

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Littlefield offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause

and insert:

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

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

(2) As used in this section:

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

(b) "Family or household member" has the meaning set forth in s. 741.28 ~~means spouse, former spouse, persons related by blood or marriage, persons who are presently residing together, as if a family, or who have resided together in the past, as if a family, and persons who have a~~

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 ~~child in common regardless of whether they have been married~~
2 ~~or have resided together at any time.~~

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

5 28.241 Filing charges for trial and appellate
6 proceedings.--

7 (5) The fees prescribed in this section do not include
8 the service charges required by law for the clerk as provided
9 in s. 28.24 or by other sections of the Florida Statutes.
10 Service charges authorized by this section may not be added to
11 any civil penalty imposed by chapter 316 or chapter 318. ~~Fees~~
12 ~~for injunctions concerning domestic violence shall be limited~~
13 ~~as provided in s. 741.30(2)(a).~~

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

16 39.902 Definitions.--As used in this part, the term:

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

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

29 Section 4. Subsections (3), (4), (5), and (6) of
30 section 39.903, Florida Statutes, are renumbered as
31 subsections (4), (5), (6), and (7), respectively, and a new

1 subsection (3) is added to said section, to read:

2 39.903 Duties and functions of the department with
3 respect to domestic violence.--

4 (3) The department shall operate the domestic violence
5 program, which provides supervision, direction, coordination,
6 and administration of statewide activities related to the
7 prevention of domestic violence.

8 Section 5. Paragraphs (b) and (e) of subsection (2) of
9 section 390.01115, Florida Statutes, are amended to read:

10 390.01115 Parental Notice of Abortion Act.--

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

12 (b) "Child abuse" has the meaning ascribed in s.
13 39.0015(3) and refers to the acts of child abuse against a
14 minor by a family member as defined in s. 741.28(2).

15 (e) "Sexual abuse" has the meaning ascribed in s.
16 39.01 and refers to the acts of sexual abuse against a minor
17 by a family member as defined in s. 741.28(2).

18 Section 6. Subsection (18) of section 470.002, Florida
19 Statutes, is amended to read:

20 470.002 Definitions.--As used in this chapter:

21 (18) "Legally authorized person" means, in the
22 priority listed, the decedent, when written inter vivos
23 authorizations and directions are provided by the decedent,
24 the surviving spouse, unless the spouse has been arrested for
25 committing against the deceased an act of domestic violence as
26 defined in s. 741.28(1), a son or daughter who is 18 years of
27 age or older, a parent, a brother or sister 18 years of age or
28 over, a grandchild who is 18 years of age or older, or a
29 grandparent; or any person in the next degree of kinship. In
30 addition, the term may include, if no family exists or is
31 available, the following: the guardian of the dead person at

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 the time of death; the personal representative of the
 2 deceased; the attorney in fact of the dead person at the time
 3 of death; the health surrogate of the dead person at the time
 4 of death; a public health officer; the medical examiner,
 5 county commission or administrator acting under chapter 245,
 6 or other public administrator; a representative of a nursing
 7 home or other health care institution in charge of final
 8 disposition; or a friend or other person not listed in this
 9 subsection who is willing to assume the responsibility as
 10 authorized person.

11 Section 7. Paragraph (g) of subsection (1) of section
 12 626.9541, Florida Statutes, is amended to read:

13 626.9541 Unfair methods of competition and unfair or
 14 deceptive acts or practices defined.--

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

18 (g) Unfair discrimination.--

19 1. Knowingly making or permitting any unfair
 20 discrimination between individuals of the same actuarially
 21 supportable class and equal expectation of life, in the rates
 22 charged for any life insurance or annuity contract, in the
 23 dividends or other benefits payable thereon, or in any other
 24 of the terms and conditions of such contract.

25 2. Knowingly making or permitting any unfair
 26 discrimination between individuals of the same actuarially
 27 supportable class and essentially the same hazard, in the
 28 amount of premium, policy fees, or rates charged for any
 29 policy or contract of accident, disability, or health
 30 insurance, in the benefits payable thereunder, in any of the
 31 terms or conditions of such contract, or in any other manner

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 whatever.

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

- 21 a. Attempting or committing assault, battery, sexual
22 assault, or sexual battery;
- 23 b. Placing another in fear of imminent serious bodily
24 injury by physical menace;
- 25 c. False imprisonment;
- 26 d. Physically or sexually abusing a minor child; or
- 27 e. An act of domestic violence as defined in s.
28 741.28.

29
30 This subparagraph does not prohibit a property and casualty
31 insurer or an automobile insurer from excluding coverage for

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 intentional acts by the insured if such exclusion does not
2 constitute an act of unfair discrimination as defined in this
3 paragraph.

4 Section 8. Paragraph (b) of subsection (12) of section
5 641.3903, Florida Statutes, is amended to read:

6 641.3903 Unfair methods of competition and unfair or
7 deceptive acts or practices defined.--The following are
8 defined as unfair methods of competition and unfair or
9 deceptive acts or practices:

10 (12) PROHIBITED DISCRIMINATORY PRACTICES.--A health
11 maintenance organization may not:

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

18 Section 9. Section 741.28, Florida Statutes, is
19 amended to read:

20 741.28 Domestic violence; definitions.--As used in ss.
21 741.28-741.31:

22 (1)~~(3)~~ "Department" means the Florida Department of
23 Law Enforcement.

24 (2)~~(1)~~ "Domestic violence" means any assault,
25 aggravated assault, battery, aggravated battery, sexual
26 assault, sexual battery, stalking, aggravated stalking,
27 kidnapping, false imprisonment, or any criminal offense
28 resulting in physical injury or death of one family or
29 household member by another ~~who is or was residing in the same~~
30 ~~single dwelling unit.~~

31 (3)~~(2)~~ "Family or household member" means spouses,

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 former spouses, persons related by blood or marriage, persons
2 who are presently residing together as if a family or who have
3 resided together in the past as if a family, and persons who
4 are parents of ~~have~~ a child in common regardless of whether
5 they have been married ~~or have resided together at any time.~~
6 With the exception of persons who have a child in common, the
7 family or household members must be currently residing or have
8 in the past resided together in the same single dwelling unit.

9 (4) "Law enforcement officer" means any person who is
10 elected, appointed, or employed by any municipality or the
11 state or any political subdivision thereof who meets the
12 minimum qualifications established in s. 943.13 and is
13 certified as a law enforcement officer under s. 943.1395.

14 Section 10. Section 741.281, Florida Statutes, is
15 amended to read:

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

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 might be inappropriate. The court must impose the condition
2 of the batterers' intervention program for a defendant placed
3 on probation unless the court determines that the person does
4 not qualify for the batterers' intervention program pursuant
5 to s. 741.325. Effective July 1, 2002, the batterers'
6 intervention program must be a certified program under s.
7 741.32. The imposition of probation under this section shall
8 not preclude the court from imposing any sentence of
9 imprisonment authorized by s. 775.082.

10 Section 11. Paragraph (f) of subsection (2) of section
11 741.2902, Florida Statutes, is amended to read:

12 741.2902 Domestic violence; legislative intent with
13 respect to judiciary's role.--

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

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

21 Section 12. Effective October 1, 2002, paragraph (a)
22 of subsection (2) of section 741.30, Florida Statutes, is
23 amended to read:

24 741.30 Domestic violence; injunction; powers and
25 duties of court and clerk; petition; notice and hearing;
26 temporary injunction; issuance of injunction; statewide
27 verification system; enforcement.--

28 (2)(a) Notwithstanding any other provision of law, the
29 assessment of a filing fee for a petition for protection
30 against domestic violence is prohibited effective October 1,
31 2002. However, subject to legislative appropriation, the clerk

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 of the circuit court may, on a quarterly basis, submit to the
2 Office of the State Courts Administrator a certified request
3 for reimbursement for petitions for protection against
4 domestic violence issued by the court, at the rate of \$40 per
5 petition. The request for reimbursement shall be submitted in
6 the form and manner prescribed by the Office of the State
7 Courts Administrator. From this reimbursement, the clerk
8 shall pay any law enforcement agency serving the injunction
9 the fee requested by the law enforcement agency; however, this
10 fee shall not exceed \$20.~~Notwithstanding any other provision~~
11 ~~of law, the total charge, including any administration fees,~~
12 ~~law enforcement agency charges, and court costs or service~~
13 ~~charges, for any court to issue an injunction concerning~~
14 ~~domestic violence under chapter 741 or chapter 784 shall not~~
15 ~~exceed \$50. The total charge by any law enforcement agency to~~
16 ~~serve an injunction or restraining order concerning violence~~
17 ~~shall not exceed \$20. The remaining \$30 fee collected for an~~
18 ~~injunction under chapter 741 shall only be applied to the~~
19 ~~initial \$40 service charge collected by the clerk of the court~~
20 ~~as provided in s. 28.241(1). In the event the victim does not~~
21 ~~have sufficient funds with which to pay filing fees to the~~
22 ~~clerk of the court or service fees to the sheriff or law~~
23 ~~enforcement agency and signs an affidavit stating so, the fees~~
24 ~~shall be waived by the clerk of the court or the sheriff or~~
25 ~~law enforcement agency to the extent necessary to process the~~
26 ~~petition and serve the injunction, subject to a subsequent~~
27 ~~order of the court relative to the payment of such fees.~~

28 Section 13. Subsections (1), (3), and (6) of section
29 741.30, Florida Statutes, are amended, subsections (7), (8),
30 and (9) are renumbered as subsections (8), (9), and (10),
31 respectively, and a new subsection (7) is added to said

1 section, to read:

2 741.30 Domestic violence; injunction; powers and
3 duties of court and clerk; petition; notice and hearing;
4 temporary injunction; issuance of injunction; statewide
5 verification system; enforcement.--

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

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

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

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

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

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

31 (f) This cause of action for an injunction shall not

1 require that either party be represented by an attorney.

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

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

10 (i) The court is prohibited from issuing mutual orders
11 of protection. This does not preclude the court from issuing
12 separate injunctions for protection against domestic violence
13 where each party has complied with the provisions of this
14 section. Compliance with the provisions of this section cannot
15 be waived.

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

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

26 (b) The sworn petition shall be in substantially the
27 following form:

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PETITION FOR
INJUNCTION FOR PROTECTION
AGAINST DOMESTIC VIOLENCE

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

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

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

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

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

(d) Physical description of respondent:

Race....

Sex....

Date of birth....

Height....

Weight....

Eye color....

Hair color....

Distinguishing marks or scars....

(e) Aliases of respondent:

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

(g) The following describes any other cause of action

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 currently pending between the petitioner and respondent:
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3 The petitioner should also describe any previous or
4 pending attempts by the petitioner to obtain an injunction for
5 protection against domestic violence in this or any other
6 circuit, and the results of that attempt.....

7

8 Case numbers should be included if available.

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

18committed or threatened to commit domestic violence
19 defined in s. 741.28, Florida Statutes, as any assault,
20 aggravated assault, battery, aggravated battery, sexual
21 assault, sexual battery, stalking, aggravated stalking,
22 kidnapping, false imprisonment, or any criminal offense
23 resulting in physical injury or death of one family or
24 household member by another. With the exception of persons who
25 are parents of a child in common, the family or household
26 members must be currently residing or have in the past resided
27 together in the same single dwelling unit.

28previously threatened, harassed, stalked, or
29 physically abused the petitioner.

30attempted to harm the petitioner or family members
31 or individuals closely associated with the petitioner.

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

- 1 threatened to conceal, kidnap, or harm the
- 2 petitioner's child or children.
- 3 intentionally injured or killed a family pet.
- 4 used, or has threatened to use, against the
- 5 petitioner any weapons such as guns or knives.
- 6 physically restrained the petitioner from leaving
- 7 the home or calling law enforcement.
- 8 a criminal history involving violence or the threat
- 9 of violence (if known).
- 10 another order of protection issued against him or
- 11 her previously or from another jurisdiction (if known).
- 12 destroyed personal property, including, but not
- 13 limited to, telephones or other communication equipment,
- 14 clothing, or other items belonging to the petitioner.
- 15 engaged in any other behavior or conduct that leads
- 16 the petitioner to have reasonable cause to believe he or she
- 17 is in imminent danger of becoming a victim of domestic
- 18 violence.
- 19 (i) Petitioner alleges the following additional
- 20 specific facts: (mark appropriate sections)
- 21 Petitioner is the custodian of a minor child or
- 22 children whose names and ages are as follows:
- 23 Petitioner needs the exclusive use and possession
- 24 of the dwelling that the parties share.
- 25 Petitioner is unable to obtain safe alternative
- 26 housing because:
- 27 Petitioner genuinely fears that respondent
- 28 imminently will abuse, remove, or hide the minor child or
- 29 children from petitioner because:
- 30
- 31 (j) Petitioner genuinely fears imminent domestic

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 violence by respondent.

2 (k) Petitioner seeks an injunction: (mark appropriate
3 section or sections)

4Immediately restraining the respondent from
5 committing any acts of domestic violence.

6Restraining the respondent from committing any acts
7 of domestic violence.

8Awarding to the petitioner the temporary exclusive
9 use and possession of the dwelling that the parties share or
10 excluding the respondent from the residence of the petitioner.

11Awarding temporary custody of, or temporary
12 visitation rights with regard to, the minor child or children
13 of the parties, or prohibiting or limiting visitation to that
14 which is supervised by a third party.

15Establishing temporary support for the minor child
16 or children or the petitioner.

17Directing the respondent to participate in a
18 batterers' intervention program or other treatment pursuant to
19 s. 39.901, Florida Statutes.

20Providing any terms the court deems necessary for
21 the protection of a victim of domestic violence, or any minor
22 children of the victim, including any injunctions or
23 directives to law enforcement agencies.

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

28

29 I HAVE READ EVERY STATEMENT MADE IN THIS
30 PETITION AND EACH STATEMENT IS TRUE AND
31 CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE

1 IN THIS PETITION ARE BEING MADE UNDER PENALTY
2 OF PERJURY, PUNISHABLE AS PROVIDED IN SECTION
3 837.02, FLORIDA STATUTES.
4 ... (initials) ...
5

6 (d) If the sworn petition seeks to determine issues of
7 custody or visitation with regard to the minor child or
8 children of the parties, the sworn petition shall be
9 accompanied by or shall incorporate the allegations required
10 by s. 61.132 of the Uniform Child Custody Jurisdiction Act.

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

- 17 1. Restraining the respondent from committing any acts
18 of domestic violence.
- 19 2. Awarding to the petitioner the exclusive use and
20 possession of the dwelling that the parties share or excluding
21 the respondent from the residence of the petitioner.
- 22 3. On the same basis as provided in chapter 61,
23 awarding temporary custody of, or temporary visitation rights
24 with regard to, a minor child or children of the parties.
- 25 4. On the same basis as provided in chapter 61,
26 establishing temporary support for a minor child or children
27 or the petitioner.
- 28 5. Ordering the respondent to participate in
29 treatment, intervention, or counseling services to be paid for
30 by the respondent. When the court orders the respondent to
31 participate in a batterers' intervention program, the court,

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 or any entity designated by the court, must provide the
2 respondent with a list of all certified batterers'
3 intervention programs and all programs which have submitted an
4 application to the Department of Corrections to become
5 certified under s. 741.325, from which the respondent must
6 choose a program in which to participate. If there are no
7 certified batterers' intervention programs in the circuit, the
8 court shall provide a list of acceptable programs from which
9 the respondent must choose a program in which to participate.

10 6. Referring a petitioner to a certified domestic
11 violence center. The court must provide the petitioner with a
12 list of certified domestic violence centers in the circuit
13 which the petitioner may contact.

14 7. Ordering such other relief as the court deems
15 necessary for the protection of a victim of domestic violence,
16 including injunctions or directives to law enforcement
17 agencies, as provided in this section.

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

23 1. The history between the petitioner and the
24 respondent, including threats, harassment, stalking, and
25 physical abuse.

26 2. Whether the respondent has attempted to harm the
27 petitioner or family members or individuals closely associated
28 with the petitioner.

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

31 4. Whether the respondent has intentionally injured or

1 killed a family pet.

2 5. Whether the respondent has used, or has threatened
3 to use, against the petitioner any weapons such as guns or
4 knives.

5 6. Whether the respondent has physically restrained
6 the petitioner from leaving the home or calling law
7 enforcement.

8 7. Whether the respondent has a criminal history
9 involving violence or the threat of violence.

10 8. The existence of a verifiable order of protection
11 issued previously or from another jurisdiction.

12 9. Whether the respondent has destroyed personal
13 property, including, but not limited to, telephones or other
14 communications equipment, clothing, or other items belonging
15 to the petitioner.

16 10. Whether the respondent engaged in any other
17 behavior or conduct that leads the petitioner to have
18 reasonable cause to believe that he or she is in imminent
19 danger of becoming a victim of domestic violence.

20
21 In making its determination under this paragraph, the court is
22 not limited to those factors enumerated in subparagraphs
23 1.-10.

24 (c)(b) The terms of an injunction restraining the
25 respondent under subparagraph (a)1. or ordering other relief
26 for the protection of the victim under subparagraph (a)7.
27 shall remain in effect until modified or dissolved. Either
28 party may move at any time to modify or dissolve the
29 injunction. No specific allegations are required. Such relief
30 may be granted in addition to other civil or criminal
31 remedies.

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

4 1. The injunction is valid and enforceable in all
5 counties of the State of Florida.

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

9 3. The court had jurisdiction over the parties and
10 matter under the laws of Florida and that reasonable notice
11 and opportunity to be heard was given to the person against
12 whom the order is sought sufficient to protect that person's
13 right to due process.

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

16 ~~(e)~~~~(d)~~ An injunction for protection against domestic
17 violence entered pursuant to this section, on its face, may
18 order that the respondent attend a batterers' intervention
19 program as a condition of the injunction. Unless the court
20 makes written factual findings in its judgment or order which
21 are based on substantial evidence, stating why batterers'
22 intervention programs would be inappropriate, the court shall
23 order the respondent to attend a batterers' intervention
24 program if:

25 1. It finds that the respondent willfully violated the
26 ex parte injunction;

27 2. The respondent, in this state or any other state,
28 has been convicted of, had adjudication withheld on, or pled
29 nolo contendere to a crime involving violence or a threat of
30 violence; or

31 3. The respondent, in this state or any other state,

1 has had at any time a prior injunction for protection entered
2 against the respondent after a hearing with notice.

3
4 It is mandatory that such programs be certified under s.
5 741.32.

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

10 (g)~~(f)~~ A final judgment on injunction for protection
11 against domestic violence entered pursuant to this section
12 must, on its face, indicate that it is a violation of s.
13 790.233, and a first degree misdemeanor, for the respondent to
14 have in his or her care, custody, possession, or control any
15 firearm or ammunition.

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

19 (7) The court shall allow an advocate from a state
20 attorney's office, an advocate from a law enforcement agency,
21 or an advocate from a certified domestic violence center who
22 is registered under s. 39.905 to be present with the
23 petitioner or respondent during any court proceedings or
24 hearings related to the injunction for protection, provided
25 the petitioner or respondent has made such a request and the
26 advocate is able to be present.

27 Section 14. Paragraph (a) of subsection (4) of section
28 741.31, Florida Statutes, is amended to read:

29 741.31 Violation of an injunction for protection
30 against domestic violence.--

31 (4)(a) A person who willfully violates an injunction

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 for protection against domestic violence issued pursuant to s.
2 741.30, or a foreign protection order accorded full faith and
3 credit pursuant to s. 741.315, by:

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

6 2. Going to, or being within 500 feet of, the
7 petitioner's residence, school, place of employment, or a
8 specified place frequented regularly by the petitioner and any
9 named family or household member;

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

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

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

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

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

24 8. Refusing to surrender firearms or ammunition if
25 ordered to do so by the court

26
27 commits a misdemeanor of the first degree, punishable as
28 provided in s. 775.082 or s. 775.083.

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

31 943.171 Basic skills training in handling domestic

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 violence cases.--

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

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

8 (b) "Household member" has the meaning set forth in s.
9 741.28(4) ~~means spouse, former spouse, persons related by~~
10 ~~blood or marriage, persons who are presently residing~~
11 ~~together, as if a family, or who have resided together in the~~
12 ~~past, as if a family, and persons who have a child in common~~
13 ~~regardless of whether they have been married or have resided~~
14 ~~together at any time.~~

15 Section 16. Paragraph (b) of subsection (2) of section
16 985.213, Florida Statutes, is amended to read:

17 985.213 Use of detention.--

18 (2)

19 (b)1. The risk assessment instrument for detention
20 care placement determinations and orders shall be developed by
21 the Department of Juvenile Justice in agreement with
22 representatives appointed by the following associations: the
23 Conference of Circuit Judges of Florida, the Prosecuting
24 Attorneys Association, the Public Defenders Association, the
25 Florida Sheriffs Association, and the Florida Association of
26 Chiefs of Police. Each association shall appoint two
27 individuals, one representing an urban area and one
28 representing a rural area. The parties involved shall
29 evaluate and revise the risk assessment instrument as is
30 considered necessary using the method for revision as agreed
31 by the parties. The risk assessment instrument shall take into

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 consideration, but need not be limited to, prior history of
2 failure to appear, prior offenses, offenses committed pending
3 adjudication, any unlawful possession of a firearm, theft of a
4 motor vehicle or possession of a stolen motor vehicle, and
5 probation status at the time the child is taken into custody.
6 The risk assessment instrument shall also take into
7 consideration appropriate aggravating and mitigating
8 circumstances, and shall be designed to target a narrower
9 population of children than s. 985.215(2). The risk assessment
10 instrument shall also include any information concerning the
11 child's history of abuse and neglect. The risk assessment
12 shall indicate whether detention care is warranted, and, if
13 detention care is warranted, whether the child should be
14 placed into secure, nonsecure, or home detention care.

15 2. If, at the detention hearing, the court finds a
16 material error in the scoring of the risk assessment
17 instrument, the court may amend the score to reflect factual
18 accuracy.

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

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

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

26

27 The child may not be held in secure detention under this
28 subparagraph for more than 48 hours unless ordered by the
29 court. After 48 hours, the court shall hold a hearing if the
30 state attorney or victim requests that secure detention be
31 continued. The child may continue to be held in detention care

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 if the court makes a specific, written finding that detention
2 care is necessary to protect the victim from injury. However,
3 the child may not be held in detention care beyond the time
4 limits set forth in s. 985.215.

5 4. For a child who is under the supervision of the
6 department through probation, home detention, nonsecure
7 detention, conditional release, postcommitment probation, or
8 commitment and who is charged with committing a new offense,
9 the risk assessment instrument may be completed and scored
10 based on the underlying charge for which the child was placed
11 under the supervision of the department and the new offense.

12 Section 17. Paragraph (d) of subsection (2) of section
13 985.215, Florida Statutes, is amended to read:

14 985.215 Detention.--

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

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

22
23 A child who meets any of these criteria and who is ordered to
24 be detained pursuant to this subsection shall be given a
25 hearing within 24 hours after being taken into custody. The
26 purpose of the detention hearing is to determine the existence
27 of probable cause that the child has committed the delinquent
28 act or violation of law with which he or she is charged and
29 the need for continued detention. Unless a child is detained
30 under paragraph (d) or paragraph (e), the court shall utilize
31 the results of the risk assessment performed by the juvenile

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 probation officer and, based on the criteria in this
2 subsection, shall determine the need for continued detention.
3 A child placed into secure, nonsecure, or home detention care
4 may continue to be so detained by the court pursuant to this
5 subsection. If the court orders a placement more restrictive
6 than indicated by the results of the risk assessment
7 instrument, the court shall state, in writing, clear and
8 convincing reasons for such placement. Except as provided in
9 s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b),
10 paragraph (10)(c), or paragraph (10)(d), when a child is
11 placed into secure or nonsecure detention care, or into a
12 respite home or other placement pursuant to a court order
13 following a hearing, the court order must include specific
14 instructions that direct the release of the child from such
15 placement no later than 5 p.m. on the last day of the
16 detention period specified in paragraph (5)(b) or paragraph
17 (5)(c), or subparagraph (10)(a)1., whichever is applicable,
18 unless the requirements of such applicable provision have been
19 met or an order of continuance has been granted pursuant to
20 paragraph (5)(f).

21 Section 18. Effective July 1, 2002, subsection (1) of
22 section 938.01, Florida Statutes, as amended by section 29 of
23 chapter 2001-254, Laws of Florida, section 19 of chapter
24 2001-122, Laws of Florida, section 1 of chapter 2001-184, Laws
25 of Florida, section 3 of chapter 2001-232, Laws of Florida,
26 and section 30 of chapter 2001-254, Laws of Florida, is
27 amended to read:

28 938.01 Additional Court Cost Clearing Trust Fund.--
29 (Substantial rewording of subsection. See
30 s. 938.01(1), F.S., for present text.)
31 (1) All courts created by Art. V of the State

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 Constitution shall, in addition to any fine or other penalty,
2 assess \$3 as a court cost against every person convicted for
3 violation of a state penal or criminal statute or convicted
4 for violation of a municipal or county ordinance. Any person
5 whose adjudication is withheld pursuant to the provisions of
6 s. 318.14(9) or (10) shall also be assessed such cost. In
7 addition, \$3 from every bond estreature or forfeited bail bond
8 related to such penal statutes or penal ordinances shall be
9 remitted to the Department of Revenue as described in this
10 subsection. However, no such assessment may be made against
11 any person convicted for violation of any state statute,
12 municipal ordinance, or county ordinance relating to the
13 parking of vehicles.

14 (a) All costs collected by the courts pursuant to this
15 subsection shall be remitted to the Department of Revenue in
16 accordance with administrative rules adopted by the executive
17 director of the Department of Revenue for deposit in the
18 Additional Court Cost Clearing Trust Fund. These funds and the
19 funds deposited in the Additional Court Cost Clearing Trust
20 Fund pursuant to s. 318.21(2)(c) shall be distributed as
21 follows:

22 1. Ninety-two percent to the Department of Law
23 Enforcement Criminal Justice Standards and Training Trust
24 Fund.

25 2. Six and three-tenths percent to the Department of
26 Law Enforcement Operating Trust Fund for the Criminal Justice
27 Grant Program.

28 3. One and seven-tenths percent to the Department of
29 Children and Family Services Domestic Violence Trust Fund for
30 the domestic violence program pursuant to s. 39.903(3).

31 (b) The funds deposited in the Department of Law

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 Enforcement Criminal Justice Standards and Training Trust
 2 Fund, the Department of Law Enforcement Operating Trust Fund,
 3 and the Department of Children and Family Services Domestic
 4 Violence Trust Fund may be invested. Any interest earned from
 5 investing such funds and any unencumbered funds remaining at
 6 the end of the budget cycle shall remain in the respective
 7 trust fund.

8 (c) All funds in the Department of Law Enforcement
 9 Criminal Justice Standards and Training Trust Fund shall be
 10 disbursed only in compliance with s. 943.25(9).

11 Section 19. Subsection (2) of section 4 of chapter
 12 2001-184, Laws of Florida, and subsection (2) of section 7 of
 13 chapter 2001-232, Laws of Florida, are repealed.

14 Section 20. Section 741.466, Florida Statutes, is
 15 repealed.

16 Section 21. Effective January 1, 2003, section
 17 784.046, Florida Statutes, is amended to read:

18 784.046 Action by victim of repeat violence or dating
 19 violence for protective injunction; powers and duties of court
 20 and clerk of court; filing and form of petition; notice and
 21 hearing; temporary injunction; issuance; statewide
 22 verification system; enforcement.--

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

24 (a) "Violence" means any assault, aggravated assault,
 25 battery, aggravated battery, sexual assault,sexual battery,
 26 or stalking, aggravated stalking, kidnapping, or false
 27 imprisonment, or any criminal offense resulting in physical
 28 injury or death,by a person against any other person.

29 (b) "Repeat violence" means two incidents of violence
 30 or stalking committed by the respondent, one of which must
 31 have been within 6 months of the filing of the petition, which

1 are directed against the petitioner or the petitioner's
2 immediate family member.

3 (c) "Dating violence" means violence between
4 individuals who have or have had a continuing and significant
5 relationship of a romantic or intimate nature. The existence
6 of such a relationship shall be determined based on the
7 consideration of the following factors:

8 1. A dating relationship must have existed within the
9 past 6 months;

10 2. The nature of the relationship must have been
11 characterized by the expectation of affection or sexual
12 involvement between the parties; and

13 3. The frequency and type of interaction between the
14 persons involved in the relationship must have included that
15 the persons have been involved over time and on a continuous
16 basis during the course of the relationship.

17
18 The term does not include violence in a casual
19 acquaintanceship or violence between individuals who only have
20 engaged in ordinary fraternization in a business or social
21 context.

22 (2) There is created a cause of action for an
23 injunction for protection in cases of repeat violence and
24 there is created a separate cause of action for an injunction
25 for protection in cases of dating violence.

26 (a) Any person who is the victim of repeat violence or
27 the parent or legal guardian of any minor child who is living
28 at home and who seeks an injunction for protection against
29 repeat violence on behalf of the minor child has standing in
30 the circuit court to file a sworn petition for an injunction
31 for protection against repeat violence.

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 (b) Any person who is the victim of dating violence
2 and has reasonable cause to believe he or she is in imminent
3 danger of becoming the victim of another act of dating
4 violence, or any person who has reasonable cause to believe he
5 or she is in imminent danger of becoming the victim of an act
6 of dating violence, or the parent or legal guardian of any
7 minor child who is living at home and who seeks an injunction
8 for protection against dating violence on behalf of that minor
9 child, has standing in the circuit court to file a sworn
10 petition for an injunction for protection against dating
11 violence.

12 ~~(c)(b)~~ This cause of action for an injunction may be
13 sought whether or not any other petition, complaint, or cause
14 of action is currently available or pending between the
15 parties.

16 ~~(d)(e)~~ This cause of action for an injunction shall
17 not require that the petitioner be represented by an attorney.

18 (3)(a) The clerk of the court shall provide a copy of
19 this section, simplified forms, and clerical assistance for
20 the preparation and filing of such a petition by any person
21 who is not represented by counsel.

22 (b) In the event the person desiring to file for an
23 injunction pursuant to this section does not have sufficient
24 funds with which to pay filing fees to the clerk of the court
25 or service fees to the sheriff or law enforcement agency and
26 signs an affidavit so stating, the fees shall be waived by the
27 clerk of the court or the sheriff or law enforcement agency to
28 the extent necessary to process the petition and serve the
29 injunction, subject to a subsequent order of the court
30 relative to the payment of such fees.

31 (c) No bond shall be required by the court for the

1 entry of an injunction.

2 (d) The clerk of the court shall provide the
3 petitioner with a certified copy of any injunction for
4 protection against repeat violence or dating violence entered
5 by the court.

6 (4)(a) The sworn petition shall allege the incidents
7 of repeat violence or dating violence and shall include the
8 specific facts and circumstances which form the basis upon
9 which relief is sought. With respect to a minor child who is
10 living at home, the parent or legal guardian of the minor
11 child must have been an eyewitness to, or have direct physical
12 evidence or affidavits from eyewitnesses of, the specific
13 facts and circumstances which form the basis upon which relief
14 is sought.

15 (b) The sworn petition shall be in substantially the
16 following form:

17
18 PETITION FOR INJUNCTION FOR PROTECTION
19 AGAINST REPEAT VIOLENCE OR DATING VIOLENCE
20

21 Before me, the undersigned authority, personally
22 appeared Petitioner ...(Name)..., who has been sworn and says
23 that the following statements are true:
24

- 25 1. Petitioner resides at ...(address)...
26 2. Respondent resides at ...(address)...

27 3.a. Petitioner has suffered repeat violence as
28 demonstrated by the fact that the respondent has:
29 ...(enumerate incidents of violence)...
30

31

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

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b. Petitioner is a victim of dating violence and has reasonable cause to believe that he or she is in imminent danger of becoming the victim of another act of dating violence or has reasonable cause to believe that he or she is in imminent danger of becoming a victim of dating violence, as demonstrated by the fact that the respondent has: ...(list the specific incident or incidents of violence and describe the length of time of the relationship, whether it has been in existence during the last 6 months, the nature of the relationship of a romantic or intimate nature, the frequency and type of interaction, and any other facts that characterize the relationship.)...

.....
.....
.....

4. Petitioner genuinely fears repeat violence by the respondent.

5. Petitioner seeks: an immediate injunction against the respondent, enjoining him or her from committing any further acts of ~~repeat~~ violence; an injunction enjoining the respondent from committing any further acts of ~~repeat~~ violence; and an injunction providing any terms the court deems necessary for the protection of the petitioner and the petitioner's immediate family, including any injunctions or directives to law enforcement agencies.

1 (5) Upon the filing of the petition, the court shall
2 set a hearing to be held at the earliest possible time. The
3 respondent shall be personally served with a copy of the
4 petition, notice of hearing, and temporary injunction, if any,
5 prior to the hearing.

6 (6)(a) When it appears to the court that an immediate
7 and present danger of ~~repeat~~ violence exists, the court may
8 grant a temporary injunction which may be granted in an ex
9 parte hearing, pending a full hearing, and may grant such
10 relief as the court deems proper, including an injunction
11 enjoining the respondent from committing any acts of ~~repeat~~
12 violence.

13 (b) In a hearing ex parte for the purpose of obtaining
14 such temporary injunction, no evidence other than the verified
15 pleading or affidavit shall be used as evidence, unless the
16 respondent appears at the hearing or has received reasonable
17 notice of the hearing.

18 (c) Any such ex parte temporary injunction shall be
19 effective for a fixed period not to exceed 15 days. A full
20 hearing, as provided by this section, shall be set for a date
21 no later than the date when the temporary injunction ceases to
22 be effective. The court may grant a continuance of the ex
23 parte injunction and the full hearing before or during a
24 hearing, for good cause shown by any party.

25 (7) Upon notice and hearing, the court may grant such
26 relief as the court deems proper, including an injunction:

27 (a) Enjoining the respondent from committing any acts
28 of violence.

29 (b) Ordering such other relief as the court deems
30 necessary for the protection of the petitioner, including
31 injunctions or directives to law enforcement agencies, as

1 provided in this section.

2 (c) The terms of the injunction shall remain in full
3 force and effect until modified or dissolved. Either party may
4 move at any time to modify or dissolve the injunction. Such
5 relief may be granted in addition to other civil or criminal
6 remedies.

7 (d) A temporary or final judgment on injunction for
8 protection against repeat violence or dating violence entered
9 pursuant to this section shall, on its face, indicate that:

10 1. The injunction is valid and enforceable in all
11 counties of the State of Florida.

12 2. Law enforcement officers may use their arrest
13 powers pursuant to s. 901.15(6) to enforce the terms of the
14 injunction.

15 3. The court had jurisdiction over the parties and
16 matter under the laws of Florida and that reasonable notice
17 and opportunity to be heard was given to the person against
18 whom the order is sought sufficient to protect that person's
19 right to due process.

20 4. The date that the respondent was served with the
21 temporary or final order, if obtainable.

22 (8)(a)1. The clerk of the court shall furnish a copy
23 of the petition, notice of hearing, and temporary injunction,
24 if any, to the sheriff or a law enforcement agency of the
25 county where the respondent resides or can be found, who shall
26 serve it upon the respondent as soon thereafter as possible on
27 any day of the week and at any time of the day or night. The
28 clerk of the court shall be responsible for furnishing to the
29 sheriff such information on the respondent's physical
30 description and location as is required by the department to
31 comply with the verification procedures set forth in this

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 section. Notwithstanding any other provision of law to the
2 contrary, the chief judge of each circuit, in consultation
3 with the appropriate sheriff, may authorize a law enforcement
4 agency within the chief judge's jurisdiction to effect this
5 type of service and to receive a portion of the service fee.
6 No person shall be authorized or permitted to serve or execute
7 an injunction issued under this section unless the person is a
8 law enforcement officer as defined in chapter 943.

9 2. When an injunction is issued, if the petitioner
10 requests the assistance of a law enforcement agency, the court
11 may order that an officer from the appropriate law enforcement
12 agency accompany the petitioner and assist in the execution or
13 service of the injunction. A law enforcement officer shall
14 accept a copy of an injunction for protection against repeat
15 violence or dating violence, certified by the clerk of the
16 court, from the petitioner and immediately serve it upon a
17 respondent who has been located but not yet served.

18 (b) There shall be created a Domestic, Dating, and
19 Repeat Violence Injunction Statewide Verification System
20 within the Department of Law Enforcement. The department shall
21 establish, implement, and maintain a statewide communication
22 system capable of electronically transmitting information to
23 and between criminal justice agencies relating to domestic
24 violence injunctions, dating violence injunctions, and repeat
25 violence injunctions issued by the courts throughout the
26 state. Such information must include, but is not limited to,
27 information as to the existence and status of any injunction
28 for verification purposes.

29 (c)1. Within 24 hours after the court issues an
30 injunction for protection against repeat violence or dating
31 violence or changes or vacates an injunction for protection

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 against repeat violence or dating violence, the clerk of the
2 court must forward a copy of the injunction to the sheriff
3 with jurisdiction over the residence of the petitioner.

4 2. Within 24 hours after service of process of an
5 injunction for protection against repeat violence or dating
6 violence upon a respondent, the law enforcement officer must
7 forward the written proof of service of process to the sheriff
8 with jurisdiction over the residence of the petitioner.

9 3. Within 24 hours after the sheriff receives a
10 certified copy of the injunction for protection against repeat
11 violence or dating violence, the sheriff must make information
12 relating to the injunction available to other law enforcement
13 agencies by electronically transmitting such information to
14 the department.

15 4. Within 24 hours after the sheriff or other law
16 enforcement officer has made service upon the respondent and
17 the sheriff has been so notified, the sheriff must make
18 information relating to the service available to other law
19 enforcement agencies by electronically transmitting such
20 information to the department.

21 5. Within 24 hours after an injunction for protection
22 against repeat violence or dating violence is lifted,
23 terminated, or otherwise rendered no longer effective by
24 ruling of the court, the clerk of the court must notify the
25 sheriff or local law enforcement agency receiving original
26 notification of the injunction as provided in subparagraph 2.
27 That agency shall, within 24 hours after receiving such
28 notification from the clerk of the court, notify the
29 department of such action of the court.

30 (9)(a) The court shall enforce, through a civil or
31 criminal contempt proceeding, a violation of an injunction for

1 protection. The court may enforce the respondent's compliance
2 with the injunction by imposing a monetary assessment. The
3 clerk of the court shall collect and receive such assessments.
4 On a monthly basis, the clerk shall transfer the moneys
5 collected pursuant to this paragraph to the State Treasury for
6 deposit in the Crimes Compensation Trust Fund established in
7 s. 960.21.

8 (b) If the respondent is arrested by a law enforcement
9 officer under s. 901.15(10) for committing an act of repeat
10 violence or dating violence in violation of a repeat or dating
11 violence injunction for protection, the respondent shall be
12 held in custody until brought before the court as
13 expeditiously as possible for the purpose of enforcing the
14 injunction and for admittance to bail in accordance with
15 chapter 903 and the applicable rules of criminal procedure,
16 pending a hearing.

17 (10) The petitioner or the respondent may move the
18 court to modify or dissolve an injunction at any time.

19 (11) A law enforcement officer acting in good faith
20 under this section and the officer's employing agency shall be
21 immune from all liability, civil or criminal, that might
22 otherwise be incurred or imposed by reason of the officer's or
23 agency's actions in carrying out the provisions of this
24 section.

25 Section 22. Section 784.047, Florida Statutes, is
26 amended to read:

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

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 741.315 by:

2 (1) Refusing to vacate the dwelling that the parties
3 share;

4 (2) Going to the petitioner's residence, school, place
5 of employment, or a specified place frequented regularly by
6 the petitioner and any named family or household member;

7 (3) Committing an act of repeat violence or dating
8 violence against the petitioner;

9 (4) Committing any other violation of the injunction
10 through an intentional unlawful threat, word, or act to do
11 violence to the petitioner; or

12 (5) Telephoning, contacting, or otherwise
13 communicating with the petitioner directly or indirectly,
14 unless the injunction specifically allows indirect contact
15 through a third party;

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

19 Section 23. Subsection (4) of section 784.048, Florida
20 Statutes, is amended to read:

21 784.048 Stalking; definitions; penalties.--

22 (4) Any person who, after an injunction for protection
23 against repeat violence or dating violence pursuant to s.
24 784.046, or an injunction for protection against domestic
25 violence pursuant to s. 741.30, or after any other
26 court-imposed prohibition of conduct toward the subject person
27 or that person's property, knowingly, willfully, maliciously,
28 and repeatedly follows or harasses another person commits the
29 offense of aggravated stalking, a felony of the third degree,
30 punishable as provided in s. 775.082, s. 775.083, or s.
31 775.084.

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 Section 24. Except as otherwise provided herein, this
2 act shall take effect January 1, 2003.

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4

5 ===== T I T L E A M E N D M E N T =====

6 And the title is amended as follows:

7 remove: the entire title

8

9 and insert:

10

A bill to be entitled

11

An act relating to domestic violence; amending

12

ss. 25.385, 39.902, 741.28, and 943.171, F.S.;

13

redefining the terms "domestic violence" and

14

"family or household member"; amending s.

15

28.241, F.S.; deleting reference to limitations

16

on filing fees for domestic violence

17

injunctions to conform to the act; amending s.

18

39.903, F.S.; providing duty of the Department

19

of Children and Family Services to operate the

20

domestic violence program; amending ss.

21

390.01115, 470.002, 626.9541, 641.3903,

22

985.213, and 985.215, F.S.; correcting cross

23

references; amending s. 741.281, F.S.; deleting

24

requirement that a court order certain

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defendants to attend a batterers' intervention

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program; amending s. 741.2902, F.S.; deleting

27

provisions relating to filing fees and costs to

28

conform to the act; amending s. 741.30, F.S.;

29

eliminating the filing fee and revising

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provisions for reimbursement of costs for

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issuance of such injunctions; specifying when a

731-123AXC-08

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Amendment No. ____ (for drafter's use only)

1 person has standing to file a petition for an
2 injunction against domestic violence;
3 specifying where the petition may be filed;
4 providing for incidents that describe violence
5 or threats of violence; specifying when a court
6 may grant relief; providing factors for the
7 court to consider in determining imminent
8 danger; providing for recording of proceedings;
9 providing for the presence of an advocate from
10 a state attorney's office, law enforcement
11 agency, or domestic violence center at
12 injunction proceedings, upon request; amending
13 s. 741.31, F.S.; specifying additional acts
14 that violate an injunction against domestic
15 violence; providing a penalty; amending s.
16 938.01, F.S.; revising provisions relating to
17 distribution of additional court costs assessed
18 in specified circumstances; repealing s. 4(2)
19 of ch. 2001-184, Laws of Florida, and s. 7(2)
20 of ch. 2001-232, Laws of Florida, relating to
21 the transfer of certain funds for
22 administration of the Prevention of Domestic
23 and Sexual Violence Program; repealing s.
24 741.466, F.S., relating to transfer of the
25 Prevention of Domestic and Sexual Violence
26 Program from the Department of Community
27 Affairs to the Department of Children and
28 Family Services; amending s. 784.046, F.S.;
29 providing for actions by victims of dating
30 violence; providing a definition; providing a
31 cause of action for an injunction for

731-123AXC-08

Bill No. SB 716, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 protection in cases of dating violence;
 2 providing a procedure for filing a petition;
 3 providing for a hearing and temporary or final
 4 judgment; redesignating the Domestic and Repeat
 5 Violence Injunction Statewide Verification
 6 System as the Domestic, Dating, and Repeat
 7 Violence Injunction Statewide Verification
 8 System; providing for notice to the sheriff;
 9 amending ss. 784.047 and 784.048, F.S.;
 10 providing penalties for violating an injunction
 11 for protection against dating violence;
 12 providing a violation of such injunction
 13 constitutes the offense of aggravated stalking;
 14 providing a penalty; providing effective dates.

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