

FIRST REGULAR SESSION

# SENATE BILL NO. 648

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

2465S.01H

KRISTINA MARTIN, Secretary

## 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  
2 one new section, to be known as section 490.750, to read as  
3 follows:

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

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

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

13 4. A court may admit evidence of a defendant's  
14 creative or artistic expression, whether original or  
15 derivative, if the state proves by clear and convincing  
16 evidence in a hearing conducted in camera:

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

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

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

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

27           (4) That the expression has distinct probative value  
28 not provided by other admissible evidence.

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

32           6. If the court admits any evidence of a defendant's  
33 creative or artistic expression, whether original or  
34 derivative, under the exception provided in subsection 4 of  
35 this section, the court shall:

36           (1) Ensure that the creative or artistic expression is  
37 redacted in a manner to limit the evidence presented to the  
38 jury to that which is specifically proven under subsection 4  
39 of this section; and

40           (2) Provide appropriate limiting instructions to the  
41 jury.

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