

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 2772**  
**101ST GENERAL ASSEMBLY**

5693H.03C

DANA RADEMAN MILLER, Chief Clerk

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**AN ACT**

To repeal sections 491.015 and 595.226, RSMo, and to enact in lieu thereof two new sections relating to victims or witnesses in certain criminal cases.

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

Section A. Sections 491.015 and 595.226, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 491.015 and 595.226, to read as follows:

491.015. 1. In prosecutions under chapter 566 or prosecutions related to sexual  
2 conduct under chapter 568, opinion and reputation evidence of [~~the complaining~~] **a victim's**  
3 **or witness' prior sexual conduct, acts, or practices** is inadmissible **at any trial, hearing, or**  
4 **court proceeding and not a subject for inquiry during a deposition or discovery;**  
5 evidence of specific instances of [~~the complaining~~] **a victim's or witness' prior sexual**  
6 **conduct, acts, or practices** or the absence of such instances or conduct is inadmissible **at any**  
7 **trial, hearing, or any other court proceeding, and not a subject for inquiry during a**  
8 **deposition or discovery**, except where such specific instances are:

9 (1) Evidence of the sexual conduct, **acts, or practices** of [~~the complaining~~] **a victim**  
10 **or witness** with the defendant to prove consent where consent is a defense to the alleged  
11 crime and the evidence is reasonably contemporaneous with the date of the alleged crime; or

12 (2) Evidence of specific instances of sexual activity showing alternative source or  
13 origin of semen, pregnancy or disease; **or**

14 (3) Evidence of immediate surrounding circumstances of the alleged crime; or

15 (4) Evidence relating to the previous chastity of [~~the complaining~~] **a victim or**  
16 **witness** in cases, where, by statute, previously chaste character is required to be proved by the  
17 prosecution.

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.

18           2. Evidence of the sexual conduct, **acts, or practices** of ~~[the complaining]~~ **a victim**  
19 **or** witness offered under this section is admissible to the extent that the court finds the  
20 evidence relevant to a material fact or issue.

21           3. If the defendant proposes to offer evidence of the sexual conduct, **acts, or**  
22 **practices** of ~~[the complaining]~~ **a victim or** witness under this section, **he or she** shall file with  
23 the court a written motion accompanied by an offer of proof or make an offer of proof on the  
24 record outside the hearing of the jury. The court shall hold an in camera hearing to determine  
25 the sufficiency of the offer of proof and may at that hearing hear evidence if the court deems it  
26 necessary to determine the sufficiency of the offer of proof. If the court finds any of the  
27 evidence offered admissible under this section the court shall make an order stating the scope  
28 of the evidence which may be introduced. Objections to any decision of the court under this  
29 section may be made by either the prosecution or the defendant in the manner provided by  
30 law. The in camera hearing shall be recorded and the court shall set forth its reasons for its  
31 ruling. The record of the in camera hearing shall be sealed for delivery to the parties and to  
32 the appellate court in the event of an appeal or other post trial proceeding.

595.226. 1. After August 28, 2007, any information contained in any court record,  
2 whether written or published on the internet, including any visual or aural recordings that  
3 could be used to identify or locate any victim of an offense under chapter 566 or a victim of  
4 domestic assault or stalking shall be closed and redacted from such record prior to disclosure  
5 to the public. Identifying information shall include, **but shall not be limited to**, the name,  
6 home or temporary address, **personal email address**, telephone number, Social Security  
7 number, **birth date**, place of employment, **any health information, including human**  
8 **immunodeficiency virus (HIV) status, any information from a forensic testing report**, or  
9 physical characteristics, including an unobstructed visual image of the victim's face or body.

10           2. ~~[If the court determines that a person or entity who is requesting identifying~~  
11 ~~information of a victim has a legitimate interest in obtaining such information, the court may~~  
12 ~~allow access to the information, but only if the court determines that disclosure to the person~~  
13 ~~or entity would not compromise the welfare or safety of such victim;]~~ **Any person who is**  
14 **requesting identifying information of a victim and who has a legitimate interest in**  
15 **obtaining such information may petition the court for an in camera inspection of the**  
16 **records. If the court determines the person is entitled to all or any part of such records,**  
17 **the court may order production and disclosure of the records, but only if the court**  
18 **determines that the disclosure to the person or entity would not compromise the welfare**  
19 **or safety of the victim**, and only after providing reasonable notice to the victim and after  
20 allowing the victim the right to respond to such request.

21           3. Notwithstanding the provisions of subsection 1 of this section, the judge presiding  
22 over a case under chapter 566 or a case of domestic assault or stalking shall have the

23 discretion to publicly disclose identifying information regarding the defendant which could  
24 be used to identify or locate the victim of the crime. The victim may provide a statement to  
25 the court regarding whether he or she desires such information to remain closed. When  
26 making the decision to disclose such information, the judge shall consider the welfare and  
27 safety of the victim and any statement to the court received from the victim regarding the  
28 disclosure.

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