

FIRST EXTRAORDINARY SESSION OF THE  
SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 2**  
**100TH GENERAL ASSEMBLY**

5800H.02C

DANA RADEMAN MILLER, Chief Clerk

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**AN ACT**

To amend chapter 491, RSMo, by adding thereto one new section relating to forfeiture by wrongdoing, with an emergency clause.

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

Section A. Chapter 491, RSMo, is amended by adding thereto one new section, to be  
2 known as section 491.016, to read as follows:

**491.016. 1. A statement made by a witness, which is not otherwise admissible, is  
2 admissible in evidence in a criminal proceeding as substantive evidence to prove the truth  
3 of the matter asserted if, after a hearing, the court finds, by a preponderance of the  
4 evidence, that:**

5 **(1) The defendant engaged in or acquiesced to wrongdoing with the purpose of  
6 preventing the witness from testifying in any proceeding;**

7 **(2) The wrongdoing in which the defendant engaged or acquiesced has prevented  
8 the witness from testifying in the proceeding;**

9 **(3) The prosecution exercised due diligence and a good faith effort to secure by  
10 subpoena or other means the attendance of the witness at the proceeding, or the witness  
11 is unavailable because the defendant caused the death of the witness; and**

12 **(4) The witness fails to appear at the proceeding.**

13 **2. For purposes of this section, "wrongdoing" is defined as the conduct constituting  
14 the offense of tampering with a witness or victim as proscribed under subsection 1 of  
15 subdivision (1) of section 575.270.**

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.

16           **3. In a jury trial, the hearing and finding to determine the admissibility of the**  
17 **statement shall be held and found outside the presence of the jury and before the case is**  
18 **submitted to the jury.**

          Section B. Because immediate action is necessary to further equip and enhance our  
2 criminal justice system to fight violent crime in Missouri and protect our citizens and residents  
3 due to the recent unprecedented wave of violent crime across our nation and state, section A of  
4 this act is deemed necessary for the immediate preservation of the public health, welfare, peace,  
5 and safety, and is hereby declared to be an emergency act within the meaning of the constitution,  
6 and section A of this act shall be in full force and effect upon its passage and approval.

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