

SECOND REGULAR SESSION

# HOUSE BILL NO. 1179

91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GASKILL.

Pre-filed December 10, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3140L.011

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## AN ACT

To amend chapter 1, RSMo, relating to laws in force and construction of statutes by adding thereto one new section relating to adoption of the common law.

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

Section A. Chapter 1, RSMo, is amended by adding thereto one new section, to be  
2 known as section 1.013, to read as follows:

**1.013. 1. This section 1.013 is titled and may be known as the "Adoption of  
2 Common Law Act".**

**3 2. Section 1 of article III of the Constitution of Missouri vests the legislature with  
4 the authority to create laws in light of the public interest. Section 1 of article V of the  
5 Constitution of Missouri enabled courts to adjudicate cases by applying the laws enacted  
6 by the legislature to the facts of those cases.**

**7 3. After the Constitution of Missouri was adopted, the legislature enacted section  
8 1.010 to provide the courts of Missouri with the authority to refer to the common law in  
9 adjudicating cases. The common law consisted of the common law of England and all  
10 statutes and acts of parliament made prior to the fourth year of the reign of James the  
11 First, of a general nature, which are not local to that kingdom and not repugnant to or  
12 inconsistent with the Constitution of the United States, the constitution of this state, or the  
13 statute laws in force for the time being. The purpose of section 1.010 was to permit the  
14 courts to continue to apply the common law that was in existence at the time of statehood  
15 and develop it in the interest of the public policy of the state unless it was abrogated or  
16 altered by the legislature.**

**17 4. The Constitution of Missouri does not provide the courts with authority to create  
18 new causes of action. When the legislature adopted section 1.010 it did not intend to vest**

19 **the courts with the authority to create new causes of action or to permit them to**  
20 **independently set forth the public policy of the state. It is the intent of the legislature to**  
21 **reaffirm that the courts shall not create new causes of action or use the common law**  
22 **adopted by section 1.010 to alter, modify or evolve the prestatehood common law causes**  
23 **of action into new causes of action.**