

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 239, Page 1, Section A, Line 3, inserting
2 after all of said section and line the following:

3
4 "568.060. 1. As used in this section, the following terms shall mean:

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

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

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

15 (4) "Neglect" [s];

16 (a) The failure to provide, by those responsible for the care, custody, and control of a child
17 under the age of eighteen years, the care reasonable and necessary to maintain the physical and
18 mental health of the child, when such failure presents a substantial probability that death or physical
19 injury or sexual injury would result; or

20 (b) Causing a child to be born with a controlled substance, as defined in section 195.010,
21 present in the child's bodily fluids or bodily substances as a result of the pregnant mother knowingly
22 using a controlled substance before the birth of the child;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 9. Discipline, including spanking administered in a reasonable manner, shall not be
32 construed to be abuse under this section."; and

33
34 Further amend said bill by amending the title, enacting clause, and intersectional references
35 accordingly.