

FIRST EXTRAORDINARY SESSION OF THE
SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2

100TH GENERAL ASSEMBLY

5800H.02P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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 causing the unavailability of the witness;**

7 **(2) The wrongdoing in which the defendant engaged or acquiesced has caused the
8 unavailability of the witness;**

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

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

13 **2. In a jury trial, the hearing and finding to determine the admissibility of the
14 statement shall be held and found outside the presence of the jury and before the case is
15 submitted to the jury.**

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.

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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