

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 834, Page 12, Section 217.947, Line 9, by inserting after said section and line the
3 following:
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5 "491.015. 1. In prosecutions under chapter 566 or prosecutions related to sexual conduct
6 under chapter 568, opinion and reputation evidence of ~~[the complaining]~~ a victim's or witness' prior
7 sexual conduct, acts, or practices is inadmissible at any trial, hearing, or court proceeding and not a
8 subject for inquiry during a deposition or discovery; evidence of specific instances of ~~[the~~
9 ~~complaining]~~ a victim's or witness' prior sexual conduct, acts, or practices or the absence of such
10 instances or conduct is inadmissible at any trial, hearing, or any other court proceeding, and not a
11 subject for inquiry during a deposition or discovery, except where such specific instances are:

12 (1) Evidence of the sexual conduct of ~~[the complaining]~~ a victim or witness with the
13 defendant to prove consent where consent is a defense to the alleged crime and the evidence is
14 reasonably contemporaneous with the date of the alleged crime; or

15 (2) Evidence of specific instances of sexual activity showing alternative source or origin of
16 semen, pregnancy or disease;

17 (3) Evidence of immediate surrounding circumstances of the alleged crime; or

18 (4) Evidence relating to the previous chastity of the complaining witness in cases, where, by
19 statute, previously chaste character is required to be proved by the prosecution.

20 2. Evidence of the sexual conduct, acts, or practices of ~~[the complaining]~~ a victim or witness
21 offered under this section is admissible to the extent that the court finds the evidence relevant to a
22 material fact or issue.

23 3. If the defendant proposes to offer evidence of the sexual conduct, acts, or practices of ~~[the~~
24 ~~complaining]~~ a victim or witness under this section, he or she shall file with the court a written
25 motion accompanied by an offer of proof or make an offer of proof on the record outside the hearing
26 of the jury. The court shall hold an in camera hearing to determine the sufficiency of the offer of
27 proof and may at that hearing hear evidence if the court deems it necessary to determine the
28 sufficiency of the offer of proof. If the court finds any of the evidence offered admissible under this
29 section the court shall make an order stating the scope of the evidence which may be introduced.
30 Objections to any decision of the court under this section may be made by either the prosecution or

Action Taken _____ Date _____

1 the defendant in the manner provided by law. The in camera hearing shall be recorded and the court
2 shall set forth its reasons for its ruling. The record of the in camera hearing shall be sealed for
3 delivery to the parties and to the appellate court in the event of an appeal or other post trial
4 proceeding."; and

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6 Further amend said bill, Page 19, Section 589.565, Line 19, by inserting after said section and line
7 the following:
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9 "595.226. 1. After August 28, 2007, any information contained in any court record, whether
10 written or published on the internet, including any visual or aural recordings that could be used to
11 identify or locate any victim of an offense under chapter 566 or a victim of domestic assault or
12 stalking shall be closed and redacted from such record prior to disclosure to the public. Identifying
13 information shall include, but shall not be limited to, the name, home or temporary address, personal
14 email address, telephone number, Social Security number, birth date, place of employment, any
15 health information, including human immunodeficiency virus (HIV) status, any information from a
16 forensic testing report, or physical characteristics, including an unobstructed visual image of the
17 victim's face or body.

18 2. ~~[If the court determines that a person or entity who is requesting identifying information~~
19 ~~of a victim has a legitimate interest in obtaining such information, the court may allow access to the~~
20 ~~information, but only if the court determines that disclosure to the person or entity would not~~
21 ~~compromise the welfare or safety of such victim,]~~ Any person who is requesting identifying
22 information of a victim and who has a legitimate interest in obtaining such information may petition
23 the court for an in camera inspection of the records. If the court determines the person is entitled to
24 all or any part of such records, the court may order production and disclosure of the records, but
25 only if the court determines that the disclosure to the person or entity would not compromise the
26 welfare or safety of the victim, and only after providing reasonable notice to the victim and after
27 allowing the victim the right to respond to such request.

28 3. Notwithstanding the provisions of subsection 1 of this section, the judge presiding over a
29 case under chapter 566 or a case of domestic assault or stalking shall have the discretion to publicly
30 disclose identifying information regarding the defendant which could be used to identify or locate
31 the victim of the crime. The victim may provide a statement to the court regarding whether he or
32 she desires such information to remain closed. When making the decision to disclose such
33 information, the judge shall consider the welfare and safety of the victim and any statement to the
34 court received from the victim regarding the disclosure."; and

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