

FIRST REGULAR SESSION

# SENATE BILL NO. 337

90TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR HOWARD.

Read 1st time January 25, 1999, and 1,000 copies ordered printed.

S1474.011

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal section 491.060, RSMo 1994, relating to witnesses, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 491.060, RSMo 1994, is repealed and one new section enacted in lieu thereof, to be known as section 491.060, to read as follows: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 production for examination;
- (2) A child under ten years of age, who appears incapable of receiving just impressions of the facts respecting which he 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 offense under chapter 565, 566 or 568, RSMo, 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 him by his client in that relation, or his advice thereon, without the consent of such client;
- (4) Any person practicing as a minister of the gospel, priest, rabbi or other person serving in a similar capacity for any organized religion, concerning a communication made to him in his professional capacity as a spiritual advisor, confessor, counselor or comforter;
- (5) A physician licensed under chapter 334, RSMo, a licensed psychologist, **professional counselor or a clinical social worker licensed under chapter 337, RSMo,** or a dentist licensed under chapter 332, RSMo, concerning any information which he **or she** may have acquired from any **person or** patient while attending him **or her** in a professional character,

and which information was necessary to enable him **or her** to prescribe and provide treatment for such patient as a physician, psychologist, **professional counselor, social worker** or dentist.

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