

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

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

19

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

21

22 Section 1. This act may be cited as the Tonda Soisson
23 Protective Injunction Act of 2003.

24

25 Section 2. Section 784.046, Florida Statutes, is
26 amended to read:

27

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

31

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

1 (a) "Violence" means any assault, aggravated assault,
2 battery, aggravated battery, sexual assault, sexual battery,
3 stalking, aggravated stalking, kidnapping, or false
4 imprisonment, or any criminal offense resulting in physical
5 injury or death, by a person against any other person.

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

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

16 1. A dating relationship must have existed within the
17 past 6 months;

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

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

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

30 (2) There is created a cause of action for an
31 injunction for protection in cases of ~~repeat~~ violence, and

1 there is created a separate cause of action for an injunction
2 for protection in cases of dating violence.

3 (a) Any person who:

4 1. Is the victim of repeat violence and who has
5 reasonable cause to believe that he or she is in imminent
6 danger of becoming the victim of another act of violence;

7 2. Has reasonable cause to believe that he or she is
8 in imminent danger of becoming the victim of an act of
9 violence; or

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

14

15 has standing in the circuit court to file a sworn petition for
16 an injunction for protection against repeat violence.

17 (b) Any person who:

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

22 2. Has reasonable cause to believe he or she is in
23 imminent danger of becoming the victim of an act of dating
24 violence; or

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

29

30 has standing in the circuit court to file a sworn petition for
31 an injunction for protection against dating violence.

1 (c) This cause of action for an injunction may be
2 sought whether or not any other petition, complaint, or cause
3 of action is currently available or pending between the
4 parties.

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

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

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

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

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

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

1 direct physical evidence or affidavits from eyewitnesses of,
2 the specific facts and circumstances that ~~which~~ form the basis
3 upon which relief is sought.

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

6

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

9

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

13

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

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

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

23

24

25

26

27

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

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

9
 10
 11
 12

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

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

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)~~(c)~~ 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 3. 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 4. 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 5. 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 6. 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 7. 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 8. 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 9. 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.

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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 10. 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 11. 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 12. 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 13. 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

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

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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 14. This act shall take effect October 1,
30 2003.
31