heard and determined in the circuit court, and the like process and proceedings shall be had as in other civil suits triable before circuit judges.

452.250. The same proceedings shall be had in relation to such petition as the law requires in other proceedings before circuit judges, and in relation to enforcing the orders and decrees, except that no appeal shall be allowed to the supreme court, or court of appeals, from any order or decree, on the part of the [husband] **person's spouse**, until he **or she** has indemnified the petitioner for all delays and costs, in such manner as the court shall direct.

474.140. If any married person voluntarily leaves his **or her** spouse and goes away and continues with an adulterer or abandons his **or her** spouse without reasonable cause and continues to live separate and apart from his **or her** spouse for one whole year next preceding his **or her** death, or dwells with another in a state of adultery continuously, [or if any wife after being ravished consents to her ravisher,] such spouse is forever barred from his **or her** inheritance rights, homestead allowance, exempt property or any statutory allowances from the estate of his **or her** spouse unless such spouse is voluntarily reconciled to him **or her** and resumes cohabitation with him **or her**.