

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 2227, Page 4, Section 211.221, Line 7, by
2 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
5 vulnerable person, relating to an offense under chapter 565, 566, 568 or 573, performed by another,
6 not otherwise admissible by statute or court rule, is admissible in evidence in criminal proceedings
7 in the courts of this state 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,
9 content and 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
13 court finds that the significant emotional or psychological trauma which would result from testifying
14 in the personal presence of the defendant makes the child or vulnerable person unavailable as a
15 witness at the time of the criminal proceeding.

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

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

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

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

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

3 492.304. 1. In addition to the admissibility of a statement under the provisions of section
4 492.303, the visual and aural recording of a verbal or nonverbal statement of a child when under the
5 age of ~~fourteen who is alleged to be a victim of~~ eighteen or a vulnerable person, relating to an
6 offense under the provisions of chapter 565, 566 [ø], 568, or 573 if performed by another, is
7 admissible into evidence if:

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

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

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

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

19 (5) Every voice on the recording is identified;

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

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

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

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

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

34 5. For the purposes of this section, "vulnerable person" shall mean a person who, as a result
35 of an inadequately developed or impaired intelligence or a psychiatric disorder that materially
36 affects the ability to function, lacks the mental capacity to consent, or whose developmental level
37 does not exceed that of an ordinary child of seventeen years of age."; and
38

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