

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 103, Page 9,
2 Section 485.060, Line 30, by inserting after all of said section and line the following:
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4 "491.075. 1. A statement made by a child under the age of ~~[fourteen]~~ eighteen, or a vulnerable
5 person, relating to an offense under chapter 565, 566, 568 or 573, performed by another, not otherwise
6 admissible by statute or court rule, is admissible in evidence in criminal proceedings in the courts of this state
7 as substantive evidence to prove the truth of the matter asserted if:

8 (1) The court finds, in a hearing conducted outside the presence of the jury that the time, content and
9 circumstances of the statement provide sufficient indicia of reliability; and

10 (2) (a) The child or vulnerable person testifies at the proceedings; or

11 (b) The child or vulnerable person is unavailable as a witness; or

12 (c) The child or vulnerable person is otherwise physically available as a witness but the court finds
13 that the significant emotional or psychological trauma which would result from testifying in the personal
14 presence of the defendant makes the child or vulnerable person unavailable as a witness at the time of the
15 criminal proceeding.

16 2. Notwithstanding subsection 1 of this section or any provision of law or rule of evidence requiring
17 corroboration of statements, admissions or confessions of the defendant, and notwithstanding any prohibition
18 of hearsay evidence, a statement by a child when under the age of ~~[fourteen]~~ eighteen, or a vulnerable person,
19 who is alleged to be victim of an offense under chapter 565, 566, 568 or 573 is sufficient corroboration of a
20 statement, admission or confession regardless of whether or not the child or vulnerable person is available to
21 testify regarding the offense.

22 3. A statement may not be admitted under this section unless the prosecuting attorney makes known
23 to the accused or the accused's counsel his or her intention to offer the statement and the particulars of the
24 statement sufficiently in advance of the proceedings to provide the accused or the accused's counsel with a
25 fair opportunity to prepare to meet the statement.

26 4. Nothing in this section shall be construed to limit the admissibility of statements, admissions or
27 confessions otherwise admissible by law.

28 5. For the purposes of this section, "vulnerable person" shall mean a person who, as a result of an
29 inadequately developed or impaired intelligence or a psychiatric disorder that materially affects ability to

Action Taken _____ Date _____

function, lacks the mental capacity to consent, or whose developmental level does not exceed that of an ordinary child of ~~fourteen~~ seventeen years of age.

492.304. 1. In addition to the admissibility of a statement under the provisions of section 492.303, the visual and aural recording of a verbal or nonverbal statement of a child when under the age of ~~fourteen~~ eighteen ~~[who is alleged to be a victim of]~~ or a vulnerable person, relating to an offense under the provisions of chapter 565, 566 ~~[or]~~ , 568 or 573 if performed by another, is admissible into evidence if:

(1) No attorney for either party was present when the statement was made; except that, for any statement taken at a state-funded child assessment center as provided for in subsection 2 of section 210.001, an attorney representing the state of Missouri in a criminal investigation may, as a member of a multidisciplinary investigation team, observe the taking of such statement, but such attorney shall not be present in the room where the interview is being conducted;

(2) The recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(3) The recording equipment was capable of making an accurate recording, the operator of the equipment was competent, and the recording is accurate and has not been altered;

(4) The statement was not made in response to questioning calculated to lead the child or vulnerable person to make a particular statement or to act in a particular way;

(5) Every voice on the recording is identified;

(6) The person conducting the interview of the child or vulnerable person in the recording is present at the proceeding and available to testify or be cross-examined by either party; and

(7) The defendant or the attorney for the defendant is afforded an opportunity to view the recording before it is offered into evidence.

2. If the child or vulnerable person does not testify at the proceeding, the visual and aural recording of a verbal or nonverbal statement of the child or vulnerable person shall not be admissible under this section unless the recording qualifies for admission under section 491.075.

3. If the visual and aural recording of a verbal or nonverbal statement of a child or vulnerable person is admissible under this section and the child or vulnerable person testifies at the proceeding, it shall be admissible in addition to the testimony of the child or vulnerable person at the proceeding whether or not it repeats or duplicates the child's or vulnerable person's testimony.

4. As used in this section, a nonverbal statement shall be defined as any demonstration of the child or vulnerable person by his or her actions, facial expressions, demonstrations with a doll or other visual aid whether or not this demonstration is accompanied by words.

5. For the purposes of this section, "vulnerable person" shall mean a person who, as a result of an inadequately developed or impaired intelligence or a psychiatric disorder that materially affects the ability to function, lacks the mental capacity to consent, or whose developmental level does not exceed that of an ordinary child of seventeen years of age."; and

Further amend said bill, Page 10, Section 565.240, Line 15, by inserting after all of said section and line the following:

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2 "566.151. 1. A person twenty-one years of age or older commits the offense of enticement of a child
3 if he or she persuades, solicits, coaxes, entices, or lures whether by words, actions or through communication
4 via the internet or any electronic communication, any person who is less than [~~fifteen~~] seventeen years of age
5 for the purpose of engaging in sexual conduct.

6 2. It is not a defense to a prosecution for a violation of this section that the other person was a peace
7 officer masquerading as a minor.

8 3. Enticement of a child or an attempt to commit enticement of a child is a felony for which the
9 authorized term of imprisonment shall be not less than five years and not more than thirty years. No person
10 convicted under this section shall be eligible for parole, probation, conditional release, or suspended
11 imposition or execution of sentence for a period of five calendar years.

12 567.030. 1. A person commits the offense of patronizing prostitution if he or she:

13 (1) Pursuant to a prior understanding, gives something of value to another person as compensation
14 for having engaged in sexual conduct with any person; or

15 (2) Gives or agrees to give something of value to another person with the understanding that such
16 person or another person will engage in sexual conduct with any person; or

17 (3) Solicits or requests another person to engage in sexual conduct with any person in return for
18 something of value.

19 2. It shall not be a defense that the person believed that the individual he or she patronized for
20 prostitution was eighteen years of age or older.

21 3. The offense of patronizing prostitution is a class B misdemeanor, unless the individual who the
22 person patronizes is less than eighteen years of age but older than [~~fourteen~~] fifteen years of age, in which
23 case patronizing prostitution is a class E felony.

24 4. The offense of patronizing prostitution is a class [~~D~~] B felony if the individual who the person
25 patronizes is [~~fourteen~~] fifteen years of age or younger. Nothing in this section shall preclude the prosecution
26 of an individual for the offenses of:

27 (1) Statutory rape in the first degree pursuant to section 566.032;

28 (2) Statutory rape in the second degree pursuant to section 566.034;

29 (3) Statutory sodomy in the first degree pursuant to section 566.062; or

30 (4) Statutory sodomy in the second degree pursuant to section 566.064."; and

31
32 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.