

FIRST REGULAR SESSION

# HOUSE BILL NO. 353

102ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE CHRISTOFANELLI.

0123H.01I

DANA RADEMAN MILLER, Chief Clerk

---

## AN ACT

To amend chapter 490, RSMo, by adding thereto one new section relating to the admissibility of evidence of a defendant's creative or artistic expression.

---

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

Section A. Chapter 490, RSMo, is amended by adding thereto one new section, to be known as section 490.750, to read as follows:

**490.750. 1. This section shall be known and may be cited as the "Restoring Artistic Protection Act of 2023".**

**2. As used in this section, the term "creative or artistic expression" means the expression or application of creativity or imagination in the production or arrangement of forms, sounds, words, movements, or symbols, including music, dance, performance art, visual art, poetry, literature, film, and other such objects or media.**

**3. Except as provided under subsection 4 of this section, evidence of a defendant's creative or artistic expression, whether original or derivative, is not admissible against such defendant in a criminal case.**

**4. A court may admit evidence described in subsection 3 of this section in a hearing conducted in camera if the state proves by clear and convincing evidence:**

**(1) (a) If the expression is original, that the defendant intended a literal meaning rather than a figurative or fictional meaning; or**

**(b) If the expression is derivative, that the defendant intended to adopt the literal meaning of the expression as the defendant's own thought or statement;**

**(2) That the creative expression refers to the specific facts of the crime alleged;**

**(3) That the expression is relevant to an issue of fact that is disputed; and**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

18           **(4) That the expression has distinct probative value not provided by other**  
19 **admissible evidence.**

20           **5. In any hearing under subsection 4 of this section, the court shall make its**  
21 **ruling on the record and shall include its findings of fact essential to its ruling.**

22           **6. If the court admits any evidence described under subsection 3 of this section**  
23 **under the exception under subsection 4 of this section, the court shall:**

24           **(1) Ensure that the expression is redacted in a manner to limit the evidence**  
25 **presented to the jury to that which is specifically excepted under subsection 4 of this**  
26 **section; and**

27           **(2) Provide appropriate limiting instructions to the jury.**

✓