

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 595 & 343, Section 441.043, Page 2,  
2 Line 24, by inserting after all of said line the following:

3  
4 "534.602. 1. For purposes of this section, the following  
5 terms mean:

6 (1) "Petitioner", the property owner, or an authorized agent  
7 of a property owner, of private noncommercial property [~~containing~~  
8 ~~a residential dwelling~~] who has filed a verified petition under the  
9 provisions of this section;

10 (2) "Respondent", the person or persons unlawfully occupying  
11 private noncommercial property [~~containing a residential dwelling~~],  
12 against whom a verified petition has been filed;

13 (3) "Unlawful occupant" or "unlawful occupants", any person  
14 or persons who detain, occupy, or trespass on private noncommercial  
15 property [~~containing a residential dwelling~~] without the permission  
16 of the property owner, who otherwise have no legal right to occupy  
17 the property under state law, and who are not afforded any  
18 protections provided to a tenant under state law.

19 2. Notwithstanding any provision of this chapter to the  
20 contrary, a property owner or his or her authorized agent may seek  
21 relief for the removal of a person or persons unlawfully occupying  
22 private noncommercial property [~~containing a residential dwelling~~]  
23 under this section by filing a verified petition in the county or  
24 city not within a county where the property is located.

25 3. Except as provided in subsection 6 of this section, clerks  
26 of the court under the supervision of a circuit clerk shall explain  
27 to the property owner or his or her authorized agent not  
28 represented by counsel the procedures for filing all forms and  
29 pleadings necessary for the presentation of his or her petition to  
30 the court. Notice of the fact that clerks will provide such

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 assistance shall be conspicuously posted in the clerks' offices.  
 2 The location of the office where a petition can be filed shall be  
 3 conspicuously posted in the court building. The performance of  
 4 duties prescribed in this section shall not constitute the practice  
 5 of law as defined in section 484.010. All duties of the clerk  
 6 prescribed in this section shall be performed without cost to the  
 7 litigants. The supreme court may promulgate rules as necessary to  
 8 govern conduct of court clerks under this section and shall provide  
 9 forms for petitions and written instructions on filling out all  
 10 forms and pleadings necessary for the presentation of the petition  
 11 to the court.

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

15 5. (1) Upon the filing of a verified petition under this  
 16 section, and for good cause shown in the verified petition, the  
 17 court shall immediately issue an ex parte order to remove the  
 18 respondent. The assertion of sufficient evidence that the person  
 19 or persons are unlawfully occupying private noncommercial property  
 20 ~~【containing a residential dwelling】~~ shall constitute good cause for  
 21 purposes of this section. The verified petition shall set forth  
 22 the following:

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

25 ~~【(b) The property that is being occupied includes a  
 26 residential dwelling;】~~

27 ~~-(e)-】~~ An unlawful occupant or unlawful occupants have entered  
 28 and remain or continue to reside on the property owner's property;

29 ~~【-(d)-】~~ (c) The real property was not open to members of the  
 30 public at the time the unlawful occupant or unlawful occupants  
 31 entered;

32 ~~【-(e)-】~~ (d) The unlawful occupant or unlawful occupants are  
 33 occupying the property without the permission of the property owner  
 34 and are not guests of the property owner nor otherwise authorized  
 35 to make use of the property;

36 ~~【-(f)-】~~ (e) The property owner has directed the unlawful  
 37 occupant or unlawful occupants to leave the property and the  
 38 unlawful occupant or unlawful occupants have failed or refused to  
 39 vacate the ~~【premises】~~ property;

1       ~~[(g)]~~ (f) The property has not been leased to any person for  
2 three consecutive months, and the unlawful occupant or unlawful  
3 occupants are not current or former tenants of the property  
4 pursuant to any agreement with the property owner;

5       ~~[(h)]~~ (g) The unlawful occupant or unlawful occupants are not  
6 immediate family members of the property owner; and

7       ~~[(i)]~~ (h) There is no pending litigation related to the real  
8 property between the property owner and any known unlawful occupant  
9 or unlawful occupants.

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

20       (3) Failure to serve an ex parte order on the respondent  
21 shall not affect the validity or enforceability of such order.

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

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

31       (2) Restraining the respondent from entering the petitioner's  
32 ~~[premises]~~ property or dwelling unit or coming within a certain  
33 proximity of the petitioner's ~~[premises]~~ property or dwelling unit;  
34 and

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

37       7. When the court has, after a hearing on the petition,  
38 issued an order for relief to permanently exclude an unlawful

1 occupant or unlawful occupants from the petitioner's property, it  
2 may additionally:

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

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

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

13 (4) Permanently expel the respondent from occupying the  
14 petitioner's [~~premises~~] property or dwelling unit;

15 (5) Permanently expel the respondent's personal property from  
16 the petitioner's [~~premises~~] property or dwelling unit;

17 (6) Order the respondent to pay all costs of repair to the  
18 petitioner's [~~premises~~] property or dwelling unit relating to  
19 damages caused by the respondent;

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

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

23 8. A verified petition seeking an ex parte order under this  
24 section shall contain allegations relating to those orders and  
25 shall pray for the orders desired.

26 9. Once the court grants an order under this section, the  
27 sheriff of the county or city not within a county in which the  
28 property is located shall enforce such order by removing the  
29 respondent from the property.

30 10. If appropriate, the sheriff may arrest any person found  
31 [~~in the dwelling~~] on the property for trespass, outstanding  
32 warrants, or any other legal cause.

33 11. The sheriff is entitled to the same fee for the service  
34 of the ex parte order granted under this section as if the sheriff  
35 were serving a writ of possession under section 57.280. After the  
36 sheriff serves the order, the property owner or authorized agent  
37 may request that the sheriff stand by to keep the peace while the  
38 property owner or agent of the property owner changes the locks if  
39 the property contains a residential dwelling and removes the

1 ~~[personal]~~ property, including personal property, of the unlawful  
2 occupants from the premises to or near the property line. When  
3 such a request is made, the sheriff may charge a reasonable hourly  
4 rate, and the person requesting the sheriff to stand by and keep  
5 the peace is responsible for paying the reasonable hourly rate set  
6 by the sheriff. The sheriff shall not be liable to the unlawful  
7 occupant or occupants or to any other party for the loss,  
8 destruction, or damage of property. The property owner or his or  
9 her authorized agent shall not be liable to an unlawful occupant or  
10 any other party for the loss, destruction, or damage to the  
11 ~~[personal]~~ property, including personal property, unless the  
12 removal was wrongful.

13       12. A person may bring a civil cause of action if the person  
14 was removed from the property under this section without just  
15 cause. Such person may seek restored possession to the real  
16 property, actual damages to ~~[personal]~~ property, including personal  
17 property when ~~[personal]~~ such property was removed, statutory  
18 damages in the amount of one thousand dollars, and reimbursement of  
19 court costs. Any damages authorized under this subsection shall be  
20 offset by any damages to the real property inflicted by the person  
21 who was removed from the real property without just cause. Such  
22 damages to real property shall be proven by the property owner.  
23 Awards of actual damages shall not exceed the value of the damaged  
24 ~~[personal]~~ property.

25       13. The provisions of this section do not limit the rights of  
26 a property owner or limit the authority of a law enforcement  
27 officer to arrest an unlawful occupant for trespassing, vandalism,  
28 theft, or other crimes.

29       14. All proceedings under this section are in addition to any  
30 other available civil or criminal remedies, unless otherwise  
31 specifically provided in this section.

32       15. (1) The court shall retain jurisdiction over the ex  
33 parte order or full order of protection issued under this section  
34 for its entire duration. The court may schedule compliance review  
35 hearings to monitor the respondent's compliance with the order.

36       (2) The terms of the ex parte order or full order of  
37 protection issued under this section are enforceable by all  
38 remedies available at law for the enforcement of a judgment, and  
39 the court may punish a respondent who willfully violates the ex

1 parte order to the same extent as provided by law for contempt of  
2 the court in any other suit or proceeding cognizable by the  
3 court."; and

4

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