

# SENATE BILL NO. 1320

## 103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (26).

5037S.011

KRISTINA MARTIN, Secretary

### AN ACT

To repeal section 490.692, RSMo, and to enact in lieu thereof one new section relating to admissibility of certain evidence.

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

Section A. Section 490.692, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 490.692,  
3 to read as follows:

490.692. 1. Any records or copies of records  
2 reproduced in the ordinary course of business by any  
3 photographic, photostatic, microfilm, microcard, miniature  
4 photographic, optical disk imaging, or other process which  
5 accurately reproduces or forms a durable medium for so  
6 reproducing the original that would be admissible under  
7 sections 490.660 to 490.690 shall be admissible as a  
8 business record, subject to other substantive or procedural  
9 objections, in any court in this state upon the affidavit of  
10 the person who would otherwise provide the prerequisites of  
11 sections 490.660 to 490.690, that the records attached to  
12 the affidavit were kept as required by section 490.680.

13 2. No party shall be permitted to offer such business  
14 records into evidence pursuant to this section unless all  
15 other parties to the action have been served with copies of  
16 such records and such affidavit at least seven days prior to  
17 the day upon which trial of the cause commences.

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

3. The affidavit permitted by this section may be in form and content substantially as follows:

THE STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

AFFIDAVIT

Before me, the undersigned authority, personally appeared  
, who, being by me duly sworn, deposed as follows:

My name is \_\_\_\_\_, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the custodian of the records of \_\_\_\_\_. Attached hereto are \_\_\_\_\_ pages of records from \_\_\_\_\_. These \_\_\_\_\_ pages of records are kept by \_\_\_\_\_ in the regular course of business, and it was the regular course of business of \_\_\_\_\_ for an employee or representative of \_\_\_\_\_ with knowledge of the act, event, condition, opinion, or diagnosis recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time of the act, event, condition, opinion or diagnosis. The records attached hereto are the original or exact duplicates of the original.

Affiant

[In witness whereof I have hereunto subscribed my name  
and affixed my official seal this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

(Signed)

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(Seal) ]
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47           4. Notwithstanding any other provision of law to the  
48 contrary, an affidavit offered pursuant to this section  
49 shall not be deemed invalid for the reason that it utilizes  
50 an electronic signature or digital signature.

51           5. Notwithstanding any other provision of law to the  
52 contrary, an affidavit offered pursuant to this section  
53 shall not be deemed invalid for the reason that it does not  
54 include a notarization.

55           6. Notwithstanding any other provision of law to the  
56 contrary, an affidavit offered pursuant to this section  
57 shall be signed in a manner that, if falsely made, would  
58 subject the signer to criminal penalties pursuant to section  
59 575.040.

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