

By the Committee on Fiscal Policy & Resources and
Representatives Littlefield, Fasano, Gannon, Betancourt and
Henriquez

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. 28.241,
7 F.S.; deleting reference to limitations on
8 filing fees for domestic violence injunctions
9 to conform to the act; amending ss. 390.01115,
10 470.002, 626.9541, 641.3903, 985.213, and
11 985.215, F.S.; correcting cross references;
12 amending s. 741.281, F.S.; deleting requirement
13 that a court order certain defendants to attend
14 a batterers' intervention program; amending s.
15 741.2902, F.S.; deleting provisions relating to
16 filing fees and costs to conform to the act;
17 amending s. 741.30, F.S.; specifying when a
18 person has standing to file a petition for an
19 injunction against domestic violence;
20 specifying where the petition may be filed;
21 eliminating the filing fee and revising
22 provisions for reimbursement of costs for
23 issuance of such injunctions; providing for
24 incidents that describe violence or threats of
25 violence; specifying when a court may grant
26 relief; providing factors for the court to
27 consider in determining imminent danger;
28 providing for recording of proceedings;
29 providing for the presence of an advocate from
30 a state attorney's office, law enforcement
31 agency, or domestic violence center at

1 injunction proceedings, upon request; amending
2 s. 741.31, F.S.; specifying additional acts
3 that violate an injunction against domestic
4 violence; providing a penalty; providing an
5 effective date.

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

8
9 Section 1. Subsection (2) of section 25.385, Florida
10 Statutes, is amended to read:

11 25.385 Standards for instruction of circuit and county
12 court judges in handling domestic violence cases.--

13 (2) As used in this section:

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

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

26 Section 2. Subsection (5) of section 28.241, Florida
27 Statutes, is amended to read:

28 28.241 Filing charges for trial and appellate
29 proceedings.--

30 (5) The fees prescribed in this section do not include
31 the service charges required by law for the clerk as provided

1 in s. 28.24 or by other sections of the Florida Statutes.
2 Service charges authorized by this section may not be added to
3 any civil penalty imposed by chapter 316 or chapter 318. ~~Fees~~
4 ~~for injunctions concerning domestic violence shall be limited~~
5 ~~as provided in s. 741.30(2)(a).~~

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

8 39.902 Definitions.--As used in this part, the term:

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

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

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

23 390.01115 Parental Notice of Abortion Act.--

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

25 (b) "Child abuse" has the meaning ascribed in s.
26 39.0015(3) and refers to the acts of child abuse against a
27 minor by a family member as defined in s. 741.28(4)~~(2)~~.

28 (e) "Sexual abuse" has the meaning ascribed in s.
29 39.01 and refers to the acts of sexual abuse against a minor
30 by a family member as defined in s. 741.28(4)~~(2)~~.

31

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

3 470.002 Definitions.--As used in this chapter:

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

25 Section 6. Paragraph (g) of subsection (1) of section
26 626.9541, Florida Statutes, is amended to read:

27 626.9541 Unfair methods of competition and unfair or
28 deceptive acts or practices defined.--

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

1 (g) Unfair discrimination.--

2 1. Knowingly making or permitting any unfair
3 discrimination between individuals of the same actuarially
4 supportable class and equal expectation of life, in the rates
5 charged for any life insurance or annuity contract, in the
6 dividends or other benefits payable thereon, or in any other
7 of the terms and conditions of such contract.

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

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

1 condition was caused by an act of abuse. For purposes of this
2 section, the term "abuse" means the occurrence of one or more
3 of the following acts:

4 a. Attempting or committing assault, battery, sexual
5 assault, or sexual battery;

6 b. Placing another in fear of imminent serious bodily
7 injury by physical menace;

8 c. False imprisonment;

9 d. Physically or sexually abusing a minor child; or

10 e. An act of domestic violence as defined in s.
11 741.28.

12

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

18 Section 7. Paragraph (b) of subsection (12) of section
19 641.3903, Florida Statutes, is amended to read:

20 641.3903 Unfair methods of competition and unfair or
21 deceptive acts or practices defined.--The following are
22 defined as unfair methods of competition and unfair or
23 deceptive acts or practices:

24 (12) PROHIBITED DISCRIMINATORY PRACTICES.--A health
25 maintenance organization may not:

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

1 Section 8. Section 741.28, Florida Statutes, is
2 amended to read:

3 741.28 Domestic violence; definitions.--As used in ss.
4 741.28-741.31:

5 (1) "Dating relationship" means a relationship between
6 individuals who have or have had a continuing relationship of
7 a romantic or intimate nature. The existence of such a
8 relationship shall be determined based on the consideration of
9 the length the relationship, the nature of the relationship,
10 and the frequency and type of interaction between the persons
11 involved in the relationship, but does not include a casual
12 acquaintanceship or ordinary fraternization between persons in
13 a business or social context.

14 ~~(2)(3)~~ "Department" means the Florida Department of
15 Law Enforcement.

16 ~~(3)(1)~~ "Domestic violence" means any assault,
17 aggravated assault, battery, aggravated battery, sexual
18 assault, sexual battery, stalking, aggravated stalking,
19 kidnapping, false imprisonment, or any criminal offense
20 resulting in physical injury or death of one family or
21 household member by another ~~who is or was residing in the same~~
22 ~~single dwelling unit.~~

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

1 members must be currently residing or have in the past resided
2 together in the same single dwelling unit.

3 (5)~~(4)~~ "Law enforcement officer" means any person who
4 is elected, appointed, or employed by any municipality or the
5 state or any political subdivision thereof who meets the
6 minimum qualifications established in s. 943.13 and is
7 certified as a law enforcement officer under s. 943.1395.

8 Section 9. Section 741.281, Florida Statutes, is
9 amended to read:

10 741.281 Court to order batterers' intervention program
11 attendance.--If a person is found guilty of, has had
12 adjudication withheld on, or has pled nolo contendere to a
13 crime of domestic violence, as defined in s. 741.28, that
14 person shall be ordered by the court to a minimum term of 1
15 year's probation and the court shall order that the defendant
16 attend a batterers' intervention program as a condition of
17 probation. ~~If a person is admitted to a pretrial diversion~~
18 ~~program and has been charged with an act of domestic violence,~~
19 ~~as defined in s. 741.28, the court shall order as a condition~~
20 ~~of the program that the defendant attend a batterers'~~
21 ~~intervention program.~~The court must impose the condition of
22 the batterers' intervention program for a defendant admitted
23 ~~to pretrial diversion~~ under this section, but the court, in
24 its discretion, may determine not to impose the condition if
25 it states on the record why a batterers' intervention program
26 might be inappropriate. The court must impose the condition
27 of the batterers' intervention program for a defendant placed
28 on probation unless the court determines that the person does
29 not qualify for the batterers' intervention program pursuant
30 to s. 741.325. Effective July 1, 2002, the batterers'
31 intervention program must be a certified program under s.

1 741.32. The imposition of probation under this section shall
2 not preclude the court from imposing any sentence of
3 imprisonment authorized by s. 775.082.

4 Section 10. Paragraph (f) of subsection (2) of section
5 741.2902, Florida Statutes, is amended to read:

6 741.2902 Domestic violence; legislative intent with
7 respect to judiciary's role.--

8 (2) It is the intent of the Legislature, with respect
9 to injunctions for protection against domestic violence,
10 issued pursuant to s. 741.30, that the court shall:

11 ~~(f) Consider requiring the respondent to pay, to the~~
12 ~~clerk of the court and sheriff, filing fees and costs waived~~
13 ~~pursuant to s. 741.30(2)(a), or to reimburse the petitioner~~
14 ~~for filing fees and costs paid by the petitioner.~~

15 Section 11. Subsection (1), paragraph (a) of
16 subsection (2), and subsections (3) and (6) of section 741.30,
17 Florida Statutes, are amended, subsections (7), (8), and (9)
18 are renumbered as subsections (8), (9), and (10),
19 respectively, and a new subsection (7) is added to said
20 section, to read:

21 741.30 Domestic violence; injunction; powers and
22 duties of court and clerk; petition; notice and hearing;
23 temporary injunction; issuance of injunction; statewide
24 verification system; enforcement.--

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

27 (a) Any person described in paragraph (e), who is
28 either the victim of ~~any act of~~ domestic violence as defined
29 in s. 741.28, or has reasonable cause to believe he or she is
30 in imminent danger of becoming the victim of any act of
31 domestic violence, has standing in the circuit court to file a

1 sworn petition for an injunction for protection against
2 domestic violence.

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

7 (c) In the event a subsequent cause of action is filed
8 under chapter 61, any orders entered therein shall take
9 precedence over any inconsistent provisions of an injunction
10 issued under this section which addresses matters governed by
11 chapter 61.

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

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

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

21 (g) Any person, including an officer of the court, who
22 offers evidence or recommendations relating to the cause of
23 action must either present the evidence or recommendations in
24 writing to the court with copies to each party and their
25 attorney, or must present the evidence under oath at a hearing
26 at which all parties are present.

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

29 (i) The court is prohibited from issuing mutual orders
30 of protection. This does not preclude the court from issuing
31 separate injunctions for protection against domestic violence

1 where each party has complied with the provisions of this
2 section. Compliance with the provisions of this section cannot
3 be waived.

4 (j) Notwithstanding any provision of chapter 47, a
5 petition for an injunction for protection against domestic
6 violence may be filed in the circuit where the petitioner
7 currently or temporarily resides, where the respondent
8 resides, or where the domestic violence occurred. There is no
9 minimum requirement of residency to petition for an injunction
10 for protection.

11 (2)(a) Notwithstanding any other provision of law, the
12 assessment of a filing fee for a petition for protection
13 against domestic violence is prohibited. However, subject to
14 legislative appropriation, the clerk of the circuit court may,
15 on a quarterly basis, submit to the Office of the State Courts
16 Administrator the copies of petitions for protection against
17 domestic violence issued by the court for reimbursement at the
18 rate of \$40 per petition. From this reimbursement, the clerk
19 shall pay any law enforcement agency serving the injunction
20 the fee requested by the law enforcement agency; however, this
21 fee shall not exceed \$20.~~Notwithstanding any other provision~~
22 ~~of law, the total charge, including any administration fees,~~
23 ~~law enforcement agency charges, and court costs or service~~
24 ~~charges, for any court to issue an injunction concerning~~
25 ~~domestic violence under chapter 741 or chapter 784 shall not~~
26 ~~exceed \$50. The total charge by any law enforcement agency to~~
27 ~~serve an injunction or restraining order concerning violence~~
28 ~~shall not exceed \$20. The remaining \$30 fee collected for an~~
29 ~~injunction under chapter 741 shall only be applied to the~~
30 ~~initial \$40 service charge collected by the clerk of the court~~
31 ~~as provided in s. 28.241(1). In the event the victim does not~~

1 ~~have sufficient funds with which to pay filing fees to the~~
2 ~~clerk of the court or service fees to the sheriff or law~~
3 ~~enforcement agency and signs an affidavit stating so, the fees~~
4 ~~shall be waived by the clerk of the court or the sheriff or~~
5 ~~law enforcement agency to the extent necessary to process the~~
6 ~~petition and serve the injunction, subject to a subsequent~~
7 ~~order of the court relative to the payment of such fees.~~

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

11 (b) The sworn petition shall be in substantially the
12 following form:

13
14 PETITION FOR
15 INJUNCTION FOR PROTECTION
16 AGAINST DOMESTIC VIOLENCE
17

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

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

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

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

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

29 (d) Physical description of respondent:

30 Race....

31 Sex....

1 Date of birth....

2 Height....

3 Weight....

4 Eye color....

5 Hair color....

6 Distinguishing marks or scars....

7 (e) Aliases of respondent:

8 (f) Respondent is the spouse or former spouse of the
9 petitioner or is any other person related by blood or marriage
10 to the petitioner or is any other person who is or was
11 residing within a single dwelling unit with the petitioner, as
12 if a family, or is a person with whom the petitioner has a
13 child in common, regardless of whether the petitioner and
14 respondent are or were married or residing together, as if a
15 family.

16 (g) The following describes any other cause of action
17 currently pending between the petitioner and respondent:
18

19 The petitioner should also describe any previous or
20 pending attempts by the petitioner to obtain an injunction for
21 protection against domestic violence in this or any other
22 circuit, and the results of that attempt.....

23

24 Case numbers should be included if available.

25 (h) Petitioner is either a victim of domestic violence
26 ~~has suffered~~ or has reasonable cause to believe he or she is
27 in imminent danger of becoming a victim of fear imminent
28 domestic violence because respondent has....(mark all
29 sections that apply and describe in the spaces below the
30 incidents of violence or threats of violence, specifying when
31 and where they occurred, including, but not limited to,

1 locations such as a home, school, place of employment, or
2 visitation exchange)....:
3committed or threatened to commit domestic violence
4 defined in s. 741.28, Florida Statutes, as any assault,
5 aggravated assault, battery, aggravated battery, sexual
6 assault, sexual battery, stalking, aggravated stalking,
7 kidnapping, false imprisonment, or any criminal offense
8 resulting in physical injury or death of one family or
9 household member by another. With the exception of persons who
10 are parents of a child in common and those in a dating
11 relationship, the family or household members must be
12 currently residing or have in the past resided together in the
13 same single dwelling unit.
14previously threatened, harassed, stalked, or
15 physically abused the petitioner.
16attempted to harm the petitioner or family members
17 or individuals closely associated with the petitioner.
18threatened to conceal, kidnap, or harm the
19 petitioner's child or children.
20intentionally injured or killed a family pet.
21used, or has threatened to use, against the
22 petitioner any weapons such as guns or knives.
23physically restrained the petitioner from leaving
24 the home or calling law enforcement.
25a criminal history involving violence or the threat
26 of violence (if known).
27another order of protection issued against him or
28 her previously or from another jurisdiction (if known).
29destroyed personal property, including, but not
30 limited to, telephones or other communication equipment,
31 clothing, or other items belonging to the petitioner.

1 engaged in any other behavior or conduct that leads
2 the petitioner to have reasonable cause to believe he or she
3 is in imminent danger of becoming a victim of domestic
4 violence.
5 (i) Petitioner alleges the following additional
6 specific facts: (mark appropriate sections)
7 Petitioner is the custodian of a minor child or
8 children whose names and ages are as follows:
9 Petitioner needs the exclusive use and possession
10 of the dwelling that the parties share.
11 Petitioner is unable to obtain safe alternative
12 housing because:
13 Petitioner genuinely fears that respondent
14 imminently will abuse, remove, or hide the minor child or
15 children from petitioner because:
16
17 (j) Petitioner genuinely fears imminent domestic
18 violence by respondent.
19 (k) Petitioner seeks an injunction: (mark appropriate
20 section or sections)
21 Immediately restraining the respondent from
22 committing any acts of domestic violence.
23 Restraining the respondent from committing any acts
24 of domestic violence.
25 Awarding to the petitioner the temporary exclusive
26 use and possession of the dwelling that the parties share or
27 excluding the respondent from the residence of the petitioner.
28 Awarding temporary custody of, or temporary
29 visitation rights with regard to, the minor child or children
30 of the parties, or prohibiting or limiting visitation to that
31 which is supervised by a third party.

1 Establishing temporary support for the minor child
2 or children or the petitioner.

3 Directing the respondent to participate in a
4 batterers' intervention program or other treatment pursuant to
5 s. 39.901, Florida Statutes.

6 Providing any terms the court deems necessary for
7 the protection of a victim of domestic violence, or any minor
8 children of the victim, including any injunctions or
9 directives to law enforcement agencies.

10 (c) Every petition for an injunction against domestic
11 violence shall contain, directly above the signature line, a
12 statement in all capital letters and bold type not smaller
13 than the surrounding text, as follows:
14

15 I HAVE READ EVERY STATEMENT MADE IN THIS
16 PETITION AND EACH STATEMENT IS TRUE AND
17 CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE
18 IN THIS PETITION ARE BEING MADE UNDER PENALTY
19 OF PERJURY, PUNISHABLE AS PROVIDED IN SECTION
20 837.02, FLORIDA STATUTES.

21 ...(initials)...

22
23 (d) If the sworn petition seeks to determine issues of
24 custody or visitation with regard to the minor child or
25 children of the parties, the sworn petition shall be
26 accompanied by or shall incorporate the allegations required
27 by s. 61.132 of the Uniform Child Custody Jurisdiction Act.

28 (6)(a) Upon notice and hearing, when it appears to the
29 court that the petitioner is either the victim of domestic
30 violence as defined by s. 741.28 or has reasonable cause to
31 believe he or she is in imminent danger of becoming a victim

1 of domestic violence, the court may grant such relief as the
2 court deems proper, including an injunction:
3 1. Restraining the respondent from committing any acts
4 of domestic violence.
5 2. Awarding to the petitioner the exclusive use and
6 possession of the dwelling that the parties share or excluding
7 the respondent from the residence of the petitioner.
8 3. On the same basis as provided in chapter 61,
9 awarding temporary custody of, or temporary visitation rights
10 with regard to, a minor child or children of the parties.
11 4. On the same basis as provided in chapter 61,
12 establishing temporary support for a minor child or children
13 or the petitioner.
14 5. Ordering the respondent to participate in
15 treatment, intervention, or counseling services to be paid for
16 by the respondent. When the court orders the respondent to
17 participate in a batterers' intervention program, the court,
18 or any entity designated by the court, must provide the
19 respondent with a list of all certified batterers'
20 intervention programs and all programs which have submitted an
21 application to the Department of Corrections to become
22 certified under s. 741.325, from which the respondent must
23 choose a program in which to participate. If there are no
24 certified batterers' intervention programs in the circuit, the
25 court shall provide a list of acceptable programs from which
26 the respondent must choose a program in which to participate.
27 6. Referring a petitioner to a certified domestic
28 violence center. The court must provide the petitioner with a
29 list of certified domestic violence centers in the circuit
30 which the petitioner may contact.
31

1 7. 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) In determining whether a petitioner has reasonable
6 cause to believe he or she is in imminent danger of becoming a
7 victim of domestic violence, the court shall consider and
8 evaluate all relevant factors alleged in the petition,
9 including, but not limited to:

10 1. The history between the petitioner and the
11 respondent, including threats, harassment, stalking, and
12 physical abuse.

13 2. Whether the respondent has attempted to harm the
14 petitioner or family members or individuals closely associated
15 with the petitioner.

16 3. Whether the respondent has threatened to conceal,
17 kidnap, or harm the petitioner's child or children.

18 4. Whether the respondent has intentionally injured or
19 killed a family pet.

20 5. Whether the respondent has used, or has threatened
21 to use, against the petitioner any weapons such as guns or
22 knives.

23 6. Whether the respondent has physically restrained
24 the petitioner from leaving the home or calling law
25 enforcement.

26 7. Whether the respondent has a criminal history
27 involving violence or the threat of violence.

28 8. The existence of a verifiable order of protection
29 issued previously or from another jurisdiction.

30 9. Whether the respondent has destroyed personal
31 property, including, but not limited to, telephones or other

1 communications equipment, clothing, or other items belonging
2 to the petitioner.

3 10. Whether the respondent engaged in any other
4 behavior or conduct that leads the petitioner to have
5 reasonable cause to believe that he or she is in imminent
6 danger of becoming a victim of domestic violence.

7
8 In making its determination under this paragraph, the court is
9 not limited to those factors enumerated in subparagraphs
10 1.-10.

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

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

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

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

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

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

3 (e)~~(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 mandatory that such programs be certified under s.
23 741.32.

24 (f)~~(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 (g)~~(f)~~ A final judgment on injunction for protection
29 against domestic violence entered pursuant to this section
30 must, on its face, indicate that it is a violation of s.
31 790.233, and a first degree misdemeanor, for the respondent to

1 have in his or her care, custody, possession, or control any
2 firearm or ammunition.

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

6 (7) The court shall allow an advocate from a state
7 attorney's office, an advocate from a law enforcement agency,
8 or an advocate from a certified domestic violence center who
9 is registered under s. 39.905 to be present with the
10 petitioner or respondent during any court proceedings or
11 hearings related to the injunction for protection, provided
12 the petitioner or respondent has made such a request and the
13 advocate is able to be present.

14 Section 12. Paragraph (a) of subsection (4) of section
15 741.31, Florida Statutes, is amended to read:

16 741.31 Violation of an injunction for protection
17 against domestic violence.--

18 (4)(a) A person who willfully violates an injunction
19 for protection against domestic violence issued pursuant to s.
20 741.30, or a foreign protection order accorded full faith and
21 credit pursuant to s. 741.315, by:

22 1. Refusing to vacate the dwelling that the parties
23 share;

24 2. Going to, or being within 500 feet of,the
25 petitioner's residence, school, place of employment, or a
26 specified place frequented regularly by the petitioner and any
27 named family or household member;

28 3. Committing an act of domestic violence against the
29 petitioner;

30
31

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

4 5. Telephoning, contacting, or otherwise communicating
5 with the petitioner directly or indirectly, unless the
6 injunction specifically allows indirect contact through a
7 third party;

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

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

13 8. Refusing to surrender firearms or ammunition if
14 ordered to do so by the court

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

18 Section 13. Subsection (2) of section 943.171, Florida
19 Statutes, is amended to read:

20 943.171 Basic skills training in handling domestic
21 violence cases.--

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

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

28 (b) "Household member" has the meaning set forth in s.
29 741.28(4) ~~means spouse, former spouse, persons related by~~
30 ~~blood or marriage, persons who are presently residing~~
31 ~~together, as if a family, or who have resided together in the~~

1 ~~past, as if a family, and persons who have a child in common~~
2 ~~regardless of whether they have been married or have resided~~
3 ~~together at any time.~~

4 Section 14. Paragraph (b) of subsection (2) of section
5 985.213, Florida Statutes, is amended to read:

6 985.213 Use of detention.--

7 (2)

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

1 shall indicate whether detention care is warranted, and, if
2 detention care is warranted, whether the child should be
3 placed into secure, nonsecure, or home detention care.

4 2. If, at the detention hearing, the court finds a
5 material error in the scoring of the risk assessment
6 instrument, the court may amend the score to reflect factual
7 accuracy.

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

12 a. Respite care for the child is not available; and

13 b. It is necessary to place the child in secure
14 detention in order to protect the victim from injury.

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

25 4. For a child who is under the supervision of the
26 department through probation, home detention, nonsecure
27 detention, conditional release, postcommitment probation, or
28 commitment and who is charged with committing a new offense,
29 the risk assessment instrument may be completed and scored
30 based on the underlying charge for which the child was placed
31 under the supervision of the department and the new offense.

1 Section 15. Paragraph (d) of subsection (2) of section
2 985.215, Florida Statutes, is amended to read:

3 985.215 Detention.--

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

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

11
12 A child who meets any of these criteria and who is ordered to
13 be detained pursuant to this subsection shall be given a
14 hearing within 24 hours after being taken into custody. The
15 purpose of the detention hearing is to determine the existence
16 of probable cause that the child has committed the delinquent
17 act or violation of law with which he or she is charged and
18 the need for continued detention. Unless a child is detained
19 under paragraph (d) or paragraph (e), the court shall utilize
20 the results of the risk assessment performed by the juvenile
21 probation officer and, based on the criteria in this
22 subsection, shall determine the need for continued detention.

23 A child placed into secure, nonsecure, or home detention care
24 may continue to be so detained by the court pursuant to this
25 subsection. If the court orders a placement more restrictive
26 than indicated by the results of the risk assessment
27 instrument, the court shall state, in writing, clear and
28 convincing reasons for such placement. Except as provided in
29 s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b),
30 paragraph (10)(c), or paragraph (10)(d), when a child is
31 placed into secure or nonsecure detention care, or into a

1 respite home or other placement pursuant to a court order
2 following a hearing, the court order must include specific
3 instructions that direct the release of the child from such
4 placement no later than 5 p.m. on the last day of the
5 detention period specified in paragraph (5)(b) or paragraph
6 (5)(c), or subparagraph (10)(a)1., whichever is applicable,
7 unless the requirements of such applicable provision have been
8 met or an order of continuance has been granted pursuant to
9 paragraph (5)(f).

10 Section 16. This act shall take effect October 1,
11 2002.

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