

By Senator Saunders

37-145-03

1 A bill to be entitled
2 An act relating to protective injunctions;
3 amending s. 784.046, F.S.; deleting the
4 definition of the term "repeat violence" for
5 purposes of protective injunctions; providing
6 for an injunction for protection in cases of
7 violence rather than in cases of repeat
8 violence; providing requirements for a petition
9 for protection against violence; redesignating
10 the Domestic, Dating, and Repeat Violence
11 Injunction Statewide Verification System in the
12 Department of Law Enforcement as the "Domestic,
13 Dating, and Violence Injunction Statewide
14 Verification System"; providing for service of
15 process and enforcement of an injunction for
16 protection against violence; amending s.
17 784.047, F.S.; providing that it is a
18 first-degree misdemeanor to violate an
19 injunction for protection against violence;
20 amending ss. 61.1825, 741.2901, 741.30, F.S.,
21 relating to the State Case Registry and
22 domestic violence; conforming provisions to
23 changes made by the act; amending s. 784.048,
24 F.S.; revising the elements of the offense of
25 aggravated stalking to prohibit certain acts
26 following an injunction for protection against
27 violence rather than following an injunction
28 for protection against repeat violence;
29 amending ss. 790.06, 790.065, F.S., relating to
30 a license to carry a concealed weapon or
31 firearm and the sale and delivery of firearms;

1 conforming provisions to changes made by the
2 act; amending s. 901.15, F.S.; authorizing
3 arrest without a warrant when an officer has
4 probable cause to believe that a person has
5 knowingly committed an act of violence in
6 violation of an injunction for protection from
7 violence; amending s. 943.05, F.S., relating to
8 the Criminal Justice Information Program;
9 conforming provisions to changes made by the
10 act; reenacting ss. 775.084(1)(d),
11 921.0022(3)(g), F.S., relating to violent
12 career criminals and the offense severity
13 ranking chart of the Criminal Punishment Code,
14 to incorporate the amendment to s. 784.048,
15 F.S., in references thereto; providing an
16 effective date.

17

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

19

20 Section 1. Section 784.046, Florida Statutes, is
21 amended to read:

22 784.046 Action by victim of ~~repeat~~ violence or dating
23 violence for protective injunction; powers and duties of court
24 and clerk of court; filing and form of petition; notice and
25 hearing; temporary injunction; issuance; statewide
26 verification system; enforcement.--

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

28 (a) "Violence" means any assault, aggravated assault,
29 battery, aggravated battery, sexual assault, sexual battery,
30 stalking, aggravated stalking, kidnapping, or false
31

1 imprisonment, or any criminal offense resulting in physical
2 injury or death, by a person against any other person.

3 ~~(b) "Repeat violence" means two incidents of violence~~
4 ~~or stalking committed by the respondent, one of which must~~
5 ~~have been within 6 months of the filing of the petition, which~~
6 ~~are directed against the petitioner or the petitioner's~~
7 ~~immediate family member.~~

8 (b)(c) "Dating violence" means violence between
9 individuals who have or have had a continuing and significant
10 relationship of a romantic or intimate nature. The existence
11 of such a relationship shall be determined based on the
12 consideration of the following factors:

13 1. A dating relationship must have existed within the
14 past 6 months;

15 2. The nature of the relationship must have been
16 characterized by the expectation of affection or sexual
17 involvement between the parties; and

18 3. The frequency and type of interaction between the
19 persons involved in the relationship must have included that
20 the persons have been involved over time and on a continuous
21 basis during the course of the relationship.

22
23 The term does not include violence in a casual
24 acquaintanceship or violence between individuals who only have
25 engaged in ordinary fraternization in a business or social
26 context.

27 (2) There is created a cause of action for an
28 injunction for protection in cases of ~~repeat~~ violence, and
29 there is created a separate cause of action for an injunction
30 for protection in cases of dating violence.

31

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

12 (b) Any person who is the victim of dating violence
13 and has reasonable cause to believe he or she is in imminent
14 danger of becoming the victim of another act of dating
15 violence, or any person who has reasonable cause to believe he
16 or she is in imminent danger of becoming the victim of an act
17 of dating violence, or the parent or legal guardian of any
18 minor child who is living at home and who seeks an injunction
19 for protection against dating violence on behalf of that minor
20 child, has standing in the circuit court to file a sworn
21 petition for an injunction for protection against dating
22 violence.

23 (c) This cause of action for an injunction may be
24 sought whether or not any other petition, complaint, or cause
25 of action is currently available or pending between the
26 parties.

27 (d) This cause of action for an injunction does ~~shall~~
28 not require that the petitioner be represented by an attorney.

29 (3)(a) The clerk of the court shall provide a copy of
30 this section, simplified forms, and clerical assistance for
31

1 the preparation and filing of such a petition by any person
2 who is not represented by counsel.

3 (b) If ~~in the event~~ the person desiring to file for an
4 injunction pursuant to this section does not have sufficient
5 funds with which to pay filing fees to the clerk of the court
6 or service fees to the sheriff or law enforcement agency and
7 signs an affidavit so stating, the fees shall be waived by the
8 clerk of the court or the sheriff or law enforcement agency to
9 the extent necessary to process the petition and serve the
10 injunction, subject to a subsequent order of the court
11 relative to the payment of such fees.

12 (c) ~~No bond shall be required by~~ The court may not
13 require a bond for the entry of an injunction.

14 (d) The clerk of the court shall provide the
15 petitioner with a certified copy of any injunction for
16 protection against ~~repeat~~ violence or dating violence entered
17 by the court.

18 (4)(a) The sworn petition must ~~shall~~ allege the
19 incidents of ~~repeat~~ violence or dating violence and must ~~shall~~
20 include the specific facts and circumstances that ~~which~~ form
21 the basis upon which relief is sought. With respect to a minor
22 child who is living at home, the parent or legal guardian of
23 the minor child must have been an eyewitness to, or have
24 direct physical evidence or affidavits from eyewitnesses of,
25 the specific facts and circumstances that ~~which~~ form the basis
26 upon which relief is sought.

27 (b) The sworn petition must ~~shall~~ be in substantially
28 the following form:

29
30 PETITION FOR INJUNCTION FOR PROTECTION
31 AGAINST ~~REPEAT~~ VIOLENCE OR DATING VIOLENCE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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

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

3.a. Petitioner is a victim of violence and has reasonable cause to believe that he or she is in imminent danger of becoming the victim of another act of violence or has reasonable cause to believe that he or she is in imminent danger of becoming a victim of ~~has suffered repeat~~ violence, as demonstrated by the fact that the respondent has: ...(enumerate incidents of violence)...

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

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.)...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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

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 violence; an injunction enjoining the respondent from committing any further acts of 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.

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

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

(b) In a hearing ex parte for the purpose of obtaining such temporary injunction, ~~no~~ evidence other than the verified pleading or affidavit may not ~~shall~~ be used as evidence,

1 unless the respondent appears at the hearing or has received
2 reasonable notice of the hearing.

3 (c) Any such ex parte temporary injunction shall be
4 effective for a fixed period not to exceed 15 days. A full
5 hearing, as provided by this section, shall be set for a date
6 no later than the date when the temporary injunction ceases to
7 be effective. The court may grant a continuance of the ex
8 parte injunction and the full hearing before or during a
9 hearing, for good cause shown by any party.

10 (7)(a) Upon notice and hearing, the court may grant
11 such relief as the court deems proper, including an
12 injunction:

13 1.(a) Enjoining the respondent from committing any
14 acts of violence.

15 2.(b) Ordering such other relief as the court deems
16 necessary for the protection of the petitioner, including
17 injunctions or directives to law enforcement agencies, as
18 provided in this section.

19 (b)(c) The terms of the injunction shall remain in
20 full force and effect until modified or dissolved. Either
21 party may move at any time to modify or dissolve the
22 injunction. Such relief may be granted in addition to other
23 civil or criminal remedies.

24 (c)(d) A temporary or final judgment on injunction for
25 protection against ~~repeat~~ violence or dating violence entered
26 pursuant to this section shall, on its face, indicate that:

27 1. The injunction is valid and enforceable in all
28 counties of the State of Florida.

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

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

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

8 (8)(a)1. The clerk of the court shall furnish a copy
9 of the petition, notice of hearing, and temporary injunction,
10 if any, to the sheriff or a law enforcement agency of the
11 county where the respondent resides or can be found, who shall
12 serve it upon the respondent as soon thereafter as possible on
13 any day of the week and at any time of the day or night. The
14 clerk of the court shall be responsible for furnishing to the
15 sheriff such information on the respondent's physical
16 description and location as is required by the department to
17 comply with the verification procedures set forth in this
18 section. Notwithstanding any other provision of law to the
19 contrary, the chief judge of each circuit, in consultation
20 with the appropriate sheriff, may authorize a law enforcement
21 agency within the chief judge's jurisdiction to effect this
22 type of service and to receive a portion of the service fee.
23 No person shall be authorized or permitted to serve or execute
24 an injunction issued under this section unless the person is a
25 law enforcement officer as defined in chapter 943.

26 2. When an injunction is issued, if the petitioner
27 requests the assistance of a law enforcement agency, the court
28 may order that an officer from the appropriate law enforcement
29 agency accompany the petitioner and assist in the execution or
30 service of the injunction. A law enforcement officer shall
31 accept a copy of an injunction for protection against repeat

1 violence or dating violence, certified by the clerk of the
2 court, from the petitioner and immediately serve it upon a
3 respondent who has been located but not yet served.

4 (b) There shall be created a Domestic, Dating, and
5 ~~Repeat~~ Violence Injunction Statewide Verification System
6 within the Department of Law Enforcement. The department shall
7 establish, implement, and maintain a statewide communication
8 system capable of electronically transmitting information to
9 and between criminal justice agencies relating to domestic
10 violence injunctions, dating violence injunctions, and ~~repeat~~
11 violence injunctions issued by the courts throughout the
12 state. Such information must include, but is not limited to,
13 information as to the existence and status of any injunction
14 for verification purposes.

15 (c)1. Within 24 hours after the court issues an
16 injunction for protection against ~~repeat~~ violence or dating
17 violence or changes or vacates an injunction for protection
18 against ~~repeat~~ violence or dating violence, the clerk of the
19 court must forward a copy of the injunction to the sheriff
20 with jurisdiction over the residence of the petitioner.

21 2. Within 24 hours after service of process of an
22 injunction for protection against ~~repeat~~ violence or dating
23 violence upon a respondent, the law enforcement officer must
24 forward the written proof of service of process to the sheriff
25 with jurisdiction over the residence of the petitioner.

26 3. Within 24 hours after the sheriff receives a
27 certified copy of the injunction for protection against ~~repeat~~
28 violence or dating violence, the sheriff must make information
29 relating to the injunction available to other law enforcement
30 agencies by electronically transmitting such information to
31 the department.

1 4. Within 24 hours after the sheriff or other law
2 enforcement officer has made service upon the respondent and
3 the sheriff has been so notified, the sheriff must make
4 information relating to the service available to other law
5 enforcement agencies by electronically transmitting such
6 information to the department.

7 5. Within 24 hours after an injunction for protection
8 against ~~repeat~~ violence or dating violence is lifted,
9 terminated, or otherwise rendered no longer effective by
10 ruling of the court, the clerk of the court must notify the
11 sheriff or local law enforcement agency receiving original
12 notification of the injunction as provided in subparagraph 2.
13 That agency shall, within 24 hours after receiving such
14 notification from the clerk of the court, notify the
15 department of such action of the court.

16 (9)(a) The court shall enforce, through a civil or
17 criminal contempt proceeding, a violation of an injunction for
18 protection. The court may enforce the respondent's compliance
19 with the injunction by imposing a monetary assessment. The
20 clerk of the court shall collect and receive such assessments.
21 On a monthly basis, the clerk shall transfer the moneys
22 collected pursuant to this paragraph to the State Treasury for
23 deposit in the Crimes Compensation Trust Fund established in
24 s. 960.21.

25 (b) If the respondent is arrested by a law enforcement
26 officer under s. 901.15(10) for committing an act of ~~repeat~~
27 violence or dating violence in violation of a violence ~~repeat~~
28 or dating violence injunction for protection, the respondent
29 shall be held in custody until brought before the court as
30 expeditiously as possible for the purpose of enforcing the
31 injunction and for admittance to bail in accordance with

1 chapter 903 and the applicable rules of criminal procedure,
2 pending a hearing.

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

5 (11) A law enforcement officer acting in good faith
6 under this section and the officer's employing agency shall be
7 immune from all liability, civil or criminal, that might
8 otherwise be incurred or imposed by reason of the officer's or
9 agency's actions in carrying out the provisions of this
10 section.

11 Section 2. Section 784.047, Florida Statutes, is
12 amended to read:

13 784.047 Penalties for violating protective injunction
14 against violators.--A person who willfully violates an
15 injunction for protection against ~~repeat~~ violence or dating
16 violence, issued pursuant to s. 784.046, or a foreign
17 protection order accorded full faith and credit pursuant to s.
18 741.315 by:

19 (1) Refusing to vacate the dwelling that the parties
20 share;

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

24 (3) Committing an act of ~~repeat~~ violence or dating
25 violence against the petitioner;

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

29 (5) Telephoning, contacting, or otherwise
30 communicating with the petitioner directly or indirectly,
31

1 unless the injunction specifically allows indirect contact
2 through a third party;

3
4 commits a misdemeanor of the first degree, punishable as
5 provided in s. 775.082 or s. 775.083.

6 Section 3. Paragraph (a) of subsection (3) of section
7 61.1825, Florida Statutes, is amended to read:

8 61.1825 State Case Registry.--

9 (3)(a) For the purpose of this section, a family
10 violence indicator must be placed on a record when:

11 1. A party executes a sworn statement requesting that
12 a family violence indicator be placed on that party's record
13 which states that the party has reason to believe that release
14 of information to the Federal Case Registry may result in
15 physical or emotional harm to the party or the child; or

16 2. A temporary or final injunction for protection
17 against domestic violence has been granted pursuant to s.
18 741.30(6), an injunction for protection against domestic
19 violence has been issued by a court of a foreign state
20 pursuant to s. 741.315, or a temporary or final injunction for
21 protection against ~~repeat~~ violence has been granted pursuant
22 to s. 784.046; or

23 3. The department has received information on a Title
24 IV-D case from the Domestic, Dating, Violence and ~~Repeat~~
25 Violence Injunction Statewide Verification System, established
26 pursuant to s. 784.046 ~~s. 784.046(8)(b)~~, that a court has
27 granted a party a domestic violence or ~~repeat~~ violence
28 injunction.

29 Section 4. Subsection (3) of section 741.2901, Florida
30 Statutes, is amended to read:

31

1 741.2901 Domestic violence cases; prosecutors;
2 legislative intent; investigation; duty of circuits; first
3 appearance.--

4 (3) Prior to a defendant's first appearance in any
5 charge of domestic violence as defined in s. 741.28, the State
6 Attorney's Office shall perform a thorough investigation of
7 the defendant's history, including, but not limited to: prior
8 arrests for domestic violence, prior arrests for nondomestic
9 charges, prior injunctions for protection against domestic
10 violence or ~~and repeat~~ violence filed listing the defendant as
11 respondent and noting history of other victims, and prior
12 walk-in domestic complaints filed against the defendant. This
13 information shall be presented at first appearance, when
14 setting bond, and when passing sentence, for consideration by
15 the court. When a defendant is arrested for an act of
16 domestic violence, the defendant shall be held in custody
17 until brought before the court for admittance to bail in
18 accordance with chapter 903. In determining bail, the court
19 shall consider the safety of the victim, the victim's
20 children, and any other person who may be in danger if the
21 defendant is released.

22 Section 5. Paragraph (c) of subsection (2) and
23 paragraph (b) of subsection (8) of section 741.30, Florida
24 Statutes, are amended to read:

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

29 (2)

30 (c)1. The clerk of the court shall assist petitioners
31 in seeking both injunctions for protection against domestic

1 violence and enforcement for a violation thereof as specified
2 in this section.

3 2. All clerks' offices shall provide simplified
4 petition forms for the injunction, any modifications, and the
5 enforcement thereof, including instructions for completion.

6 3. The clerk of the court shall advise petitioners of
7 the availability of affidavits of insolvency or indigence in
8 lieu of payment for the cost of the filing fee, as provided in
9 paragraph (a).

10 4. The clerk of the court shall ensure the
11 petitioner's privacy to the extent practical while completing
12 the forms for injunctions for protection against domestic
13 violence.

14 5. The clerk of the court shall provide petitioners
15 with a minimum of two certified copies of the order of
16 injunction, one of which is serviceable and will inform the
17 petitioner of the process for service and enforcement.

18 6. Clerks of court and appropriate staff in each
19 county shall receive training in the effective assistance of
20 petitioners as provided or approved by the Florida Association
21 of Court Clerks.

22 7. The clerk of the court in each county shall make
23 available informational brochures on domestic violence when
24 such brochures are provided by local certified domestic
25 violence centers.

26 8. The clerk of the court in each county shall
27 distribute a statewide uniform informational brochure to
28 petitioners at the time of filing for an injunction for
29 protection against domestic violence or ~~repeat~~ violence when
30 such brochures become available. The brochure must include
31

1 information about the effect of giving the court false
2 information about domestic violence.

3 (8)

4 (b) ~~The There shall be created a~~ Domestic, Dating, and
5 ~~Repeat~~ Violence Injunction Statewide Verification System is
6 created within the Department of Law Enforcement. The
7 department shall establish, implement, and maintain a
8 statewide communication system capable of electronically
9 transmitting information to and between criminal justice
10 agencies relating to domestic violence injunctions and ~~repeat~~
11 violence injunctions issued by the courts throughout the
12 state. Such information must include, but is not limited to,
13 information as to the existence and status of any injunction
14 for verification purposes.

15 Section 6. Subsection (4) of section 784.048, Florida
16 Statutes, is amended to read:

17 784.048 Stalking; definitions; penalties.--

18 (4) Any person who, after an injunction for protection
19 against ~~repeat~~ violence or dating violence pursuant to s.
20 784.046, or an injunction for protection against domestic
21 violence pursuant to s. 741.30, or after any other
22 court-imposed prohibition of conduct toward the subject person
23 or that person's property, knowingly, willfully, maliciously,
24 and repeatedly follows or harasses another person commits the
25 offense of aggravated stalking, a felony of the third degree,
26 punishable as provided in s. 775.082, s. 775.083, or s.
27 775.084.

28 Section 7. Subsections (2) and (3) of section 790.06,
29 Florida Statutes, are amended to read:

30 790.06 License to carry concealed weapon or firearm.--

31

1 (2) The Department of Agriculture and Consumer
2 Services shall issue a license if the applicant:

3 (a) Is a resident of the United States or is a
4 consular security official of a foreign government that
5 maintains diplomatic relations and treaties of commerce,
6 friendship, and navigation with the United States and is
7 certified as such by the foreign government and by the
8 appropriate embassy in this country;

9 (b) Is 21 years of age or older;

10 (c) Does not suffer from a physical infirmity which
11 prevents the safe handling of a weapon or firearm;

12 (d) Is not ineligible to possess a firearm pursuant to
13 s. 790.23 by virtue of having been convicted of a felony;

14 (e) Has not been committed for the abuse of a
15 controlled substance or been found guilty of a crime under the
16 provisions of chapter 893 or similar laws of any other state
17 relating to controlled substances within a 3-year period
18 immediately preceding the date on which the application is
19 submitted;

20 (f) Does not chronically and habitually use alcoholic
21 beverages or other substances to the extent that his or her
22 normal faculties are impaired. It shall be presumed that an
23 applicant chronically and habitually uses alcoholic beverages
24 or other substances to the extent that his or her normal
25 faculties are impaired if the applicant has been committed
26 under chapter 397 or under the provisions of former chapter
27 396 or has been convicted under s. 790.151 or has been deemed
28 a habitual offender under s. 856.011(3), or has had two or
29 more convictions under s. 316.193 or similar laws of any other
30 state, within the 3-year period immediately preceding the date
31 on which the application is submitted;

1 (g) Desires a legal means to carry a concealed weapon
2 or firearm for lawful self-defense;

3 (h) Demonstrates competence with a firearm by any one
4 of the following:

5 1. Completion of any hunter education or hunter safety
6 course approved by the Fish and Wildlife Conservation
7 Commission or a similar agency of another state;

8 2. Completion of any National Rifle Association
9 firearms safety or training course;

10 3. Completion of any firearms safety or training
11 course or class available to the general public offered by a
12 law enforcement, junior college, college, or private or public
13 institution or organization or firearms training school,
14 utilizing instructors certified by the National Rifle
15 Association, Criminal Justice Standards and Training
16 Commission, or the Department of State;

17 4. Completion of any law enforcement firearms safety
18 or training course or class offered for security guards,
19 investigators, special deputies, or any division or
20 subdivision of law enforcement or security enforcement;

21 5. Presents evidence of equivalent experience with a
22 firearm through participation in organized shooting
23 competition or military service;

24 6. Is licensed or has been licensed to carry a firearm
25 in this state or a county or municipality of this state,
26 unless such license has been revoked for cause; or

27 7. Completion of any firearms training or safety
28 course or class conducted by a state-certified or National
29 Rifle Association certified firearms instructor;

30
31

1 A photocopy of a certificate of completion of any of the
2 courses or classes; or an affidavit from the instructor,
3 school, club, organization, or group that conducted or taught
4 said course or class attesting to the completion of the course
5 or class by the applicant; or a copy of any document which
6 shows completion of the course or class or evidences
7 participation in firearms competition shall constitute
8 evidence of qualification under this paragraph; any person who
9 conducts a course pursuant to subparagraph 2., subparagraph
10 3., or subparagraph 7., or who, as an instructor, attests to
11 the completion of such courses, must maintain records
12 certifying that he or she observed the student safely handle
13 and discharge the firearm;

14 (i) Has not been adjudicated an incapacitated person
15 under s. 744.331, or similar laws of any other state, unless 5
16 years have elapsed since the applicant's restoration to
17 capacity by court order;

18 (j) Has not been committed to a mental institution
19 under chapter 394, or similar laws of any other state, unless
20 the applicant produces a certificate from a licensed
21 psychiatrist that he or she has not suffered from disability
22 for at least 5 years prior to the date of submission of the
23 application;

24 (k) Has not had adjudication of guilt withheld or
25 imposition of sentence suspended on any felony or misdemeanor
26 crime of domestic violence unless 3 years have elapsed since
27 probation or any other conditions set by the court have been
28 fulfilled, or the record has been sealed or expunged;

29 (l) Has not been issued an injunction that is
30 currently in force and effect and that restrains the applicant
31

1 from committing acts of domestic violence or acts of ~~repeat~~
2 violence; and

3 (m) Is not prohibited from purchasing or possessing a
4 firearm by any other provision of Florida or federal law.

5 (3) The Department of Agriculture and Consumer
6 Services shall deny a license if the applicant has been found
7 guilty of, had adjudication of guilt withheld for, or had
8 imposition of sentence suspended for one or more crimes of
9 violence constituting a misdemeanor, unless 3 years have
10 elapsed since probation or any other conditions set by the
11 court have been fulfilled or the record has been sealed or
12 expunged. The Department of Agriculture and Consumer Services
13 shall revoke a license if the licensee has been found guilty
14 of, had adjudication of guilt withheld for, or had imposition
15 of sentence suspended for one or more crimes of violence
16 within the preceding 3 years. The department shall, upon
17 notification by a law enforcement agency, a court, or the
18 Florida Department of Law Enforcement and subsequent written
19 verification, suspend a license or the processing of an
20 application for a license if the licensee or applicant is
21 arrested or formally charged with a crime that would
22 disqualify such person from having a license under this
23 section, until final disposition of the case. The department
24 shall suspend a license or the processing of an application
25 for a license if the licensee or applicant is issued an
26 injunction that restrains the licensee or applicant from
27 committing acts of domestic violence or acts of ~~repeat~~
28 violence.

29 Section 8. Paragraph (c) of subsection (2) of section
30 790.065, Florida Statutes, is amended to read:

31 790.065 Sale and delivery of firearms.--

1 (2) Upon receipt of a request for a criminal history
2 record check, the Department of Law Enforcement shall, during
3 the licensee's call or by return call, forthwith:

4 (c)1. Review any records available to it to determine
5 whether the potential buyer or transferee has been indicted or
6 has had an information filed against her or him for an offense
7 that is a felony under either state or federal law, or, as
8 mandated by federal law, has had an injunction for protection
9 against domestic violence entered against the potential buyer
10 or transferee under s. 741.30, has had an injunction for
11 protection against ~~repeat~~ violence entered against the
12 potential buyer or transferee under s. 784.046, or has been
13 arrested for a dangerous crime as specified in s.

14 907.041(4)(a) or for any of the following enumerated offenses:

- 15 a. Criminal anarchy under ss. 876.01 and 876.02.
- 16 b. Extortion under s. 836.05.
- 17 c. Explosives violations under s. 552.22(1) and (2).
- 18 d. Controlled substances violations under chapter 893.
- 19 e. Resisting an officer with violence under s. 843.01.
- 20 f. Weapons and firearms violations under this chapter.
- 21 g. Treason under s. 876.32.
- 22 h. Assisting self-murder under s. 782.08.
- 23 i. Sabotage under s. 876.38.
- 24 j. Stalking or aggravated stalking under s. 784.048.

25
26 If the review indicates any such indictment, information, or
27 arrest, the department shall provide to the licensee a
28 conditional nonapproval number.

29 2. Within 24 working hours, the department shall
30 determine the disposition of the indictment, information, or
31 arrest and inform the licensee as to whether the potential

1 buyer is prohibited from receiving or possessing a firearm.
2 For purposes of this paragraph, "working hours" means the
3 hours from 8 a.m. to 5 p.m. Monday through Friday, excluding
4 legal holidays.

5 3. The office of the clerk of court, at no charge to
6 the department, shall respond to any department request for
7 data on the disposition of the indictment, information, or
8 arrest as soon as possible, but in no event later than 8
9 working hours.

10 4. The department shall determine as quickly as
11 possible within the allotted time period whether the potential
12 buyer is prohibited from receiving or possessing a firearm.

13 5. If the potential buyer is not so prohibited, or if
14 the department cannot determine the disposition information
15 within the allotted time period, the department shall provide
16 the licensee with a conditional approval number.

17 6. If the buyer is so prohibited, the conditional
18 nonapproval number shall become a nonapproval number.

19 7. The department shall continue its attempts to
20 obtain the disposition information and may retain a record of
21 all approval numbers granted without sufficient disposition
22 information. If the department later obtains disposition
23 information which indicates:

24 a. That the potential buyer is not prohibited from
25 owning a firearm, it shall treat the record of the transaction
26 in accordance with this section; or

27 b. That the potential buyer is prohibited from owning
28 a firearm, it shall immediately revoke the conditional
29 approval number and notify local law enforcement.

30 8. During the time that disposition of the indictment,
31 information, or arrest is pending and until the department is

1 notified by the potential buyer that there has been a final
2 disposition of the indictment, information, or arrest, the
3 conditional nonapproval number shall remain in effect.

4 Section 9. Subsection (10) of section 901.15, Florida
5 Statutes, is amended to read:

6 901.15 When arrest by officer without warrant is
7 lawful.--A law enforcement officer may arrest a person without
8 a warrant when:

9 (10) The officer has probable cause to believe that
10 the person has knowingly committed an act of ~~repeat~~ violence
11 in violation of an injunction for protection from ~~repeat~~
12 violence entered pursuant to s. 784.046 or a foreign
13 protection order accorded full faith and credit pursuant to s.
14 741.315.

15 Section 10. Paragraph (e) of subsection (2) of section
16 943.05, Florida Statutes, is amended to read:

17 943.05 Criminal Justice Information Program; duties;
18 crime reports.--

19 (2) The program shall:

20 (e) Establish, implement, and maintain a Domestic,
21 Dating, and ~~Repeat~~ Violence Injunction Statewide Verification
22 System capable of electronically transmitting information to
23 and between criminal justice agencies relating to domestic
24 violence injunctions and ~~repeat violence~~ injunctions against
25 violence issued by the courts throughout the state. Such
26 information must include, but is not limited to, information
27 as to the existence and status of any such injunction for
28 verification purposes.

29 Section 11. For the purpose of incorporating the
30 amendment made by this act to section 784.048, Florida
31 Statutes, in references thereto, paragraph (d) of subsection

1 (1) of section 775.084, Florida Statutes, is reenacted to
2 read:

3 775.084 Violent career criminals; habitual felony
4 offenders and habitual violent felony offenders; three-time
5 violent felony offenders; definitions; procedure; enhanced
6 penalties or mandatory minimum prison terms.--

7 (1) As used in this act:

8 (d) "Violent career criminal" means a defendant for
9 whom the court must impose imprisonment pursuant to paragraph
10 (4)(d), if it finds that:

11 1. The defendant has previously been convicted as an
12 adult three or more times for an offense in this state or
13 other qualified offense that is:

14 a. Any forcible felony, as described in s. 776.08;

15 b. Aggravated stalking, as described in s. 784.048(3)
16 and (4);

17 c. Aggravated child abuse, as described in s.
18 827.03(2);

19 d. Aggravated abuse of an elderly person or disabled
20 adult, as described in s. 825.102(2);

21 e. Lewd or lascivious battery, lewd or lascivious
22 molestation, lewd or lascivious conduct, or lewd or lascivious
23 exhibition, as described in s. 800.04;

24 f. Escape, as described in s. 944.40; or

25 g. A felony violation of chapter 790 involving the use
26 or possession of a firearm.

27 2. The defendant has been incarcerated in a state
28 prison or a federal prison.

29 3. The primary felony offense for which the defendant
30 is to be sentenced is a felony enumerated in subparagraph 1.
31 and was committed on or after October 1, 1995, and:

| | | | |
|----|-----------------|-----|----------------------------------|
| 1 | 316.193(3)(c)2. | 3rd | DUI resulting in serious bodily |
| 2 | | | injury. |
| 3 | 327.35(3)(c)2. | 3rd | Vessel BUI resulting in serious |
| 4 | | | bodily injury. |
| 5 | 402.319(2) | 2nd | Misrepresentation and negligence |
| 6 | | | or intentional act resulting in |
| 7 | | | great bodily harm, permanent |
| 8 | | | disfiguration, permanent |
| 9 | | | disability, or death. |
| 10 | 409.920(2) | 3rd | Medicaid provider fraud. |
| 11 | 456.065(2) | 3rd | Practicing a health care |
| 12 | | | profession without a license. |
| 13 | 456.065(2) | 2nd | Practicing a health care |
| 14 | | | profession without a license |
| 15 | | | which results in serious bodily |
| 16 | | | injury. |
| 17 | 458.327(1) | 3rd | Practicing medicine without a |
| 18 | | | license. |
| 19 | 459.013(1) | 3rd | Practicing osteopathic medicine |
| 20 | | | without a license. |
| 21 | 460.411(1) | 3rd | Practicing chiropractic medicine |
| 22 | | | without a license. |
| 23 | 461.012(1) | 3rd | Practicing podiatric medicine |
| 24 | | | without a license. |
| 25 | 462.17 | 3rd | Practicing naturopathy without a |
| 26 | | | license. |
| 27 | 463.015(1) | 3rd | Practicing optometry without a |
| 28 | | | license. |
| 29 | 464.016(1) | 3rd | Practicing nursing without a |
| 30 | | | license. |
| 31 | | | |

| | | | |
|----|-----------------|-----|-----------------------------------|
| 1 | 465.015(2) | 3rd | Practicing pharmacy without a |
| 2 | | | license. |
| 3 | 466.026(1) | 3rd | Practicing dentistry or dental |
| 4 | | | hygiene without a license. |
| 5 | 467.201 | 3rd | Practicing midwifery without a |
| 6 | | | license. |
| 7 | 468.366 | 3rd | Delivering respiratory care |
| 8 | | | services without a license. |
| 9 | 483.828(1) | 3rd | Practicing as clinical laboratory |
| 10 | | | personnel without a license. |
| 11 | 483.901(9) | 3rd | Practicing medical physics |
| 12 | | | without a license. |
| 13 | 484.013(1)(c) | 3rd | Preparing or dispensing optical |
| 14 | | | devices without a prescription. |
| 15 | 484.053 | 3rd | Dispensing hearing aids without a |
| 16 | | | license. |
| 17 | 494.0018(2) | 1st | Conviction of any violation of |
| 18 | | | ss. 494.001-494.0077 in which the |
| 19 | | | total money and property |
| 20 | | | unlawfully obtained exceeded |
| 21 | | | \$50,000 and there were five or |
| 22 | | | more victims. |
| 23 | 560.123(8)(b)1. | 3rd | Failure to report currency or |
| 24 | | | payment instruments exceeding |
| 25 | | | \$300 but less than \$20,000 by |
| 26 | | | money transmitter. |
| 27 | 560.125(5)(a) | 3rd | Money transmitter business by |
| 28 | | | unauthorized person, currency or |
| 29 | | | payment instruments exceeding |
| 30 | | | \$300 but less than \$20,000. |
| 31 | | | |

| | | | |
|----|-----------------|-----|-----------------------------------|
| 1 | 655.50(10)(b)1. | 3rd | Failure to report financial |
| 2 | | | transactions exceeding \$300 but |
| 3 | | | less than \$20,000 by financial |
| 4 | | | institution. |
| 5 | 782.051(3) | 2nd | Attempted felony murder of a |
| 6 | | | person by a person other than the |
| 7 | | | perpetrator or the perpetrator of |
| 8 | | | an attempted felony. |
| 9 | 782.07(1) | 2nd | Killing of a human being by the |
| 10 | | | act, procurement, or culpable |
| 11 | | | negligence of another |
| 12 | | | (manslaughter). |
| 13 | 782.071 | 2nd | Killing of human being or viable |
| 14 | | | fetus by the operation of a motor |
| 15 | | | vehicle in a reckless manner |
| 16 | | | (vehicular homicide). |
| 17 | 782.072 | 2nd | Killing of a human being by the |
| 18 | | | operation of a vessel in a |
| 19 | | | reckless manner (vessel |
| 20 | | | homicide). |
| 21 | 784.045(1)(a)1. | 2nd | Aggravated battery; intentionally |
| 22 | | | causing great bodily harm or |
| 23 | | | disfigurement. |
| 24 | 784.045(1)(a)2. | 2nd | Aggravated battery; using deadly |
| 25 | | | weapon. |
| 26 | 784.045(1)(b) | 2nd | Aggravated battery; perpetrator |
| 27 | | | aware victim pregnant. |
| 28 | 784.048(4) | 3rd | Aggravated stalking; violation of |
| 29 | | | injunction or court order. |
| 30 | 784.07(2)(d) | 1st | Aggravated battery on law |
| 31 | | | enforcement officer. |

| | | | |
|----|---------------|-----|-----------------------------------|
| 1 | 784.074(1)(a) | 1st | Aggravated battery on sexually |
| 2 | | | violent predators facility staff. |
| 3 | 784.08(2)(a) | 1st | Aggravated battery on a person 65 |
| 4 | | | years of age or older. |
| 5 | 784.081(1) | 1st | Aggravated battery on specified |
| 6 | | | official or employee. |
| 7 | 784.082(1) | 1st | Aggravated battery by detained |
| 8 | | | person on visitor or other |
| 9 | | | detainee. |
| 10 | 784.083(1) | 1st | Aggravated battery on code |
| 11 | | | inspector. |
| 12 | 790.07(4) | 1st | Specified weapons violation |
| 13 | | | subsequent to previous conviction |
| 14 | | | of s. 790.07(1) or (2). |
| 15 | 790.16(1) | 1st | Discharge of a machine gun under |
| 16 | | | specified circumstances. |
| 17 | 790.165(2) | 2nd | Manufacture, sell, possess, or |
| 18 | | | deliver hoax bomb. |
| 19 | 790.165(3) | 2nd | Possessing, displaying, or |
| 20 | | | threatening to use any hoax bomb |
| 21 | | | while committing or attempting to |
| 22 | | | commit a felony. |
| 23 | 790.166(3) | 2nd | Possessing, selling, using, or |
| 24 | | | attempting to use a hoax weapon |
| 25 | | | of mass destruction. |
| 26 | 790.166(4) | 2nd | Possessing, displaying, or |
| 27 | | | threatening to use a hoax weapon |
| 28 | | | of mass destruction while |
| 29 | | | committing or attempting to |
| 30 | | | commit a felony. |
| 31 | | | |

| | | | |
|----|-----------------|-----|-----------------------------------|
| 1 | 796.03 | 2nd | Procuring any person under 16 |
| 2 | | | years for prostitution. |
| 3 | 800.04(5)(c)1. | 2nd | Lewd or lascivious molestation; |
| 4 | | | victim less than 12 years of age; |
| 5 | | | offender less than 18 years. |
| 6 | 800.04(5)(c)2. | 2nd | Lewd or lascivious molestation; |
| 7 | | | victim 12 years of age or older |
| 8 | | | but less than 16 years; offender |
| 9 | | | 18 years or older. |
| 10 | 806.01(2) | 2nd | Maliciously damage structure by |
| 11 | | | fire or explosive. |
| 12 | 810.02(3)(a) | 2nd | Burglary of occupied dwelling; |
| 13 | | | unarmed; no assault or battery. |
| 14 | 810.02(3)(b) | 2nd | Burglary of unoccupied dwelling; |
| 15 | | | unarmed; no assault or battery. |
| 16 | 810.02(3)(d) | 2nd | Burglary of occupied conveyance; |
| 17 | | | unarmed; no assault or battery. |
| 18 | 812.014(2)(a) | 1st | Property stolen, valued at |
| 19 | | | \$100,000 or more; cargo stolen |
| 20 | | | valued at \$50,000 or more; |
| 21 | | | property stolen while causing |
| 22 | | | other property damage; 1st degree |
| 23 | | | grand theft. |
| 24 | 812.014(2)(b)3. | 2nd | Property stolen, emergency |
| 25 | | | medical equipment; 2nd degree |
| 26 | | | grand theft. |
| 27 | 812.0145(2)(a) | 1st | Theft from person 65 years of age |
| 28 | | | or older; \$50,000 or more. |
| 29 | | | |
| 30 | | | |
| 31 | | | |

| | | | |
|----|----------------|-----|-----------------------------------|
| 1 | 812.019(2) | 1st | Stolen property; initiates, |
| 2 | | | organizes, plans, etc., the theft |
| 3 | | | of property and traffics in |
| 4 | | | stolen property. |
| 5 | 812.131(2)(a) | 2nd | Robbery by sudden snatching. |
| 6 | 812.133(2)(b) | 1st | Carjacking; no firearm, deadly |
| 7 | | | weapon, or other weapon. |
| 8 | 817.234(11)(c) | 1st | Insurance fraud; property value |
| 9 | | | \$100,000 or more. |
| 10 | 825.102(3)(b) | 2nd | Neglecting an elderly person or |
| 11 | | | disabled adult causing great |
| 12 | | | bodily harm, disability, or |
| 13 | | | disfigurement. |
| 14 | 825.103(2)(b) | 2nd | Exploiting an elderly person or |
| 15 | | | disabled adult and property is |
| 16 | | | valued at \$20,000 or more, but |
| 17 | | | less than \$100,000. |
| 18 | 827.03(3)(b) | 2nd | Neglect of a child causing great |
| 19 | | | bodily harm, disability, or |
| 20 | | | disfigurement. |
| 21 | 827.04(3) | 3rd | Impregnation of a child under 16 |
| 22 | | | years of age by person 21 years |
| 23 | | | of age or older. |
| 24 | 837.05(2) | 3rd | Giving false information about |
| 25 | | | alleged capital felony to a law |
| 26 | | | enforcement officer. |
| 27 | 872.06 | 2nd | Abuse of a dead human body. |
| 28 | | | |
| 29 | | | |
| 30 | | | |
| 31 | | | |

| | | | |
|----|-----------------|-----|-----------------------------------|
| 1 | 893.13(1)(c)1. | 1st | Sell, manufacture, or deliver |
| 2 | | | cocaine (or other drug prohibited |
| 3 | | | under s. 893.03(1)(a), (1)(b), |
| 4 | | | (1)(d), (2)(a), (2)(b), or |
| 5 | | | (2)(c)4.) within 1,000 feet of a |
| 6 | | | child care facility or school. |
| 7 | 893.13(1)(e)1. | 1st | Sell, manufacture, or deliver |
| 8 | | | cocaine or other drug prohibited |
| 9 | | | under s. 893.03(1)(a), (1)(b), |
| 10 | | | (1)(d), (2)(a), (2)(b), or |
| 11 | | | (2)(c)4., within 1,000 feet of |
| 12 | | | property used for religious |
| 13 | | | services or a specified business |
| 14 | | | site. |
| 15 | 893.13(4)(a) | 1st | Deliver to minor cocaine (or |
| 16 | | | other s. 893.03(1)(a), (1)(b), |
| 17 | | | (1)(d), (2)(a), (2)(b), or |
| 18 | | | (2)(c)4. drugs). |
| 19 | 893.135(1)(a)1. | 1st | Trafficking in cannabis, more |
| 20 | | | than 25 lbs., less than 2,000 |
| 21 | | | lbs. |
| 22 | 893.135 | | |
| 23 | (1)(b)1.a. | 1st | Trafficking in cocaine, more than |
| 24 | | | 28 grams, less than 200 grams. |
| 25 | 893.135 | | |
| 26 | (1)(c)1.a. | 1st | Trafficking in illegal drugs, |
| 27 | | | more than 4 grams, less than 14 |
| 28 | | | grams. |
| 29 | | | |
| 30 | | | |
| 31 | | | |

| | | | |
|----|-----------------|-----|-----------------------------------|
| 1 | 893.135 | | |
| 2 | (1)(d)1. | 1st | Trafficking in phencyclidine, |
| 3 | | | more than 28 grams, less than 200 |
| 4 | | | grams. |
| 5 | 893.135(1)(e)1. | 1st | Trafficking in methaqualone, more |
| 6 | | | than 200 grams, less than 5 |
| 7 | | | kilograms. |
| 8 | 893.135(1)(f)1. | 1st | Trafficking in amphetamine, more |
| 9 | | | than 14 grams, less than 28 |
| 10 | | | grams. |
| 11 | 893.135 | | |
| 12 | (1)(g)1.a. | 1st | Trafficking in flunitrazepam, 4 |
| 13 | | | grams or more, less than 14 |
| 14 | | | grams. |
| 15 | 893.135 | | |
| 16 | (1)(h)1.a. | 1st | Trafficking in |
| 17 | | | gamma-hydroxybutyric acid (GHB), |
| 18 | | | 1 kilogram or more, less than 5 |
| 19 | | | kilograms. |
| 20 | 893.135 | | |
| 21 | (1)(j)1.a. | 1st | Trafficking in 1,4-Butanediol, 1 |
| 22 | | | kilogram or more, less than 5 |
| 23 | | | kilograms. |
| 24 | 893.135 | | |
| 25 | (1)(k)2.a. | 1st | Trafficking in Phenethylamines, |
| 26 | | | 10 grams or more, less than 200 |
| 27 | | | grams. |
| 28 | 896.101(5)(a) | 3rd | Money laundering, financial |
| 29 | | | transactions exceeding \$300 but |
| 30 | | | less than \$20,000. |
| 31 | | | |

1 896.104(4)(a)1. 3rd Structuring transactions to evade
2 reporting or registration
3 requirements, financial
4 transactions exceeding \$300 but
5 less than \$20,000.

6 Section 13. This act shall take effect July 1, 2003.

7
8 *****

9 SENATE SUMMARY

10 Revises provisions governing protective injunctions to
11 authorize an injunction for protection in cases where a
12 person has reasonable cause to believe that he or she is
13 in imminent danger of becoming a victim of an act of
14 violence. Removes references to injunctions against acts
15 of repeat violence. Redesignates the Domestic, Dating,
16 and Repeat Violence Injunction Statewide Verification
17 System in the the Department of Law Enforcement as the
18 "Domestic, Dating, and Violence Injunction Statewide
19 Verification System." Provides requirements for enforcing
20 an injunction for protection against violence. Provides
21 that it is a first-degree misdemeanor to violate an
22 injunction for protection against violence. Revises the
23 elements of the offense of aggravated stalking to
24 prohibit certain acts following an injunction for
25 protection against violence rather than following an
26 injunction for protection against repeat violence. (See
27 bill for details.)
28
29
30
31