

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

Offered By

1 AMEND House Committee Substitute for House Bill No. 1464, Page 25, Section 339.100, Line 165, by  
2 inserting after said section and line the following:  
3

4 "455.010. As used in this chapter, unless the context clearly indicates otherwise, the following terms  
5 shall mean:

6 (1) "Abuse", includes but is not limited to the occurrence of any of the following acts, attempts or  
7 threats against a person who may be protected pursuant to this chapter, except abuse shall not include abuse  
8 inflicted on a child by accidental means by an adult household member or discipline of a child, including  
9 spanking, in a reasonable manner:

10 (a) "Abusing a pet", purposely or knowingly causing, attempting to cause, or threatening to cause  
11 physical injury to a pet with the intent to control, punish, intimidate, or distress the petitioner;

12 (b) "Assault", purposely or knowingly placing or attempting to place another in fear of physical  
13 harm;

14 (c) "Battery", purposely or knowingly causing physical harm to another with or without a deadly  
15 weapon;

16 (d) "Coercion", compelling another by force or threat of force to engage in conduct from which the  
17 latter has a right to abstain or to abstain from conduct in which the person has a right to engage;

18 (e) "Harassment", engaging in a purposeful or knowing course of conduct involving more than one  
19 incident that alarms or causes distress to an adult or child and serves no legitimate purpose. The course of  
20 conduct must be such as would cause a reasonable adult or child to suffer substantial emotional distress and  
21 must actually cause substantial emotional distress to the petitioner or child. Such conduct might include, but  
22 is not limited to:

23 a. Following another about in a public place or places;

24 b. Peering in the window or lingering outside the residence of another; but does not include  
25 constitutionally protected activity;

26 (f) "Sexual assault", causing or attempting to cause another to engage involuntarily in any sexual act  
27 by force, threat of force, duress, or without that person's consent;

28 (g) "Unlawful imprisonment", holding, confining, detaining or abducting another person against that  
29 person's will;

30 (2) "Adult", any person [~~seventeen~~] eighteen years of age or older or otherwise emancipated;

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- 1 (3) "Child", any person under ~~seventeen~~ eighteen years of age unless otherwise emancipated;
- 2 (4) "Court", the circuit or associate circuit judge or a family court commissioner;
- 3 (5) "Domestic violence", abuse or stalking committed by a family or household member, as such
- 4 terms are defined in this section;
- 5 (6) "Ex parte order of protection", an order of protection issued by the court before the respondent
- 6 has received notice of the petition or an opportunity to be heard on it;
- 7 (7) "Family" or "household member", spouses, former spouses, any person related by blood or
- 8 marriage, persons who are presently residing together or have resided together in the past, any person who is
- 9 or has been in a continuing social relationship of a romantic or intimate nature with the victim, and anyone
- 10 who has a child in common regardless of whether they have been married or have resided together at any
- 11 time;
- 12 (8) "Full order of protection", an order of protection issued after a hearing on the record where the
- 13 respondent has received notice of the proceedings and has had an opportunity to be heard;
- 14 (9) "Order of protection", either an ex parte order of protection or a full order of protection;
- 15 (10) "Pending", exists or for which a hearing date has been set;
- 16 (11) "Pet", a living creature maintained by a household member for companionship and not for
- 17 commercial purposes;
- 18 (12) "Petitioner", a family or household member who has been a victim of domestic violence, or any
- 19 person who has been the victim of stalking or sexual assault, or a person filing on behalf of a child pursuant
- 20 to section 455.503 who has filed a verified petition pursuant to the provisions of section 455.020 or section
- 21 455.505;
- 22 (13) "Respondent", the family or household member alleged to have committed an act of domestic
- 23 violence, or person alleged to have committed an act of stalking or sexual assault, against whom a verified
- 24 petition has been filed or a person served on behalf of a child pursuant to section 455.503;
- 25 (14) "Sexual assault", as defined under subdivision (1) of this section;
- 26 (15) "Stalking", is when any person purposely engages in an unwanted course of conduct that causes
- 27 alarm to another person, or a person who resides together in the same household with the person seeking the
- 28 order of protection when it is reasonable in that person's situation to have been alarmed by the conduct. As
- 29 used in this subdivision:
- 30 (a) "Alarm", to cause fear of danger of physical harm; and
- 31 (b) "Course of conduct", two or more acts that serve no legitimate purpose including, but not limited
- 32 to, acts in which the stalker directly, indirectly, or through a third party follows, monitors, observes, surveils,
- 33 threatens, or communicates to a person by any action, method, or device.
- 34 455.035. 1. Upon the filing of a verified petition pursuant to sections 455.010 to 455.085 and for
- 35 good cause shown in the petition, the court may immediately issue an ex parte order of protection. An
- 36 immediate and present danger of domestic violence to the petitioner or the child on whose behalf the petition
- 37 is filed shall constitute good cause for purposes of this section. An ex parte order of protection entered by the
- 38 court shall take effect when entered and shall remain in effect until there is valid service of process and a

1 hearing is held on the motion. The court shall deny the ex parte order and dismiss the petition if the  
 2 petitioner is not authorized to seek relief pursuant to section 455.020.

3 2. Failure to serve an ex parte order of protection on the respondent shall not affect the validity or  
 4 enforceability of such order. If the respondent is less than [~~seventeen~~] eighteen years of age, unless otherwise  
 5 emancipated, service of process shall be made upon a custodial parent or guardian of the respondent, or upon  
 6 a guardian ad litem appointed by the court, requiring that the person appear and bring the respondent before  
 7 the court at the time and place stated.

8 3. If an ex parte order is entered and the respondent is less than [~~seventeen~~] eighteen years of age,  
 9 the court shall transfer the case to juvenile court for a hearing on a full order of protection. The court shall  
 10 appoint a guardian ad litem for any such respondent not represented by a parent or guardian.

11 455.513. 1. The court may immediately issue an ex parte order of protection upon the filing of a  
 12 verified petition under sections 455.500 to 455.538, for good cause shown in the petition, and upon finding  
 13 that:

14 (1) No prior order regarding custody involving the respondent and the child is pending or has been  
 15 made; or

16 (2) The respondent is less than [~~seventeen~~] eighteen years of age.

17  
 18 An immediate and present danger of domestic violence, including danger to the child's pet, stalking, or sexual  
 19 assault to a child shall constitute good cause for purposes of this section. An ex parte order of protection  
 20 entered by the court shall be in effect until the time of the hearing. The court shall deny the ex parte order  
 21 and dismiss the petition if the petitioner is not authorized to seek relief pursuant to section 455.505.

22 2. Upon the entry of the ex parte order of protection, the court shall enter its order appointing a  
 23 guardian ad litem or court-appointed special advocate to represent the child victim.

24 3. If the allegations in the petition would give rise to jurisdiction under section 211.031, the court  
 25 may direct the children's division to conduct an investigation and to provide appropriate services. The  
 26 division shall submit a written investigative report to the court and to the juvenile officer within thirty days of  
 27 being ordered to do so. The report shall be made available to the parties and the guardian ad litem or court-  
 28 appointed special advocate.

29 4. If the allegations in the petition would give rise to jurisdiction under section 211.031 because the  
 30 respondent is less than [~~seventeen~~] eighteen years of age, the court may issue an ex parte order and shall  
 31 transfer the case to juvenile court for a hearing on a full order of protection. Service of process shall be made  
 32 pursuant to section 455.035."; and

33  
 34 Further amend said bill, Page 26, Section 491.075, Line 32, by inserting after said section and line the  
 35 following:

36  
 37 "491.641. 1. (1) There is hereby created in the state treasury the "Pretrial Witness Protection  
 38 Services Fund", which shall consist of moneys collected under this section. The state treasurer shall be  
 39 custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve

1 disbursements. The fund shall be a dedicated fund and money in the fund shall be used solely by the  
2 department of public safety for the purposes of witness protection services pursuant to this section.

3 (2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the  
4 fund at the end of the biennium shall not revert to the credit of the general revenue fund.

5 (3) The state treasurer shall invest moneys in the fund in the same manner as other funds are  
6 invested. Any interest and moneys earned on such investments shall be credited to the fund.

7 2. Any law enforcement agency and any prosecuting or circuit attorney's office may provide for the  
8 security of witnesses, potential witnesses, and their immediate families in criminal proceedings instituted or  
9 investigations pending against a person alleged to have engaged in a violation of state law. Providing for  
10 witnesses may include provision of housing facilities and for the health, safety, and welfare of such witnesses  
11 and their immediate families, if testimony by such a witness might subject the witness or a member of his or  
12 her immediate family to danger of bodily injury, and may continue so long as such danger exists. Subject to  
13 appropriations from the general assembly for the purposes provided for in this section, funds may be  
14 appropriated from the pretrial witness protection services fund.

15 3. The department of public safety may authorize funds to be disbursed to law enforcement agencies  
16 and prosecuting or circuit attorneys' offices for the purchase, rental, or modification of protected housing  
17 facilities for the purpose of this section. The law enforcement agency or prosecuting or circuit attorney's  
18 office may contract with any department of federal or state government to obtain or to provide the facilities or  
19 services to carry out this section.

20 4. The department of public safety may authorize expenditures for law enforcement agencies and  
21 prosecuting or circuit attorneys' offices to provide for the health, safety, and welfare of witnesses and victims,  
22 and the families of such witnesses and victims, whenever testimony from, or a willingness to testify by, such  
23 a witness or victim would place the life of such person, or a member of his or her family or household, in  
24 jeopardy. ~~[A law enforcement agency shall submit an application to the department of public safety which~~  
25 ~~shall include, but not necessarily be limited to:~~

26 ~~(1) Statement of conditions which qualify persons for protection;~~

27 ~~(2) Precise methods the originating agency will use to provide protection, including relocation of~~  
28 ~~persons and reciprocal agreements with other law enforcement agencies;~~

29 ~~(3) Statement of the projected costs over a specified period of time;~~

30 ~~(4) If the requesting agency expects the person to provide evidence in any court of competent~~  
31 ~~jurisdiction:~~

32 ~~(a) Brief statement of the anticipated evidence;~~

33 ~~(b) Certification of a reasonable belief in the person's competency to give evidence;~~

34 ~~(c) Statement of facts supporting the law enforcement agency's belief in the accuracy of the~~  
35 ~~evidence; and~~

36 ~~(d) Any offer made in exchange for the person agreeing to give evidence.]~~ Law enforcement  
37 agencies and prosecuting or circuit attorneys' offices seeking reimbursement shall submit an application to be  
38 approved by the department of public safety.

1           5. The application and any associated documents submitted in subsection 4 of this section shall be a  
 2 closed record and not subject to disclosure under the provisions of chapter 610. Any information contained  
 3 in the application~~[, or]~~ and any other documents, which reveals or could reveal the location or address of the  
 4 individual or individuals who qualify for services under this section shall be confidential and shall not be  
 5 disclosed by any entity."; and

6  
 7 Further amend said bill and page, Section 492.304, Line 21, by inserting after the word "recording" the  
 8 phrase ", or a current employee of a child assessment center if a child was recorded,"; and

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 10 Further amend said bill, Page 33, Section 542.301, Line 176, by inserting after said section and line the  
 11 following:

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 13           "556.039. Notwithstanding the provisions of section 556.036, prosecutions:

14           (1) Under sections 566.203 to 566.211 involving a person nineteen years of age or older; or

15           (2) Under section 566.203 or 566.206 involving a person under nineteen years of age

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 17 shall be commenced no later than twenty years after the commission of the offense."; and

18  
 19 Further amend said bill, Page 59, Section 589.414, Line 207, by inserting after said section and line the  
 20 following:

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 22           "610.131. 1. Notwithstanding the provisions of section 610.140 to the contrary, a person who ~~[at the~~  
 23 ~~time of the offense was under the age of eighteen, and]~~ has pleaded guilty to or has been convicted ~~[for]~~ of  
 24 the offense of prostitution under section 567.020 may apply to the court in which he or she pled guilty or was  
 25 sentenced for an order to expunge from all official records all recordations of his or her arrest, plea, trial, or  
 26 conviction. If the court determines that such person ~~[was under the age of eighteen or]~~ was acting under the  
 27 coercion, as defined in section 566.200, of an agent when committing the offense that resulted in a plea of  
 28 guilty or conviction under section 567.020, the court shall enter an order of expungement.

29           2. Upon granting of the order of expungement, the records and files maintained in any administrative  
 30 or court proceeding in an associate or circuit division of the circuit court under this section shall be  
 31 confidential and only available to the parties or by order of the court for good cause shown. The effect of  
 32 such order shall be to restore such person to the status he or she occupied prior to such arrest, plea, or  
 33 conviction and as if such event had never taken place. No person as to whom such order has been entered  
 34 shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false  
 35 statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction, or  
 36 expungement in response to any inquiry made of him or her for any purpose whatsoever and no such inquiry  
 37 shall be made for information relating to an expungement under this section."; and

38  
 39 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.