

By Senator Meek

36-496-99

See HB

1                                   A bill to be entitled

2           An act relating to domestic violence; amending

3           s. 741.31, F.S.; providing that it is unlawful

4           for a person subject to an injunction for

5           protection against domestic violence to refuse

6           to surrender any firearm or ammunition in his

7           or her custody, or to interfere with or

8           obstruct a law enforcement officer enforcing

9           the injunction; providing a penalty; amending

10          s. 787.04, F.S.; providing that it is unlawful

11          for any noncustodial parent or respondent

12          subject to an injunction for protection against

13          domestic violence or repeat violence to lead,

14          take, entice, or remove a minor from the

15          custodial parent or any child care provider or

16          other person entrusted by the custodial parent

17          with the care of the minor or to conceal the

18          location of the minor, in violation of the

19          injunction; providing a penalty; reenacting s.

20          901.15(6), F.S., relating to when an arrest is

21          made by a law enforcement officer without a

22          warrant to incorporate said amendment in a

23          reference; providing an effective date.

24

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

26

27           Section 1. Subsection (4) of section 741.31, Florida

28 Statutes, 1998 Supplement, is amended to read:

29           741.31 Violation of an injunction for protection

30 against domestic violence.--

31

1           (4)(a) A person who willfully violates an injunction  
2 for protection against domestic violence issued pursuant to s.  
3 741.30, or a foreign protection order accorded full faith and  
4 credit pursuant to s. 741.315, by:

5           1. Refusing to vacate the dwelling that the parties  
6 share;

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

10           3. Committing an act of domestic violence against the  
11 petitioner;

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

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

19  
20 commits a misdemeanor of the first degree, punishable as  
21 provided in s. 775.082 or s. 775.083.

22           (b)1. It is a violation of s. 790.233, and a  
23 misdemeanor of the first degree, punishable as provided in s.  
24 775.082 or s. 775.083, for a person to violate a final  
25 injunction for protection against domestic violence by having  
26 in his or her care, custody, possession, or control any  
27 firearm or ammunition.

28           2. It is the intent of the Legislature that the  
29 disabilities regarding possession of firearms and ammunition  
30 are consistent with federal law. Accordingly, this paragraph  
31 shall not apply to a state or local officer as defined in s.

1 943.10(14), holding an active certification, who receives or  
2 possesses a firearm or ammunition for use in performing  
3 official duties on behalf of the officer's employing agency,  
4 unless otherwise prohibited by the employing agency.

5 (c) It is a misdemeanor of the first degree for any  
6 person subject to a final injunction for protection against  
7 domestic violence to refuse to surrender any firearm or  
8 ammunition in his or her care, custody, possession, or  
9 control, or to interfere with or obstruct a law enforcement  
10 officer enforcing the provisions of paragraph (b).

11 Section 2. Section 787.04, Florida Statutes, is  
12 amended to read:

13 787.04 Removing minors from state or concealing minors  
14 contrary to state agency order or court order.--

15 (1) It is unlawful for any person, in violation of a  
16 court order, to lead, take, entice, or remove a minor beyond  
17 the limits of this state, or to conceal the location of a  
18 minor, with personal knowledge of the order.

19 (2) It is unlawful for any person, with criminal  
20 intent, to lead, take, entice, or remove a minor beyond the  
21 limits of this state, or to conceal the location of a minor,  
22 during the pendency of any action or proceeding affecting  
23 custody of the minor, after having received notice as required  
24 by law of the pendency of the action or proceeding, without  
25 the permission of the court in which the action or proceeding  
26 is pending.

27 (3) It is unlawful for any person, with criminal  
28 intent, to lead, take, entice, or remove a minor beyond the  
29 limits of this state, or to conceal the location of a minor,  
30 during the pendency of a dependency proceeding affecting such  
31 minor or during the pendency of any investigation, action, or

1 proceeding concerning the alleged abuse or neglect of such  
2 minor, after having received notice of the pendency of such  
3 investigation, action, or proceeding and without the  
4 permission of the state agency or court in which the  
5 investigation, action, or proceeding is pending.

6 (4) It is unlawful for any noncustodial parent or  
7 respondent subject to an injunction for protection against  
8 domestic violence or repeat violence with personal knowledge  
9 of the injunction to lead, take, entice, or remove a minor  
10 from the custodial parent or any child care provider or other  
11 person entrusted by the custodial parent with the care of the  
12 minor, or to conceal the location of the minor in violation of  
13 the injunction.

14 ~~(5)(4)~~ It is unlawful for any person, who has carried  
15 beyond the limits of this state any minor whose custody is  
16 involved in any action or proceeding pending in this state  
17 pursuant to the order of the court in which the action or  
18 proceeding is pending or pursuant to the permission of the  
19 court, thereafter, to fail to produce the minor in the court  
20 or deliver the minor to the person designated by the court.

21 ~~(6)(5)~~ It is a defense under this section that a  
22 person who leads, takes, entices, or removes a minor beyond  
23 the limits of the state reasonably believes that his or her  
24 action was necessary to protect the minor from child abuse as  
25 defined in s. 827.03.

26 ~~(7)(6)~~ Any person who violates this section is guilty  
27 of a felony of the third degree, punishable as provided in s.  
28 775.082, s. 775.083, or s. 775.084.

29 Section 3. For the purpose of incorporating the  
30 amendment to section 741.31, Florida Statutes, 1998  
31 Supplement, in references thereto, subsection (6) of section

1 901.15, Florida Statutes, 1998 Supplement, is reenacted to  
2 read:

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

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

13 Section 4. This act shall take effect upon becoming a  
14 law.

15  
16 \*\*\*\*\*

17 HOUSE SUMMARY

18 Provides a first degree misdemeanor penalty for a person  
19 subject to an injunction for protection against domestic  
20 violence to refuse to surrender any firearm or ammunition  
21 in his or her control or custody, or to interfere with or  
22 obstruct a law enforcement officer enforcing the  
23 injunction.

24 Provides that it is a third degree felony for any  
25 noncustodial parent or respondent subject to an  
26 injunction for protection against domestic violence or  
27 repeat violence who has personal knowledge of the  
28 injunction to lead, take, entice, or remove a minor from  
29 the custodial parent or any child care provider or other  
30 person entrusted with the care of the minor, or to  
31 conceal the minor, in violation of the injunction.