

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

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for  
2 Senate Bill No. 289, Page 1, Section A, Line 3, by inserting after said section and line the following:

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4 "21.403. 1. If an individual who has been subpoenaed to testify or provide other  
5 information at a proceeding before a body of the general assembly has refused to give or provide  
6 such testimony or other information on the basis of his or her privilege against self-incrimination,  
7 the president pro tempore or speaker of the originating body of the general assembly may request  
8 the court to issue an order requiring such individual to testify or provide other information, and if  
9 the court finds that such request has been approved by an affirmative vote of a three-fifths majority  
10 of the members of such body of the general assembly, the court shall issue an order requiring such  
11 individual to give such testimony or provide other information requested or subpoenaed by such  
12 body of the general assembly, which shall become effective as provided under this section.

13 2. After being provided written notice that an order has been issued under this section, the  
14 witness shall not refuse to comply with the order on the basis of his or her privilege against self-  
15 incrimination. However, no testimony or other information compelled under such order, or any  
16 information directly or indirectly derived from such testimony or other information, shall be used  
17 against the witness in any criminal proceeding except for perjury, giving false statement, or  
18 otherwise failing to comply with such order.

19 21.405. 1. If a witness is summoned by a body of the general assembly and such witness:  
20 (1) Willfully fails to appear to testify;  
21 (2) After having appeared, refuses to answer any question pertinent to the question under  
22 inquiry; or  
23 (3) Fails to produce required documents,

24  
25 a statement of facts constituting such failure or refusal may be reported to and filed with the  
26 president pro tempore or speaker of the originating body of the general assembly. Upon receipt of  
27 such statement of facts, the president pro tempore or the speaker may certify such statement of facts  
28 to the prosecuting attorney or such other attorney having jurisdiction for prosecution under section  
29 575.330. The state attorney general shall have concurrent original jurisdiction to commence such  
30 criminal action throughout the state where such violation has occurred.

31 2. Upon request by the president pro tempore or speaker of the originating body of the  
32 general assembly who has certified a statement of facts under this section, the court shall within  
33 fifteen days of the request appoint independent counsel, who shall have jurisdiction to prosecute  
34 under section 575.330. In the event independent counsel is appointed under this section, such  
35 independent counsel shall have sole jurisdiction to prosecute under section 575.330."; and  
36

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

1 Further amend said bill, Page 7, Section 537.620, Line 16, by inserting after said section and line the  
2 following:

3  
4 "575.040. 1. A person commits the offense of perjury if, with the purpose to deceive, he or  
5 she knowingly testifies falsely to any material fact upon oath or affirmation legally administered, in  
6 any official proceeding before any court, public body, notary public or other officer authorized to  
7 administer oaths.

8 2. A fact is material, regardless of its admissibility under rules of evidence, if it could  
9 substantially affect, or did substantially affect, the course or outcome of the cause, matter or  
10 proceeding.

11 3. Knowledge of the materiality of the statement is not an element of this crime, and it is no  
12 defense that:

13 (1) The person mistakenly believed the fact to be immaterial; or

14 (2) The person was not competent, for reasons other than mental disability or immaturity, to  
15 make the statement.

16 4. It is a defense to a prosecution under subsection 1 of this section that the person retracted  
17 the false statement in the course of the official proceeding in which it was made provided he or she  
18 did so before the falsity of the statement was exposed. Statements made in separate hearings at  
19 separate stages of the same proceeding, including but not limited to statements made before a grand  
20 jury, at a preliminary hearing, at a deposition or at previous trial, are made in the course of the same  
21 proceeding.

22 5. The defendant shall have the burden of injecting the issue of retraction under subsection 4  
23 of this section.

24 6. The offense of perjury committed in any proceeding not involving a felony charge is a  
25 class E felony.

26 7. The offense of perjury committed in any proceeding involving a felony charge is a class  
27 D felony unless:

28 (1) It is committed during a criminal trial for the purpose of securing the conviction of an  
29 accused for any felony except murder, in which case it is a class B felony; or

30 (2) It is committed during a criminal trial for the purpose of securing the conviction of an  
31 accused for murder, in which case it is a class A felony.

32 8. The offense of perjury committed in any proceeding before a body of the general  
33 assembly is a class D felony.

34 575.050. 1. A person commits the offense of making a false affidavit if, with purpose to  
35 mislead any person, he or she, in any affidavit, swears falsely to a fact which is material to the  
36 purpose for which said affidavit is made.

37 2. The provisions of subsections 2 and 3 of section 575.040 shall apply to prosecutions  
38 under subsection 1 of this section.

39 3. It is a defense to a prosecution under subsection 1 of this section that the person retracted  
40 the false statement by affidavit or testimony but this defense shall not apply if the retraction was  
41 made after:

42 (1) The falsity of the statement was exposed; or

43 (2) Any person took substantial action in reliance on the statement.

44 4. The defendant shall have the burden of injecting the issue of retraction under subsection 3  
45 of this section.

46 5. The offense of making a false affidavit is a class C misdemeanor, unless done for the  
47 purpose of misleading a public servant in the performance of his or her duty, in which case it is a  
48 class A misdemeanor.

49 6. The offense of making a false affidavit when done in any proceeding before a body of the

1 general assembly is a class A misdemeanor.

2 575.160. 1. A person commits the offense of interference with legal process if, knowing  
3 another person is authorized by law to serve process, he or she interferes with or obstructs such  
4 person for the purpose of preventing such person from effecting the service of any process.

5 2. "Process" includes any writ, summons, subpoena, warrant other than an arrest warrant, or  
6 other process or order of a court or body of the general assembly.

7 3. The offense of interference with legal process is a class B misdemeanor.

8 575.270. 1. A person commits the offense of tampering with a witness or victim if:

9 (1) With the purpose to induce a witness or a prospective witness to disobey a subpoena or  
10 other legal process, absent himself or herself, avoid subpoena or other legal process, withhold  
11 evidence, information, or documents, or testify falsely, he or she:

12 (a) Threatens or causes harm to any person or property; or

13 (b) Uses force, threats or deception; or

14 (c) Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness; or

15 (d) Conveys any of the foregoing to another in furtherance of a conspiracy; or

16 (2) He or she purposely prevents or dissuades or attempts to prevent or dissuade any person  
17 who has been a victim of any crime or a person who is acting on behalf of any such victim from:

18 (a) Making any report of such victimization to any peace officer, state, local or federal law  
19 enforcement officer, prosecuting agency, or judge;

20 (b) Causing a complaint, indictment or information to be sought and prosecuted or assisting  
21 in the prosecution thereof;

22 (c) Arresting or causing or seeking the arrest of any person in connection with such  
23 victimization.

24 2. The offense of tampering with a witness or victim is a class A misdemeanor, unless the  
25 original charge is a felony, in which case tampering with a witness or victim is a class D felony.  
26 Persons convicted under this section shall not be eligible for parole.

27 3. The offense of tampering with a witness subpoenaed in a proceeding before a body of the  
28 general assembly is a class E felony.

29 575.280. 1. A person commits the offense of acceding to corruption if he or she:

30 (1) Is a judge, juror, special master, referee or arbitrator and knowingly solicits, accepts, or  
31 agrees to accept any benefit, direct or indirect, on the representation or understanding that it will  
32 influence his or her official action in a judicial proceeding pending in any court or before such  
33 official or juror;

34 (2) Is a witness or prospective witness in any official proceeding and knowingly solicits,  
35 accepts, or agrees to accept any benefit, direct or indirect, on the representation or understanding  
36 that he or she will disobey a subpoena or other legal process, absent himself or herself, avoid  
37 subpoena or other legal process, withhold evidence, information or documents, or testify falsely.

38 2. The offense of acceding to corruption under subdivision (1) of subsection 1 of this section  
39 is a class C felony. The offense of acceding to corruption under subdivision (2) of subsection 1 of  
40 this section in a felony prosecution [œ]₂ on the representation or understanding of testifying falsely₂  
41 or in a proceeding before a body of the general assembly is a class D felony. Otherwise acceding to  
42 corruption is a class A misdemeanor.

43 575.330. 1. A person commits the offense of contempt of a body of the general assembly if  
44 he or she was subpoenaed as a witness by a body of the general assembly to give testimony or to  
45 produce documents or provide other information upon any matter under inquiry before the body of  
46 the general assembly and he or she willfully:

47 (1) Fails to appear to testify;

48 (2) After having appeared, refuses to answer any question pertinent to the question under  
49 inquiry; or

1           (3) Fails to produce required documents.

2           2. The offense of contempt of a body of the general assembly is a class A misdemeanor.

3           3. The offense of contempt of a body of the general assembly after an order has been issued  
4 under section 21.403 is a class E felony.

5           576.030. 1. A person commits the offense of obstructing government operations if he or she  
6 purposely obstructs, impairs, hinders or perverts the performance of a governmental function by the  
7 use or threat of harm, intimidation, coercion, violence, force, or other physical interference or  
8 obstacle.

9           2. The offense of obstructing government operations is a class **[B]** A misdemeanor, unless  
10 committed against a body of the general assembly, in which case it is a class E felony."; and

11  
12 Further amend said bill by amending the title, enacting clause, and intersectional references  
13 accordingly.