

SENATE BILL NO. 775

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR REHDER.

3386S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 491.015, RSMo, and to enact in lieu thereof one new section relating to witnesses in certain criminal cases.

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

Section A. Section 491.015, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 491.015,
3 to read as follows:

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

(1) Evidence of the sexual conduct of the complaining
13 witness with the defendant to prove consent where consent is
14 a defense to the alleged crime and the evidence is
15 reasonably contemporaneous with the date of the alleged
16 crime; or
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18 (2) Evidence of specific instances of sexual activity
19 showing alternative source or origin of semen, pregnancy or
20 disease;

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

23 (4) Evidence relating to the previous chastity of the
24 complaining witness in cases, where, by statute, previously
25 chaste character is required to be proved by the prosecution.

26 2. Evidence of the sexual conduct, **acts, or practices**
27 of the complaining witness offered under this section is
28 admissible to the extent that the court finds the evidence
29 relevant to a material fact or issue.

30 3. If the defendant proposes to offer evidence of the
31 sexual conduct, **acts, or practices** of the complaining
32 witness under this section, he **or she** shall file with the
33 court a written motion accompanied by an offer of proof or
34 make an offer of proof on the record outside the hearing of
35 the jury. The court shall hold an in camera hearing to
36 determine the sufficiency of the offer of proof and may at
37 that hearing hear evidence if the court deems it necessary
38 to determine the sufficiency of the offer of proof. If the
39 court finds any of the evidence offered admissible under
40 this section the court shall make an order stating the scope
41 of the evidence which may be introduced. Objections to any
42 decision of the court under this section may be made by
43 either the prosecution or the defendant in the manner
44 provided by law. The in camera hearing shall be recorded
45 and the court shall set forth its reasons for its ruling.
46 The record of the in camera hearing shall be sealed for
47 delivery to the parties and to the appellate court in the
48 event of an appeal or other post trial proceeding.

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