

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 1357, Page 1, In the Title, Line 3, by
2 deleting the words "punitive damages" and inserting in lieu thereof the words "judicial procedures";
3 and
4

5 Further amend said bill, Page 2, Section 510.263, Line 53, by inserting after all of said section and
6 line the following:
7

8 "516.371. Notwithstanding any provision of law to the contrary, there shall be [a ten-year]
9 no statute of limitation on any action for damages for personal injury caused to an individual by a
10 person within the third degree of affinity or consanguinity who subjects such individual to sexual
11 contact, as defined in section 566.010.

12 537.046. 1. As used in this section, the following terms mean:

13 (1) "Childhood sexual abuse", any act committed by the defendant against the plaintiff which
14 act occurred when the plaintiff was under the age of eighteen years and which act would have been a
15 violation of section 566.030, 566.040, 566.050, 566.060, 566.070, 566.080, 566.090, 566.100,
16 566.110, or 566.120, or section 568.020;

17 (2) "Injury" or "illness", either a physical injury or illness or a psychological injury or
18 illness. A psychological injury or illness need not be accompanied by physical injury or illness. 2.
19 Any action to recover damages from injury or illness caused by childhood sexual abuse in an action
20 brought pursuant to this section [shall be commenced within ten years of the plaintiff attaining the
21 age of twenty-one or within three years of the date the plaintiff discovers, or reasonably should have
22 discovered, that the injury or illness was caused by childhood sexual abuse, whichever later occurs]
23 may be commenced at any time.

24 3. This section shall apply to any action commenced on or after August 28, [2004] 2012,
25 including any action which would have been barred by the application of the statute of limitation
26 applicable prior to that date."; and
27

28 Further amend said bill, Page 4, Section 537.675, Line 61, by inserting after all of said section and
29 line the following:
30

31 "556.037. Notwithstanding the provisions of section 556.036, prosecutions for unlawful
32 sexual offenses involving a person eighteen years of age or under [must be commenced within thirty
33 years after the victim reaches the age of eighteen unless the prosecutions are for forcible rape,
34 attempted forcible rape, forcible sodomy, kidnapping, or attempted forcible sodomy in which case
35 such prosecutions] may be commenced at any time.

36 568.060. 1. As used in this section, the following terms shall mean:

Action Taken _____ Date _____

Action Taken _____ Date _____

1 (1) "Abuse", the infliction of physical, sexual, or mental injury against a child by any person
2 eighteen years of age or older. For purposes of this section, abuse shall not include injury inflicted
3 on a child by accidental means by a person with care, custody, or control of the child, or discipline of
4 a child by a person with care, custody, or control of the child, including spanking, in a reasonable
5 manner;

6 (2) "Abusive head trauma", a serious physical injury to the head or brain caused by any
7 means, including but not limited to shaking, jerking, pushing, pulling, slamming, hitting, or kicking;

8 (3) "Mental injury", an injury to the intellectual or psychological capacity or the emotional
9 condition of a child as evidenced by an observable and substantial impairment of the ability of the
10 child to function within his or her normal range of performance or behavior;

11 (4) "Neglect", the failure to provide, by those responsible for the care, custody, and control
12 of a child under the age of eighteen years, the care reasonable and necessary to maintain the physical
13 and mental health of the child, when such failure presents a substantial probability that death or
14 physical injury or sexual injury would result;

15 (5) "Physical injury", physical pain, illness, or any impairment of physical condition,
16 including but not limited to bruising, lacerations, hematomas, welts, or permanent or temporary
17 disfigurement and impairment of any bodily function or organ;

18 (6) "Serious emotional injury", an injury that creates a substantial risk of temporary or
19 permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive,
20 or physical condition. Serious emotional injury shall be established by testimony of qualified
21 experts upon the reasonable expectation of probable harm to a reasonable degree of medical or
22 psychological certainty;

23 (7) "Serious physical injury", a physical injury that creates a substantial risk of death or that
24 causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

25 2. A person commits the offense of abuse or neglect of a child if such person knowingly
26 causes a child who is less than eighteen years of age:

27 (1) To suffer physical or mental injury as a result of abuse or neglect; or

28 (2) To be placed in a situation in which the child may suffer physical or mental injury as the
29 result of abuse or neglect.

30 3. A person commits the offense of abuse or neglect of a child if such person recklessly
31 causes a child who is less than eighteen years of age to suffer from abusive head trauma.

32 4. A person does not commit the offense of abuse or neglect of a child by virtue of the sole
33 fact that the person delivers or allows the delivery of a child to a provider of emergency services.

34 5. The offense of abuse or neglect of a child is:

35 (1) A class D felony, without eligibility for probation, parole, or conditional release until the
36 defendant has served no less than one year of such sentence, unless the person has previously been
37 found guilty of a violation of this section or of a violation of the law of any other jurisdiction that
38 prohibits the same or similar conduct or the injury inflicted on the child is a serious emotional injury
39 or a serious physical injury, in which case abuse or neglect of a child is a class B felony, without
40 eligibility for probation or parole until the defendant has served not less than five years of such
41 sentence; or

42 (2) A class A felony if the child dies as a result of injuries sustained from conduct chargeable
43 under the provisions of this section.

44 6. Notwithstanding subsection 5 of this section to the contrary, the offense of abuse or
45 neglect of a child is a class A felony, without eligibility for probation, parole, or conditional release
46 until the defendant has served not less than fifteen years of such sentence, if:

47 (1) The injury is a serious emotional injury or a serious physical injury;

48 (2) The child is less than fourteen years of age; and

1 (3) The injury is the result of sexual abuse or sexual abuse in the first degree as defined
2 under section 566.100 or sexual exploitation of a minor as defined under section 573.023.

3 7. The circuit or prosecuting attorney may refer a person who is suspected of abuse or
4 neglect of a child to an appropriate public or private agency for treatment or counseling so long as
5 the agency has consented to taking such referrals. Nothing in this subsection shall limit the
6 discretion of the circuit or prosecuting attorney to prosecute a person who has been referred for
7 treatment or counseling pursuant to this subsection.

8 8. Nothing in this section shall be construed to alter the requirement that every element of
9 any crime referred to herein must be proven beyond a reasonable doubt.

10 9. Discipline, including spanking administered in a reasonable manner, shall not be
11 construed to be abuse under this section.

12 10. Notwithstanding the provisions of section 556.036, prosecutions for child abuse may be
13 commenced at any time.

14 568.060. 1. As used in this section, the following terms shall mean:

15 (1) "Abuse", the infliction of physical, sexual, or mental injury against a child by any person
16 eighteen years of age or older. For purposes of this section, abuse shall not include injury inflicted
17 on a child by accidental means by a person with care, custody, or control of the child, or discipline of
18 a child by a person with care, custody, or control of the child, including spanking, in a reasonable
19 manner;

20 (2) "Abusive head trauma", a serious physical injury to the head or brain caused by any
21 means, including but not limited to shaking, jerking, pushing, pulling, slamming, hitting, or kicking;

22 (3) "Mental injury", an injury to the intellectual or psychological capacity or the emotional
23 condition of a child as evidenced by an observable and substantial impairment of the ability of the
24 child to function within his or her normal range of performance or behavior;

25 (4) "Neglect", the failure to provide, by those responsible for the care, custody, and control
26 of a child under the age of eighteen years, the care reasonable and necessary to maintain the physical
27 and mental health of the child, when such failure presents a substantial probability that death or
28 physical injury or sexual injury would result;

29 (5) "Physical injury", physical pain, illness, or any impairment of physical condition,
30 including but not limited to bruising, lacerations, hematomas, welts, or permanent or temporary
31 disfigurement and impairment of any bodily function or organ;

32 (6) "Serious emotional injury", an injury that creates a substantial risk of temporary or
33 permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive,
34 or physical condition. Serious emotional injury shall be established by testimony of qualified
35 experts upon the reasonable expectation of probable harm to a reasonable degree of medical or
36 psychological certainty;

37 (7) "Serious physical injury", a physical injury that creates a substantial risk of death or that
38 causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

39 2. A person commits the offense of abuse or neglect of a child if such person knowingly
40 causes a child who is less than eighteen years of age:

41 (1) To suffer physical or mental injury as a result of abuse or neglect; or

42 (2) To be placed in a situation in which the child may suffer physical or mental injury as the
43 result of abuse or neglect.

44 3. A person commits the offense of abuse or neglect of a child if such person recklessly
45 causes a child who is less than eighteen years of age to suffer from abusive head trauma.

46 4. A person does not commit the offense of abuse or neglect of a child by virtue of the sole
47 fact that the person delivers or allows the delivery of a child to a provider of emergency services.

48 5. The offense of abuse or neglect of a child is:

1 (1) A class C felony, without eligibility for probation or parole until the defendant has served
2 no less than one year of such sentence, unless the person has previously been found guilty of a
3 violation of this section or of a violation of the law of any other jurisdiction that prohibits the same
4 or similar conduct or the injury inflicted on the child is a serious emotional injury or a serious
5 physical injury, in which case abuse or neglect of a child is a class B felony, without eligibility for
6 probation or parole until the defendant has served not less than five years of such sentence; or

7 (2) A class A felony if the child dies as a result of injuries sustained from conduct chargeable
8 under the provisions of this section.

9 6. Notwithstanding subsection 5 of this section to the contrary, the offense of abuse or
10 neglect of a child is a class A felony, without eligibility for probation or parole until the defendant
11 has served not less than fifteen years of such sentence, if:

12 (1) The injury is a serious emotional injury or a serious physical injury;

13 (2) The child is less than fourteen years of age; and

14 (3) The injury is the result of sexual abuse as defined under section 566.100 or sexual
15 exploitation of a minor as defined under section 573.023.

16 7. The circuit or prosecuting attorney may refer a person who is suspected of abuse or
17 neglect of a child to an appropriate public or private agency for treatment or counseling so long as
18 the agency has consented to taking such referrals. Nothing in this subsection shall limit the
19 discretion of the circuit or prosecuting attorney to prosecute a person who has been referred for
20 treatment or counseling pursuant to this subsection.

21 8. Nothing in this section shall be construed to alter the requirement that every element of
22 any crime referred to herein must be proven beyond a reasonable doubt.

23 9. Discipline, including spanking administered in a reasonable manner, shall not be
24 construed to be abuse under this section.

25 10. Notwithstanding the provisions of section 556.036, prosecutions for child abuse may be
26 commenced at any time."; and

27
28 Further amend said bill by amending the title, enacting clause, and intersectional references
29 accordingly.
30