

SECOND REGULAR SESSION

HOUSE BILL NO. 1790

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES TORPEY (Sponsor), McGEORGHEGAN, LARGENT,
CIERPIOT AND GRISAMORE (Co-sponsors).

4066L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 491.075, RSMo, and to enact in lieu thereof one new section relating to
admissibility of statements of children.

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

Section A. Section 491.075, RSMo, is repealed and one new section enacted in lieu
2 thereof, to be known as section 491.075, to read as follows:

491.075. 1. A statement made by a child under the age of fourteen relating to an offense
2 under chapter 565, 566, 568 or 573, [performed with or on a child by another,] not otherwise
3 admissible by statute or court rule, is admissible in evidence in criminal proceedings in the courts
4 of this state as substantive evidence to prove the truth of the matter asserted if:

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

7 (2) (a) The child testifies at the proceedings; or

8 (b) The child is unavailable as a witness; or

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

13 2. Notwithstanding subsection 1 of this section or any provision of law or rule of
14 evidence requiring corroboration of statements, admissions or confessions of the defendant, and
15 notwithstanding any prohibition of hearsay evidence, a statement by a child when under the age
16 of fourteen who is alleged to be victim of an offense under chapter 565, 566, 568 or 573 is

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended
to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 sufficient corroboration of a statement, admission or confession regardless of whether or not the
18 child is available to testify regarding the offense.

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

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

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