

By Representative Littlefield

1                                   A bill to be entitled  
2           An act relating to domestic violence; amending  
3           ss. 25.385, 39.902, 741.28, and 943.171, F.S.;  
4           redefining the terms "domestic violence" and  
5           "family or household member"; defining the term  
6           "dating relationship"; amending s. 28.101,  
7           F.S.; increasing an additional charge for a  
8           dissolution of marriage petition; amending ss.  
9           390.01115, 470.002, 626.9541, 641.3903,  
10          985.213, and 985.215, F.S.; correcting cross  
11          references; amending s. 741.281, F.S.; deleting  
12          requirement that a court order certain  
13          defendants to attend a batterers' intervention  
14          program; amending s. 741.30, F.S.; specifying  
15          when a person has standing to file a petition  
16          for an injunction against domestic violence;  
17          specifying where the petition may be filed;  
18          providing for incidents that describe violence  
19          or threats of violence; specifying when a court  
20          may grant relief; providing factors for the  
21          court to consider in determining imminent  
22          danger; providing for recording of proceedings;  
23          providing for the presence of an advocate from  
24          a state attorney's office, law enforcement  
25          agency, or domestic violence center at  
26          injunction proceedings, upon request; amending  
27          s. 741.31, F.S.; specifying additional acts  
28          that violate an injunction against domestic  
29          violence; providing a penalty; providing an  
30          effective date.  
31

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

2

3 Section 1. Subsection (2) of section 25.385, Florida  
4 Statutes, is amended to read:

5 25.385 Standards for instruction of circuit and county  
6 court judges in handling domestic violence cases.--

7 (2) As used in this section:

8 (a) The term "domestic violence" has the meaning set  
9 forth in s. 741.28 ~~means any assault, battery, sexual assault,~~  
10 ~~sexual battery, or any criminal offense resulting in physical~~  
11 ~~injury or death of one family or household member by another,~~  
12 ~~who is or was residing in the same single dwelling unit.~~

13 (b) "Family or household member" has the meaning set  
14 forth in s. 741.28 ~~means spouse, former spouse, persons~~  
15 ~~related by blood or marriage, persons who are presently~~  
16 ~~residing together, as if a family, or who have resided~~  
17 ~~together in the past, as if a family, and persons who have a~~  
18 ~~child in common regardless of whether they have been married~~  
19 ~~or have resided together at any time.~~

20 Section 2. Paragraph (c) of subsection (1) of section  
21 28.101, Florida Statutes, as amended by section 4 of chapter  
22 2001-122, Laws of Florida, is amended to read:

23 28.101 Petitions and records of dissolution of  
24 marriage; additional charges.--

25 (1) When a party petitions for a dissolution of  
26 marriage, in addition to the filing charges in s. 28.241, the  
27 clerk shall collect and receive:

28 (c) A charge of ~~\$36~~\$18. On a monthly basis, the clerk  
29 shall transfer the moneys collected pursuant to this paragraph  
30 to the Department of Revenue for deposit in the Domestic  
31 Violence Trust Fund. Such funds which are generated shall be

1 directed to the Department of Children and Family Services for  
2 the specific purpose of funding domestic violence centers.

3 Section 3. Subsections (1) and (3) of section 39.902,  
4 Florida Statutes, are amended to read:

5 39.902 Definitions.--As used in this part, the term:

6 (1) "Domestic violence" has the meaning set forth in  
7 s. 741.28 ~~means any assault, battery, sexual assault, sexual~~  
8 ~~battery, or any criminal offense resulting in physical injury~~  
9 ~~or death of one family or household member by another who is~~  
10 ~~or was residing in the same single dwelling unit.~~

11 (3) "Family or household member" has the meaning set  
12 forth in s. 741.28 ~~means spouses, former spouses, adults~~  
13 ~~related by blood or marriage, persons who are presently~~  
14 ~~residing together as if a family or who have resided together~~  
15 ~~in the past as if a family, and persons who have a child in~~  
16 ~~common regardless of whether they have been married or have~~  
17 ~~resided together at any time.~~

18 Section 4. Paragraphs (b) and (e) of subsection (2) of  
19 section 390.01115, Florida Statutes, are amended to read:

20 390.01115 Parental Notice of Abortion Act.--

21 (2) DEFINITIONS.--As used in this section, the term:

22 (b) "Child abuse" has the meaning ascribed in s.  
23 39.0015(3) and refers to the acts of child abuse against a  
24 minor by a family member as defined in s. 741.28(4)~~(2)~~.

25 (e) "Sexual abuse" has the meaning ascribed in s.  
26 39.01 and refers to the acts of sexual abuse against a minor  
27 by a family member as defined in s. 741.28(4)~~(2)~~.

28 Section 5. Subsection (18) of section 470.002, Florida  
29 Statutes, is amended to read:

30 470.002 Definitions.--As used in this chapter:

31

1           (18) "Legally authorized person" means, in the  
2 priority listed, the decedent, when written inter vivos  
3 authorizations and directions are provided by the decedent,  
4 the surviving spouse, unless the spouse has been arrested for  
5 committing against the deceased an act of domestic violence as  
6 defined in s. 741.28(1), a son or daughter who is 18 years of  
7 age or older, a parent, a brother or sister 18 years of age or  
8 over, a grandchild who is 18 years of age or older, or a  
9 grandparent; or any person in the next degree of kinship. In  
10 addition, the term may include, if no family exists or is  
11 available, the following: the guardian of the dead person at  
12 the time of death; the personal representative of the  
13 deceased; the attorney in fact of the dead person at the time  
14 of death; the health surrogate of the dead person at the time  
15 of death; a public health officer; the medical examiner,  
16 county commission or administrator acting under chapter 245,  
17 or other public administrator; a representative of a nursing  
18 home or other health care institution in charge of final  
19 disposition; or a friend or other person not listed in this  
20 subsection who is willing to assume the responsibility as  
21 authorized person.

22           Section 6. Paragraph (g) of subsection (1) of section  
23 626.9541, Florida Statutes, is amended to read:

24           626.9541 Unfair methods of competition and unfair or  
25 deceptive acts or practices defined.--

26           (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR  
27 DECEPTIVE ACTS.--The following are defined as unfair methods  
28 of competition and unfair or deceptive acts or practices:

29           (g) Unfair discrimination.--

30           1. Knowingly making or permitting any unfair  
31 discrimination between individuals of the same actuarially

1 supportable class and equal expectation of life, in the rates  
2 charged for any life insurance or annuity contract, in the  
3 dividends or other benefits payable thereon, or in any other  
4 of the terms and conditions of such contract.

5         2. Knowingly making or permitting any unfair  
6 discrimination between individuals of the same actuarially  
7 supportable class and essentially the same hazard, in the  
8 amount of premium, policy fees, or rates charged for any  
9 policy or contract of accident, disability, or health  
10 insurance, in the benefits payable thereunder, in any of the  
11 terms or conditions of such contract, or in any other manner  
12 whatever.

13         3. For a health insurer, life insurer, disability  
14 insurer, property and casualty insurer, automobile insurer, or  
15 managed care provider to underwrite a policy, or refuse to  
16 issue, reissue, or renew a policy, refuse to pay a claim,  
17 cancel or otherwise terminate a policy, or increase rates  
18 based upon the fact that an insured or applicant who is also  
19 the proposed insured has made a claim or sought or should have  
20 sought medical or psychological treatment in the past for  
21 abuse, protection from abuse, or shelter from abuse, or that a  
22 claim was caused in the past by, or might occur as a result  
23 of, any future assault, battery, or sexual assault by a family  
24 or household member upon another family or household member as  
25 defined in s. 741.28(2). A health insurer, life insurer,  
26 disability insurer, or managed care provider may refuse to  
27 underwrite, issue, or renew a policy based on the applicant's  
28 medical condition, but shall not consider whether such  
29 condition was caused by an act of abuse. For purposes of this  
30 section, the term "abuse" means the occurrence of one or more  
31 of the following acts:

- 1           a. Attempting or committing assault, battery, sexual  
2 assault, or sexual battery;  
3           b. Placing another in fear of imminent serious bodily  
4 injury by physical menace;  
5           c. False imprisonment;  
6           d. Physically or sexually abusing a minor child; or  
7           e. An act of domestic violence as defined in s.  
8 741.28.

9  
10 This subparagraph does not prohibit a property and casualty  
11 insurer or an automobile insurer from excluding coverage for  
12 intentional acts by the insured if such exclusion does not  
13 constitute an act of unfair discrimination as defined in this  
14 paragraph.

15           Section 7. Paragraph (b) of subsection (12) of section  
16 641.3903, Florida Statutes, is amended to read:

17           641.3903 Unfair methods of competition and unfair or  
18 deceptive acts or practices defined.--The following are  
19 defined as unfair methods of competition and unfair or  
20 deceptive acts or practices:

21           (12) PROHIBITED DISCRIMINATORY PRACTICES.--A health  
22 maintenance organization may not:

23           (b) Refuse to provide services or care to a subscriber  
24 solely because medical services may be or have been sought for  
25 injuries resulting from an assault, battery, sexual assault,  
26 sexual battery, or any other offense by a family or household  
27 member, as defined in s. 741.28~~(2)~~, or by another who is or  
28 was residing in the same dwelling unit.

29           Section 8. Section 741.28, Florida Statutes, is  
30 amended to read:

31

1           741.28 Domestic violence; definitions.--As used in ss.  
2 741.28-741.31:

3           (1) "Dating relationship" means a relationship between  
4 individuals who have or have had a continuing relationship of  
5 a romantic or intimate nature. The existence of such a  
6 relationship shall be determined based on the consideration of  
7 the length the relationship, the nature of the relationship,  
8 and the frequency and type of interaction between the persons  
9 involved in the relationship.

10           (2)~~(3)~~ "Department" means the Florida Department of  
11 Law Enforcement.

12           (3)~~(1)~~ "Domestic violence" means any assault,  
13 aggravated assault, battery, aggravated battery, sexual  
14 assault, sexual battery, stalking, aggravated stalking,  
15 kidnapping, false imprisonment, a violation of s. 741.31, or  
16 any criminal offense resulting in physical injury or death of  
17 one family or household member by another ~~who is or was~~  
18 ~~residing in the same single dwelling unit.~~

19           (4)~~(2)~~ "Family or household member" means spouses,  
20 former spouses, persons who have or have had a dating  
21 relationship, persons related by blood or marriage, persons  
22 who are presently residing together as if a family or who have  
23 resided together in the past as if a family, and persons who  
24 have a child in common regardless of whether they have been  
25 married ~~or have resided together at any time.~~ With the  
26 exception of persons who have a child in common, or who have  
27 or have had a dating relationship, the family or household  
28 members must be currently residing or have in the past resided  
29 together in the same single dwelling unit.

30           (5)~~(4)~~ "Law enforcement officer" means any person who  
31 is elected, appointed, or employed by any municipality or the

1 state or any political subdivision thereof who meets the  
2 minimum qualifications established in s. 943.13 and is  
3 certified as a law enforcement officer under s. 943.1395.  
4 Section 9. Section 741.281, Florida Statutes, is  
5 amended to read:  
6 741.281 Court to order batterers' intervention program  
7 attendance.--If a person is found guilty of, has had  
8 adjudication withheld on, or has pled nolo contendere to a  
9 crime of domestic violence, as defined in s. 741.28, that  
10 person shall be ordered by the court to a minimum term of 1  
11 year's probation and the court shall order that the defendant  
12 attend a batterers' intervention program as a condition of  
13 probation. ~~If a person is admitted to a pretrial diversion~~  
14 ~~program and has been charged with an act of domestic violence,~~  
15 ~~as defined in s. 741.28, the court shall order as a condition~~  
16 ~~of the program that the defendant attend a batterers'~~  
17 ~~intervention program.~~The court must impose the condition of  
18 the batterers' intervention program for a defendant admitted  
19 to pretrial diversion under this section, but the court, in  
20 its discretion, may determine not to impose the condition if  
21 it states on the record why a batterers' intervention program  
22 might be inappropriate. The court must impose the condition  
23 of the batterers' intervention program for a defendant placed  
24 on probation unless the court determines that the person does  
25 not qualify for the batterers' intervention program pursuant  
26 to s. 741.325. Effective July 1, 2002, the batterers'  
27 intervention program must be a certified program under s.  
28 741.32. The imposition of probation under this section shall  
29 not preclude the court from imposing any sentence of  
30 imprisonment authorized by s. 775.082.  
31



1           Section 10. Subsections (1), (3), and (6) of section  
2 741.30, Florida Statutes, are amended, subsections (7), (8),  
3 and (9) are renumbered as subsections (8), (9) and (10),  
4 respectively, and a new subsection (7) is added to said  
5 section, to read:

6           741.30 Domestic violence; injunction; powers and  
7 duties of court and clerk; petition; notice and hearing;  
8 temporary injunction; issuance of injunction; statewide  
9 verification system; enforcement.--

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

12           (a) Any person described in paragraph (e), who is  
13 either the victim of ~~any act of~~ domestic violence as defined  
14 in s. 741.28, or has reasonable cause to believe he or she is  
15 in imminent danger of becoming the victim of any act of  
16 domestic violence, has standing in the circuit court to file a  
17 sworn petition for an injunction for protection against  
18 domestic violence.

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

23           (c) In the event a subsequent cause of action is filed  
24 under chapter 61, any orders entered therein shall take  
25 precedence over any inconsistent provisions of an injunction  
26 issued under this section which addresses matters governed by  
27 chapter 61.

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

31

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

5           (f) This cause of action for an injunction shall not  
6 require that either party be represented by an attorney.

7           (g) Any person, including an officer of the court, who  
8 offers evidence or recommendations relating to the cause of  
9 action must either present the evidence or recommendations in  
10 writing to the court with copies to each party and their  
11 attorney, or must present the evidence under oath at a hearing  
12 at which all parties are present.

13           (h) Nothing in this section shall affect the title to  
14 any real estate.

15           (i) The court is prohibited from issuing mutual orders  
16 of protection. This does not preclude the court from issuing  
17 separate injunctions for protection against domestic violence  
18 where each party has complied with the provisions of this  
19 section. Compliance with the provisions of this section cannot  
20 be waived.

21           (j) Notwithstanding any provision of chapter 47, a  
22 petition for an injunction for protection against domestic  
23 violence may be filed in the circuit where the petitioner  
24 currently or temporarily resides, where the respondent  
25 resides, or where the domestic violence occurred. There is no  
26 minimum requirement of residency to petition for an injunction  
27 for protection.

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

31

1 (b) The sworn petition shall be in substantially the  
2 following form:

3  
4 PETITION FOR  
5 INJUNCTION FOR PROTECTION  
6 AGAINST DOMESTIC VIOLENCE  
7

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

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

12 (Petitioner may furnish address to the court in a  
13 separate confidential filing if, for safety reasons, the  
14 petitioner requires the location of the current residence to  
15 be confidential.)

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

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

19 (d) Physical description of respondent: ....

20 Race....

21 Sex....

22 Date of birth....

23 Height....

24 Weight....

25 Eye color....

26 Hair color....

27 Distinguishing marks or scars....

28 (e) Aliases of respondent: ....

29 (f) Respondent is the spouse or former spouse of the  
30 petitioner or is any other person related by blood or marriage  
31 to the petitioner or is any other person who is or was

1 residing within a single dwelling unit with the petitioner, as  
2 if a family, or is a person with whom the petitioner has a  
3 child in common, regardless of whether the petitioner and  
4 respondent are or were married or residing together, as if a  
5 family.

6 (g) The following describes any other cause of action  
7 currently pending between the petitioner and respondent: .....  
8 .....

9 The petitioner should also describe any previous or  
10 pending attempts by the petitioner to obtain an injunction for  
11 protection against domestic violence in this or any other  
12 circuit, and the results of that attempt.....  
13 .....  
14 Case numbers should be included if available.

15 (h) Petitioner is either a victim of domestic violence  
16 ~~has suffered~~ or has reasonable cause to believe he or she is  
17 in imminent danger of becoming a victim of fear imminent  
18 domestic violence because respondent has....(mark all  
19 sections that apply and describe in the spaces below the  
20 incidents of violence or threats of violence, specifying when  
21 and where they occurred, including, but not limited to,  
22 locations such as a home, school, place of employment, or  
23 visitation exchange)....: .....

24 ...committed or threatened to commit domestic violence  
25 defined in s. 741.28, Florida Statutes, as any assault,  
26 aggravated assault, battery, aggravated battery, sexual  
27 assault, sexual battery, stalking, aggravated stalking,  
28 kidnapping, false imprisonment, violation of s. 741.31,  
29 Florida Statutes, or any criminal offense resulting in  
30 physical injury or death of one family or household member by  
31 another. With the exception of persons who are parents of a

1 child in common and those in a dating relationship, the family  
2 or household members must be currently residing or have in the  
3 past resided together in the same single dwelling unit.  
4 ....previously threatened, harassed, stalked, or  
5 physically abused the petitioner.  
6 ....attempted to harm the petitioner or family members  
7 or individuals closely associated with the petitioner.  
8 ....threatened to conceal, kidnap, or harm the  
9 petitioner's child or children.  
10 ....intentionally injured or killed a family pet.  
11 ....used, or has threatened to use, against the  
12 petitioner any weapons such as guns or knives.  
13 ....physically restrained the petitioner from leaving  
14 the home or calling law enforcement.  
15 ....a criminal history involving violence or the threat  
16 of violence (if known).  
17 ....another order of protection issued against him or  
18 her previously or from another jurisdiction (if known).  
19 ....destroyed personal property, including, but not  
20 limited to, telephones or other communication equipment,  
21 clothing, or other items belonging to the petitioner.  
22 ....engaged in any other behavior or conduct that leads  
23 the petitioner to have reasonable cause to believe he or she  
24 is in imminent danger of becoming a victim of domestic  
25 violence.  
26 (i) Petitioner alleges the following additional  
27 specific facts: (mark appropriate sections)  
28 ....Petitioner is the custodian of a minor child or  
29 children whose names and ages are as follows: .....  
30 ....Petitioner needs the exclusive use and possession  
31 of the dwelling that the parties share.

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. 39.901, Florida Statutes.

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 (c) Every petition for an injunction against domestic  
2 violence shall contain, directly above the signature line, a  
3 statement in all capital letters and bold type not smaller  
4 than the surrounding text, as follows:

5  
6 I HAVE READ EVERY STATEMENT MADE IN THIS  
7 PETITION AND EACH STATEMENT IS TRUE AND  
8 CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE  
9 IN THIS PETITION ARE BEING MADE UNDER PENALTY  
10 OF PERJURY, PUNISHABLE AS PROVIDED IN SECTION  
11 837.02, FLORIDA STATUTES.

12 ... (initials) ...  
13

14 (d) If the sworn petition seeks to determine issues of  
15 custody or visitation with regard to the minor child or  
16 children of the parties, the sworn petition shall be  
17 accompanied by or shall incorporate the allegations required  
18 by s. 61.132 of the Uniform Child Custody Jurisdiction Act.

19 (6)(a) Upon notice and hearing, when it appears to the  
20 court that the petitioner is either the victim of domestic  
21 violence as defined by s. 741.28 or has reasonable cause to  
22 believe he or she is in imminent danger of becoming a victim  
23 of domestic violence, the court may grant such relief as the  
24 court deems proper, including an injunction:

25 1. Restraining the respondent from committing any acts  
26 of domestic violence.

27 2. Awarding to the petitioner the exclusive use and  
28 possession of the dwelling that the parties share or excluding  
29 the respondent from the residence of the petitioner.  
30  
31

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

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

7           5. Ordering the respondent to participate in  
8 treatment, intervention, or counseling services to be paid for  
9 by the respondent. When the court orders the respondent to  
10 participate in a batterers' intervention program, the court,  
11 or any entity designated by the court, must provide the  
12 respondent with a list of all certified batterers'  
13 intervention programs and all programs which have submitted an  
14 application to the Department of Corrections to become  
15 certified under s. 741.325, from which the respondent must  
16 choose a program in which to participate. If there are no  
17 certified batterers' intervention programs in the circuit, the  
18 court shall provide a list of acceptable programs from which  
19 the respondent must choose a program in which to participate.

20           6. Referring a petitioner to a certified domestic  
21 violence center. The court must provide the petitioner with a  
22 list of certified domestic violence centers in the circuit  
23 which the petitioner may contact.

24           7. Ordering such other relief as the court deems  
25 necessary for the protection of a victim of domestic violence,  
26 including injunctions or directives to law enforcement  
27 agencies, as provided in this section.

28           (b) In determining whether a petitioner has reasonable  
29 cause to believe he or she is in imminent danger of becoming a  
30 victim of domestic violence, the court shall consider and

31



- 1 evaluate all relevant factors alleged in the petition,  
2 including, but not limited to:
- 3 1. The history between the petitioner and the  
4 respondent, including threats, harassment, stalking, and  
5 physical abuse.
  - 6 2. Whether the respondent has attempted to harm the  
7 petitioner or family members or individuals closely associated  
8 with the petitioner.
  - 9 3. Whether the respondent has threatened to conceal,  
10 kidnap, or harm the petitioner's child or children.
  - 11 4. Whether the respondent has intentionally injured or  
12 killed a family pet.
  - 13 5. Whether the respondent has used, or has threatened  
14 to use, against the petitioner any weapons such as guns or  
15 knives.
  - 16 6. Whether the respondent has physically restrained  
17 the petitioner from leaving the home or calling law  
18 enforcement.
  - 19 7. Whether the respondent has a criminal history  
20 involving violence or the threat of violence.
  - 21 8. The existence of a verifiable order of protection  
22 issued previously or from another jurisdiction.
  - 23 9. Whether the respondent has destroyed personal  
24 property, including, but not limited to, telephones or other  
25 communications equipment, clothing, or other items belonging  
26 to the petitioner.
  - 27 10. Whether the respondent engaged in any other  
28 behavior or conduct that leads the petitioner to have  
29 reasonable cause to believe that he or she is in imminent  
30 danger of becoming a victim of domestic violence.  
31

1 In making its determination under this paragraph, the court is  
2 not limited to those factors enumerated in subparagraphs  
3 1.-10.

4 (c)~~(b)~~ The terms of an injunction restraining the  
5 respondent under subparagraph (a)1. or ordering other relief  
6 for the protection of the victim under subparagraph (a)7.  
7 shall remain in effect until modified or dissolved. Either  
8 party may move at any time to modify or dissolve the  
9 injunction. No specific allegations are required. Such relief  
10 may be granted in addition to other civil or criminal  
11 remedies.

12 (d)~~(c)~~ A temporary or final judgment on injunction for  
13 protection against domestic violence entered pursuant to this  
14 section shall, on its face, indicate that:

15 1. The injunction is valid and enforceable in all  
16 counties of the State of Florida.

17 2. Law enforcement officers may use their arrest  
18 powers pursuant to s. 901.15(6) to enforce the terms of the  
19 injunction.

20 3. The court had jurisdiction over the parties and  
21 matter under the laws of Florida and that reasonable notice  
22 and opportunity to be heard was given to the person against  
23 whom the order is sought sufficient to protect that person's  
24 right to due process.

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

27 (e)~~(d)~~ An injunction for protection against domestic  
28 violence entered pursuant to this section, on its face, may  
29 order that the respondent attend a batterers' intervention  
30 program as a condition of the injunction. Unless the court  
31 makes written factual findings in its judgment or order which

1 are based on substantial evidence, stating why batterers'  
2 intervention programs would be inappropriate, the court shall  
3 order the respondent to attend a batterers' intervention  
4 program if:

5 1. It finds that the respondent willfully violated the  
6 ex parte injunction;

7 2. The respondent, in this state or any other state,  
8 has been convicted of, had adjudication withheld on, or pled  
9 nolo contendere to a crime involving violence or a threat of  
10 violence; or

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

14  
15 It is mandatory that such programs be certified under s.  
16 741.32.

17 (f)~~(e)~~ The fact that a separate order of protection is  
18 granted to each opposing party shall not be legally sufficient  
19 to deny any remedy to either party or to prove that the  
20 parties are equally at fault or equally endangered.

21 (g)~~(f)~~ A final judgment on injunction for protection  
22 against domestic violence entered pursuant to this section  
23 must, on its face, indicate that it is a violation of s.  
24 790.233, and a first degree misdemeanor, for the respondent to  
25 have in his or her care, custody, possession, or control any  
26 firearm or ammunition.

27 (h) All proceedings under this subsection shall be  
28 recorded. Recording may be by electronic means as provided by  
29 the Rules of Judicial Administration.

30 (7) The court shall allow an advocate from a state  
31 attorney's office, an advocate from a law enforcement agency,

1 or an advocate from a certified domestic violence center who  
2 is registered under s. 39.905 to be present with the  
3 petitioner or respondent during any court proceedings or  
4 hearings related to the injunction for protection, provided  
5 the petitioner or respondent has made such a request and the  
6 advocate is able to be present.

7 Section 11. Paragraph (a) of subsection (4) of section  
8 741.31, Florida Statutes, is amended to read:

9 741.31 Violation of an injunction for protection  
10 against domestic violence.--

11 (4)(a) A person who willfully violates an injunction  
12 for protection against domestic violence issued pursuant to s.  
13 741.30, or a foreign protection order accorded full faith and  
14 credit pursuant to s. 741.315, by:

15 1. Refusing to vacate the dwelling that the parties  
16 share;

17 2. Going to, or being within 500 feet of, the  
18 petitioner's residence, school, place of employment, or a  
19 specified place frequented regularly by the petitioner and any  
20 named family or household member;

21 3. Committing an act of domestic violence against the  
22 petitioner;

23 4. Committing any other violation of the injunction  
24 through an intentional unlawful threat, word, or act to do  
25 violence to the petitioner; ~~or~~

26 5. Telephoning, contacting, or otherwise communicating  
27 with the petitioner directly or indirectly, unless the  
28 injunction specifically allows indirect contact through a  
29 third party;

30  
31

1           6. Knowingly and intentionally coming within 100 feet  
2 of the petitioner's motor vehicle, whether or not that vehicle  
3 is occupied;

4           7. Defacing or destroying the petitioner's personal  
5 property, including the petitioner's motor vehicle; or

6           8. Refusing to surrender firearms or ammunition if  
7 ordered to do so by the court

8  
9 commits a misdemeanor of the first degree, punishable as  
10 provided in s. 775.082 or s. 775.083.

11           Section 12. Subsection (2) of section 943.171, Florida  
12 Statutes, is amended to read:

13           943.171 Basic skills training in handling domestic  
14 violence cases.--

15           (2) As used in this section, the term:

16           (a) "Domestic violence" has the meaning set forth in  
17 s. 741.28 ~~means any assault, battery, sexual assault, sexual~~  
18 ~~battery, or any criminal offense resulting in the physical~~  
19 ~~injury or death of one family or household member by another~~  
20 ~~who is or was residing in the same single dwelling unit.~~

21           (b) "Household member" has the meaning set forth in s.  
22 741.28(4) ~~means spouse, former spouse, persons related by~~  
23 ~~blood or marriage, persons who are presently residing~~  
24 ~~together, as if a family, or who have resided together in the~~  
25 ~~past, as if a family, and persons who have a child in common~~  
26 ~~regardless of whether they have been married or have resided~~  
27 ~~together at any time.~~

28           Section 13. Paragraph (b) of subsection (2) of section  
29 985.213, Florida Statutes, is amended to read:

30           985.213 Use of detention.--

31           (2)

1           (b)1. The risk assessment instrument for detention  
2 care placement determinations and orders shall be developed by  
3 the Department of Juvenile Justice in agreement with  
4 representatives appointed by the following associations: the  
5 Conference of Circuit Judges of Florida, the Prosecuting  
6 Attorneys Association, the Public Defenders Association, the  
7 Florida Sheriffs Association, and the Florida Association of  
8 Chiefs of Police. Each association shall appoint two  
9 individuals, one representing an urban area and one  
10 representing a rural area. The parties involved shall  
11 evaluate and revise the risk assessment instrument as is  
12 considered necessary using the method for revision as agreed  
13 by the parties. The risk assessment instrument shall take into  
14 consideration, but need not be limited to, prior history of  
15 failure to appear, prior offenses, offenses committed pending  
16 adjudication, any unlawful possession of a firearm, theft of a  
17 motor vehicle or possession of a stolen motor vehicle, and  
18 probation status at the time the child is taken into custody.  
19 The risk assessment instrument shall also take into  
20 consideration appropriate aggravating and mitigating  
21 circumstances, and shall be designed to target a narrower  
22 population of children than s. 985.215(2). The risk assessment  
23 instrument shall also include any information concerning the  
24 child's history of abuse and neglect. The risk assessment  
25 shall indicate whether detention care is warranted, and, if  
26 detention care is warranted, whether the child should be  
27 placed into secure, nonsecure, or home detention care.

28           2. If, at the detention hearing, the court finds a  
29 material error in the scoring of the risk assessment  
30 instrument, the court may amend the score to reflect factual  
31 accuracy.

1           3. A child who is charged with committing an offense  
2 of domestic violence as defined in s. 741.28~~(1)~~and who does  
3 not meet detention criteria may be held in secure detention if  
4 the court makes specific written findings that:

- 5           a. Respite care for the child is not available; and  
6           b. It is necessary to place the child in secure  
7 detention in order to protect the victim from injury.

8  
9 The child may not be held in secure detention under this  
10 subparagraph for more than 48 hours unless ordered by the  
11 court. After 48 hours, the court shall hold a hearing if the  
12 state attorney or victim requests that secure detention be  
13 continued. The child may continue to be held in detention care  
14 if the court makes a specific, written finding that detention  
15 care is necessary to protect the victim from injury. However,  
16 the child may not be held in detention care beyond the time  
17 limits set forth in s. 985.215.

18           4. For a child who is under the supervision of the  
19 department through probation, home detention, nonsecure  
20 detention, conditional release, postcommitment probation, or  
21 commitment and who is charged with committing a new offense,  
22 the risk assessment instrument may be completed and scored  
23 based on the underlying charge for which the child was placed  
24 under the supervision of the department and the new offense.

25           Section 14. Paragraph (d) of subsection (2) of section  
26 985.215, Florida Statutes, is amended to read:

27           985.215 Detention.--

28           (2) Subject to the provisions of subsection (1), a  
29 child taken into custody and placed into nonsecure or home  
30 detention care or detained in secure detention care prior to a  
31 detention hearing may continue to be detained by the court if:

1           (d) The child is charged with committing an offense of  
2 domestic violence as defined in s. 741.28~~(1)~~ and is detained  
3 as provided in s. 985.213(2)(b)3.

4  
5 A child who meets any of these criteria and who is ordered to  
6 be detained pursuant to this subsection shall be given a  
7 hearing within 24 hours after being taken into custody. The  
8 purpose of the detention hearing is to determine the existence  
9 of probable cause that the child has committed the delinquent  
10 act or violation of law with which he or she is charged and  
11 the need for continued detention. Unless a child is detained  
12 under paragraph (d) or paragraph (e), the court shall utilize  
13 the results of the risk assessment performed by the juvenile  
14 probation officer and, based on the criteria in this  
15 subsection, shall determine the need for continued detention.  
16 A child placed into secure, nonsecure, or home detention care  
17 may continue to be so detained by the court pursuant to this  
18 subsection. If the court orders a placement more restrictive  
19 than indicated by the results of the risk assessment  
20 instrument, the court shall state, in writing, clear and  
21 convincing reasons for such placement. Except as provided in  
22 s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b),  
23 paragraph (10)(c), or paragraph (10)(d), when a child is  
24 placed into secure or nonsecure detention care, or into a  
25 respite home or other placement pursuant to a court order  
26 following a hearing, the court order must include specific  
27 instructions that direct the release of the child from such  
28 placement no later than 5 p.m. on the last day of the  
29 detention period specified in paragraph (5)(b) or paragraph  
30 (5)(c), or subparagraph (10)(a)1., whichever is applicable,  
31 unless the requirements of such applicable provision have been



1 met or an order of continuance has been granted pursuant to  
2 paragraph (5)(f).

3 Section 15. This act shall take effect October 1,  
4 2002.

5  
6 \*\*\*\*\*

7 HOUSE SUMMARY

8  
9 Revises definitions and provides cross references for  
10 terms relating to domestic violence. Deletes requirement  
11 that a court order certain domestic violence defendants  
12 to attend a batterers' intervention program. specifies  
13 when a person has standing to file a petition for an  
14 injunction against domestic violence, where the petition  
15 may be filed, the incidents that describe domestic  
16 violence or threats thereof, when a court may grant  
17 relief, and factors for the court to consider in  
18 determining imminent danger. Provides for the presence of  
19 an advocate from a state attorney's office, law  
20 enforcement agency, or certified domestic violence center  
21 at injunction proceedings, upon request. Specifies  
22 additional acts that constitute violations of an  
23 injunction against domestic violence, subject to a first  
24 degree misdemeanor penalty. Increases from \$18 to \$36 the  
25 additional charge for a dissolution of marriage petition  
26 that funds domestic violence centers.  
27  
28  
29  
30  
31