

By Representative Ritchie

1                                   A bill to be entitled  
2           An act relating to protective injunctions;  
3           amending s. 784.046, F.S.; providing that, with  
4           respect to causes of action for an injunction  
5           for protection in cases of repeat violence, the  
6           parent or guardian of a minor child living at  
7           home has standing in the circuit court;  
8           providing that the parent or guardian need not  
9           include the specific facts and circumstances  
10          which form the basis upon which relief is  
11          sought in order to be issued an injunction on  
12          behalf of the minor child; reenacting s.  
13          741.315(2), F.S., relating to recognition of  
14          foreign protection orders, s. 784.047, F.S.,  
15          relating to penalties for violating protective  
16          injunction against repeat violators, s.  
17          784.048(4), F.S., relating to stalking, s.  
18          790.065(2)(c), F.S., relating to sale and  
19          delivery of firearms, and s. 901.15(6) and (8),  
20          F.S., relating to arrest by an officer without  
21          a warrant, to incorporate said amendments in  
22          references; providing an effective date.

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24 Be It Enacted by the Legislature of the State of Florida:

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26           Section 1. Paragraph (a) of subsection (2) and  
27 paragraph (a) of subsection (4) of section 784.046, Florida  
28 Statutes, are amended to read:

29           784.046 Action by victim of repeat violence for  
30 protective injunction; powers and duties of court and clerk of  
31 court; filing and form of petition; notice and hearing;

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

3 (1) As used in this section, the term:

4 (a) "Violence" means any assault, battery, sexual  
5 battery, or stalking by a person against any other person.

6 (b) "Repeat violence" means two incidents of violence  
7 or stalking committed by the respondent, one of which must  
8 have been within 6 months of the filing of the petition, which  
9 are directed against the petitioner or the petitioner's  
10 immediate family member.

11 (2) There is created a cause of action for an  
12 injunction for protection in cases of repeat violence.

13 (a) Any person who is the victim of repeat violence or  
14 the parent or legal guardian of any minor child who is living  
15 at home and who seeks an injunction for protection against  
16 repeat violence on behalf of the minor child has standing in  
17 the circuit court to file a sworn petition for an injunction  
18 for protection against repeat violence.

19 (b) This cause of action for an injunction may be  
20 sought whether or not any other petition, complaint, or cause  
21 of action is currently available or pending between the  
22 parties.

23 (c) This cause of action for an injunction shall not  
24 require that the petitioner be represented by an attorney.

25 (4)(a) The sworn petition shall allege the incidents  
26 of repeat violence and shall include the specific facts and  
27 circumstances which form the basis upon which relief is  
28 sought; provided that, with respect to a minor child who is  
29 living at home, the parent or legal guardian of the minor  
30 child need not include the specific facts and circumstances  
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1 which form the basis upon which relief is sought in order to  
2 be issued an injunction on behalf of the minor child.

3 Section 2. For the purpose of incorporating the  
4 amendment to section 784.046, Florida Statutes, in references  
5 thereto, the following sections or subdivisions of Florida  
6 Statutes, or Florida Statutes, 1998 Supplement, are reenacted  
7 to read:

8 741.315 Recognition of foreign protection orders.--

9 (2) Pursuant to 18 U.S.C. s. 2265, an injunction for  
10 protection against domestic violence issued by a court of a  
11 foreign state must be accorded full faith and credit by the  
12 courts of this state and enforced by a law enforcement agency  
13 as if it were the order of a Florida court issued under s.  
14 741.30, s. 741.31, s. 784.046, or s. 784.047 and provided that  
15 the court had jurisdiction over the parties and the matter and  
16 that reasonable notice and opportunity to be heard was given  
17 to the person against whom the order is sought sufficient to  
18 protect that person's right to due process. Ex parte foreign  
19 injunctions for protection are not eligible for enforcement  
20 under this section unless notice and opportunity to be heard  
21 have been provided within the time required by the foreign  
22 state or tribal law, and in any event within a reasonable time  
23 after the order is issued, sufficient to protect the  
24 respondent's due process rights.

25 784.047 Penalties for violating protective injunction  
26 against repeat violators.--A person who willfully violates an  
27 injunction for protection against repeat violence, issued  
28 pursuant to s. 784.046, or a foreign protection order accorded  
29 full faith and credit pursuant to s. 741.315 by:

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

1           (2) 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           (3) Committing an act of repeat violence against the  
5 petitioner;

6           (4) 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           (5) 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;

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

16           784.048 Stalking; definitions; penalties.--

17           (4) Any person who, after an injunction for protection  
18 against repeat violence pursuant to s. 784.046, or an  
19 injunction for protection against domestic violence pursuant  
20 to s. 741.30, or after any other court-imposed prohibition of  
21 conduct toward the subject person or that person's property,  
22 knowingly, willfully, maliciously, and repeatedly follows or  
23 harasses another person commits the offense of aggravated  
24 stalking, a felony of the third degree, punishable as provided  
25 in s. 775.082, s. 775.083, or s. 775.084.

26           790.065 Sale and delivery of firearms.--

27           (2) Upon receipt of a request for a criminal history  
28 record check, the Department of Law Enforcement shall, during  
29 the licensee's call or by return call, forthwith:

30           (c)1. Review any records available to it to determine  
31 whether the potential buyer or transferee has been indicted or

1 has had an information filed against her or him for an offense  
2 that is a felony under either state or federal law, or, as  
3 mandated by federal law, has had an injunction for protection  
4 against domestic violence entered against the potential buyer  
5 or transferee under s. 741.30, has had an injunction for  
6 protection against repeat violence entered against the  
7 potential buyer or transferee under s. 784.046, or has been  
8 arrested for a dangerous crime as specified in s.  
9 907.041(4)(a) or for any of the following enumerated offenses:  
10 a. Criminal anarchy under ss. 876.01 and 876.02.  
11 b. Extortion under s. 836.05.  
12 c. Explosives violations under s. 552.22(1) and (2).  
13 d. Controlled substances violations under chapter 893.  
14 e. Resisting an officer with violence under s. 843.01.  
15 f. Weapons and firearms violations under this chapter.  
16 g. Treason under s. 876.32.  
17 h. Assisting self-murder under s. 782.08.  
18 i. Sabotage under s. 876.38.  
19 j. Stalking or aggravated stalking under s. 784.048.  
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21 If the review indicates any such indictment, information, or  
22 arrest, the department shall provide to the licensee a  
23 conditional nonapproval number.  
24 2. Within 24 working hours, the department shall  
25 determine the disposition of the indictment, information, or  
26 arrest and inform the licensee as to whether the potential  
27 buyer is prohibited from receiving or possessing a firearm.  
28 For purposes of this paragraph, "working hours" means the  
29 hours from 8 a.m. to 5 p.m. Monday through Friday, excluding  
30 legal holidays.  
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1           3. The office of the clerk of court, at no charge to  
2 the department, shall respond to any department request for  
3 data on the disposition of the indictment, information, or  
4 arrest as soon as possible, but in no event later than 8  
5 working hours.

6           4. The department shall determine as quickly as  
7 possible within the allotted time period whether the potential  
8 buyer is prohibited from receiving or possessing a firearm.

9           5. If the potential buyer is not so prohibited, or if  
10 the department cannot determine the disposition information  
11 within the allotted time period, the department shall provide  
12 the licensee with a conditional approval number.

13           6. If the buyer is so prohibited, the conditional  
14 nonapproval number shall become a nonapproval number.

15           7. The department shall continue its attempts to  
16 obtain the disposition information and may retain a record of  
17 all approval numbers granted without sufficient disposition  
18 information. If the department later obtains disposition  
19 information which indicates:

20           a. That the potential buyer is not prohibited from  
21 owning a firearm, it shall treat the record of the transaction  
22 in accordance with this section; or

23           b. That the potential buyer is prohibited from owning  
24 a firearm, it shall immediately revoke the conditional  
25 approval number and notify local law enforcement.

26           8. During the time that disposition of the indictment,  
27 information, or arrest is pending and until the department is  
28 notified by the potential buyer that there has been a final  
29 disposition of the indictment, information, or arrest, the  
30 conditional nonapproval number shall remain in effect.

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1           901.15 When arrest by officer without warrant is  
2 lawful.--A law enforcement officer may arrest a person without  
3 a warrant when:

4           (6) There is probable cause to believe that the person  
5 has committed a criminal act according to s. 790.233 or  
6 according to s. 741.31 or s. 784.047 which violates an  
7 injunction for protection entered pursuant to s. 741.30 or s.  
8 784.046, or a foreign protection order accorded full faith and  
9 credit pursuant to s. 741.315, over the objection of the  
10 petitioner, if necessary.

11           (8) The officer has probable cause to believe that the  
12 person has knowingly committed an act of repeat violence in  
13 violation of an injunction for protection from repeat violence  
14 entered pursuant to s. 784.046 or a foreign protection order  
15 accorded full faith and credit pursuant to s. 741.315.

16           Section 3. This act shall take effect July 1, 1999.

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19           HOUSE SUMMARY

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21           Provides that the parent or guardian of a minor child  
22 living at home has standing to seek an injunction for  
23 protection against repeat violence on behalf of the minor  
24 child in circuit court and need not include the specific  
25 facts and circumstances which form the basis upon which  
26 relief is sought in order to be issued an injunction on  
27 behalf of the minor child.

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