

HB 491 REPEALER

AMBIT 2  
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491

**46-16-212. Competency of spouses.** (1) Neither spouse may testify to the communications or conversations between spouses that occur during their marriage unless:

- (a) consent of the defendant-spouse is obtained;
- (b) the defendant-spouse has been charged with an act of criminal violence against the other; or
- (c) the defendant-spouse has been charged with abuse, abandonment, or neglect of the other spouse or either spouse's children.

(2) Except as provided in subsection (1), a spouse is a competent witness for or against the other spouse.

History: En. Sec. 2441, Pen. C. 1895; re-en. Sec. 9483, Rev. C. 1907; amd. Sec. 1, Ch. 111, L. 1915; re-en. Sec. 12176, R.C.M. 1921; Cal. Pen. C. Sec. 1322; re-en. Sec. 12176, R.C.M. 1935; Sec. 94-8802, R.C.M. 1947; redes. 95-3011 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 50, Ch. 184, L. 1977; R.C.M. 1947, 95-3011; amd. Sec. 197, Ch. 800, L. 1991.

**Cross-References**

Spousal privilege, 26-1-802.

**46-16-213. Testimony of person legally accountable.** A person may not be found guilty of an offense on the testimony of one responsible or legally accountable for the same offense, as defined in 45-2-301, unless the testimony is corroborated by other evidence that in itself and without the aid of the testimony of the one responsible or legally accountable for the same offense tends to connect the defendant with the commission of the offense.

History: En. 95-3012 by Sec. 13, Ch. 513, L. 1973; amd. Sec. 51, Ch. 184, L. 1977; R.C.M. 1947, 95-3012; amd. Sec. 198, Ch. 800, L. 1991.

**46-16-214 reserved.**

**46-16-215. Use of confession.** Before an extrajudicial confession of the defendant to the crime charged may be admitted into evidence, the prosecution shall introduce independent evidence tending to establish the commission of the crime charged.

History: En. Sec. 199, Ch. 800, L. 1991.

**46-16-216. Videotaped testimony.** (1) For any prosecution commenced under ~~45-5-502(3)~~, 45-5-503, 45-5-505, or 45-5-507 or for prosecution of any offense against the person provided for in Title 45, chapter 5, involving a victim who is under 16 years of age, the testimony of the victim, at the request of the victim and with the concurrence of the prosecutor, may be recorded by means of videotape for presentation at trial. The recorded testimony may be presented at trial and must be received into evidence. The victim need not be physically present in the courtroom when the videotape is admitted into evidence.

(2) The procedural and evidentiary rules of the state that are applicable to criminal trials within the state apply to the videotape proceedings authorized by this section.

(3) The district court judge, the prosecutor, the victim, the defendant, the defendant's attorney, and other persons as are considered necessary by the court to make the recordings authorized under this section must be allowed to attend the videotape proceedings.

(4) Videotapes that are part of the court record are subject to a protective order of the court for the purpose of protecting the privacy of the victim.

History: En. Sec. 200, Ch. 800, L. 1991; amd. Sec. 2, Ch. 288, L. 1991.

**46-16-217 through 46-16-219 reserved.**

**46-16-220. Child hearsay exception — criminal proceedings.** (1) Otherwise inadmissible hearsay may be admissible in evidence in a criminal proceeding, as provided in subsection (2), if:

- (a) the declarant of the out-of-court statement is a child who is:
  - (i) an alleged victim of a sexual offense or other crime of violence, including partner or family member assault, that is the subject of the criminal proceeding; or

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