

SENATE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2

AN ACT

To amend chapters 27 and 491, RSMo, by adding thereto two new sections relating to criminal procedure, with an emergency clause.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Chapters 27 and 491, RSMo, are amended by adding thereto two new sections, to be known as sections 27.120 and 491.016, to read as follows:

27.120. 1. The provisions of this section shall apply to any city not within a county.

2. The attorney general shall have authority to prosecute under the provisions of this section if:

(1) A written request of the attorney general has been made by the chief law enforcement officer of the investigative agency for the alleged criminal offense or offenses;

(2) Ninety days or more have passed since the alleged commission of a violation of section 565.020 or 565.021; and

(3) A complaint, information, or indictment charging a violation of sections 565.020 or 565.021 has not been filed or has been filed and dismissed.

3. The attorney general may commence and prosecute any alleged violation of section 565.020 or 565.021 by filing a

1 complaint, information, or indictment. If the attorney general
2 commences and prosecutes an action pursuant to this section, he
3 or she may commence and prosecute any additional violation that
4 was part of the same course of conduct as the violation of
5 section 565.020 or 565.021.

6 4. If the attorney general commences and prosecutes an
7 action pursuant to this section, the attorney general shall
8 exercise all authority, duties, rights, and responsibilities in
9 the matter exclusive of any circuit attorney. No circuit
10 attorney shall have the authority to commence, prosecute,
11 dismiss, or otherwise effect any criminal action if the attorney
12 general commences and prosecutes an action under this section and
13 the circuit attorney shall, within fifteen days of the attorney
14 general commencing prosecution under this section, transmit to
15 the attorney general all materials collected or prepared by the
16 circuit attorney related to the alleged criminal violation or
17 violations.

18 5. In all such proceedings authorized under this section,
19 the attorney general may appear in person or by appointing his or
20 her assistant attorneys general before any court of record or
21 grand jury and exercise all the powers and perform all the duties
22 in respect to such actions or proceedings which a circuit
23 attorney would otherwise be authorized or required to exercise or
24 perform.

25 6. Upon any conviction by the attorney general pursuant to
26 this section, he or she shall have exclusive authority to
27 represent the state in all post-conviction relief proceedings
28 under sections 547.360 and 547.370. The attorney general shall

1 exercise all the powers and perform all the duties in respect to
2 such actions and proceedings which a circuit attorney would
3 otherwise be authorized or required to exercise or perform under
4 sections 547.360 and 547.370.

5 7. The provisions of this section shall apply to criminal
6 offenses occurring before or after the effective date of this
7 section.

8 8. The provisions of this section shall expire on August
9 31, 2023.

10 491.016. 1. A statement made by a witness, which is not
11 otherwise admissible, is admissible in evidence in a criminal
12 proceeding as substantive evidence to prove the truth of the
13 matter asserted if, after a hearing, the court finds, by a
14 preponderance of the evidence, that:

15 (1) The defendant engaged in or acquiesced to wrongdoing
16 with the purpose of causing the unavailability of the witness;

17 (2) The wrongdoing in which the defendant engaged or
18 acquiesced has caused the unavailability of the witness;

19 (3) The state exercised due diligence to secure by subpoena
20 or other means the attendance of the witness at the proceeding,
21 or the witness is unavailable because the defendant caused the
22 death of the witness; and

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

24 2. In a jury trial, the hearing and finding to determine
25 the admissibility of the statement shall be held and found
26 outside the presence of the jury and before the case is submitted
27 to the jury.

28 Section B. Because immediate action is necessary to further

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