

By the Committee on Judiciary; and Senators Saunders and Campbell

308-670-03

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 "Violence
13 Injunction Statewide Verification System";
14 providing for service of process and
15 enforcement of an injunction for protection
16 against violence; amending s. 784.047, F.S.;
17 providing that it is a first-degree misdemeanor
18 to violate an injunction for protection against
19 violence; amending ss. 61.1825, 741.2901,
20 741.30, F.S., relating to the State Case
21 Registry and domestic violence; conforming
22 provisions to changes made by the act; amending
23 s. 784.048, F.S.; revising the elements of the
24 offense of aggravated stalking to prohibit
25 certain acts following an injunction for
26 protection against violence rather than
27 following an injunction for protection against
28 repeat violence; amending ss. 790.06, 790.065,
29 F.S., relating to a license to carry a
30 concealed weapon or firearm and the sale and
31 delivery of firearms; conforming provisions to

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

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 784.046, Florida Statutes, is
20 amended to read:

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

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

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

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

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

11 1. A dating relationship must have existed within the
12 past 6 months;

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

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

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

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

29 (a) Any person who:
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1 1. Is the victim of ~~repeat~~ violence and who has
2 reasonable cause to believe that he or she is in imminent
3 danger of becoming the victim of another act of violence;

4 2. Has reasonable cause to believe that he or she is
5 in imminent danger of becoming the victim of an act of
6 violence;or

7 3. Is the parent or legal guardian of a ~~any~~ minor
8 child ~~who is~~ living at home ~~and~~ who seeks an injunction for
9 protection against ~~repeat~~ violence on behalf of the minor
10 child,

11
12 has standing in the circuit court to file a sworn petition for
13 an injunction for protection against ~~repeat~~ violence.

14 (b) Any person who:

15 1. Is the victim of dating violence and has reasonable
16 cause to believe he or she is in imminent danger of becoming
17 the victim of another act of dating violence;~~;~~~~or any person~~
18 who

19 2. Has reasonable cause to believe he or she is in
20 imminent danger of becoming the victim of an act of dating
21 violence;~~;~~or

22 3. Is the parent or legal guardian of a ~~any~~ minor
23 child ~~who is~~ living at home ~~and~~ who seeks an injunction for
24 protection against dating violence on behalf of that minor
25 child,

26
27 has standing in the circuit court to file a sworn petition for
28 an injunction for protection against dating violence.

29 (c) This cause of action for an injunction may be
30 sought whether or not any other petition, complaint, or cause

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1 of action is currently available or pending between the
2 parties.

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

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

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

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

20 (d) The clerk of the court shall provide the
21 petitioner with a certified copy of any injunction for
22 protection against ~~repeat~~ violence or dating violence entered
23 by the court.

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

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

5

6 PETITION FOR INJUNCTION FOR PROTECTION
7 AGAINST ~~REPEAT~~ VIOLENCE OR DATING VIOLENCE
8

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

12

13 1. Petitioner resides at ...(address)...

14 2. Respondent resides at ...(address)...

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

22

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27 b. Petitioner is a victim of dating violence and has
28 reasonable cause to believe that he or she is in imminent
29 danger of becoming the victim of another act of dating
30 violence or has reasonable cause to believe that he or she is
31 in imminent danger of becoming a victim of dating violence, as

1 demonstrated by the fact that the respondent has: ...(list the
2 specific incident or incidents of violence and describe the
3 length of time of the relationship, whether it has been in
4 existence during the last 6 months, the nature of the
5 relationship of a romantic or intimate nature, the frequency
6 and type of interaction, and any other facts that characterize
7 the relationship.)...

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13 4. Petitioner genuinely fears ~~repeat~~ violence by the
14 respondent.

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

23
24 (5) Upon the filing of the petition, the court shall
25 set a hearing to be held at the earliest possible time. The
26 respondent shall be personally served with a copy of the
27 petition, notice of hearing, and temporary injunction, if any,
28 prior to the hearing.

29 (6)(a) When it appears to the court that an immediate
30 and present danger of violence exists, the court may grant a
31 temporary injunction, which may be granted in an ex parte

1 hearing, pending a full hearing, and may grant such relief as
2 the court deems proper, including an injunction enjoining the
3 respondent from committing any acts of violence.

4 (b) In a hearing ex parte for the purpose of obtaining
5 such temporary injunction, ~~no~~ evidence other than the verified
6 pleading or affidavit may not ~~shall~~ be used as evidence,
7 unless the respondent appears at the hearing or has received
8 reasonable notice of the hearing.

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

16 (7)(a) Upon notice and hearing, the court may grant
17 such relief as the court deems proper, including an
18 injunction:

19 1.(a) Enjoining the respondent from committing any
20 acts of violence.

21 2.(b) Ordering such other relief as the court deems
22 necessary for the protection of the petitioner, including
23 injunctions or directives to law enforcement agencies, as
24 provided in this section.

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

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1 (c)~~(d)~~ A temporary or final judgment on injunction for
2 protection against ~~repeat~~ violence or dating violence entered
3 pursuant to this 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 that the respondent was served with the
15 temporary or final order, if obtainable.

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

1 an injunction issued under this section unless the person is a
2 law enforcement officer as defined in chapter 943.

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

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

23 (c)1. Within 24 hours after the court issues an
24 injunction for protection against ~~repeat~~ violence or dating
25 violence or changes or vacates an injunction for protection
26 against ~~repeat~~ violence or dating violence, the clerk of the
27 court must forward a copy of the injunction to the sheriff
28 with jurisdiction over the residence of the petitioner.

29 2. Within 24 hours after service of process of an
30 injunction for protection against ~~repeat~~ violence or dating
31 violence upon a respondent, the law enforcement officer must

1 forward the written proof of service of process to the sheriff
2 with jurisdiction over the residence of the petitioner.

3 3. Within 24 hours after the sheriff receives a
4 certified copy of the injunction for protection against ~~repeat~~
5 violence or dating violence, the sheriff must make information
6 relating to the injunction available to other law enforcement
7 agencies by electronically transmitting such information to
8 the department.

9 4. Within 24 hours after the sheriff or other law
10 enforcement officer has made service upon the respondent and
11 the sheriff has been so notified, the sheriff must make
12 information relating to the service available to other law
13 enforcement agencies by electronically transmitting such
14 information to the department.

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

24 (9)(a) The court shall enforce, through a civil or
25 criminal contempt proceeding, a violation of an injunction for
26 protection. The court may enforce the respondent's compliance
27 with the injunction by imposing a monetary assessment. The
28 clerk of the court shall collect and receive such assessments.
29 On a monthly basis, the clerk shall transfer the moneys
30 collected pursuant to this paragraph to the State Treasury for
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1 deposit in the Crimes Compensation Trust Fund established in
2 s. 960.21.

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

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

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

20 Section 2. Section 784.047, Florida Statutes, is
21 amended to read:

22 784.047 Penalties for violating protective injunction
23 against violators.--A person who willfully violates an
24 injunction for protection against ~~repeat~~ violence or dating
25 violence, issued pursuant to s. 784.046, or a foreign
26 protection order accorded full faith and credit pursuant to s.
27 741.315 by:

28 (1) Refusing to vacate the dwelling that the parties
29 share;

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

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

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

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

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

16 Section 3. Paragraph (a) of subsection (3) of section
17 61.1825, Florida Statutes, is amended to read:

18 61.1825 State Case Registry.--

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

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

26 2. A temporary or final injunction for protection
27 against domestic violence has been granted pursuant to s.
28 741.30(6), an injunction for protection against domestic
29 violence has been issued by a court of a foreign state
30 pursuant to s. 741.315, or a temporary or final injunction for
31

1 protection against ~~repeat~~ violence has been granted pursuant
2 to s. 784.046; or

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

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

10 741.2901 Domestic violence cases; prosecutors;
11 legislative intent; investigation; duty of circuits; first
12 appearance.--

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

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

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

8 (2)

9 (c)1. The clerk of the court shall assist petitioners
10 in seeking both injunctions for protection against domestic
11 violence and enforcement for a violation thereof as specified
12 in this section.

13 2. All clerks' offices shall provide simplified
14 petition forms for the injunction, any modifications, and the
15 enforcement thereof, including instructions for completion.

16 3. The clerk of the court shall advise petitioners of
17 the availability of affidavits of insolvency or indigence in
18 lieu of payment for the cost of the filing fee, as provided in
19 paragraph (a).

20 4. The clerk of the court shall ensure the
21 petitioner's privacy to the extent practical while completing
22 the forms for injunctions for protection against domestic
23 violence.

24 5. The clerk of the court shall provide petitioners
25 with a minimum of two certified copies of the order of
26 injunction, one of which is serviceable and will inform the
27 petitioner of the process for service and enforcement.

28 6. Clerks of court and appropriate staff in each
29 county shall receive training in the effective assistance of
30 petitioners as provided or approved by the Florida Association
31 of Court Clerks.

1 7. The clerk of the court in each county shall make
2 available informational brochures on domestic violence when
3 such brochures are provided by local certified domestic
4 violence centers.

5 8. The clerk of the court in each county shall
6 distribute a statewide uniform informational brochure to
7 petitioners at the time of filing for an injunction for
8 protection against domestic violence or ~~repeat~~ violence when
9 such brochures become available. The brochure must include
10 information about the effect of giving the court false
11 information about domestic violence.

12 (8)

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

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

26 784.048 Stalking; definitions; penalties.--

27 (4) Any person who, after an injunction for protection
28 against ~~repeat~~ violence or dating violence pursuant to s.
29 784.046, or an injunction for protection against domestic
30 violence pursuant to s. 741.30, or after any other
31 court-imposed prohibition of conduct toward the subject person

1 or that person's property, knowingly, willfully, maliciously,
2 and repeatedly follows or harasses another person commits the
3 offense of aggravated stalking, a felony of the third degree,
4 punishable as provided in s. 775.082, s. 775.083, or s.
5 775.084.

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

8 790.06 License to carry concealed weapon or firearm.--

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

11 (a) Is a resident of the United States or is a
12 consular security official of a foreign government that
13 maintains diplomatic relations and treaties of commerce,
14 friendship, and navigation with the United States and is
15 certified as such by the foreign government and by the
16 appropriate embassy in this country;

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

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

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

22 (e) Has not been committed for the abuse of a
23 controlled substance or been found guilty of a crime under the
24 provisions of chapter 893 or similar laws of any other state
25 relating to controlled substances within a 3-year period
26 immediately preceding the date on which the application is
27 submitted;

28 (f) Does not chronically and habitually use alcoholic
29 beverages or other substances to the extent that his or her
30 normal faculties are impaired. It shall be presumed that an
31 applicant chronically and habitually uses alcoholic beverages

1 or other substances to the extent that his or her normal
2 faculties are impaired if the applicant has been committed
3 under chapter 397 or under the provisions of former chapter
4 396 or has been convicted under s. 790.151 or has been deemed
5 a habitual offender under s. 856.011(3), or has had two or
6 more convictions under s. 316.193 or similar laws of any other
7 state, within the 3-year period immediately preceding the date
8 on which the application is submitted;

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

11 (h) Demonstrates competence with a firearm by any one
12 of the following:

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

16 2. Completion of any National Rifle Association
17 firearms safety or training course;

18 3. Completion of any firearms safety or training
19 course or class available to the general public offered by a
20 law enforcement, junior college, college, or private or public
21 institution or organization or firearms training school,
22 utilizing instructors certified by the National Rifle
23 Association, Criminal Justice Standards and Training
24 Commission, or the Department of State;

25 4. Completion of any law enforcement firearms safety
26 or training course or class offered for security guards,
27 investigators, special deputies, or any division or
28 subdivision of law enforcement or security enforcement;

29 5. Presents evidence of equivalent experience with a
30 firearm through participation in organized shooting
31 competition or military service;

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

4 7. Completion of any firearms training or safety
5 course or class conducted by a state-certified or National
6 Rifle Association certified firearms instructor;

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

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

25 (j) Has not been committed to a mental institution
26 under chapter 394, or similar laws of any other state, unless
27 the applicant produces a certificate from a licensed
28 psychiatrist that he or she has not suffered from disability
29 for at least 5 years prior to the date of submission of the
30 application;

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

6 (1) Has not been issued an injunction that is
7 currently in force and effect and that restrains the applicant
8 from committing acts of domestic violence or acts of ~~repeat~~
9 violence; and

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

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

1 for a license if the licensee or applicant is issued an
2 injunction that restrains the licensee or applicant from
3 committing acts of domestic violence or acts of ~~repeat~~
4 violence.

5 Section 8. Paragraph (c) of subsection (2) of section
6 790.065, Florida Statutes, is amended to read:

7 790.065 Sale and delivery of firearms.--

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

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

21 907.041(4)(a) or for any of the following enumerated offenses:

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

1
2 If the review indicates any such indictment, information, or
3 arrest, the department shall provide to the licensee a
4 conditional nonapproval number.

5 2. Within 24 working hours, the department shall
6 determine the disposition of the indictment, information, or
7 arrest and inform the licensee as to whether the potential
8 buyer is prohibited from receiving or possessing a firearm.
9 For purposes of this paragraph, "working hours" means the
10 hours from 8 a.m. to 5 p.m. Monday through Friday, excluding
11 legal holidays.

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

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

20 5. If the potential buyer is not so prohibited, or if
21 the department cannot determine the disposition information
22 within the allotted time period, the department shall provide
23 the licensee with a conditional approval number.

24 6. If the buyer is so prohibited, the conditional
25 nonapproval number shall become a nonapproval number.

26 7. The department shall continue its attempts to
27 obtain the disposition information and may retain a record of
28 all approval numbers granted without sufficient disposition
29 information. If the department later obtains disposition
30 information which indicates:

31

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

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

7 8. During the time that disposition of the indictment,
8 information, or arrest is pending and until the department is
9 notified by the potential buyer that there has been a final
10 disposition of the indictment, information, or arrest, the
11 conditional nonapproval number shall remain in effect.

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

14 901.15 When arrest by officer without warrant is
15 lawful.--A law enforcement officer may arrest a person without
16 a warrant when:

17 (10) The officer has probable cause to believe that
18 the person has knowingly committed an act of ~~repeat~~ violence
19 in violation of an injunction for protection from ~~repeat~~
20 violence entered pursuant to s. 784.046 or a foreign
21 protection order accorded full faith and credit pursuant to s.
22 741.315.

23 Section 10. Paragraph (e) of subsection (2) of section
24 943.05, Florida Statutes, is amended to read:

25 943.05 Criminal Justice Information Program; duties;
26 crime reports.--

27 (2) The program shall:

28 (e) Establish, implement, and maintain a ~~Domestic and~~
29 ~~Repeat~~ Violence Injunction Statewide Verification System
30 capable of electronically transmitting information to and
31 between criminal justice agencies relating to domestic

1 violence injunctions and ~~repeat violence~~ injunctions against
2 violence issued by the courts throughout the state. Such
3 information must include, but is not limited to, information
4 as to the existence and status of any such injunction for
5 verification purposes.

6 Section 11. For the purpose of incorporating the
7 amendment made by this act to section 784.048, Florida
8 Statutes, in references thereto, paragraph (d) of subsection
9 (1) of section 775.084, Florida Statutes, is reenacted to
10 read:

11 775.084 Violent career criminals; habitual felony
12 offenders and habitual violent felony offenders; three-time
13 violent felony offenders; definitions; procedure; enhanced
14 penalties or mandatory minimum prison terms.--

15 (1) As used in this act:

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

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

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

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

25 c. Aggravated child abuse, as described in s.
26 827.03(2);

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

29 e. Lewd or lascivious battery, lewd or lascivious
30 molestation, lewd or lascivious conduct, or lewd or lascivious
31 exhibition, as described in s. 800.04;

1 f. Escape, as described in s. 944.40; or
2 g. A felony violation of chapter 790 involving the use
3 or possession of a firearm.
4 2. The defendant has been incarcerated in a state
5 prison or a federal prison.
6 3. The primary felony offense for which the defendant
7 is to be sentenced is a felony enumerated in subparagraph 1.
8 and was committed on or after October 1, 1995, and:
9 a. While the defendant was serving a prison sentence
10 or other sentence, or court-ordered or lawfully imposed
11 supervision that is imposed as a result of a prior conviction
12 for an enumerated felony; or
13 b. Within 5 years after the conviction of the last
14 prior enumerated felony, or within 5 years after the
15 defendant's release from a prison sentence, probation,
16 community control, control release, conditional release,
17 parole, or court-ordered or lawfully imposed supervision or
18 other sentence that is imposed as a result of a prior
19 conviction for an enumerated felony, whichever is later.
20 4. The defendant has not received a pardon for any
21 felony or other qualified offense that is necessary for the
22 operation of this paragraph.
23 5. A conviction of a felony or other qualified offense
24 necessary to the operation of this paragraph has not been set
25 aside in any postconviction proceeding.
26 Section 12. For the purpose of incorporating the
27 amendment made by this act to section 784.048, Florida
28 Statutes, in references thereto, paragraph (g) of subsection
29 (3) of section 921.0022, Florida Statutes, is reenacted to
30 read:
31

| | | | |
|----|------------------|--|----------------------------------|
| 1 | 921.0022 | Criminal Punishment Code; offense severity | |
| 2 | ranking chart.-- | | |
| 3 | (3) | OFFENSE SEVERITY RANKING CHART | |
| 4 | | | |
| 5 | Florida | Felony | |
| 6 | Statute | Degree | Description |
| 7 | | | |
| 8 | | | |
| 9 | | | (g) LEVEL 7 |
| 10 | 316.193(3)(c)2. | 3rd | DUI resulting in serious bodily |
| 11 | | | injury. |
| 12 | 327.35(3)(c)2. | 3rd | Vessel BUI resulting in serious |
| 13 | | | bodily injury. |
| 14 | 402.319(2) | 2nd | Misrepresentation and negligence |
| 15 | | | or intentional act resulting in |
| 16 | | | great bodily harm, permanent |
| 17 | | | disfiguration, permanent |
| 18 | | | disability, or death. |
| 19 | 409.920(2) | 3rd | Medicaid provider fraud. |
| 20 | 456.065(2) | 3rd | Practicing a health care |
| 21 | | | profession without a license. |
| 22 | 456.065(2) | 2nd | Practicing a health care |
| 23 | | | profession without a license |
| 24 | | | which results in serious bodily |
| 25 | | | injury. |
| 26 | 458.327(1) | 3rd | Practicing medicine without a |
| 27 | | | license. |
| 28 | 459.013(1) | 3rd | Practicing osteopathic medicine |
| 29 | | | without a license. |
| 30 | 460.411(1) | 3rd | Practicing chiropractic medicine |
| 31 | | | without a license. |

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|----|---------------|-----|-----------------------------------|
| 1 | 461.012(1) | 3rd | Practicing podiatric medicine |
| 2 | | | without a license. |
| 3 | 462.17 | 3rd | Practicing naturopathy without a |
| 4 | | | license. |
| 5 | 463.015(1) | 3rd | Practicing optometry without a |
| 6 | | | license. |
| 7 | 464.016(1) | 3rd | Practicing nursing without a |
| 8 | | | license. |
| 9 | 465.015(2) | 3rd | Practicing pharmacy without a |
| 10 | | | license. |
| 11 | 466.026(1) | 3rd | Practicing dentistry or dental |
| 12 | | | hygiene without a license. |
| 13 | 467.201 | 3rd | Practicing midwifery without a |
| 14 | | | license. |
| 15 | 468.366 | 3rd | Delivering respiratory care |
| 16 | | | services without a license. |
| 17 | 483.828(1) | 3rd | Practicing as clinical laboratory |
| 18 | | | personnel without a license. |
| 19 | 483.901(9) | 3rd | Practicing medical physics |
| 20 | | | without a license. |
| 21 | 484.013(1)(c) | 3rd | Preparing or dispensing optical |
| 22 | | | devices without a prescription. |
| 23 | 484.053 | 3rd | Dispensing hearing aids without a |
| 24 | | | license. |
| 25 | 494.0018(2) | 1st | Conviction of any violation of |
| 26 | | | ss. 494.001-494.0077 in which the |
| 27 | | | total money and property |
| 28 | | | unlawfully obtained exceeded |
| 29 | | | \$50,000 and there were five or |
| 30 | | | more victims. |
| 31 | | | |

| | | | |
|----|-----------------|-----|-----------------------------------|
| 1 | 560.123(8)(b)1. | 3rd | Failure to report currency or |
| 2 | | | payment instruments exceeding |
| 3 | | | \$300 but less than \$20,000 by |
| 4 | | | money transmitter. |
| 5 | 560.125(5)(a) | 3rd | Money transmitter business by |
| 6 | | | unauthorized person, currency or |
| 7 | | | payment instruments exceeding |
| 8 | | | \$300 but less than \$20,000. |
| 9 | 655.50(10)(b)1. | 3rd | Failure to report financial |
| 10 | | | transactions exceeding \$300 but |
| 11 | | | less than \$20,000 by financial |
| 12 | | | institution. |
| 13 | 782.051(3) | 2nd | Attempted felony murder of a |
| 14 | | | person by a person other than the |
| 15 | | | perpetrator or the perpetrator of |
| 16 | | | an attempted felony. |
| 17 | 782.07(1) | 2nd | Killing of a human being by the |
| 18 | | | act, procurement, or culpable |
| 19 | | | negligence of another |
| 20 | | | (manslaughter). |
| 21 | 782.071 | 2nd | Killing of human being or viable |
| 22 | | | fetus by the operation of a motor |
| 23 | | | vehicle in a reckless manner |
| 24 | | | (vehicular homicide). |
| 25 | 782.072 | 2nd | Killing of a human being by the |
| 26 | | | operation of a vessel in a |
| 27 | | | reckless manner (vessel |
| 28 | | | homicide). |
| 29 | 784.045(1)(a)1. | 2nd | Aggravated battery; intentionally |
| 30 | | | causing great bodily harm or |
| 31 | | | disfigurement. |

| | | | |
|----|-----------------|-----|-----------------------------------|
| 1 | 784.045(1)(a)2. | 2nd | Aggravated battery; using deadly |
| 2 | | | weapon. |
| 3 | 784.045(1)(b) | 2nd | Aggravated battery; perpetrator |
| 4 | | | aware victim pregnant. |
| 5 | 784.048(4) | 3rd | Aggravated stalking; violation of |
| 6 | | | injunction or court order. |
| 7 | 784.07(2)(d) | 1st | Aggravated battery on law |
| 8 | | | enforcement officer. |
| 9 | 784.074(1)(a) | 1st | Aggravated battery on sexually |
| 10 | | | violent predators facility staff. |
| 11 | 784.08(2)(a) | 1st | Aggravated battery on a person 65 |
| 12 | | | years of age or older. |
| 13 | 784.081(1) | 1st | Aggravated battery on specified |
| 14 | | | official or employee. |
| 15 | 784.082(1) | 1st | Aggravated battery by detained |
| 16 | | | person on visitor or other |
| 17 | | | detainee. |
| 18 | 784.083(1) | 1st | Aggravated battery on code |
| 19 | | | inspector. |
| 20 | 790.07(4) | 1st | Specified weapons violation |
| 21 | | | subsequent to previous conviction |
| 22 | | | of s. 790.07(1) or (2). |
| 23 | 790.16(1) | 1st | Discharge of a machine gun under |
| 24 | | | specified circumstances. |
| 25 | 790.165(2) | 2nd | Manufacture, sell, possess, or |
| 26 | | | deliver hoax bomb. |
| 27 | 790.165(3) | 2nd | Possessing, displaying, or |
| 28 | | | threatening to use any hoax bomb |
| 29 | | | while committing or attempting to |
| 30 | | | commit a felony. |
| 31 | | | |

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|----|----------------|-----|-----------------------------------|
| 1 | 790.166(3) | 2nd | Possessing, selling, using, or |
| 2 | | | attempting to use a hoax weapon |
| 3 | | | of mass destruction. |
| 4 | 790.166(4) | 2nd | Possessing, displaying, or |
| 5 | | | threatening to use a hoax weapon |
| 6 | | | of mass destruction while |
| 7 | | | committing or attempting to |
| 8 | | | commit a felony. |
| 9 | 796.03 | 2nd | Procuring any person under 16 |
| 10 | | | years for prostitution. |
| 11 | 800.04(5)(c)1. | 2nd | Lewd or lascivious molestation; |
| 12 | | | victim less than 12 years of age; |
| 13 | | | offender less than 18 years. |
| 14 | 800.04(5)(c)2. | 2nd | Lewd or lascivious molestation; |
| 15 | | | victim 12 years of age or older |
| 16 | | | but less than 16 years; offender |
| 17 | | | 18 years or older. |
| 18 | 806.01(2) | 2nd | Maliciously damage structure by |
| 19 | | | fire or explosive. |
| 20 | 810.02(3)(a) | 2nd | Burglary of occupied dwelling; |
| 21 | | | unarmed; no assault or battery. |
| 22 | 810.02(3)(b) | 2nd | Burglary of unoccupied dwelling; |
| 23 | | | unarmed; no assault or battery. |
| 24 | 810.02(3)(d) | 2nd | Burglary of occupied conveyance; |
| 25 | | | unarmed; no assault or battery. |
| 26 | 812.014(2)(a) | 1st | Property stolen, valued at |
| 27 | | | \$100,000 or more; cargo stolen |
| 28 | | | valued at \$50,000 or more; |
| 29 | | | property stolen while causing |
| 30 | | | other property damage; 1st degree |
| 31 | | | grand theft. |

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|----|-----------------|-----|-----------------------------------|
| 1 | 812.014(2)(b)3. | 2nd | Property stolen, emergency |
| 2 | | | medical equipment; 2nd degree |
| 3 | | | grand theft. |
| 4 | 812.0145(2)(a) | 1st | Theft from person 65 years of age |
| 5 | | | or older; \$50,000 or more. |
| 6 | 812.019(2) | 1st | Stolen property; initiates, |
| 7 | | | organizes, plans, etc., the theft |
| 8 | | | of property and traffics in |
| 9 | | | stolen property. |
| 10 | 812.131(2)(a) | 2nd | Robbery by sudden snatching. |
| 11 | 812.133(2)(b) | 1st | Carjacking; no firearm, deadly |
| 12 | | | weapon, or other weapon. |
| 13 | 817.234(11)(c) | 1st | Insurance fraud; property value |
| 14 | | | \$100,000 or more. |
| 15 | 825.102(3)(b) | 2nd | Neglecting an elderly person or |
| 16 | | | disabled adult causing great |
| 17 | | | bodily harm, disability, or |
| 18 | | | disfigurement. |
| 19 | 825.103(2)(b) | 2nd | Exploiting an elderly person or |
| 20 | | | disabled adult and property is |
| 21 | | | valued at \$20,000 or more, but |
| 22 | | | less than \$100,000. |
| 23 | 827.03(3)(b) | 2nd | Neglect of a child causing great |
| 24 | | | bodily harm, disability, or |
| 25 | | | disfigurement. |
| 26 | 827.04(3) | 3rd | Impregnation of a child under 16 |
| 27 | | | years of age by person 21 years |
| 28 | | | of age or older. |
| 29 | 837.05(2) | 3rd | Giving false information about |
| 30 | | | alleged capital felony to a law |
| 31 | | | enforcement officer. |

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|----|-----------------|-----|-----------------------------------|
| 1 | 872.06 | 2nd | Abuse of a dead human body. |
| 2 | 893.13(1)(c)1. | 1st | Sell, manufacture, or deliver |
| 3 | | | cocaine (or other drug prohibited |
| 4 | | | under s. 893.03(1)(a), (1)(b), |
| 5 | | | (1)(d), (2)(a), (2)(b), or |
| 6 | | | (2)(c)4.) within 1,000 feet of a |
| 7 | | | child care facility or school. |
| 8 | 893.13(1)(e)1. | 1st | Sell, manufacture, or deliver |
| 9 | | | cocaine or other drug prohibited |
| 10 | | | under s. 893.03(1)(a), (1)(b), |
| 11 | | | (1)(d), (2)(a), (2)(b), or |
| 12 | | | (2)(c)4., within 1,000 feet of |
| 13 | | | property used for religious |
| 14 | | | services or a specified business |
| 15 | | | site. |
| 16 | 893.13(4)(a) | 1st | Deliver to minor cocaine (or |
| 17 | | | other s. 893.03(1)(a), (1)(b), |
| 18 | | | (1)(d), (2)(a), (2)(b), or |
| 19 | | | (2)(c)4. drugs). |
| 20 | 893.135(1)(a)1. | 1st | Trafficking in cannabis, more |
| 21 | | | than 25 lbs., less than 2,000 |
| 22 | | | lbs. |
| 23 | 893.135 | | |
| 24 | (1)(b)1.a. | 1st | Trafficking in cocaine, more than |
| 25 | | | 28 grams, less than 200 grams. |
| 26 | 893.135 | | |
| 27 | (1)(c)1.a. | 1st | Trafficking in illegal drugs, |
| 28 | | | more than 4 grams, less than 14 |
| 29 | | | grams. |
| 30 | | | |
| 31 | | | |

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|----|-----------------|-----|-----------------------------------|
| 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 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 Senate Bills 108 and 110

- 11 1. Allows a person to petition for a protective injunction
12 against violence without a showing of actual violence on
13 the basis that the person has reasonable cause to believe
14 that he or she may be in imminent danger of becoming a
15 victim of violence.
- 16 2. Redesignates the "Domestic, Dating and Repeat Violence
17 Injunction Statewide Verification System" as the
18 "Violence Injunction Statewide Verification System."
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