

1 A bill to be entitled
2 An act relating to protection against domestic
3 violence; amending s. 28.241, F.S.; limiting
4 certain fees for injunctions relating to
5 domestic violence; amending s. 44.102, F.S.;
6 providing that a case is not referable to
7 family mediation if the court finds there has
8 been a history of domestic violence; amending
9 s. 61.13, F.S., relating to child custody and
10 support; providing for creation of a rebuttable
11 presumption of detriment to a child upon
12 evidence of a parent's conviction of a felony
13 involving domestic violence; providing for
14 evidence of domestic violence or child abuse to
15 be considered by the court as evidence of
16 detriment to the child; providing for
17 consideration that a party has knowingly
18 provided false information to the court
19 regarding domestic violence or child abuse in
20 custody proceedings; providing for
21 consideration of domestic violence and child
22 abuse in custody proceedings; providing for
23 consideration of allegations of domestic
24 violence or child abuse in custody proceedings;
25 amending s. 741.28, F.S.; redefining "domestic
26 violence" to include kidnapping and false
27 imprisonment and other specified criminal
28 offenses resulting in physical injury or death
29 of one family or household member by another;
30 amending s. 741.30, F.S.; providing for court
31 orders to protect the children of the domestic

1 violence victim's minor children; revising the
 2 period during which injunctive relief remains
 3 effective; providing for motion to modify or
 4 dissolve injunction by either party; providing
 5 for indication of specified information on the
 6 face of a temporary or final judgment for
 7 protection against domestic violence;
 8 prescribing conditions under which persons may
 9 present evidence or recommendations; providing
 10 for information through the clerk of the court;
 11 specifying information to be included in the
 12 petition for injunction for protection from
 13 domestic violence; providing certain procedures
 14 after granting an ex parte injunction;
 15 requiring the court to provide respondents with
 16 a list of batterers' intervention programs;
 17 requiring certification of batterers'
 18 intervention programs; providing for
 19 petitioners to be referred to a certified
 20 domestic violence center; providing for
 21 petitioners to be provided a list of domestic
 22 violence centers which may be contacted;
 23 limiting total charges for issuing or serving
 24 injunctions or restraining orders relating to
 25 domestic violence; amending s. 741.31, F.S.;
 26 defining the offense of willfully violating a
 27 foreign protection order accorded full faith
 28 and credit by specified acts; providing
 29 penalties; creating s. 741.315, F.S.; requiring
 30 that an injunction for protection against
 31 domestic violence issued by a "court of a

1 foreign state," as defined, be accorded full
 2 faith and credit; providing exceptions;
 3 providing for availability of a registration
 4 procedure to protected persons; providing
 5 duties of the Florida Department of Law
 6 Enforcement and sheriffs and other local law
 7 enforcement officers with respect to
 8 registration and enforcement of foreign
 9 protection order; providing certain immunity
 10 from civil and criminal liability to law
 11 enforcement officer and officer's employing
 12 agency; defining the offense of intentionally
 13 providing a law enforcement officer with a copy
 14 of protection order known to be invalid or
 15 denying having been served with protection
 16 order when served; providing penalties;
 17 amending s. 784.046, F.S., relating to action
 18 by victim of repeat violence for protective
 19 injunction; providing certain immunity from
 20 civil and criminal liability to law enforcement
 21 officer and officer's employing agency;
 22 revising period of duration of injunctive
 23 relief; amending s. 784.047, F.S., relating to
 24 penalties for violating protective injunction
 25 against repeat violators; defining offenses of
 26 willfully violating a foreign protection order
 27 accorded full faith and credit by committing
 28 specified acts; providing penalties; amending
 29 s. 901.15, F.S., relating to circumstances when
 30 arrest by officer without warrant is lawful;
 31 providing conforming terminology and

1 cross-references; providing certain immunity
2 from civil liability to law enforcement
3 officer; providing effective dates.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Subsection (5) of section 28.241, Florida
8 Statutes, 1996 Supplement, is amended to read:

9 28.241 Filing charges for trial and appellate
10 proceedings.--

11 (5) The fees prescribed in this section do not include
12 the service charges required by law for the clerk as provided
13 in s. 28.24 or by other sections of the Florida Statutes.
14 Service charges authorized by this section may not be added to
15 any civil penalty imposed by chapter 316 or chapter 318. Fees
16 for injunctions concerning domestic violence shall be limited
17 as provided in s. 741.30(2)(a).

18 Section 2. Paragraph (b) of subsection (2) of section
19 44.102, Florida Statutes, 1996 Supplement, is amended to read:

20 44.102 Court-ordered mediation.--

21 (2) A court, under rules adopted by the Supreme Court:

22 (b) In circuits in which a family mediation program
23 has been established and upon a court finding of a dispute,
24 shall refer to mediation all or part of custody, visitation,
25 or other parental responsibility issues as defined in s.
26 61.13. Upon motion or request of a party,a court shall not
27 refer any case to mediation if it finds there has been a
28 ~~significant~~ history of domestic violence ~~abuse~~ that would
29 compromise the mediation process.

30 Section 3. Paragraph (b) of subsection (2) of section
31 61.13, Florida Statutes, 1996 Supplement, is amended, present

1 paragraph (k) of subsection (3) of that section is
2 redesignated as paragraph (m), and new paragraphs (k) and (l)
3 are added to that subsection, to read:

4 61.13 Custody and support of children; visitation
5 rights; power of court in making orders.--

6 (2)

7 (b)1. The court shall determine all matters relating
8 to custody of each minor child of the parties in accordance
9 with the best interests of the child and in accordance with
10 the Uniform Child Custody Jurisdiction Act. It is the public
11 policy of this state to assure that each minor child has
12 frequent and continuing contact with both parents after the
13 parents separate or the marriage of the parties is dissolved
14 and to encourage parents to share the rights and
15 responsibilities, and joys, of childrearing. After considering
16 all relevant facts, the father of the child shall be given the
17 same consideration as the mother in determining the primary
18 residence of a child irrespective of the age or sex of the
19 child.

20 2. The court shall order that the parental
21 responsibility for a minor child be shared by both parents
22 unless the court finds that shared parental responsibility
23 would be detrimental to the child. ~~The court shall consider~~
24 ~~evidence of spousal or child abuse as evidence of detriment to~~
25 ~~the child. The court shall consider~~ Evidence that a parent has
26 been convicted of a felony of the third ~~second~~ degree or
27 higher involving domestic violence, as defined in s. 741.28
28 and chapter 775, creates ~~as~~ a rebuttable presumption of
29 detriment to the child. If the presumption is not rebutted,
30 shared parental responsibility, including visitation,
31 residence of the child, and decisions made regarding the

1 child, shall not be granted to the convicted parent. However,
 2 the convicted parent shall not be relieved of any obligation
 3 to provide financial support. If the court determines that
 4 shared parental responsibility would be detrimental to the
 5 child, it may order sole parental responsibility and make such
 6 arrangements for visitation as will best protect the child or
 7 abused spouse from further harm. Whether or not there is a
 8 conviction of any offense of domestic violence or child abuse
 9 or the existence of an injunction for protection against
 10 domestic violence, the court shall consider evidence of
 11 domestic violence or child abuse as evidence of detriment to
 12 the child.

13 a. In ordering shared parental responsibility, the
 14 court may consider the expressed desires of the parents and
 15 may grant to one party the ultimate responsibility over
 16 specific aspects of the child's welfare or may divide those
 17 responsibilities between the parties based on the best
 18 interests of the child. Areas of responsibility may include
 19 primary residence, education, medical and dental care, and any
 20 other responsibilities which the court finds unique to a
 21 particular family.

22 b. The court shall order "sole parental
 23 responsibility, with or without visitation rights, to the
 24 other parent when it is in the best interests of" the minor
 25 child.

26 c. The court may award the grandparents visitation
 27 rights of a minor child if it is in the child's best interest.
 28 Grandparents shall have legal standing to seek judicial
 29 enforcement of such an award. Nothing in this section shall
 30 require that grandparents be made parties or given notice of
 31 dissolution pleadings or proceedings, nor shall grandparents

1 have legal standing as "contestants" as defined in s. 61.1306.
2 No court shall order that a child be kept within the state or
3 jurisdiction of the court solely for the purpose of permitting
4 visitation by the grandparents.

5 3. Access to records and information pertaining to a
6 minor child, including, but not limited to, medical, dental,
7 and school records, shall not be denied to a parent because
8 such parent is not the child's primary residential parent.

9 (3) For purposes of shared parental responsibility and
10 primary residence, the best interests of the child shall
11 include an evaluation of all factors affecting the welfare and
12 interests of the child, including, but not limited to:

13 (k) Evidence that any party has knowingly provided
14 false information to the court regarding a domestic violence
15 proceeding pursuant to s. 741.30.

16 (l) Evidence of domestic violence or child abuse.

17 Section 4. Subsection (1) of section 741.28, Florida
18 Statutes, is amended to read:

19 741.28 Domestic violence; definitions.--As used in ss.
20 741.28-741.31:

21 (1) "Domestic violence" means any assault, aggravated
22 assault, battery, aggravated battery, sexual assault, sexual
23 battery, stalking, aggravated stalking, kidnapping, false
24 imprisonment, or any criminal offense resulting in physical
25 injury or death of one family or household member by another
26 who is or was residing in the same single dwelling unit.

27 Section 5. Section 741.30, Florida Statutes, 1996
28 Supplement, is amended to read:

29 741.30 Domestic violence; injunction; powers and
30 duties of court and clerk; petition; notice and hearing;

31

1 temporary injunction; issuance of injunction; statewide
2 verification system; enforcement.--

3 (1) There is created a cause of action for an
4 injunction for protection against domestic violence.

5 (a) Any person described in paragraph (e), who is the
6 victim of any act of domestic violence, or has reasonable
7 cause to believe he or she is in imminent danger of becoming
8 ~~may become~~ the victim of any act of domestic violence, has
9 standing in the circuit court to file a sworn petition for an
10 injunction for protection against domestic violence.

11 (b) This cause of action for an injunction may be
12 sought whether or not any other cause of action is currently
13 pending between the parties. However, the pendency of any such
14 cause of action shall be alleged in the petition.

15 (c) In the event a subsequent cause of action is filed
16 under chapter 61, any orders entered therein shall take
17 precedence over any inconsistent provisions of an injunction
18 issued under this section which addresses matters governed by
19 chapter 61.

20 (d) A person's right to petition for an injunction
21 shall not be affected by such person having left a residence
22 or household to avoid domestic violence.

23 (e) This cause of action for an injunction may be
24 sought by family or household members. No person shall be
25 precluded from seeking injunctive relief pursuant to this
26 chapter solely on the basis that such person is not a spouse.

27 (f) This cause of action for an injunction shall not
28 require that either party ~~the petitioner~~ be represented by an
29 attorney.

30 (g) Any person, including an officer of the court, who
31 offers evidence or recommendations relating to the cause of

1 action must either present the evidence or recommendations in
2 writing to the court with copies to each party and their
3 attorney, or must present the evidence under oath at a hearing
4 at which all parties are present.

5 (h)~~(g)~~ Nothing in this section shall affect the title
6 to any real estate.

7 (i)~~(h)~~ The court is prohibited from issuing mutual
8 orders of protection. This does not preclude the court from
9 issuing separate injunctions for protection against domestic
10 violence where each party has complied with the provisions of
11 this section. Compliance with the provisions of this section
12 cannot be waived.

13 (2)(a) Notwithstanding any other provision of law, the
14 total charge, including any administration fees, law
15 enforcement agency charges, and court costs or service
16 charges, for any court to issue an injunction concerning
17 domestic violence under chapter 741 or chapter 784 shall not
18 exceed \$50. The total charge by any law enforcement agency to
19 serve an injunction or restraining order concerning violence
20 shall not exceed \$20. The remaining \$30 fee collected for an
21 injunction under chapter 741 shall only be applied to the
22 initial \$40 service charge collected by the clerk of the court
23 as provided in s. 28.241(1).In the event the victim does not
24 have sufficient funds with which to pay filing fees to the
25 clerk of the court or service fees to the sheriff or law
26 enforcement agency and signs an affidavit stating so, the fees
27 shall be waived by the clerk of the court or the sheriff or
28 law enforcement agency to the extent necessary to process the
29 petition and serve the injunction, subject to a subsequent
30 order of the court relative to the payment of such fees.

31

1 (b) No bond shall be required by the court for the
2 entry of an injunction.

3 (c)1. The clerk of the court shall assist petitioners
4 in seeking both injunctions for protection against domestic
5 violence and enforcement for a violation thereof as specified
6 in this section.

7 2. All clerks' offices shall provide simplified
8 petition forms for the injunction, any modifications, and the
9 enforcement thereof, including instructions for completion.

10 3. The clerk of the court shall advise petitioners of
11 the availability of affidavits of insolvency or indigence in
12 lieu of payment for the cost of the filing fee, as provided in
13 paragraph (a).

14 4. The clerk of the court shall ensure the
15 petitioner's privacy to the extent practical while completing
16 the forms for injunctions for protection against domestic
17 violence.

18 5. The clerk of the court shall provide petitioners
19 with a minimum of two certified copies of the order of
20 injunction, one of which is serviceable and will inform the
21 petitioner of the process for service and enforcement.

22 6. Clerks of court and appropriate staff in each
23 county shall receive training in the effective assistance of
24 petitioners as provided or approved by the Florida Association
25 of Court Clerks.

26 7. The clerk of the court in each county shall make
27 available informational brochures on domestic violence when
28 such brochures are provided by local certified domestic
29 violence centers.

30 8. The clerk of the court in each county shall
31 distribute a statewide uniform informational brochure to

1 petitioners at the time of filing for an injunction for
2 protection against domestic or repeat violence when such
3 brochures become available. The brochure must include
4 information about the effect of giving the court false
5 information about domestic violence.

6 (3)(a) The sworn petition shall allege the existence
7 of such domestic violence and shall include the specific facts
8 and circumstances upon the basis of which relief is sought.

9 (b) The sworn petition shall be in substantially the
10 following form:

11
12 PETITION FOR
13 INJUNCTION FOR PROTECTION
14 AGAINST DOMESTIC VIOLENCE
15

16 Before me, the undersigned authority, personally appeared
17 Petitioner ...(Name)..., who has been sworn and says that the
18 following statements are true:

19 (a) Petitioner resides at: ...(address)...

20 (Petitioner may furnish address to the court in a
21 separate confidential filing if, for safety reasons, the
22 petitioner requires the location of the current residence to
23 be confidential.)

24 (b) Respondent resides at: ...(last known address)...

25 (c) Respondent's last known place of employment:
26 ...(name of business and address)...

27 (d) Physical description of respondent:

28 Race....

29 Sex....

30 Date of birth....

31 Height....

1 Weight....

2 Eye color....

3 Hair color....

4 Distinguishing marks or scars....

5 (e) Aliases of respondent:

6 (f) Respondent is the spouse or former spouse of the

7 petitioner or is any other person related by blood or marriage

8 to the petitioner or is any other person who is or was

9 residing within a single dwelling unit with the petitioner, as

10 if a family, or is a person with whom the petitioner has a

11 child in common, regardless of whether the petitioner and

12 respondent are or were married or residing together, as if a

13 family.

14 (g) The following describes any other cause of action

15 currently pending between the petitioner and respondent:

16

17 The petitioner should also describe any previous or

18 pending attempts by the petitioner to obtain an injunction for

19 protection against domestic violence in this or any other

20 circuit, and the results of that attempt.....

21

22 Case numbers should be included if available.

23 (h) Petitioner has suffered or has reasonable cause to

24 fear imminent domestic violence because respondent has:

25 (i) Petitioner alleges the following additional

26 specific facts: (mark appropriate sections)

27 Petitioner is the custodian of a minor child or

28 children whose names and ages are as follows:

29 Petitioner needs the exclusive use and possession

30 of the dwelling that the parties share.

31

1 Petitioner is unable to obtain safe alternative
2 housing because:
3 Petitioner genuinely fears that respondent
4 imminently will abuse, remove, or hide the minor child or
5 children from petitioner because:
6
7 (j) Petitioner genuinely fears imminent domestic
8 violence by respondent.
9 (k) Petitioner seeks an injunction: (mark appropriate
10 section or sections)
11 Immediately restraining the respondent from
12 committing any acts of domestic violence.
13 Restraining the respondent from committing any acts
14 of domestic violence.
15 Awarding to the petitioner the temporary exclusive
16 use and possession of the dwelling that the parties share or
17 excluding the respondent from the residence of the petitioner.
18 Awarding temporary custody of, or temporary
19 visitation rights with regard to, the minor child or children
20 of the parties, or prohibiting or limiting visitation to that
21 which is supervised by a third party.
22 Establishing temporary support for the minor child
23 or children or the petitioner.
24 Directing the respondent to participate in a
25 batterers' intervention program or other treatment pursuant to
26 s. 415.601.
27 Providing any terms the court deems necessary for
28 the protection of a victim of domestic violence, or any minor
29 children of the victim, including any injunctions or
30 directives to law enforcement agencies.
31

1 2. Awarding to the petitioner the temporary exclusive
2 use and possession of the dwelling that the parties share or
3 excluding the respondent from the residence of the petitioner.

4 3. On the same basis as provided in s. 61.13(2), (3),
5 (4), and (5), granting to the petitioner temporary custody of
6 a minor child or children.

7 (b) In a hearing ex parte for the purpose of obtaining
8 such ex parte temporary injunction, no evidence other than
9 verified pleadings or affidavits shall be used as evidence,
10 unless the respondent appears at the hearing or has received
11 reasonable notice of the hearing. A denial of a petition for
12 an ex parte injunction shall be by written order noting the
13 legal grounds for denial. When the only ground for denial is
14 no appearance of an immediate and present danger of domestic
15 violence, the court shall set a full hearing on the petition
16 for injunction with notice at the earliest possible time.
17 Nothing herein affects a petitioner's right to promptly amend
18 any petition, or otherwise be heard in person on any petition
19 consistent with the Florida Rules of Civil Procedure.

20 (c) Any such ex parte temporary injunction shall be
21 effective for a fixed period not to exceed 15 days. A full
22 hearing, as provided by this section, shall be set for a date
23 no later than the date when the temporary injunction ceases to
24 be effective. The court may grant a continuance of the ~~ex~~
25 ~~parte injunction and the full~~ hearing before or during a
26 hearing for good cause shown by any party, which shall include
27 a continuance to obtain service of process. Any injunction
28 shall be extended if necessary to remain in full force and
29 effect during any period of continuance.

1 (6)(a) Upon notice and hearing, the court may grant
2 such relief as the court deems proper, including an
3 injunction:

4 1. Restraining the respondent from committing any acts
5 of domestic violence.

6 2. Awarding to the petitioner the exclusive use and
7 possession of the dwelling that the parties share or excluding
8 the respondent from the residence of the petitioner.

9 3. On the same basis as provided in chapter 61,
10 awarding temporary custody of, or temporary visitation rights
11 with regard to, a minor child or children of the parties.

12 4. On the same basis as provided in chapter 61,
13 establishing temporary support for a minor child or children
14 or the petitioner.

15 5. Ordering the respondent to participate in
16 treatment, intervention, or counseling services to be paid for
17 by the respondent. When the court orders the respondent to
18 participate in a batterers' intervention program, the court,
19 or any entity designated by the court, must provide the
20 respondent with a list of all certified batterers'
21 intervention programs and all programs which have submitted an
22 application to the Department of Corrections to become
23 certified under s. 741.325, from which the respondent must
24 choose a program in which to participate. If there are no
25 certified batterers' intervention programs in the circuit, the
26 court shall provide a list of acceptable programs from which
27 the respondent must choose a program in which to participate.

28 6. Referring a petitioner to a certified domestic
29 violence center. The court must provide the petitioner with a
30 list of certified domestic violence centers in the circuit
31 which the petitioner may contact.

1 ~~7.6.~~ Ordering such other relief as the court deems
2 necessary for the protection of a victim of domestic violence,
3 including injunctions or directives to law enforcement
4 agencies, as provided in this section.

5 (b) The terms of an injunction restraining the
6 respondent under subparagraph (a)1. or ordering other relief
7 for the protection of the victim under subparagraph (a)7.
8 shall remain in effect until modified or dissolved.~~Any relief~~
9 ~~granted by the injunction shall be granted for a fixed period~~
10 ~~not to exceed 1 year, unless upon petition of the victim the~~
11 ~~court extends the injunction for successive fixed periods not~~
12 ~~to exceed 1 year. Broad discretion resides with the court to~~
13 ~~grant an extension after considering the circumstances. Either~~
14 party may move at any time to modify or dissolve the
15 injunction.No specific allegations are required. Such relief
16 may be granted in addition to other civil or criminal
17 remedies.

18 (c) A temporary or final judgment on injunction for
19 protection against domestic violence entered pursuant to this
20 section shall, on its face, indicate that:

21 1. The injunction is valid and enforceable in all
22 counties of the State of Florida.

23 2. Law enforcement officers may use their arrest
24 powers pursuant to s. 901.15(6) to enforce the terms of the
25 injunction.

26 3. The court had jurisdiction over the parties and
27 matter under the laws of Florida and that reasonable notice
28 and opportunity to be heard was given to the person against
29 whom the order is sought sufficient to protect that person's
30 right to due process.

31

1 4. The date respondent was served with the temporary
2 or final order, if obtainable.

3 (d) An injunction for protection against domestic
4 violence entered pursuant to this section, on its face, may
5 order that the respondent attend a batterers' intervention
6 program as a condition of the injunction. Unless the court
7 makes written factual findings in its judgment or order which
8 are based on substantial evidence, stating why batterers'
9 intervention programs would be inappropriate, the court shall
10 order the respondent to attend a batterers' intervention
11 program if:

12 1. It finds that the respondent willfully violated the
13 ex parte injunction;

14 2. The respondent, in this state or any other state,
15 has been convicted of, had adjudication withheld on, or pled
16 nolo contendere to a crime involving violence or a threat of
17 violence; or

18 3. The respondent, in this state or any other state,
19 has had at any time a prior injunction for protection entered
20 against the respondent after a hearing with notice.

21
22 It is ~~preferred, but not mandatory,~~that such programs be
23 certified under s. 741.32.

24 (e) The fact that a separate order of protection is
25 granted to each opposing party shall not be legally sufficient
26 to deny any remedy to either party or to prove that the
27 parties are equally at fault or equally endangered.

28 (7)(a)1. The clerk of the court shall furnish a copy
29 of the petition, financial affidavit, uniform child custody
30 jurisdiction act affidavit, if any, notice of hearing, and
31 temporary injunction, if any, to the sheriff or a law

1 enforcement agency of the county where the respondent resides
2 or can be found, who shall serve it upon the respondent as
3 soon thereafter as possible on any day of the week and at any
4 time of the day or night. The clerk of the court shall be
5 responsible for furnishing to the sheriff such information on
6 the respondent's physical description and location as is
7 required by the department to comply with the verification
8 procedures set forth in this section. Notwithstanding any
9 other provision of law to the contrary, the chief judge of
10 each circuit, in consultation with the appropriate sheriff,
11 may authorize a law enforcement agency within the jurisdiction
12 to effect service. A law enforcement agency serving
13 injunctions pursuant to this section shall use service and
14 verification procedures consistent with those of the sheriff.

15 2. When an injunction is issued, if the petitioner
16 requests the assistance of a law enforcement agency, the court
17 may order that an officer from the appropriate law enforcement
18 agency accompany the petitioner and assist in placing the
19 petitioner in possession of the dwelling or residence, or
20 otherwise assist in the execution or service of the
21 injunction. A law enforcement officer shall accept a copy of
22 an injunction for protection against domestic violence,
23 certified by the clerk of the court, from the petitioner and
24 immediately serve it upon a respondent who has been located
25 but not yet served.

26 3. All orders issued, changed, continued, extended, or
27 vacated subsequent to the original service of documents
28 enumerated under subparagraph 1., shall be certified by the
29 clerk of the court and delivered to the parties at the time of
30 the entry of the order. The parties may acknowledge receipt
31 of such order in writing on the face of the original order.

1 In the event a party fails or refuses to acknowledge the
2 receipt of a certified copy of an order, the clerk shall note
3 on the original order that service was effected. If delivery
4 at the hearing is not possible, the clerk shall mail certified
5 copies of the order to the parties at the last known address
6 of each party. Service by mail is complete upon mailing.
7 When an order is served pursuant to this subsection, the clerk
8 shall prepare a written certification to be placed in the
9 court file specifying the time, date, and method of service
10 and shall notify the sheriff.

11
12 If the respondent has been served previously with the
13 temporary injunction and has failed to appear at the initial
14 hearing on the temporary injunction, any subsequent petition
15 for injunction seeking an extension of time may be served on
16 the respondent by the clerk of the court by certified mail in
17 lieu of personal service by a law enforcement officer.

18 (b) There shall be created a Domestic and Repeat
19 Violence Injunction Statewide Verification System within the
20 Department of Law Enforcement. The department shall establish,
21 implement, and maintain a statewide communication system
22 capable of electronically transmitting information to and
23 between criminal justice agencies relating to domestic
24 violence injunctions and repeat violence injunctions issued by
25 the courts throughout the state. Such information must
26 include, but is not limited to, information as to the
27 existence and status of any injunction for verification
28 purposes.

29 (c)1. Within 24 hours after the court issues an
30 injunction for protection against domestic violence or
31 changes, continues, extends, or vacates an injunction for

1 protection against domestic violence, the clerk of the court
2 must forward a certified copy of the injunction for service to
3 the sheriff with jurisdiction over the residence of the
4 petitioner. The injunction must be served in accordance with
5 this subsection.

6 2. Within 24 hours after service of process of an
7 injunction for protection against domestic violence upon a
8 respondent, the law enforcement officer must forward the
9 written proof of service of process to the sheriff with
10 jurisdiction over the residence of the petitioner.

11 3. Within 24 hours after the sheriff receives a
12 certified copy of the injunction for protection against
13 domestic violence, the sheriff must make information relating
14 to the injunction available to other law enforcement agencies
15 by electronically transmitting such information to the
16 department.

17 4. Within 24 hours after the sheriff or other law
18 enforcement officer has made service upon the respondent and
19 the sheriff has been so notified, the sheriff must make
20 information relating to the service available to other law
21 enforcement agencies by electronically transmitting such
22 information to the department.

23 5. Within 24 hours after an injunction for protection
24 against domestic violence is vacated, terminated, or otherwise
25 rendered no longer effective by ruling of the court, the clerk
26 of the court must notify the sheriff receiving original
27 notification of the injunction as provided in subparagraph 2.
28 That agency shall, within 24 hours after receiving such
29 notification from the clerk of the court, notify the
30 department of such action of the court.

31

1 (8)(a) The court may enforce a violation of an
2 injunction for protection against domestic violence through a
3 civil or criminal contempt proceeding, or the state attorney
4 may prosecute it as a criminal violation under s. 741.31. The
5 court may enforce the respondent's compliance with the
6 injunction through any appropriate civil and criminal
7 remedies, including, but not limited to, a monetary assessment
8 or a fine. The clerk of the court shall collect and receive
9 such assessments or fines. On a monthly basis, the clerk
10 shall transfer the moneys collected pursuant to this paragraph
11 to the State Treasury for deposit in the Domestic Violence
12 Trust Fund established in s. 741.01.

13 (b) If the respondent is arrested by a law enforcement
14 officer under s. 901.15(6) or for a violation of s. 741.31,
15 the respondent shall be held in custody until brought before
16 the court as expeditiously as possible for the purpose of
17 enforcing the injunction and for admittance to bail in
18 accordance with chapter 903 and the applicable rules of
19 criminal procedure, pending a hearing.

20 (9) The petitioner or the respondent may move the
21 court to modify or dissolve an injunction at any time.

22 Section 6. Subsection (4) of section 741.31, Florida
23 Statutes, 1996 Supplement, is amended to read:

24 741.31 Violation of an injunction for protection
25 against domestic violence.--

26 (4) A person who willfully violates an injunction for
27 protection against domestic violence~~7~~issued pursuant to s.
28 741.30, or a foreign protection order accorded full faith and
29 credit pursuant to s. 741.315,by:

30 (a) Refusing to vacate the dwelling that the parties
31 share;

1 (b) Going to the petitioner's residence, school, place
2 of employment, or a specified place frequented regularly by
3 the petitioner and any named family or household member;

4 (c) Committing an act of domestic violence against the
5 petitioner;

6 (d) Committing any other violation of the injunction
7 through an intentional unlawful threat, word, or act to do
8 violence to the petitioner; or

9 (e) Telephoning, contacting, or otherwise
10 communicating with the petitioner directly or indirectly,
11 unless the injunction specifically allows indirect contact
12 through a third party

13
14 is guilty of a misdemeanor of the first degree, punishable as
15 provided in s. 775.082 or s. 775.083.

16 Section 7. Section 741.315, Florida Statutes, is
17 created to read:

18 741.315 Recognition of foreign protection orders.--

19 (1) As used in this section, the term "court of a
20 foreign state" means a court of competent jurisdiction of a
21 state of the United States, other than Florida; the District
22 of Columbia; an Indian tribe; or a commonwealth, territory, or
23 possession of the United States.

24 (2) Pursuant to 18 U.S.C. s. 2265, an injunction for
25 protection against domestic violence issued by a court of a
26 foreign state must be accorded full faith and credit by the
27 courts of this state and enforced by a law enforcement agency
28 as if it were the order of a Florida court issued under s.
29 741.30, s. 741.31, s. 784.046, or s. 784.047 and provided that
30 the court had jurisdiction over the parties and the matter and
31 that reasonable notice and opportunity to be heard was given

1 to the person against whom the order is sought sufficient to
 2 protect that person's right to due process. Ex parte foreign
 3 injunctions for protection are not eligible for enforcement
 4 under this section unless notice and opportunity to be heard
 5 have been provided within the time required by the foreign
 6 state or tribal law, and in any event within a reasonable time
 7 after the order is issued, sufficient to protect the
 8 respondent's due process rights.

9 (3) Notwithstanding s. 55.505 or any other provision
 10 to the contrary, neither residence in this state nor
 11 registration of foreign injunctions for protection shall be
 12 required for enforcement of this order by this state and
 13 failure to register the foreign order shall not be an
 14 impediment to its enforcement. The following registration
 15 procedure shall be available to protected persons who hold
 16 orders from a court of a foreign state.

17 (a) A protected person shall present a certified copy
 18 of a foreign order of protection to any sheriff in this state
 19 and request that the same be registered in the injunction
 20 registry. However, nothing in this section shall operate to
 21 preclude the enforcement of any order of protection determined
 22 by the law enforcement officer to be valid even if the
 23 protected person does not have a certified copy of the foreign
 24 protection order. It is not necessary that the protected
 25 person register the foreign order in the protected person's
 26 county of residence. Venue is proper throughout the state. The
 27 protected person must swear by affidavit, that to the best of
 28 the protected person's knowledge and belief, the attached
 29 certified copy of the foreign order, docket number
 30, issued in the state of on
 31 is currently in effect as written and has not

1 been superseded by any other order and that the respondent has
2 been given a copy of it.

3 (b) The sheriff shall examine the certified copy of
4 the foreign order and register the order in the injunction
5 registry, noting that it is a foreign order of protection. If
6 not apparent from the face of the certified copy of the
7 foreign order, the sheriff shall use best efforts to ascertain
8 whether the order was served on the respondent. The Florida
9 Department of Law Enforcement shall develop a special notation
10 for foreign orders of protection. The sheriff shall assign a
11 case number and give the protected person a receipt showing
12 registration of the foreign order in this state. There shall
13 be no fee for registration of a foreign order.

14 (c) The foreign order may also be registered by local
15 law enforcement agencies upon receipt of the foreign order and
16 any accompanying affidavits in the same manner described in
17 paragraphs (a) and (b).

18 (4)(a) Law enforcement officers shall enforce foreign
19 orders of protection as if they were entered by a court of
20 this state. Upon presentation of a foreign protection order by
21 a protected person, a law enforcement officer shall assist in
22 enforcement of all of its terms, pursuant to federal law,
23 except matters related to child custody, visitation, and
24 support. As to those provisions only, enforcement may be
25 obtained upon domestication of the foreign order pursuant to
26 ss. 55.501-55.509 unless the foreign order is a "pickup order"
27 or "order of bodily attachment" requiring the immediate return
28 of a child.

29 (b) Before enforcing a foreign protection order, a law
30 enforcement officer should confirm the identity of the parties
31 present and review the order to determine that, on its face,

1 it has not expired. Presentation of a certified or true copy
2 of the protection order shall not be required as a condition
3 of enforcement, provided that a conflicting certified copy is
4 not presented by the respondent or the individual against whom
5 enforcement is sought.

6 (c) A law enforcement officer shall use reasonable
7 efforts to verify service of process.

8 (d) Service may be verified as follows:

9 1. By petitioner: Petitioner may state under oath
10 that to the best of petitioner's knowledge, respondent was
11 served with the order of protection because petitioner was
12 present at time of service; respondent told petitioner he or
13 she was served; another named person told petitioner
14 respondent was served; or respondent told petitioner he or she
15 knows of the content of the order and date of the return
16 hearing.

17 2. By respondent: Respondent states under oath that
18 he or she was or was not served with the order.

19 (e) Enforcement and arrest for violation of a foreign
20 protection order shall be consistent with the enforcement of
21 orders issued in this state.

22 (f) A law enforcement officer acting in good faith
23 under this section and the officer's employing agency shall be
24 immune from all liability, civil or criminal, that might
25 otherwise be incurred or imposed by reason of the officer's or
26 agency's actions in carrying out the provisions of this
27 section.

28 (g) Law enforcement shall not require petitioner to
29 sign a registration affidavit as a condition of enforcement.

30 (h) A foreign order of protection shall remain in
31 effect until the date of expiration on its face; or, if there

1 is no expiration date on its face, a foreign order of
2 protection shall remain in effect until expiration. If the
3 order of protection states on its face that it is a permanent
4 order, then there is no date of expiration.

5 (5) Any person who acts under this section and
6 intentionally provides a law enforcement officer with a copy
7 of an order of protection known by that person to be false or
8 invalid, or who denies having been served with an order of
9 protection when that person has been served with such order,
10 commits a misdemeanor of the first degree, punishable as
11 provided in s. 775.082 or s. 775.083.

12 (6) In the event 18 U.S.C. s. 2265 is held to be
13 unconstitutional, this section shall be null and void.

14 Section 8. Subsection (7) of section 784.046, Florida
15 Statutes, is amended, and subsection (11) is added to that
16 section, to read:

17 784.046 Action by victim of repeat violence for
18 protective injunction; powers and duties of court and clerk of
19 court; filing and form of petition; notice and hearing;
20 temporary injunction; issuance; statewide verification system;
21 enforcement.--

22 (7) Upon notice and hearing, the court may grant such
23 relief as the court deems proper, including an injunction:

24 (a) Enjoining the respondent from committing any acts
25 of violence.

26 (b) Ordering such other relief as the court deems
27 necessary for the protection of the petitioner, including
28 injunctions or directives to law enforcement agencies, as
29 provided in this section.

30 (c) The terms of the injunction shall remain in full
31 force and effect until modified or dissolved. Either party may

1 move at any time to modify or dissolve the injunction. Any
2 ~~relief granted by the injunction shall be granted for a fixed~~
3 ~~period not to exceed 1 year, unless upon petition of the~~
4 ~~victim the court extends the injunction for successive fixed~~
5 ~~periods not to exceed 1 year.~~Such relief may be granted in
6 addition to other civil or criminal remedies.

7 (d) A temporary or final judgment on injunction for
8 protection against repeat violence entered pursuant to this
9 section shall, on its face, indicate that:

10 1. The injunction is valid and enforceable in all
11 counties of the State of Florida.

12 2. Law enforcement officers may use their arrest
13 powers pursuant to s. 901.15(6) to enforce the terms of the
14 injunction.

15 3. The court had jurisdiction over the parties and
16 matter under the laws of Florida and that reasonable notice
17 and opportunity to be heard was given to the person against
18 whom the order is sought sufficient to protect that person's
19 right to due process.

20 4. The date that the respondent was served with the
21 temporary or final order, if obtainable.

22 (11) A law enforcement officer acting in good faith
23 under this section and the officer's employing agency shall be
24 immune from all liability, civil or criminal, that might
25 otherwise be incurred or imposed by reason of the officer's or
26 agency's actions in carrying out the provisions of this
27 section.

28 Section 9. Section 784.047, Florida Statutes, is
29 amended to read:

30 784.047 Penalties for violating protective injunction
31 against repeat violators.--A person who willfully violates an

1 injunction for protection against repeat violence, issued
2 pursuant to s. 784.046, or a foreign protection order accorded
3 full faith and credit pursuant to s. 741.315 by:

4 (1) Refusing to vacate the dwelling that the parties
5 share;

6 (2) Going to the petitioner's residence, school, place
7 of employment, or a specified place frequented regularly by
8 the petitioner and any named family or household member;

9 (3) Committing an act of repeat violence against the
10 petitioner;

11 (4) Committing any other violation of the injunction
12 through an intentional unlawful threat, word, or act to do
13 violence to the petitioner; or

14 (5) Telephoning, contacting, or otherwise
15 communicating with the petitioner directly or indirectly,
16 unless the injunction specifically allows indirect contact
17 through a third party;

18
19 ~~commits is guilty of~~ a misdemeanor of the first degree,
20 punishable as provided in s. 775.082 or s. 775.083.

21 Section 10. Subsections (6), (7), and (8) of section
22 901.15, Florida Statutes, 1996 Supplement, are amended to
23 read:

24 901.15 When arrest by officer without warrant is
25 lawful.--A law enforcement officer may arrest a person without
26 a warrant when:

27 (6) There is probable cause to believe that the person
28 has committed a criminal act according to s. 741.31 or s.
29 784.047 which violates an injunction for protection entered
30 pursuant to s. 741.30 or s. 784.046, or a foreign protection
31

1 order accorded full faith and credit pursuant to s. 741.315,
2 over the objection of the petitioner, if necessary.

3 (7) There is probable cause to believe that the person
4 has committed:

5 (a) An act of domestic violence, as defined in s.
6 741.28;

7 (b) Child abuse, as defined in s. 827.04(2) and (3);
8 or

9 (c) Any battery upon another person, as defined in s.
10 784.03.

11
12 With respect to an arrest for an act of domestic violence, the
13 decision to arrest shall not require consent of the victim or
14 consideration of the relationship of the parties. A law
15 enforcement officer who acts in good faith and exercises due
16 care in making an arrest under this subsection, under s.
17 741.31(4) or s. 784.047, or pursuant to a foreign order of
18 protection accorded full faith and credit pursuant to s.
19 741.315, is immune from civil liability that otherwise might
20 result by reason of his or her action.

21 (8) He has probable cause to believe that the person
22 has knowingly committed an act of repeat violence in violation
23 of an injunction for protection from repeat violence entered
24 pursuant to s. 784.046 or a foreign protection order accorded
25 full faith and credit pursuant to s. 741.315.

26 Section 11. Except for this section, section 1, and
27 the amendment of section 741.30(2)(a), Florida Statutes, 1996
28 Supplement, which shall take effect upon this act becoming a
29 law, this act shall take effect October 1, 1997.

30
31