

By the Committee on Children and Families; and Senator
Saunders

300-852-02

1 A bill to be entitled
2 An act relating to domestic violence; amending
3 ss. 25.385, 39.902, 741.28, 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, 985.215, F.S.; conforming
11 cross-references; amending s. 741.281, F.S.;
12 eliminating the requirement that a court order
13 certain defendants to attend a batterers'
14 intervention program; amending s. 741.30, F.S.;
15 specifying when a person has standing to file a
16 petition for an injunction against domestic
17 violence; specifying where the petition may be
18 filed; providing for incidents that describe
19 violence or threats of violence; specifying
20 when a court may grant relief; prescribing
21 factors for the court to consider in
22 determining imminent danger; providing for
23 recording of proceedings; providing for the
24 presence of an advocate from a state attorney's
25 office, law enforcement agency, or domestic
26 violence center at injunction proceedings, upon
27 request; amending s. 741.31, F.S.; specifying
28 additional acts that violate an injunction
29 against domestic violence; providing a penalty;
30 providing an 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) ~~The term~~ "family or household member" has the
14 meaning set forth in s. 741.28 ~~means spouse, former spouse,~~
15 ~~persons related by blood or marriage, persons who are~~
16 ~~presently residing together, as if a family, or who have~~
17 ~~resided together in the past, as if a family, and persons who~~
18 ~~have a child in common regardless of whether they have been~~
19 ~~married 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, the term:

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. However, the term does not
10 include a casual acquaintanceship or ordinary fraternization
11 between persons in a business or social context.

12 (2)(3) "Department" means the Florida Department of
13 Law Enforcement.

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

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

1 (5)~~(4)~~ "Law enforcement officer" means any person who
2 is elected, appointed, or employed by any municipality or the
3 state or any political subdivision thereof who meets the
4 minimum qualifications established in s. 943.13 and is
5 certified as a law enforcement officer under s. 943.1395.

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

8 741.281 Court to order batterers' intervention program
9 attendance.--If a person is found guilty of, has had
10 adjudication withheld on, or has pled nolo contendere to a
11 crime of domestic violence, as defined in s. 741.28, that
12 person shall be ordered by the court to a minimum term of 1
13 year's probation and the court shall order that the defendant
14 attend a batterers' intervention program as a condition of
15 probation. ~~If a person is admitted to a pretrial diversion
16 program and has been charged with an act of domestic violence,
17 as defined in s. 741.28, the court shall order as a condition
18 of the program that the defendant attend a batterers'
19 intervention program.~~The court must impose the condition of
20 the batterers' intervention program for a defendant ~~admitted
21 to pretrial diversion~~ under this section, but the court, in
22 its discretion, may determine not to impose the condition if
23 it states on the record why a batterers' intervention program
24 might be inappropriate. The court must impose the condition
25 of the batterers' intervention program for a defendant placed
26 on probation unless the court determines that the person does
27 not qualify for the batterers' intervention program pursuant
28 to s. 741.325. Effective July 1, 2002, the batterers'
29 intervention program must be a certified program under s.
30 741.32. The imposition of probation under this section shall
31

1 not preclude the court from imposing any sentence of
2 imprisonment authorized by s. 775.082.

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

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

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

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

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

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

30
31

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

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

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

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

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

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

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

31

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

4 (b) The sworn petition shall be in substantially the
5 following form:

6
7 PETITION FOR
8 INJUNCTION FOR PROTECTION
9 AGAINST DOMESTIC VIOLENCE
10

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

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

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

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

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

22 (d) Physical description of respondent:

23 Race....

24 Sex....

25 Date of birth....

26 Height....

27 Weight....

28 Eye color....

29 Hair color....

30 Distinguishing marks or scars....

31 (e) Aliases of respondent:

1 (f) Respondent is the spouse or former spouse of the
2 petitioner or is any other person related by blood or marriage
3 to the petitioner or is any other person who is or was
4 residing within a single dwelling unit with the petitioner, as
5 if a family, or is a person with whom the petitioner has a
6 child in common, regardless of whether the petitioner and
7 respondent are or were married or residing together, as if a
8 family.

9 (g) The following describes any other cause of action
10 currently pending between the petitioner and respondent:
11

12 The petitioner should also describe any previous or
13 pending attempts by the petitioner to obtain an injunction for
14 protection against domestic violence in this or any other
15 circuit, and the results of that attempt.....
16
17 Case numbers should be included if available.

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

27 ...committed or threatened to commit domestic violence
28 defined in s. 741.28, Florida Statutes, as any assault,
29 aggravated assault, battery, aggravated battery, sexual
30 assault, sexual battery, stalking, aggravated stalking,
31 kidnapping, false imprisonment, or any criminal offense

1 resulting in physical injury or death of one family or
2 household member by another. With the exception of persons who
3 are parents of a child in common and those in a dating
4 relationship, the family or household members must be
5 currently residing or have in the past resided together in the
6 same single dwelling unit.

7previously threatened, harassed, stalked, or
8 physically abused the petitioner.

9attempted to harm the petitioner or family members
10 or individuals closely associated with the petitioner.

11threatened to conceal, kidnap, or harm the
12 petitioner's child or children.

13intentionally injured or killed a family pet.

14used, or has threatened to use, against the
15 petitioner any weapons such as guns or knives.

16physically restrained the petitioner from leaving
17 the home or calling law enforcement.

18a criminal history involving violence or the threat
19 of violence (if known).

20another order of protection issued against him or
21 her previously or from another jurisdiction (if known).

22destroyed personal property, including, but not
23 limited to, telephones or other communication equipment,
24 clothing, or other items belonging to the petitioner.

25engaged in any other behavior or conduct that leads
26 the petitioner to have reasonable cause to believe he or she
27 is in imminent danger of becoming a victim of domestic
28 violence.

29 (i) Petitioner alleges the following additional
30 specific facts: (mark appropriate sections)

31

1 Petitioner is the custodian of a minor child or
2 children whose names and ages are as follows:

3 Petitioner needs the exclusive use and possession
4 of the dwelling that the parties share.

5 Petitioner is unable to obtain safe alternative
6 housing because:

7 Petitioner genuinely fears that respondent
8 imminently will abuse, remove, or hide the minor child or
9 children from petitioner because:

10

11 (j) Petitioner genuinely fears imminent domestic
12 violence by respondent.

13 (k) Petitioner seeks an injunction: (mark appropriate
14 section or sections)

15 Immediately restraining the respondent from
16 committing any acts of domestic violence.

17 Restraining the respondent from committing any acts
18 of domestic violence.

19 Awarding to the petitioner the temporary exclusive
20 use and possession of the dwelling that the parties share or
21 excluding the respondent from the residence of the petitioner.

22 Awarding temporary custody of, or temporary
23 visitation rights with regard to, the minor child or children
24 of the parties, or prohibiting or limiting visitation to that
25 which is supervised by a third party.

26 Establishing temporary support for the minor child
27 or children or the petitioner.

28 Directing the respondent to participate in a
29 batterers' intervention program or other treatment pursuant to
30 s. 39.901, Florida Statutes.

31

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

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

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

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

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

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

31

1 (b) In determining whether a petitioner has reasonable
2 cause to believe he or she is in imminent danger of becoming a
3 victim of domestic violence, the court shall consider and
4 evaluate all relevant factors alleged in the petition,
5 including, but not limited to:

6 1. The history between the petitioner and the
7 respondent, including threats, harassment, stalking, and
8 physical abuse.

9 2. Whether the respondent has attempted to harm the
10 petitioner or family members or individuals closely associated
11 with the petitioner.

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

14 4. Whether the respondent has intentionally injured or
15 killed a family pet.

16 5. Whether the respondent has used, or has threatened
17 to use, against the petitioner any weapons such as guns or
18 knives.

19 6. Whether the respondent has physically restrained
20 the petitioner from leaving the home or calling law
21 enforcement.

22 7. Whether the respondent has a criminal history
23 involving violence or the threat of violence.

24 8. The existence of a verifiable order of protection
25 issued previously or from another jurisdiction.

26 9. Whether the respondent has destroyed personal
27 property, including, but not limited to, telephones or other
28 communications equipment, clothing, or other items belonging
29 to the petitioner.

30 10. Whether the respondent engaged in any other
31 behavior or conduct that leads the petitioner to have

1 reasonable cause to believe that he or she is in imminent
2 danger of becoming a victim of domestic violence.

3
4 In making its determination under this paragraph, the court is
5 not limited to those factors enumerated in subparagraphs
6 1.-10.

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

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

18 1. The injunction is valid and enforceable in all
19 counties of the State of Florida.

20 2. Law enforcement officers may use their arrest
21 powers pursuant to s. 901.15(6) to enforce the terms of the
22 injunction.

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

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

30 (e)~~(d)~~ An injunction for protection against domestic
31 violence entered pursuant to this section, on its face, may

1 order that the respondent attend a batterers' intervention
2 program as a condition of the injunction. Unless the court
3 makes written factual findings in its judgment or order which
4 are based on substantial evidence, stating why batterers'
5 intervention programs would be inappropriate, the court shall
6 order the respondent to attend a batterers' intervention
7 program if:

8 1. It finds that the respondent willfully violated the
9 ex parte injunction;

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

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

17

18 It is mandatory that such programs be certified under s.
19 741.32.

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

24 (g)~~(f)~~ A final judgment on injunction for protection
25 against domestic violence entered pursuant to this section
26 must, on its face, indicate that it is a violation of s.
27 790.233, and a first degree misdemeanor, for the respondent to
28 have in his or her care, custody, possession, or control any
29 firearm or ammunition.

30

31

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

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

12 Section 11. Paragraph (a) of subsection (4) of section
13 741.31, Florida Statutes, is amended to read:

14 741.31 Violation of an injunction for protection
15 against domestic violence.--

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

20 1. Refusing to vacate the dwelling that the parties
21 share;

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

26 3. Committing an act of domestic violence against the
27 petitioner;

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

31

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

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

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

10 8. Refusing to surrender firearms or ammunition if
11 ordered to do so by the court

12
13 commits a misdemeanor of the first degree, punishable as
14 provided in s. 775.082 or s. 775.083.

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

17 943.171 Basic skills training in handling domestic
18 violence cases.--

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

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

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

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

3 985.213 Use of detention.--

4 (2)

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

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

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

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

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

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

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

29 Section 14. Paragraph (d) of subsection (2) of section
30 985.215, Florida Statutes, is amended to read:

31 985.215 Detention.--

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

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

8
9 A child who meets any of these criteria and who is ordered to
10 be detained pursuant to this subsection shall be given a
11 hearing within 24 hours after being taken into custody. The
12 purpose of the detention hearing is to determine the existence
13 of probable cause that the child has committed the delinquent
14 act or violation of law with which he or she is charged and
15 the need for continued detention. Unless a child is detained
16 under paragraph (d) or paragraph (e), the court shall utilize
17 the results of the risk assessment performed by the juvenile
18 probation officer and, based on the criteria in this
19 subsection, shall determine the need for continued detention.
20 A child placed into secure, nonsecure, or home detention care
21 may continue to be so detained by the court pursuant to this
22 subsection. If the court orders a placement more restrictive
23 than indicated by the results of the risk assessment
24 instrument, the court shall state, in writing, clear and
25 convincing reasons for such placement. Except as provided in
26 s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b),
27 paragraph (10)(c), or paragraph (10)(d), when a child is
28 placed into secure or nonsecure detention care, or into a
29 respite home or other placement pursuant to a court order
30 following a hearing, the court order must include specific
31 instructions that direct the release of the child from such

1 placement no later than 5 p.m. on the last day of the
2 detention period specified in paragraph (5)(b) or paragraph
3 (5)(c), or subparagraph (10)(a)1., whichever is applicable,
4 unless the requirements of such applicable provision have been
5 met or an order of continuance has been granted pursuant to
6 paragraph (5)(f).

7 Section 15. This act shall take effect October 1,
8 2002.

9
10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 Senate Bill 316

13 Clarifies that it is "parents" who have a child in common who
14 are not required to have resided together in order to meet the
definition of "domestic violence."

15 Refines the definition of "dating relationship" to
16 specifically exclude a casual acquaintanceship or ordinary
fraternization between individuals in a business or social
context.

17 Removes from the offenses delineated as acts of domestic
18 violence a violation of an injunction for protection against
domestic violence, as defined in s. 741.31, F.S.

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