

FIRST REGULAR SESSION

SENATE BILL NO. 513

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Read 1st time March 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2127S.011

AN ACT

To repeal sections 491.060, 491.075, 491.600, 492.304, 544.250, 556.061, 589.660, and 589.663, RSMo, and to enact in lieu thereof nine new sections relating to information provided by certain witnesses in criminal matters.

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

Section A. Sections 491.060, 491.075, 491.600, 492.304, 544.250, 556.061, 589.660, and 589.663, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 491.060, 491.075, 491.600, 491.630, 492.304, 544.250, 556.061, 589.660, and 589.663, to read as follows:

491.060. The following persons shall be incompetent to testify:

- (1) A person who is mentally incapacitated at the time of his or her production for examination;
- (2) A child under ten years of age, who appears incapable of receiving just impressions of the facts respecting which the child is examined, or of relating them truly; provided, however, that except as provided in subdivision (1) of this section, a child under the age of ten who is alleged to be a victim of **[an] or witness to a criminal** offense [pursuant to chapter 565, 566 or 568] shall be considered a competent witness and shall be allowed to testify without qualification in any judicial proceeding involving such alleged offense. The trier of fact shall be permitted to determine the weight and credibility to be given to the testimony;
- (3) An attorney, concerning any communication made to the attorney by such attorney's client in that relation, or such attorney's advice thereon, without the consent of such client;
- (4) Any person practicing as a minister of the gospel, priest, rabbi or other

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 person serving in a similar capacity for any organized religion, concerning a
18 communication made to him or her in his or her professional capacity as a
19 spiritual advisor, confessor, counselor or comforter;

20 (5) A physician licensed pursuant to chapter 334, a chiropractor licensed
21 pursuant to chapter 331, a licensed psychologist or a dentist licensed pursuant
22 to chapter 332, concerning any information which he or she may have acquired
23 from any patient while attending the patient in a professional character, and
24 which information was necessary to enable him or her to prescribe and provide
25 treatment for such patient as a physician, chiropractor, psychologist or dentist.

491.075. 1. A statement made by a child under the age of fourteen, or a
2 vulnerable person, relating to [an] **a criminal** offense [under chapter 565, 566,
3 568 or 573,] performed by another, not otherwise admissible by statute or court
4 rule, is admissible in evidence in criminal proceedings in the courts of this state
5 as substantive evidence to prove the truth of the matter asserted if:

6 (1) The court finds, in a hearing conducted outside the presence of the
7 jury that the time, content and circumstances of the statement provide sufficient
8 indicia of reliability; and

9 (2) (a) The child or vulnerable person testifies at the proceedings; or

10 (b) The child or vulnerable person is unavailable as a witness; or

11 (c) The child or vulnerable person is otherwise physically available as a
12 witness but the court finds that the significant emotional or psychological trauma
13 which would result from testifying in the personal presence of the defendant
14 makes the child or vulnerable person unavailable as a witness at the time of the
15 criminal proceeding; or

16 **(d) The statement is offered by the state at any proceeding other**
17 **than a trial.**

18 2. Notwithstanding subsection 1 of this section or any provision of law or
19 rule of evidence requiring corroboration of statements, admissions or confessions
20 of the defendant, and notwithstanding any prohibition of hearsay evidence, a
21 statement by a child when under the age of fourteen, or a vulnerable person, who
22 is alleged to be victim of [an] **a criminal** offense [under chapter 565, 566, 568
23 or 573] is sufficient corroboration of a statement, admission or confession
24 regardless of whether or not the child or vulnerable person is available to testify
25 regarding the offense.

26 3. A statement may not be admitted under this section unless the
27 prosecuting attorney makes known to the accused or the accused's counsel his or

28 her intention to offer the statement and the particulars of the statement
29 sufficiently in advance of the proceedings to provide the accused or the accused's
30 counsel with a fair opportunity to prepare to meet the statement.

31 4. Nothing in this section shall be construed to limit the admissibility of
32 statements, admissions or confessions otherwise admissible by law.

33 5. For the purposes of this section, "vulnerable person" shall mean a
34 person who, as a result of an inadequately developed or impaired intelligence or
35 a psychiatric disorder that materially affects ability to function, lacks the mental
36 capacity to consent, or whose developmental level does not exceed that of an
37 ordinary child of fourteen years of age, **or any person in the custody, care,**
38 **or control of the department of mental health who is receiving services**
39 **from an operated, funded, licensed, or certified program.**

491.600. 1. Any court with jurisdiction over any criminal matter may, in
2 its discretion, upon substantial evidence, which may include hearsay, that
3 intimidation or dissuading of any person who is a victim or who is a witness has
4 occurred or is reasonably likely to occur, issue orders including but not limited
5 to the following:

6 (1) An order that a defendant not engage in activity as defined by section
7 575.270 and maintain a prescribed geographic distance from a witness or victim;

8 (2) An order that a person before the court other than a defendant,
9 including but not limited to a subpoenaed witness or other person entering the
10 courtroom of said court, not engage in activity as defined by section 575.270, and
11 maintain a prescribed geographic distance from a witness or victim;

12 (3) An order that any person described in subdivision (1) or (2) of this
13 section have no connection whatsoever with any specified witness or any victim,
14 except through an attorney under such reasonable restrictions as the court may
15 impose.

16 2. **Such an order including, but not limited to the provisions of**
17 **subdivision (1) of subsection 1 of this section, shall be issued by the**
18 **court at the time of filing in every case involving a child victim, a**
19 **felony offense under chapter 565, any offense under chapter 566, or any**
20 **offense under chapter 573.**

491.630. 1. For the purposes of this section the term "personal
2 information" shall mean: birthdates, social security numbers, taxpayer
3 identification numbers, drivers' license numbers, account numbers of
4 financial accounts, vehicle identification numbers, home addresses,

5 personal telephone numbers, work addresses, and work phone numbers
6 of any victims or witnesses.

7 2. Notwithstanding any other provision of law or court rule to
8 the contrary, the state shall, upon written request of defendant,
9 disclose to defendant's counsel such part or all of the following
10 material and information within its possession or control: the names
11 of persons whom the state intends to call as witnesses at any hearing
12 or at the trial, together with their written or recorded statements, and
13 existing memoranda, reporting or summarizing part or all of their oral
14 statements.

15 3. Except as provided in subsection 7 of this section, the state
16 shall not provide personal information of witnesses or victims.

17 4. If the state does provide the defendant's counsel with
18 unredacted personal information of a victim or witness, the defendant's
19 counsel shall not disclose the unredacted identifiers to the defendant
20 or to any other person, directly or indirectly, except as by order of the
21 court for good cause shown.

22 5. If the state provides statements, memoranda, or other
23 documents to the defendant's counsel that contains personal
24 information redacted by the state, the state shall provide notice to the
25 defendant's counsel that such redactions have been made.

26 6. Any redaction of personal information by the state shall be by
27 blacking out or otherwise covering up such identifiers and shall not be
28 by removal.

29 7. The defendant's counsel may petition the court to order
30 disclosure of the personal information of a victim or witness. Upon
31 such a petition by the defendant's counsel, the court may order
32 disclosure of such personal information upon a showing of good cause
33 after notice and a hearing where the court considers the materiality of
34 the information to the defendant's defense and the privacy and safety
35 interests of the victim or witness.

36 8. If the state makes the witness available for an interview or
37 deposition, there shall be a rebuttable presumption that the defendant
38 has no need for that witness's personal identifying information.

492.304. 1. In addition to the admissibility of a statement under the
2 provisions of section 492.303, the visual and aural recording of a verbal or
3 nonverbal statement of a child [when] under the age of fourteen [who is alleged

4 to be a victim of an] **or a vulnerable person relating to a criminal** offense
5 [under the provisions of chapter 565, 566 or 568] is admissible into evidence if:

6 (1) No attorney for either party was present when the statement was
7 made; except that, for any statement taken at a state-funded child assessment
8 center as provided for in subsection 2 of section 210.001, an attorney representing
9 the state of Missouri in a criminal investigation may, as a member of a
10 multidisciplinary investigation team, observe the taking of such statement, but
11 such attorney shall not be present in the room where the interview is being
12 conducted;

13 (2) The recording is both visual and aural and is recorded on film or
14 videotape or by other electronic means;

15 (3) The recording equipment was capable of making an accurate recording,
16 the operator of the equipment was competent, and the recording is accurate and
17 has not been altered;

18 (4) The statement was not made in response to questioning calculated to
19 lead the child **or vulnerable person** to make a particular statement or to act
20 in a particular way;

21 (5) Every voice on the recording is identified;

22 (6) The person conducting the interview of the child **or vulnerable**
23 **person** in the recording is present at the proceeding and available to testify or
24 be cross-examined by either party; and

25 (7) The defendant or the attorney for the defendant is afforded an
26 opportunity to view the recording before it is offered into evidence.

27 2. If the child **or vulnerable person** does not testify at the proceeding,
28 the visual and aural recording of a verbal or nonverbal statement of the child **or**
29 **vulnerable person** shall not be admissible under this section unless the
30 recording qualifies for admission under section 491.075, **or the recording is**
31 **offered by the state at any proceeding other than a trial.**

32 3. If the visual and aural recording of a verbal or nonverbal statement of
33 a child **or vulnerable person** is admissible under this section and the child **or**
34 **vulnerable person** testifies at the proceeding, it shall be admissible in addition
35 to the testimony of the child **or vulnerable person** at the proceeding whether
36 or not it repeats or duplicates the child's **or vulnerable person's** testimony.

37 4. As used in this section, a nonverbal statement shall be defined as any
38 demonstration of the child **or vulnerable person** by his or her actions, facial
39 expressions, demonstrations with a doll or other visual aid whether or not this

40 demonstration is accompanied by words.

544.250. 1. No prosecuting or circuit attorney in this state shall file any
2 information charging any person or persons with any felony, until such person or
3 persons shall first have been accorded the right of a preliminary examination
4 before some associate circuit judge in the county where the offense is alleged to
5 have been committed in accordance with this chapter. And if upon such hearing
6 the associate circuit judge shall determine that the alleged offense is one on
7 which the accused may be released, the associate circuit judge may release him
8 as provided in section 544.455 conditioned for his appearance at a time certain
9 before a circuit judge, or associate circuit judge who is specially assigned, and
10 thereafter as directed by the court to answer such charges as may be preferred
11 against him, abide sentence and judgment therein, and not to depart the court
12 without leave; provided, a preliminary examination shall in no case be required
13 where same is waived by the person charged with the crime, or in any case where
14 an information has been substituted for an indictment as authorized by section
15 545.300.

16 **2. The findings by the court shall be based on evidence, in whole**
17 **or in part, in the following forms:**

18 **(1) Testimony of witnesses, including testimony of a witness**
19 **concerning the contents of his or her sworn probable cause statement**
20 **without further foundation;**

21 **(2) Written reports of expert witnesses.**

556.061. In this code, unless the context requires a different definition,
2 the following terms shall mean:

3 (1) "Access", to instruct, communicate with, store data in, retrieve or
4 extract data from, or otherwise make any use of any resources of, a computer,
5 computer system, or computer network;

6 (2) "Affirmative defense":

7 (a) The defense referred to is not submitted to the trier of fact unless
8 supported by evidence; and

9 (b) If the defense is submitted to the trier of fact the defendant has the
10 burden of persuasion that the defense is more probably true than not;

11 (3) "Burden of injecting the issue":

12 (a) The issue referred to is not submitted to the trier of fact unless
13 supported by evidence; and

14 (b) If the issue is submitted to the trier of fact any reasonable doubt on

15 the issue requires a finding for the defendant on that issue;

16 (4) "Commercial film and photographic print processor", any person who
17 develops exposed photographic film into negatives, slides or prints, or who makes
18 prints from negatives or slides, for compensation. The term commercial film and
19 photographic print processor shall include all employees of such persons but shall
20 not include a person who develops film or makes prints for a public agency;

21 (5) "Computer", the box that houses the central processing unit (CPU),
22 along with any internal storage devices, such as internal hard drives, and
23 internal communication devices, such as internal modems capable of sending or
24 receiving electronic mail or fax cards, along with any other hardware stored or
25 housed internally. Thus, computer refers to hardware, software and data
26 contained in the main unit. Printers, external modems attached by cable to the
27 main unit, monitors, and other external attachments will be referred to
28 collectively as peripherals and discussed individually when appropriate. When
29 the computer and all peripherals are referred to as a package, the term "computer
30 system" is used. Information refers to all the information on a computer system
31 including both software applications and data;

32 (6) "Computer equipment", computers, terminals, data storage devices,
33 and all other computer hardware associated with a computer system or network;

34 (7) "Computer hardware", all equipment which can collect, analyze, create,
35 display, convert, store, conceal or transmit electronic, magnetic, optical or similar
36 computer impulses or data. Hardware includes, but is not limited to, any data
37 processing devices, such as central processing units, memory typewriters and
38 self-contained laptop or notebook computers; internal and peripheral storage
39 devices, transistor-like binary devices and other memory storage devices, such as
40 floppy disks, removable disks, compact disks, digital video disks, magnetic tape,
41 hard drive, optical disks and digital memory; local area networks, such as two or
42 more computers connected together to a central computer server via cable or
43 modem; peripheral input or output devices, such as keyboards, printers, scanners,
44 plotters, video display monitors and optical readers; and related communication
45 devices, such as modems, cables and connections, recording equipment, RAM or
46 ROM units, acoustic couplers, automatic dialers, speed dialers, programmable
47 telephone dialing or signaling devices and electronic tone-generating devices; as
48 well as any devices, mechanisms or parts that can be used to restrict access to
49 computer hardware, such as physical keys and locks;

50 (8) "Computer network", two or more interconnected computers or

51 computer systems;

52 (9) "Computer program", a set of instructions, statements, or related data
53 that directs or is intended to direct a computer to perform certain functions;

54 (10) "Computer software", digital information which can be interpreted by
55 a computer and any of its related components to direct the way they
56 work. Software is stored in electronic, magnetic, optical or other digital
57 form. The term commonly includes programs to run operating systems and
58 applications, such as word processing, graphic, or spreadsheet programs, utilities,
59 compilers, interpreters and communications programs;

60 (11) "Computer-related documentation", written, recorded, printed or
61 electronically stored material which explains or illustrates how to configure or
62 use computer hardware, software or other related items;

63 (12) "Computer system", a set of related, connected or unconnected,
64 computer equipment, data, or software;

65 (13) "Confinement":

66 (a) A person is in confinement when such person is held in a place of
67 confinement pursuant to arrest or order of a court, and remains in confinement
68 until:

69 a. A court orders the person's release; or

70 b. The person is released on bail, bond, or recognizance, personal or
71 otherwise; or

72 c. A public servant having the legal power and duty to confine the person
73 authorizes his release without guard and without condition that he return to
74 confinement;

75 (b) A person is not in confinement if:

76 a. The person is on probation or parole, temporary or otherwise; or

77 b. The person is under sentence to serve a term of confinement which is
78 not continuous, or is serving a sentence under a work-release program, and in
79 either such case is not being held in a place of confinement or is not being held
80 under guard by a person having the legal power and duty to transport the person
81 to or from a place of confinement;

82 (14) "Consent": consent or lack of consent may be expressed or
83 implied. Assent does not constitute consent if:

84 (a) It is given by a person who lacks the mental capacity to authorize the
85 conduct charged to constitute the offense and such mental incapacity is manifest
86 or known to the actor; or

87 (b) It is given by a person who by reason of youth, mental disease or
88 defect, intoxication, a drug-induced state, or any other reason is manifestly
89 unable or known by the actor to be unable to make a reasonable judgment as to
90 the nature or harmfulness of the conduct charged to constitute the offense; or

91 (c) It is induced by force, duress or deception;

92 (15) "Controlled substance", a drug, substance, or immediate precursor in
93 schedules I through V as defined in chapter 195;

94 (16) "Criminal negligence", failure to be aware of a substantial and
95 unjustifiable risk that circumstances exist or a result will follow, and such failure
96 constitutes a gross deviation from the standard of care which a reasonable person
97 would exercise in the situation;

98 (17) "Custody", a person is in custody when he or she has been arrested
99 but has not been delivered to a place of confinement;

100 (18) "Damage", when used in relation to a computer system or network,
101 means any alteration, deletion, or destruction of any part of the computer system
102 or network;

103 (19) "Dangerous felony", the felonies of arson in the first degree, assault
104 in the first degree, attempted rape in the first degree if physical injury results,
105 attempted forcible rape if physical injury results, attempted sodomy in the first
106 degree if physical injury results, attempted forcible sodomy if physical injury
107 results, rape in the first degree, forcible rape, sodomy in the first degree, forcible
108 sodomy, assault in the second degree if the victim of such assault is a special
109 victim as defined in subdivision (14) of section 565.002, kidnapping in the first
110 degree, kidnapping, murder in the second degree, assault of a law enforcement
111 officer in the first degree, domestic assault in the first degree, elder abuse in the
112 first degree, robbery in the first degree, statutory rape in the first degree when
113 the victim is a child less than twelve years of age at the time of the commission
114 of the act giving rise to the offense, statutory sodomy in the first degree when the
115 victim is a child less than twelve years of age at the time of the commission of the
116 act giving rise to the offense, child molestation in the first or second degree,
117 abuse of a child if the child dies as a result of injuries sustained from conduct
118 chargeable under section 568.060, child kidnapping, parental kidnapping
119 committed by detaining or concealing the whereabouts of the child for not less
120 than one hundred twenty days under section 565.153, and an "intoxication-related
121 traffic offense" or "intoxication-related boating offense" if the person is found to
122 be a "habitual offender" or "habitual boating offender" as such terms are defined

123 in section 577.001;

124 (20) "Dangerous instrument", any instrument, article or substance, which,
125 under the circumstances in which it is used, is readily capable of causing death
126 or other serious physical injury;

127 (21) "Data", a representation of information, facts, knowledge, concepts,
128 or instructions prepared in a formalized or other manner and intended for use in
129 a computer or computer network. Data may be in any form including, but not
130 limited to, printouts, microfiche, magnetic storage media, punched cards and as
131 may be stored in the memory of a computer;

132 (22) "Deadly weapon", any firearm, loaded or unloaded, or any weapon
133 from which a shot, readily capable of producing death or serious physical injury,
134 may be discharged, or a switchblade knife, dagger, billy club, blackjack or metal
135 knuckles;

136 (23) "Digital camera", a camera that records images in a format which
137 enables the images to be downloaded into a computer;

138 (24) "Disability", a mental, physical, or developmental impairment that
139 substantially limits one or more major life activities or the ability to provide
140 adequately for one's care or protection, whether the impairment is congenital or
141 acquired by accident, injury or disease, where such impairment is verified by
142 medical findings;

143 (25) "Elderly person", a person sixty years of age or older;

144 (26) "Felony", an offense so designated or an offense for which persons
145 found guilty thereof may be sentenced to death or imprisonment for a term of
146 more than one year;

147 (27) "Forcible compulsion" either:

148 (a) Physical force that overcomes reasonable resistance; or

149 (b) A threat, express or implied, that places a person in reasonable fear
150 of death, serious physical injury or kidnapping of such person or another person;

151 (28) "Incapacitated", a temporary or permanent physical or mental
152 condition in which a person is unconscious, unable to appraise the nature of his
153 or her conduct, or unable to communicate unwillingness to an act;

154 (29) "Infraction", a violation defined by this code or by any other statute
155 of this state if it is so designated or if no sentence other than a fine, or fine and
156 forfeiture or other civil penalty, is authorized upon conviction;

157 (30) "Inhabitable structure", a vehicle, vessel or structure:

158 (a) Where any person lives or carries on business or other calling; or

159 (b) Where people assemble for purposes of business, government,
160 education, religion, entertainment, or public transportation; or

161 (c) Which is used for overnight accommodation of persons.

162 Any such vehicle, vessel, or structure is inhabitable regardless of whether a
163 person is actually present. If a building or structure is divided into separately
164 occupied units, any unit not occupied by the actor is an inhabitable structure of
165 another;

166 (31) "Knowingly", when used with respect to:

167 (a) Conduct or attendant circumstances, means a person is aware of the
168 nature of his or her conduct or that those circumstances exist; or

169 (b) A result of conduct, means a person is aware that his or her conduct
170 is practically certain to cause that result;

171 (32) "Law enforcement officer", any public servant having both the power
172 and duty to make arrests for violations of the laws of this state, and federal law
173 enforcement officers authorized to carry firearms and to make arrests for
174 violations of the laws of the United States;

175 (33) "Misdemeanor", an offense so designated or an offense for which
176 persons found guilty thereof may be sentenced to imprisonment for a term of
177 which the maximum is one year or less;

178 (34) "Of another", property that any entity, including but not limited to
179 any natural person, corporation, limited liability company, partnership,
180 association, governmental subdivision or instrumentality, other than the actor,
181 has a possessory or proprietary interest therein, except that property shall not
182 be deemed property of another who has only a security interest therein, even if
183 legal title is in the creditor pursuant to a conditional sales contract or other
184 security arrangement;

185 (35) "Offense", any felony or misdemeanor;

186 (36) "Physical injury", slight impairment of any function of the body or
187 temporary loss of use of any part of the body;

188 (37) "Place of confinement", any building or facility and the grounds
189 thereof wherein a court is legally authorized to order that a person charged with
190 or convicted of a crime be held;

191 (38) "Possess" or "possessed", having actual or constructive possession of
192 an object with knowledge of its presence. A person has actual possession if such
193 person has the object on his or her person or within easy reach and convenient
194 control. A person has constructive possession if such person has the power and

195 the intention at a given time to exercise dominion or control over the object either
196 directly or through another person or persons. Possession may also be sole or
197 joint. If one person alone has possession of an object, possession is sole. If two
198 or more persons share possession of an object, possession is joint;

199 (39) "Property", anything of value, whether real or personal, tangible or
200 intangible, in possession or in action;

201 (40) "Public servant", any person employed in any way by a government
202 of this state who is compensated by the government by reason of such person's
203 employment, any person appointed to a position with any government of this
204 state, or any person elected to a position with any government of this state. It
205 includes, but is not limited to, legislators, jurors, members of the judiciary and
206 law enforcement officers. It does not include witnesses;

207 (41) "Purposely", when used with respect to a person's conduct or to a
208 result thereof, means when it is his or her conscious object to engage in that
209 conduct or to cause that result;

210 (42) "Recklessly", consciously disregarding a substantial and unjustifiable
211 risk that circumstances exist or that a result will follow, and such disregard
212 constitutes a gross deviation from the standard of care which a reasonable person
213 would exercise in the situation;

214 (43) "Serious emotional injury", an injury that creates a substantial risk
215 of temporary or permanent medical or psychological damage, manifested by
216 impairment of a behavioral, cognitive or physical condition. Serious emotional
217 injury shall be established by testimony of qualified experts upon the reasonable
218 expectation of probable harm to a reasonable degree of medical or psychological
219 certainty;

220 (44) "Serious physical injury", physical injury that creates a substantial
221 risk of death or that causes serious disfigurement or protracted loss or
222 impairment of the function of any part of the body;

223 (45) "Services", when used in relation to a computer system or network,
224 means use of a computer, computer system, or computer network and includes,
225 but is not limited to, computer time, data processing, and storage or retrieval
226 functions;

227 (46) "Sexual orientation", male or female heterosexuality, homosexuality
228 or bisexuality by inclination, practice, identity or expression, or having a
229 self-image or identity not traditionally associated with one's gender;

230 (47) "Vehicle", a self-propelled mechanical device designed to carry a

231 person or persons, excluding vessels or aircraft;

232 (48) "Vessel", any boat or craft propelled by a motor or by machinery,
233 whether or not such motor or machinery is a principal source of propulsion used
234 or capable of being used as a means of transportation on water, or any boat or
235 craft more than twelve feet in length which is powered by sail alone or by a
236 combination of sail and machinery, and used or capable of being used as a means
237 of transportation on water, but not any boat or craft having, as the only means
238 of propulsion, a paddle or oars;

239 (49) "Voluntary act":

240 (a) A bodily movement performed while conscious as a result of effort or
241 determination. Possession is a voluntary act if the possessor knowingly procures
242 or receives the thing possessed, or having acquired control of it was aware of his
243 or her control for a sufficient time to have enabled him or her to dispose of it or
244 terminate his or her control; or

245 (b) An omission to perform an act of which the actor is physically capable.
246 A person is not guilty of an offense based solely upon an omission to perform an
247 act unless the law defining the offense expressly so provides, or a duty to perform
248 the omitted act is otherwise imposed by law;

249 (50) "Vulnerable person", **a person who, as a result of an**
250 **inadequately developed or impaired intelligence or a psychiatric**
251 **disorder that materially affects ability to function, lacks the mental**
252 **capacity to consent, or whose developmental level does not exceed that**
253 **of an ordinary child of fourteen years of age, or any person in the custody,**
254 care, or control of the department of mental health who is receiving services from
255 an operated, funded, licensed, or certified program.

589.660. As used in sections 589.660 to 589.681, the following terms
2 mean:

3 (1) "Address", a residential street address, school address, or work address
4 of a person, as specified on the person's application to be a program participant;

5 (2) "Application assistant", an employee of a state or local agency, or of
6 a nonprofit program that provides counseling, referral, shelter, or other
7 specialized service to victims of domestic violence, rape, sexual assault, human
8 trafficking, or stalking, who has been designated by the respective agency or
9 program, and who has been trained and registered by the secretary of state to
10 assist individuals in the completion of program participation applications;

11 (3) "Designated address", the address assigned to a program participant

12 by the secretary;

13 (4) "Mailing address", an address that is recognized for delivery by the
14 United States Postal Service;

15 (5) "Program", the address confidentiality program established in section
16 589.663;

17 (6) "Program participant", a person certified by the secretary of state as
18 eligible to participate in the address confidentiality program;

19 (7) "Secretary", the secretary of state;

20 (8) "**Victim**", a natural person who suffers direct or threatened
21 **physical, emotional or financial harm as the result of the commission**
22 **or attempted commission of a crime. The term "victim" also includes**
23 **the family members of a minor, incompetent or a homicide victim;**

24 (9) "**Witness**", any person who has been or, is expected to be,
25 **summoned to testify for the prosecution whether or not any action or**
26 **proceeding has yet been commenced.**

589.663. There is created in the office of the secretary of state a program
2 to be known as the "Address Confidentiality Program" to protect victims [of
3 domestic violence, rape, sexual assault, human trafficking, or stalking],
4 **individuals residing in the same household of a victim, and witnesses**
5 by authorizing the use of designated addresses for such [victims and their minor
6 children] **individuals**. The program shall be administered by the secretary
7 under the following application and certification procedures:

8 (1) An adult person, a parent or guardian acting on behalf of a minor, or
9 a guardian acting on behalf of an incapacitated person may apply to the secretary
10 to have a designated address assigned by the secretary to serve as the person's
11 address or the address of the minor or incapacitated person;

12 (2) The secretary may approve an application only if it is filed with the
13 office of the secretary in the manner established by rule and on a form prescribed
14 by the secretary. A completed application shall contain:

15 (a) The application preparation date, the applicant's signature, and the
16 signature and registration number of the application assistant who assisted the
17 applicant in applying to be a program participant;

18 (b) A designation of the secretary as agent for purposes of service of
19 process and for receipt of first-class mail, legal documents, and certified mail;

20 (c) [A sworn statement by the applicant that the] **Either an application**
21 **signed by the applicant before an application assistant that the applicant**

22 has good reason to believe that he or she:

23 a. Is a victim [of domestic violence, rape, sexual assault, human
24 trafficking, or stalking]; and

25 b. Fears [further violent acts from his or her assailant] **future harm; or**

26 **c. Certification from a prosecuting attorney that the individual**
27 **is a witness;**

28 (d) The mailing address where the applicant may be contacted by the
29 secretary or a designee and the telephone number or numbers where the
30 applicant may be called by the secretary or the secretary's designee; and

31 (e) One or more addresses that the applicant requests not be disclosed for
32 the reason that disclosure will jeopardize the applicant's safety or increase the
33 risk of violence to the applicant or members of the applicant's household;

34 (3) Upon receipt of a properly completed application, the secretary may
35 certify the applicant as a program participant. A program participant is certified
36 for four years following the date of initial certification unless the certification is
37 withdrawn or cancelled before that date. The secretary shall send notification of
38 lapsing certification and a reapplication form to a program participant at least
39 four weeks prior to the expiration of the program participant's certification;

40 (4) The secretary shall forward first class mail, legal documents, and
41 certified mail to the appropriate program participants.

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