

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Substitute for Senate Bill No. 895, Page 1, Section 67.137, Line 3, by inserting
2 after all of said section and line the following:

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4 "441.043. 1. No county or city, or county or city with a charter form of government may
5 enact, maintain, or enforce any ordinance or resolution which regulates the amount of rent to be
6 charged for privately-owned, single-family, or multiple-unit residential or commercial rental
7 property. ~~No county or city, or county or city with a charter form of government, shall enact,~~
8 maintain, or enforce any ordinance or resolution that:

9 (1) Prohibits landlords from refusing to lease or rent a privately owned, single-family, or
10 multiple-unit residential or commercial rental property to a person because the person's lawful
11 source of income to pay rent includes funding from a federal or other housing assistance program;

12 (2) Restricts a landlord's ability to use or consider income-qualifying methods, credit scores,
13 credit reports, eviction or property damage history, or criminal history, according to such landlord's
14 own customarily applied criteria, or prohibits landlords from requesting such information, to
15 determine whether to rent or lease a property to a prospective tenant;

16 (3) Limits the amount of security deposit a landlord may require from a prospective tenant;

17 (4) Requires tenants to automatically receive a right of first refusal.

18 2. This section shall not be construed as prohibiting any county or city, or any authority
19 created by a county or city for that purpose, from:

20 (1) Regulating in any way property belonging to that city, county, or authority;

21 (2) Entering into ~~voluntary~~ agreements with private persons which regulate the amount of
22 rent charged for subsidized rental properties; or

23 (3) Enacting ordinances or resolutions restricting rent for properties assisted with
24 community development block grant funds."; and

25
26 Further amend said bill and page, Section 534.157, Line 4, by inserting after all of said section and
27 line the following:

28
29 "534.602. 1. For purposes of this section, the following terms mean:

30 (1) "Petitioner", the property owner of property containing a residential dwelling who has
31 filed a verified petition under the provisions of this section;

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1 (2) "Respondent", the person or persons unlawfully occupying property containing a
2 residential dwelling, against whom a verified petition has been filed;

3 (3) "Unlawful occupant" or "unlawful occupants", any person or persons who detain,
4 occupy, or trespass on property containing a residential dwelling without the permission of the
5 property owner, who otherwise have no legal right to occupy the property under state law, and who
6 are not afforded any protections provided to a tenant under state law.

7 2. Notwithstanding any provision of this chapter to the contrary, a property owner or his or
8 her authorized agent may seek relief for the removal of a person or persons unlawfully occupying
9 property containing a residential dwelling under this section by filing a verified petition in the
10 county or city not within a county where the property is located.

11 3. Except as provided in subsection 6 of this section, clerks under the supervision of a
12 circuit clerk shall explain to the property owner or his or her authorized agent not represented by
13 counsel the procedures for filing all forms and pleadings necessary for the presentation of his or her
14 petition to the court. Notice of the fact that clerks will provide such assistance shall be
15 conspicuously posted in the clerks' offices. The location of the office where a petition can be filed
16 shall be conspicuously posted in the court building. The performance of duties prescribed in this
17 section shall not constitute the practice of law as defined in section 484.010. All duties of the clerk
18 prescribed in this section shall be performed without cost to the litigants. The supreme court may
19 promulgate rules as necessary to govern conduct of court clerks under this section and shall provide
20 forms for petitions and written instructions on filling out all forms and pleadings necessary for the
21 presentation of the petition to the court.

22 4. Filing fees and court costs under this section shall be the same as filing fees and court
23 costs required when filing a claim in associate circuit court.

24 5. (1) Upon the filing of a verified petition under this section, and for good cause shown in
25 the petition, the court shall immediately issue an ex parte order to remove an unlawful occupant or
26 unlawful occupants from property containing a residential dwelling. The assertion of sufficient
27 evidence that the person or persons are unlawfully occupying property containing a residential
28 dwelling shall constitute good cause for purposes of this section. The petition shall set forth the
29 following:

30 (a) The petitioner is the property owner or authorized agent of the property owner;

31 (b) The property that is being occupied includes a residential dwelling;

32 (c) An unlawful occupant or unlawful occupants have entered and remain or continue to
33 reside on the property owner's property;

34 (d) The real property was not open to members of the public at the time the unlawful
35 occupant or unlawful occupants entered;

36 (e) The unlawful occupant or unlawful occupants are occupying the property without the
37 permission of the property owner and are not guests of the property owner nor otherwise authorized
38 to make use of the property;

1 (f) The property owner has directed the unlawful occupant or unlawful occupants to leave
2 the property and the unlawful occupant or unlawful occupants have failed or refused to vacate the
3 premises;

4 (g) The property has not been leased to any person for three consecutive months, and the
5 unlawful occupant or unlawful occupants are not current or former tenants of the property pursuant
6 to any agreement with the property owner;

7 (h) The unlawful occupant or unlawful occupants are not immediate family members of the
8 property owner; and

9 (i) There is no pending litigation related to the real property between the property owner and
10 any known unlawful occupant or unlawful occupants.

11 (2) An ex parte order to have the unlawful occupant or unlawful occupants removed from
12 property containing a residential dwelling entered by the court shall take effect when entered and
13 shall remain in effect until there is valid service of process and a hearing is held on the motion.
14 Such hearing shall be held within twenty-four hours of filing the verified petition unless good cause
15 is shown for a delay. The court shall deny the ex parte order and dismiss the petition if the
16 petitioner is not authorized to seek relief or does not show good cause.

17 (3) Failure to serve an ex parte order on the person or persons who are unlawfully
18 occupying property containing a residential dwelling shall not affect the validity or enforceability of
19 such order.

20 (4) If an ex parte order is granted under this section, a court hearing concerning the removal
21 of an unlawful occupant under this section shall be held within twenty-one days of the order
22 granting the ex parte removal, except for good cause shown.

23 6. (1) If the court is unavailable after business hours or on holidays or weekends, a verified
24 petition for removal of the unlawful occupant or unlawful occupants from property under this
25 section may be filed before any available court in the city or county having jurisdiction to hear the
26 petition under the guidelines developed under this subdivision (3) of this subsection.

27 (2) All papers in connection with the filing of a petition or the granting of an ex parte order
28 under this section shall be certified by such court or the clerk within the next regular business day to
29 the circuit court having jurisdiction to hear the petition.

30 (3) The supreme court shall develop guidelines that ensure a verified petition under this
31 section may be filed on holidays, evenings, and weekends.

32 7. Any ex parte order granted under this section shall be to protect the petitioner from
33 trespass by an unlawful occupant or unlawful occupants and may include such terms as the court
34 reasonably deems necessary to ensure the petitioner's safety including, but not limited to:

35 (1) Restraining the respondent from committing or threatening to commit any act of
36 violence, molestation, stalking, assault, or disturbing the peace of the petitioner or the petitioner's
37 property, including violence against a pet;

38 (2) Restraining the respondent from entering the petitioner's premises or dwelling unit or
39 coming within a certain proximity of the petitioner's premises or dwelling unit; and

1 (3) Restraining the respondent from communicating with the petitioner in any manner or
2 through any medium.

3 8. When the court has, after a hearing on the petition, issued an order for relief to
4 permanently exclude an unlawful occupant or unlawful occupants from the petitioner's property, it
5 may additionally:

6 (1) Permanently restrain the respondent from committing or threatening to commit any act
7 of violence, molestation, stalking, assault, or disturbing the peace of the petitioner or the petitioner's
8 property, including violence against a pet;

9 (2) Permanently restrain the respondent from entering the petitioner's premises or dwelling
10 unit or coming within a certain proximity of petitioner's premises or dwelling unit;

11 (3) Permanently restrain the respondent from communicating with the petitioner in any
12 manner or through any medium;

13 (4) Permanently expel the respondent from occupying petitioner's premises or dwelling unit;

14 (5) Permanently expel the respondent's personal property from petitioner's premises or
15 dwelling unit;

16 (6) Order the respondent to pay all costs of repair to the petitioner's premises or dwelling
17 unit relating to damages caused by the respondent;

18 (7) Order the respondent to pay all costs associated with service of any ex parte order
19 authorized against the respondent; or

20 (8) Order the respondent to pay court costs.

21 9. A verified petition seeking an ex parte order under this section shall contain allegations
22 relating to those orders and shall pray for the orders desired.

23 10. Once the court grants the order under this section, the sheriff of the county or city not
24 within a county in which the property is located shall enforce such order by removing the person or
25 persons unlawfully occupying the property.

26 11. If appropriate, the sheriff may arrest any person found in the dwelling for trespass,
27 outstanding warrants, or any other legal cause.

28 12. The sheriff is entitled to the same fee for the service of the ex parte order granted under
29 this section as if the sheriff were serving a writ of possession under section 57.280. After the sheriff
30 serves the order, the property owner or authorized agent may request that the sheriff stand by to keep
31 the peace while the property owner or agent of the owner changes the locks and removes the
32 personal property of the unlawful occupants from the premises to or near the property line. When
33 such a request is made, the sheriff may charge a reasonable hourly rate, and the person requesting
34 the sheriff to stand by and keep the peace is responsible for paying the reasonable hourly rate set by
35 the sheriff. The sheriff is not liable to the unlawful occupant or occupants or to any other party for
36 the loss, destruction, or damage of property. The property owner or his or her authorized agent is
37 not liable to an unlawful occupant or any other party for the loss, destruction, or damage to the
38 personal property unless the removal was wrongful.

1 13. A person may bring a civil cause of action if the person was removed from the property
2 under this section without just cause. Such person may seek restored possession to the real property,
3 actual damages to personal property when personal property was removed, statutory damages in the
4 amount of one thousand dollars, and reimbursement of court costs. Any damages authorized under
5 this subsection shall be offset by any damages to the real property inflicted by the person who was
6 removed from the real property without just cause. Such damages to real property shall be proven
7 by the property owner. Awards of actual damages shall not exceed the value of the damaged
8 personal property.

9 14. The provisions of this section do not limit the rights of a property owner or limit the
10 authority of a law enforcement officer to arrest an unlawful occupant for trespassing, vandalism,
11 theft, or other crimes.

12 15. All proceedings under this section are in addition to any other available civil or criminal
13 remedies, unless otherwise specifically provided herein.

14 16. (1) The court shall retain jurisdiction over the ex parte order or full order of protection
15 issued under this section for its entire duration. The court may schedule compliance review
16 hearings to monitor the respondent's compliance with the order.

17 (2) The terms of the ex parte order or full order of protection issued under this section are
18 enforceable by all remedies available at law for the enforcement of a judgment, and the court may
19 punish a respondent who willfully violates the ex parte order to the same extent as provided by law
20 for contempt of the court in any other suit or proceeding cognizable by the court.

21 534.604. 1. When a law enforcement officer has probable cause to believe that a party,
22 against whom an ex parte order under section 534.602 has been entered and who has notice of such
23 order entered, has committed an act in violation of such order, the officer shall arrest the offending
24 party-respondent regardless of whether the violation occurred in the presence of the arresting officer.

25 2. In an arrest in which a law enforcement officer acted in good faith reliance on this
26 section, the arresting and assisting law enforcement officers and their employing entities and
27 superiors shall be immune from liability in any civil action alleging false arrest, false imprisonment,
28 or malicious prosecution.

29 3. A violation of the terms and conditions of an ex parte order under section 534.602 shall
30 be a class E felony. For the purposes of this subsection, in addition to the notice provided by actual
31 service of the order, a party is deemed to have notice of an ex parte order under section 534.602 if:

32 (1) The law enforcement officer responding to a call of a violation of an ex parte order
33 under section 534.602 presented a copy of the ex parte order to the respondent; or

34 (2) Notice is given by actual communication to the respondent in a manner reasonably likely
35 to advise the respondent.

36 4. Nothing in this section shall be interpreted as creating a private cause of action for
37 damages to enforce the provisions set forth herein.

38 569.200. 1. A person commits the offense of criminal mischief if he or she unlawfully
39 detains, occupies, or trespasses upon a residential dwelling.

1 2. The offense of criminal mischief is a class E felony."; and

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