

By the Committees on Criminal Justice; Judiciary; and Senators  
Saunders and Campbell

307-2187-03

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; providing for  
22          the award of attorney's fees, costs, and  
23          certain other expenses in specified  
24          circumstances; conforming provisions to changes  
25          made by the act; amending s. 784.048, F.S.;  
26          revising the elements of the offense of  
27          aggravated stalking to prohibit certain acts  
28          following an injunction for protection against  
29          violence rather than following an injunction  
30          for protection against repeat violence;  
31          amending ss. 790.06, 790.065, F.S., relating to

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

19  
20 Be It Enacted by the Legislature of the State of Florida:

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

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

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

30 (a) "Violence" means any assault, aggravated assault,  
31 battery, aggravated battery, sexual assault, sexual battery,

1 stalking, aggravated stalking, kidnapping, or false  
2 imprisonment, or any criminal offense resulting in physical  
3 injury or death, by a person against any other person.

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

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

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

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

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

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

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

1           (a) Any person who:

2           1. Is the victim of repeat violence and who has

3 reasonable cause to believe that he or she is in imminent

4 danger of becoming the victim of another act of violence;

5           2. Has reasonable cause to believe that he or she is

6 in imminent danger of becoming the victim of an act of

7 violence; or

8           3. Is the parent or legal guardian of a ~~any~~ minor

9 child ~~who is~~ living at home ~~and~~ who seeks an injunction for

10 protection against repeat violence on behalf of the minor

11 child,

12

13 has standing in the circuit court to file a sworn petition for

14 an injunction for protection against ~~repeat~~ violence.

15           (b) Any person who:

16           1. Is the victim of dating violence and has reasonable

17 cause to believe he or she is in imminent danger of becoming

18 the victim of another act of dating violence; ~~or any person~~

19 who

20           2. Has reasonable cause to believe he or she is in

21 imminent danger of becoming the victim of an act of dating

22 violence; ~~or~~

23           3. Is the parent or legal guardian of a ~~any~~ minor

24 child ~~who is~~ living at home ~~and~~ who seeks an injunction for

25 protection against dating violence on behalf of that minor

26 child,

27

28 has standing in the circuit court to file a sworn petition for

29 an injunction for protection against dating violence.

30           (c) This cause of action for an injunction may be

31 sought whether or not any other petition, complaint, or cause

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,  
31

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

23 .....

24 .....

25 .....

26

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.)...

8  
9 .....  
10 .....  
11 .....

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

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

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

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

1 the court deems proper, including an injunction enjoining the  
2 respondent from committing any acts of violence.

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

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

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

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

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

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

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



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

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

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

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

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

31

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

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

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

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

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

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

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

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

31

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

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

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

18 Section 2. Section 784.047, Florida Statutes, is  
19 amended to read:

20 784.047 Penalties for violating protective injunction  
21 against violators.--A person who willfully violates an  
22 injunction for protection against ~~repeat~~ violence or dating  
23 violence, issued pursuant to s. 784.046, or a foreign  
24 protection order accorded full faith and credit pursuant to s.  
25 741.315 by:

26 (1) Refusing to vacate the dwelling that the parties  
27 share;

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

31

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

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

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

10  
11 commits a misdemeanor of the first degree, punishable as  
12 provided in s. 775.082 or s. 775.083.

13           Section 3. Paragraph (a) of subsection (3) of section  
14 61.1825, Florida Statutes, is amended to read:

15           61.1825 State Case Registry.--

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

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

23           2. A temporary or final injunction for protection  
24 against domestic violence has been granted pursuant to s.  
25 741.30(6), an injunction for protection against domestic  
26 violence has been issued by a court of a foreign state  
27 pursuant to s. 741.315, or a temporary or final injunction for  
28 protection against ~~repeat~~ violence has been granted pursuant  
29 to s. 784.046; or

30           3. The department has received information on a Title  
31 IV-D case from the ~~Domestic Violence and Repeat Violence~~

1 Injunction Statewide Verification System, established pursuant  
2 to s. 784.046 ~~s. 784.046(8)(b)~~, that a court has granted a  
3 party a domestic violence or ~~repeat~~ violence injunction.

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

6 741.2901 Domestic violence cases; prosecutors;  
7 legislative intent; investigation; duty of circuits; first  
8 appearance.--

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

27 Section 5. Paragraph (c) of subsection (2), paragraph  
28 (a) of subsection (6), and paragraph (b) of subsection (8) of  
29 section 741.30, Florida Statutes, are amended to read:

30 741.30 Domestic violence; injunction; powers and  
31 duties of court and clerk; petition; notice and hearing;

1 temporary injunction; issuance of injunction; statewide  
2 verification system; enforcement.--

3 (2)

4 (c)1. The clerk of the court shall assist petitioners  
5 in seeking both injunctions for protection against domestic  
6 violence and enforcement for a violation thereof as specified  
7 in this section.

8 2. All clerks' offices shall provide simplified  
9 petition forms for the injunction, any modifications, and the  
10 enforcement thereof, including instructions for completion.

11 3. The clerk of the court shall advise petitioners of  
12 the availability of affidavits of insolvency or indigence in  
13 lieu of payment for the cost of the filing fee, as provided in  
14 paragraph (a).

15 4. The clerk of the court shall ensure the  
16 petitioner's privacy to the extent practical while completing  
17 the forms for injunctions for protection against domestic  
18 violence.

19 5. The clerk of the court shall provide petitioners  
20 with a minimum of two certified copies of the order of  
21 injunction, one of which is serviceable and will inform the  
22 petitioner of the process for service and enforcement.

23 6. Clerks of court and appropriate staff in each  
24 county shall receive training in the effective assistance of  
25 petitioners as provided or approved by the Florida Association  
26 of Court Clerks.

27 7. The clerk of the court in each county shall make  
28 available informational brochures on domestic violence when  
29 such brochures are provided by local certified domestic  
30 violence centers.

31

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

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

14           1. Restraining the respondent from committing any acts  
15 of domestic violence.

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

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

22           4. On the same basis as provided in chapter 61,  
23 establishing temporary support for a minor child or children  
24 or the petitioner.

25           5. Ordering the respondent to participate in  
26 treatment, intervention, or counseling services to be paid for  
27 by the respondent. When the court orders the respondent to  
28 participate in a batterers' intervention program, the court,  
29 or any entity designated by the court, must provide the  
30 respondent with a list of all certified batterers'  
31 intervention programs and all programs which have submitted an



1 application to the Department of Corrections to become  
2 certified under s. 741.325, from which the respondent must  
3 choose a program in which to participate. If there are no  
4 certified batterers' intervention programs in the circuit, the  
5 court shall provide a list of acceptable programs from which  
6 the respondent must choose a program in which to participate.

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

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

15  
16 If the court has entered an ex parte temporary injunction and  
17 determines at the extension hearing that the petitioner did  
18 not have reasonable cause to believe that he or she was in  
19 danger of becoming the victim of an act of domestic violence,  
20 or if the court finds that the petitioner knowingly provided  
21 false information to the court regarding the alleged domestic  
22 violence, the court may award respondent reasonable attorney's  
23 fees and costs and the reasonable reimbursement of temporary  
24 living expenses resulting from the issuance of the ex parte  
25 temporary injunction.

26 (8)

27 (b) The ~~There shall be created a Domestic and Repeat~~  
28 ~~Violence Injunction Statewide Verification System~~ is created  
29 within the Department of Law Enforcement. The department shall  
30 establish, implement, and maintain a statewide communication  
31 system capable of electronically transmitting information to

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

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

9 784.048 Stalking; definitions; penalties.--

10 (4) Any person who, after an injunction for protection  
11 against ~~repeat~~ violence or dating violence pursuant to s.  
12 784.046, or an injunction for protection against domestic  
13 violence pursuant to s. 741.30, or after any other  
14 court-imposed prohibition of conduct toward the subject person  
15 or that person's property, knowingly, willfully, maliciously,  
16 and repeatedly follows or harasses another person commits the  
17 offense of aggravated stalking, a felony of the third degree,  
18 punishable as provided in s. 775.082, s. 775.083, or s.  
19 775.084.

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

22 790.06 License to carry concealed weapon or firearm.--

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

25 (a) Is a resident of the United States or is a  
26 consular security official of a foreign government that  
27 maintains diplomatic relations and treaties of commerce,  
28 friendship, and navigation with the United States and is  
29 certified as such by the foreign government and by the  
30 appropriate embassy in this country;

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

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

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

5 (e) Has not been committed for the abuse of a  
6 controlled substance or been found guilty of a crime under the  
7 provisions of chapter 893 or similar laws of any other state  
8 relating to controlled substances within a 3-year period  
9 immediately preceding the date on which the application is  
10 submitted;

11 (f) Does not chronically and habitually use alcoholic  
12 beverages or other substances to the extent that his or her  
13 normal faculties are impaired. It shall be presumed that an  
14 applicant chronically and habitually uses alcoholic beverages  
15 or other substances to the extent that his or her normal  
16 faculties are impaired if the applicant has been committed  
17 under chapter 397 or under the provisions of former chapter  
18 396 or has been convicted under s. 790.151 or has been deemed  
19 a habitual offender under s. 856.011(3), or has had two or  
20 more convictions under s. 316.193 or similar laws of any other  
21 state, within the 3-year period immediately preceding the date  
22 on which the application is submitted;

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

25 (h) Demonstrates competence with a firearm by any one  
26 of the following:

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

30 2. Completion of any National Rifle Association  
31 firearms safety or training course;

1           3. Completion of any firearms safety or training  
2 course or class available to the general public offered by a  
3 law enforcement, junior college, college, or private or public  
4 institution or organization or firearms training school,  
5 utilizing instructors certified by the National Rifle  
6 Association, Criminal Justice Standards and Training  
7 Commission, or the Department of State;

8           4. Completion of any law enforcement firearms safety  
9 or training course or class offered for security guards,  
10 investigators, special deputies, or any division or  
11 subdivision of law enforcement or security enforcement;

12           5. Presents evidence of equivalent experience with a  
13 firearm through participation in organized shooting  
14 competition or military service;

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

18           7. Completion of any firearms training or safety  
19 course or class conducted by a state-certified or National  
20 Rifle Association certified firearms instructor;

21  
22 A photocopy of a certificate of completion of any of the  
23 courses or classes; or an affidavit from the instructor,  
24 school, club, organization, or group that conducted or taught  
25 said course or class attesting to the completion of the course  
26 or class by the applicant; or a copy of any document which  
27 shows completion of the course or class or evidences  
28 participation in firearms competition shall constitute  
29 evidence of qualification under this paragraph; any person who  
30 conducts a course pursuant to subparagraph 2., subparagraph  
31 3., or subparagraph 7., or who, as an instructor, attests to

1 the completion of such courses, must maintain records  
2 certifying that he or she observed the student safely handle  
3 and discharge the firearm;

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

8 (j) Has not been committed to a mental institution  
9 under chapter 394, or similar laws of any other state, unless  
10 the applicant produces a certificate from a licensed  
11 psychiatrist that he or she has not suffered from disability  
12 for at least 5 years prior to the date of submission of the  
13 application;

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

19 (l) Has not been issued an injunction that is  
20 currently in force and effect and that restrains the applicant  
21 from committing acts of domestic violence or acts of ~~repeat~~  
22 violence; and

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

25 (3) The Department of Agriculture and Consumer  
26 Services shall deny a license if the applicant has been found  
27 guilty of, had adjudication of guilt withheld for, or had  
28 imposition of sentence suspended for one or more crimes of  
29 violence constituting a misdemeanor, unless 3 years have  
30 elapsed since probation or any other conditions set by the  
31 court have been fulfilled or the record has been sealed or

1 expunged. The Department of Agriculture and Consumer Services  
2 shall revoke a license if the licensee has been found guilty  
3 of, had adjudication of guilt withheld for, or had imposition  
4 of sentence suspended for one or more crimes of violence  
5 within the preceding 3 years. The department shall, upon  
6 notification by a law enforcement agency, a court, or the  
7 Florida Department of Law Enforcement and subsequent written  
8 verification, suspend a license or the processing of an  
9 application for a license if the licensee or applicant is  
10 arrested or formally charged with a crime that would  
11 disqualify such person from having a license under this  
12 section, until final disposition of the case. The department  
13 shall suspend a license or the processing of an application  
14 for a license if the licensee or applicant is issued an  
15 injunction that restrains the licensee or applicant from  
16 committing acts of domestic violence or acts of ~~repeat~~  
17 violence.

18 Section 8. Paragraph (c) of subsection (2) of section  
19 790.065, Florida Statutes, is amended to read:

20 790.065 Sale and delivery of firearms.--

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

24 (c)1. Review any records available to it to determine  
25 whether the potential buyer or transferee has been indicted or  
26 has had an information filed against her or him for an offense  
27 that is a felony under either state or federal law, or, as  
28 mandated by federal law, has had an injunction for protection  
29 against domestic violence entered against the potential buyer  
30 or transferee under s. 741.30, has had an injunction for  
31 protection against ~~repeat~~ violence entered against the

1 potential buyer or transferee under s. 784.046, or has been  
2 arrested for a dangerous crime as specified in s.  
3 907.041(4)(a) or for any of the following enumerated offenses:  
4 a. Criminal anarchy under ss. 876.01 and 876.02.  
5 b. Extortion under s. 836.05.  
6 c. Explosives violations under s. 552.22(1) and (2).  
7 d. Controlled substances violations under chapter 893.  
8 e. Resisting an officer with violence under s. 843.01.  
9 f. Weapons and firearms violations under this chapter.  
10 g. Treason under s. 876.32.  
11 h. Assisting self-murder under s. 782.08.  
12 i. Sabotage under s. 876.38.  
13 j. Stalking or aggravated stalking under s. 784.048.

14  
15 If the review indicates any such indictment, information, or  
16 arrest, the department shall provide to the licensee a  
17 conditional nonapproval number.

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

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

30  
31

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

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

8           6. If the buyer is so prohibited, the conditional  
9 nonapproval number shall become a nonapproval number.

10          7. The department shall continue its attempts to  
11 obtain the disposition information and may retain a record of  
12 all approval numbers granted without sufficient disposition  
13 information. If the department later obtains disposition  
14 information which indicates:

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

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

21          8. During the time that disposition of the indictment,  
22 information, or arrest is pending and until the department is  
23 notified by the potential buyer that there has been a final  
24 disposition of the indictment, information, or arrest, the  
25 conditional nonapproval number shall remain in effect.

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

28           901.15 When arrest by officer without warrant is  
29 lawful.--A law enforcement officer may arrest a person without  
30 a warrant when:

31



1           (10) The officer has probable cause to believe that  
2 the person has knowingly committed an act of ~~repeat~~ violence  
3 in violation of an injunction for protection from ~~repeat~~  
4 violence entered pursuant to s. 784.046 or a foreign  
5 protection order accorded full faith and credit pursuant to s.  
6 741.315.

7           Section 10. Paragraph (e) of subsection (2) of section  
8 943.05, Florida Statutes, is amended to read:

9           943.05 Criminal Justice Information Program; duties;  
10 crime reports.--

11           (2) The program shall:

12           (e) Establish, implement, and maintain a ~~Domestic and~~  
13 ~~Repeat~~ Violence Injunction Statewide Verification System  
14 capable of electronically transmitting information to and  
15 between criminal justice agencies relating to domestic  
16 violence injunctions and ~~repeat violence~~ injunctions against  
17 violence issued by the courts throughout the state. Such  
18 information must include, but is not limited to, information  
19 as to the existence and status of any such injunction for  
20 verification purposes.

21           Section 11. For the purpose of incorporating the  
22 amendment made by this act to section 784.048, Florida  
23 Statutes, in references thereto, paragraph (d) of subsection  
24 (1) of section 775.084, Florida Statutes, is reenacted to  
25 read:

26           775.084 Violent career criminals; habitual felony  
27 offenders and habitual violent felony offenders; three-time  
28 violent felony offenders; definitions; procedure; enhanced  
29 penalties or mandatory minimum prison terms.--

30           (1) As used in this act:

31

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

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

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

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

10 c. Aggravated child abuse, as described in s.  
11 827.03(2);

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

14 e. Lewd or lascivious battery, lewd or lascivious  
15 molestation, lewd or lascivious conduct, or lewd or lascivious  
16 exhibition, as described in s. 800.04;

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

18 g. A felony violation of chapter 790 involving the use  
19 or possession of a firearm.

20 2. The defendant has been incarcerated in a state  
21 prison or a federal prison.

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

25 a. While the defendant was serving a prison sentence  
26 or other sentence, or court-ordered or lawfully imposed  
27 supervision that is imposed as a result of a prior conviction  
28 for an enumerated felony; or

29 b. Within 5 years after the conviction of the last  
30 prior enumerated felony, or within 5 years after the  
31 defendant's release from a prison sentence, probation,

1 community control, control release, conditional release,  
2 parole, or court-ordered or lawfully imposed supervision or  
3 other sentence that is imposed as a result of a prior  
4 conviction for an enumerated felony, whichever is later.

5 4. The defendant has not received a pardon for any  
6 felony or other qualified offense that is necessary for the  
7 operation of this paragraph.

8 5. A conviction of a felony or other qualified offense  
9 necessary to the operation of this paragraph has not been set  
10 aside in any postconviction proceeding.

11 Section 12. For the purpose of incorporating the  
12 amendment made by this act to section 784.048, Florida  
13 Statutes, in references thereto, paragraph (g) of subsection  
14 (3) of section 921.0022, Florida Statutes, is reenacted to  
15 read:

16 921.0022 Criminal Punishment Code; offense severity  
17 ranking chart.--

18 (3) OFFENSE SEVERITY RANKING CHART

19

20 Florida	Felony	
21 Statute	Degree	Description
		(g) LEVEL 7
25 316.193(3)(c)2.	3rd	DUI resulting in serious bodily 26 injury.
27 327.35(3)(c)2.	3rd	Vessel BUI resulting in serious 28 bodily injury.

29  
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1	402.319(2)	2nd	Misrepresentation and negligence
2			or intentional act resulting in
3			great bodily harm, permanent
4			disfiguration, permanent
5			disability, or death.
6	409.920(2)	3rd	Medicaid provider fraud.
7	456.065(2)	3rd	Practicing a health care
8			profession without a license.
9	456.065(2)	2nd	Practicing a health care
10			profession without a license
11			which results in serious bodily
12			injury.
13	458.327(1)	3rd	Practicing medicine without a
14			license.
15	459.013(1)	3rd	Practicing osteopathic medicine
16			without a license.
17	460.411(1)	3rd	Practicing chiropractic medicine
18			without a license.
19	461.012(1)	3rd	Practicing podiatric medicine
20			without a license.
21	462.17	3rd	Practicing naturopathy without a
22			license.
23	463.015(1)	3rd	Practicing optometry without a
24			license.
25	464.016(1)	3rd	Practicing nursing without a
26			license.
27	465.015(2)	3rd	Practicing pharmacy without a
28			license.
29	466.026(1)	3rd	Practicing dentistry or dental
30			hygiene without a license.
31			

1	467.201	3rd	Practicing midwifery without a
2			license.
3	468.366	3rd	Delivering respiratory care
4			services without a license.
5	483.828(1)	3rd	Practicing as clinical laboratory
6			personnel without a license.
7	483.901(9)	3rd	Practicing medical physics
8			without a license.
9	484.013(1)(c)	3rd	Preparing or dispensing optical
10			devices without a prescription.
11	484.053	3rd	Dispensing hearing aids without a
12			license.
13	494.0018(2)	1st	Conviction of any violation of
14			ss. 494.001-494.0077 in which the
15			total money and property
16			unlawfully obtained exceeded
17			\$50,000 and there were five or
18			more victims.
19	560.123(8)(b)1.	3rd	Failure to report currency or
20			payment instruments exceeding
21			\$300 but less than \$20,000 by
22			money transmitter.
23	560.125(5)(a)	3rd	Money transmitter business by
24			unauthorized person, currency or
25			payment instruments exceeding
26			\$300 but less than \$20,000.
27	655.50(10)(b)1.	3rd	Failure to report financial
28			transactions exceeding \$300 but
29			less than \$20,000 by financial
30			institution.
31			

1	782.051(3)	2nd	Attempted felony murder of a
2			person by a person other than the
3			perpetrator or the perpetrator of
4			an attempted felony.
5	782.07(1)	2nd	Killing of a human being by the
6			act, procurement, or culpable
7			negligence of another
8			(manslaughter).
9	782.071	2nd	Killing of human being or viable
10			fetus by the operation of a motor
11			vehicle in a reckless manner
12			(vehicular homicide).
13	782.072	2nd	Killing of a human being by the
14			operation of a vessel in a
15			reckless manner (vessel
16			homicide).
17	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
18			causing great bodily harm or
19			disfigurement.
20	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
21			weapon.
22	784.045(1)(b)	2nd	Aggravated battery; perpetrator
23			aware victim pregnant.
24	784.048(4)	3rd	Aggravated stalking; violation of
25			injunction or court order.
26	784.07(2)(d)	1st	Aggravated battery on law
27			enforcement officer.
28	784.074(1)(a)	1st	Aggravated battery on sexually
29			violent predators facility staff.
30	784.08(2)(a)	1st	Aggravated battery on a person 65
31			years of age or older.

1	784.081(1)	1st	Aggravated battery on specified
2			official or employee.
3	784.082(1)	1st	Aggravated battery by detained
4			person on visitor or other
5			detainee.
6	784.083(1)	1st	Aggravated battery on code
7			inspector.
8	790.07(4)	1st	Specified weapons violation
9			subsequent to previous conviction
10			of s. 790.07(1) or (2).
11	790.16(1)	1st	Discharge of a machine gun under
12			specified circumstances.
13	790.165(2)	2nd	Manufacture, sell, possess, or
14			deliver hoax bomb.
15	790.165(3)	2nd	Possessing, displaying, or
16			threatening to use any hoax bomb
17			while committing or attempting to
18			commit a felony.
19	790.166(3)	2nd	Possessing, selling, using, or
20			attempting to use a hoax weapon
21			of mass destruction.
22	790.166(4)	2nd	Possessing, displaying, or
23			threatening to use a hoax weapon
24			of mass destruction while
25			committing or attempting to
26			commit a felony.
27	796.03	2nd	Procuring any person under 16
28			years for prostitution.
29	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
30			victim less than 12 years of age;
31			offender less than 18 years.

1	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
2			victim 12 years of age or older
3			but less than 16 years; offender
4			18 years or older.
5	806.01(2)	2nd	Maliciously damage structure by
6			fire or explosive.
7	810.02(3)(a)	2nd	Burglary of occupied dwelling;
8			unarmed; no assault or battery.
9	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
10			unarmed; no assault or battery.
11	810.02(3)(d)	2nd	Burglary of occupied conveyance;
12			unarmed; no assault or battery.
13	812.014(2)(a)	1st	Property stolen, valued at
14			\$100,000 or more; cargo stolen
15			valued at \$50,000 or more;
16			property stolen while causing
17			other property damage; 1st degree
18			grand theft.
19	812.014(2)(b)3.	2nd	Property stolen, emergency
20			medical equipment; 2nd degree
21			grand theft.
22	812.0145(2)(a)	1st	Theft from person 65 years of age
23			or older; \$50,000 or more.
24	812.019(2)	1st	Stolen property; initiates,
25			organizes, plans, etc., the theft
26			of property and traffics in
27			stolen property.
28	812.131(2)(a)	2nd	Robbery by sudden snatching.
29	812.133(2)(b)	1st	Carjacking; no firearm, deadly
30			weapon, or other weapon.
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1	817.234(11)(c)	1st	Insurance fraud; property value
2			\$100,000 or more.
3	825.102(3)(b)	2nd	Neglecting an elderly person or
4			disabled adult causing great
5			bodily harm, disability, or
6			disfigurement.
7	825.103(2)(b)	2nd	Exploiting an elderly person or
8			disabled adult and property is
9			valued at \$20,000 or more, but
10			less than \$100,000.
11	827.03(3)(b)	2nd	Neglect of a child causing great
12			bodily harm, disability, or
13			disfigurement.
14	827.04(3)	3rd	Impregnation of a child under 16
15			years of age by person 21 years
16			of age or older.
17	837.05(2)	3rd	Giving false information about
18			alleged capital felony to a law
19			enforcement officer.
20	872.06	2nd	Abuse of a dead human body.
21	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
22			cocaine (or other drug prohibited
23			under s. 893.03(1)(a), (1)(b),
24			(1)(d), (2)(a), (2)(b), or
25			(2)(c)4.) within 1,000 feet of a
26			child care facility or school.
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1	893.13(1)(e)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
6			property used for religious
7			services or a specified business
8			site.
9	893.13(4)(a)	1st	Deliver to minor cocaine (or
10			other s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), (2)(b), or
12			(2)(c)4. drugs).
13	893.135(1)(a)1.	1st	Trafficking in cannabis, more
14			than 25 lbs., less than 2,000
15			lbs.
16	893.135		
17	(1)(b)1.a.	1st	Trafficking in cocaine, more than
18			28 grams, less than 200 grams.
19	893.135		
20	(1)(c)1.a.	1st	Trafficking in illegal drugs,
21			more than 4 grams, less than 14
22			grams.
23	893.135		
24	(1)(d)1.	1st	Trafficking in phencyclidine,
25			more than 28 grams, less than 200
26			grams.
27	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
28			than 200 grams, less than 5
29			kilograms.
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1 893.135(1)(f)1. 1st Trafficking in amphetamine, more  
2 than 14 grams, less than 28  
3 grams.  
4 893.135  
5 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4  
6 grams or more, less than 14  
7 grams.  
8 893.135  
9 (1)(h)1.a. 1st Trafficking in  
10 gamma-hydroxybutyric acid (GHB),  
11 1 kilogram or more, less than 5  
12 kilograms.  
13 893.135  
14 (1)(j)1.a. 1st Trafficking in 1,4-Butanediol, 1  
15 kilogram or more, less than 5  
16 kilograms.  
17 893.135  
18 (1)(k)2.a. 1st Trafficking in Phenethylamines,  
19 10 grams or more, less than 200  
20 grams.  
21 896.101(5)(a) 3rd Money laundering, financial  
22 transactions exceeding \$300 but  
23 less than \$20,000.  
24 896.104(4)(a)1. 3rd Structuring transactions to evade  
25 reporting or registration  
26 requirements, financial  
27 transactions exceeding \$300 but  
28 less than \$20,000.  
29 Section 13. This act shall take effect July 1, 2003.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
CS for SB/108

Allows the court to award reasonable attorney's fees and costs and reasonable reimbursement of temporary living expenses resulting from the issuance of an ex parte temporary injunction against domestic violence if the court determines that the petitioner did not have reasonable cause to believe that he or she was in danger of becoming a victim of domestic violence, or that the petitioner knowingly provided false information to the court.