

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 2517, Page 3, Section 407.3600, Line
2 76, by inserting after all of said section and line the following:

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

5 (1) "Authorized agent", includes but is not limited to executors, administrators, trustees,
6 and verified heirs;

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

10 [(2)] (3) "Respondent", the person or persons unlawfully occupying private
11 noncommercial property [~~containing a residential dwelling~~], against whom a verified petition has
12 been filed;

13 [(3)] (4) "Unlawful occupant" or "unlawful occupants", any person or persons who
14 detain, occupy, or trespass on private noncommercial property [~~containing a residential dwelling~~]
15 without the permission of the property owner, who otherwise have no legal right to occupy the
16 property under state law, and who are not afforded any protections provided to a tenant under
17 state law.

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

23 3. Except as provided in subsection 6 of this section, clerks of the court under the
24 supervision of a circuit clerk shall explain to the property owner or his or her authorized agent
25 not represented by counsel the procedures for filing all forms and pleadings necessary for the
26 presentation of his or her petition to the court. Notice of the fact that clerks will provide such
27 assistance shall be conspicuously posted in the clerks' offices. The location of the office where a
28 petition can be filed shall be conspicuously posted in the court building. The performance of
29 duties prescribed in this section shall not constitute the practice of law as defined in section
30 484.010. All duties of the clerk prescribed in this section shall be performed without cost to the

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1 litigants. The supreme court may promulgate rules as necessary to govern conduct of court
 2 clerks under this section and shall provide forms for petitions and written instructions on filling
 3 out all forms and pleadings necessary for the presentation of the petition to the court.

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

6 5. (1) Upon the filing of a verified petition under this section, and for good cause shown
 7 in the verified petition, the court shall immediately issue an ex parte order to remove the
 8 respondent. The assertion of sufficient evidence that the person or persons are unlawfully
 9 occupying private noncommercial property [~~containing a residential dwelling~~] shall constitute
 10 good cause for purposes of this section. The verified petition shall set forth the following:

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

12 (b) [~~The property that is being occupied includes a residential dwelling;~~

13 (e)] An unlawful occupant or unlawful occupants have entered and remain or continue to
 14 reside on the property owner's property;

15 [(d)] (c) The real property was not open to members of the public at the time the
 16 unlawful occupant or unlawful occupants entered;

17 [(e)] (d) The unlawful occupant or unlawful occupants are occupying the property
 18 without the permission of the property owner and are not guests of the property owner nor
 19 otherwise authorized to make use of the property;

20 [(f)] (e) The property owner has directed the unlawful occupant or unlawful occupants to
 21 leave the property and the unlawful occupant or unlawful occupants have failed or refused to
 22 vacate the [~~premises~~] property;

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

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

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

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

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

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

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

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

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

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

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

18 (2) Permanently restrain the respondent from entering the petitioner's [~~premises~~]
19 property or dwelling unit or coming within a certain proximity of the petitioner's [~~premises~~]
20 property or dwelling unit;

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

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

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

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

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

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

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

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

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

1 11. The sheriff is entitled to the same fee for the service of the ex parte order granted
2 under this section as if the sheriff were serving a writ of possession under section 57.280. After
3 the sheriff serves the order, the property owner or authorized agent may request that the sheriff
4 stand by to keep the peace while the property owner or agent of the property owner changes the
5 locks if the property contains a residential dwelling and removes the ~~[personal]~~ property,
6 including personal property, of the unlawful occupants from the premises to or near the property
7 line. When such a request is made, the sheriff may charge a reasonable hourly rate, and the
8 person requesting the sheriff to stand by and keep the peace is responsible for paying the
9 reasonable hourly rate set by the sheriff. The sheriff shall not be liable to the unlawful occupant
10 or occupants or to any other party for the loss, destruction, or damage of property. The property
11 owner or his or her authorized agent shall not be liable to an unlawful occupant or any other
12 party for the loss, destruction, or damage to the ~~[personal]~~ property, including personal property,
13 unless the removal was wrongful.

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

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

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

27 15. (1) The court shall retain jurisdiction over the ex parte order or full order of
28 protection issued under this section for its entire duration. The court may schedule compliance
29 review hearings to monitor the respondent's compliance with the order.

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

34 534.604. 1. When a law enforcement officer has probable cause to believe that a party,
35 against whom an ex parte order under section 534.602 has been entered and who has notice of
36 such order entered, has committed an act in violation of such order, the law enforcement officer
37 shall arrest the offending party-respondent regardless of whether the violation occurred in the
38 presence of the arresting law enforcement officer.

1 2. In an arrest in which a law enforcement officer acted in good faith reliance on this
2 section, the arresting and assisting law enforcement officers and ~~[their]~~ the arresting and
3 assisting law enforcement officer's employing entities and superiors shall be immune from
4 liability in any civil action alleging false arrest, false imprisonment, or malicious prosecution.

5 3. A violation of the terms and conditions of an ex parte order under section 534.602
6 shall be a class A misdemeanor. For the purposes of this subsection, in addition to the notice
7 provided by actual service of the order, a party is deemed to have notice of an ex parte order
8 under section 534.602 if:

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

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

13 4. Nothing in this section shall be interpreted as creating a civil cause of action for
14 damages to enforce the provisions set forth in this section.

15 569.200. 1. A person commits the offense of criminal mischief if ~~[he or she]~~ the person
16 unlawfully detains, occupies, or trespasses upon a ~~[residential dwelling]~~ private noncommercial
17 property.

18 2. The offense of criminal mischief is a class A misdemeanor."; and

19
20 Further amend said bill by amending the title, enacting clause, and intersectional references
21 accordingly.