

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 621, Page 13,
2 Section 488.2206, Line 23, by inserting after all of said section and line the following:

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4 "491.680. 1. In any criminal prosecution under the provisions of chapter 565, 566 or 568
5 involving an alleged child victim, upon the motion of the prosecuting attorney, the court may order
6 that an in-camera videotaped deposition of the testimony of the alleged child victim be made for use
7 as substantive evidence at preliminary hearings and at trial.

8 2. If the court finds, at a hearing, that significant emotional or psychological trauma to the
9 child which would result from testifying in the personal presence of the defendant exists, which
10 makes the child unavailable as a witness at the time of the preliminary hearing or trial, the court shall
11 order that an in-camera videotaped deposition of the testimony of the alleged child victim be made
12 for use as substantive evidence at the preliminary hearings and at trial. Such recording shall be
13 retained by the prosecuting attorney and shall be admissible in lieu of the child's personal appearance
14 and testimony at preliminary hearings and at trial, conflicting provisions of section 544.270
15 notwithstanding. A transcript of such testimony shall be made as soon as possible after the
16 completion of such deposition and shall be provided to the defendant together with all other
17 discoverable materials.

18 3. Upon a finding of trauma as provided for in subsection 2 of this statute, the court may also
19 exclude the defendant from the videotape deposition proceedings in which the child is to testify.
20 Where any such order of exclusion is entered, the child shall not be excused as a witness until the
21 defendant has had a reasonable opportunity to review the videotape deposition in private with his
22 counsel and to consult with his counsel; and until his counsel has been afforded the opportunity to
23 cross-examine the child following such review and consultation.

24 4. The court shall preside over the depositions, which shall be conducted in accordance with
25 the rules of evidence applicable to criminal cases.

26 5. The attorney for the defendant shall have at least two opportunities to cross-examine the
27 deposed alleged child victim: once prior to the preliminary hearing and at least one additional time
28 prior to the trial.

29 6. Prior to the taking of the deposition which is to be used as substantive evidence at the trial
30 pursuant to sections 491.675 to 491.693, the defendant's attorney shall be provided with such
31 discoverable materials and information as the court may, on motion, direct; shall be afforded a
32 reasonable time to examine such materials; and shall be permitted to cross-examine the child during
33 the deposition.

34 7. If the defendant is not represented by counsel and if, upon inquiry, it appears to the court
35 that the defendant will be unable to obtain counsel within a reasonable period of time, the court shall
36 appoint the public defender or other counsel to represent the defendant at the deposition.

Action Taken _____ Date _____

1 8. If the court finds there is any possibility of any level of trauma which would result from a
2 child testifying, the court may order that a child victim be allowed to testify during preliminary
3 hearings and at trial via a live, closed-circuit video system whereby the child victim and the
4 defendant are in different locations."; and

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6 Further amend said bill by amending the title, enacting clause, and intersectional references
7 accordingly.