

HOUSE AMENDMENT NO. ____
TO
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Offered By

AMEND House Amendment No. ____ to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 72, Page 1, Line 7, by inserting after all of the said line the following:

"Further amend said bill, Page 53, Section 488.2300, Line 43, by inserting after all of the said section and line the following:

"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

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

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

Action Taken _____ Date _____

1 6. If the court admits any evidence described under subsection 3 of this section under the
2 exception under subsection 4 of this section, the court shall:
3 (1) Ensure that the expression is redacted in a manner to limit the evidence presented to the
4 jury to that which is specifically excepted under subsection 4 of this section; and
5 (2) Provide appropriate limiting instructions to the jury."; and"; and

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

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10 THIS AMENDS AMENDMENT 0524H11.34H