

By Senator Campbell

32-123A-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 when the victim reasonably believes
8 that he or she is in danger of another act of
9 violence rather than in cases of repeat
10 violence; providing requirements for a petition
11 for protection against violence; redesignating
12 the Domestic, Dating, and Repeat Violence
13 Injunction Statewide Verification System in the
14 Department of Law Enforcement as the "Domestic,
15 Dating, and Violence Injunction Statewide
16 Verification System"; providing for service of
17 process and enforcement of an injunction for
18 protection against violence; amending s.
19 784.047, F.S.; providing that it is a
20 first-degree misdemeanor to violate an
21 injunction for protection against violence;
22 amending ss. 61.1825, 741.2901, 741.30, F.S.,
23 relating to the State Case Registry and
24 domestic violence; conforming provisions to
25 changes made by the act; amending s. 784.048,
26 F.S.; 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 is the victim of ~~repeat~~ violence
2 and who has reasonable cause to believe that he or she is in
3 imminent danger of becoming the victim of another act of
4 violence, or the parent or legal guardian of a ~~any~~ minor child
5 ~~who is~~ living at home ~~and~~ who seeks an injunction for
6 protection against ~~repeat~~ violence on behalf of the minor
7 child, has standing in the circuit court to file a sworn
8 petition for an injunction for protection against ~~repeat~~
9 violence.

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

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

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

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

31

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

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

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

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

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

27
28 PETITION FOR INJUNCTION FOR PROTECTION
29 AGAINST ~~REPEAT~~ VIOLENCE OR DATING VIOLENCE
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4. Petitioner genuinely fears ~~repeat~~ violence by the respondent.

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

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

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

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

(c) Any such ex parte temporary injunction shall be effective for a fixed period not to exceed 15 days. A full

1 hearing, as provided by this section, shall be set for a date
2 no later than the date when the temporary injunction ceases to
3 be effective. The court may grant a continuance of the ex
4 parte injunction and the full hearing before or during a
5 hearing, for good cause shown by any party.

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

9 1.(a) Enjoining the respondent from committing any
10 acts of violence.

11 2.(b) Ordering such other relief as the court deems
12 necessary for the protection of the petitioner, including
13 injunctions or directives to law enforcement agencies, as
14 provided in this section.

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

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

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

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

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

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

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

23 | 2. When an injunction is issued, if the petitioner
24 | requests the assistance of a law enforcement agency, the court
25 | may order that an officer from the appropriate law enforcement
26 | agency accompany the petitioner and assist in the execution or
27 | service of the injunction. A law enforcement officer shall
28 | accept a copy of an injunction for protection against repeat
29 | violence or dating violence, certified by the clerk of the
30 | court, from the petitioner and immediately serve it upon a
31 | respondent who has been located but not yet served.

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

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

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

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

29 4. Within 24 hours after the sheriff or other law
30 enforcement officer has made service upon the respondent and
31 the sheriff has been so notified, the sheriff must make

1 information relating to the service available to other law
2 enforcement agencies by electronically transmitting such
3 information to the department.

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

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

22 (b) If the respondent is arrested by a law enforcement
23 officer under s. 901.15(10) for committing an act of ~~repeat~~
24 violence or dating violence in violation of a violence ~~repeat~~
25 or dating violence injunction for protection, the respondent
26 shall be held in custody until brought before the court as
27 expeditiously as possible for the purpose of enforcing the
28 injunction and for admittance to bail in accordance with
29 chapter 903 and the applicable rules of criminal procedure,
30 pending a hearing.

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

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

9 Section 2. Section 784.047, Florida Statutes, is
10 amended to read:

11 784.047 Penalties for violating protective injunction
12 against violators.--A person who willfully violates an
13 injunction for protection against ~~repeat~~ violence or dating
14 violence, issued pursuant to s. 784.046, or a foreign
15 protection order accorded full faith and credit pursuant to s.
16 741.315 by:

17 (1) Refusing to vacate the dwelling that the parties
18 share;

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

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

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

27 (5) Telephoning, contacting, or otherwise
28 communicating with the petitioner directly or indirectly,
29 unless the injunction specifically allows indirect contact
30 through a third party;

31

1 commits a misdemeanor of the first degree, punishable as
2 provided in s. 775.082 or s. 775.083.

3 Section 3. Paragraph (a) of subsection (3) of section
4 61.1825, Florida Statutes, is amended to read:

5 61.1825 State Case Registry.--

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

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

13 2. A temporary or final injunction for protection
14 against domestic violence has been granted pursuant to s.
15 741.30(6), an injunction for protection against domestic
16 violence has been issued by a court of a foreign state
17 pursuant to s. 741.315, or a temporary or final injunction for
18 protection against ~~repeat~~ violence has been granted pursuant
19 to s. 784.046; or

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

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

28 741.2901 Domestic violence cases; prosecutors;
29 legislative intent; investigation; duty of circuits; first
30 appearance.--

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

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

22 741.30 Domestic violence; injunction; powers and
23 duties of court and clerk; petition; notice and hearing;
24 temporary injunction; issuance of injunction; statewide
25 verification system; enforcement.--

26 (2)

27 (c)1. The clerk of the court shall assist petitioners
28 in seeking both injunctions for protection against domestic
29 violence and enforcement for a violation thereof as specified
30 in this section.

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

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

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

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

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

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

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

31 (8)

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

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

14 784.048 Stalking; definitions; penalties.--

15 (4) Any person who, after an injunction for protection
16 against ~~repeat~~ violence or dating violence pursuant to s.
17 784.046, or an injunction for protection against domestic
18 violence pursuant to s. 741.30, or after any other
19 court-imposed prohibition of conduct toward the subject person
20 or that person's property, knowingly, willfully, maliciously,
21 and repeatedly follows or harasses another person commits the
22 offense of aggravated stalking, a felony of the third degree,
23 punishable as provided in s. 775.082, s. 775.083, or s.
24 775.084.

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

27 790.06 License to carry concealed weapon or firearm.--

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

30 (a) Is a resident of the United States or is a
31 consular security official of a foreign government that

1 maintains diplomatic relations and treaties of commerce,
2 friendship, and navigation with the United States and is
3 certified as such by the foreign government and by the
4 appropriate embassy in this country;
5 (b) Is 21 years of age or older;
6 (c) Does not suffer from a physical infirmity which
7 prevents the safe handling of a weapon or firearm;
8 (d) Is not ineligible to possess a firearm pursuant to
9 s. 790.23 by virtue of having been convicted of a felony;
10 (e) Has not been committed for the abuse of a
11 controlled substance or been found guilty of a crime under the
12 provisions of chapter 893 or similar laws of any other state
13 relating to controlled substances within a 3-year period
14 immediately preceding the date on which the application is
15 submitted;
16 (f) Does not chronically and habitually use alcoholic
17 beverages or other substances to the extent that his or her
18 normal faculties are impaired. It shall be presumed that an
19 applicant chronically and habitually uses alcoholic beverages
20 or other substances to the extent that his or her normal
21 faculties are impaired if the applicant has been committed
22 under chapter 397 or under the provisions of former chapter
23 396 or has been convicted under s. 790.151 or has been deemed
24 a habitual offender under s. 856.011(3), or has had two or
25 more convictions under s. 316.193 or similar laws of any other
26 state, within the 3-year period immediately preceding the date
27 on which the application is submitted;
28 (g) Desires a legal means to carry a concealed weapon
29 or firearm for lawful self-defense;
30 (h) Demonstrates competence with a firearm by any one
31 of the following:

- 1 1. Completion of any hunter education or hunter safety
2 course approved by the Fish and Wildlife Conservation
3 Commission or a similar agency of another state;
- 4 2. Completion of any National Rifle Association
5 firearms safety or training course;
- 6 3. Completion of any firearms safety or training
7 course or class available to the general public offered by a
8 law enforcement, junior college, college, or private or public
9 institution or organization or firearms training school,
10 utilizing instructors certified by the National Rifle
11 Association, Criminal Justice Standards and Training
12 Commission, or the Department of State;
- 13 4. Completion of any law enforcement firearms safety
14 or training course or class offered for security guards,
15 investigators, special deputies, or any division or
16 subdivision of law enforcement or security enforcement;
- 17 5. Presents evidence of equivalent experience with a
18 firearm through participation in organized shooting
19 competition or military service;
- 20 6. Is licensed or has been licensed to carry a firearm
21 in this state or a county or municipality of this state,
22 unless such license has been revoked for cause; or
- 23 7. Completion of any firearms training or safety
24 course or class conducted by a state-certified or National
25 Rifle Association certified firearms instructor;
26
27 A photocopy of a certificate of completion of any of the
28 courses or classes; or an affidavit from the instructor,
29 school, club, organization, or group that conducted or taught
30 said course or class attesting to the completion of the course
31 or class by the applicant; or a copy of any document which

1 shows completion of the course or class or evidences
2 participation in firearms competition shall constitute
3 evidence of qualification under this paragraph; any person who
4 conducts a course pursuant to subparagraph 2., subparagraph
5 3., or subparagraph 7., or who, as an instructor, attests to
6 the completion of such courses, must maintain records
7 certifying that he or she observed the student safely handle
8 and discharge the firearm;

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

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

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

24 (l) Has not been issued an injunction that is
25 currently in force and effect and that restrains the applicant
26 from committing acts of domestic violence or acts of ~~repeat~~
27 violence; and

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

30 (3) The Department of Agriculture and Consumer
31 Services shall deny a license if the applicant has been found

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

23 Section 8. Paragraph (c) of subsection (2) of section
24 790.065, Florida Statutes, is amended to read:

25 790.065 Sale and delivery of firearms.--

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

29 (c)1. Review any records available to it to determine
30 whether the potential buyer or transferee has been indicted or
31 has had an information filed against her or him for an offense

1 that is a felony under either state or federal law, or, as
2 mandated by federal law, has had an injunction for protection
3 against domestic violence entered against the potential buyer
4 or transferee under s. 741.30, has had an injunction for
5 protection against ~~repeat~~ violence entered against the
6 potential buyer or transferee under s. 784.046, or has been
7 arrested for a dangerous crime as specified in s.

8 907.041(4)(a) or for any of the following enumerated offenses:

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

19
20 If the review indicates any such indictment, information, or
21 arrest, the department shall provide to the licensee a
22 conditional nonapproval number.

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

30 3. The office of the clerk of court, at no charge to
31 the department, shall respond to any department request for

1 data on the disposition of the indictment, information, or
2 arrest as soon as possible, but in no event later than 8
3 working hours.

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

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

11 6. If the buyer is so prohibited, the conditional
12 nonapproval number shall become a nonapproval number.

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

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

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

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

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

31

1 901.15 When arrest by officer without warrant is
2 lawful.--A law enforcement officer may arrest a person without
3 a warrant when:

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

10 Section 10. Paragraph (e) of subsection (2) of section
11 943.05, Florida Statutes, is amended to read:

12 943.05 Criminal Justice Information Program; duties;
13 crime reports.--

14 (2) The program shall:

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

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

29 775.084 Violent career criminals; habitual felony
30 offenders and habitual violent felony offenders; three-time
31

1 violent felony offenders; definitions; procedure; enhanced
2 penalties or mandatory minimum prison terms.--

3 (1) As used in this act:

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

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

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

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

13 c. Aggravated child abuse, as described in s.
14 827.03(2);

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

17 e. Lewd or lascivious battery, lewd or lascivious
18 molestation, lewd or lascivious conduct, or lewd or lascivious
19 exhibition, as described in s. 800.04;

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

21 g. A felony violation of chapter 790 involving the use
22 or possession of a firearm.

23 2. The defendant has been incarcerated in a state
24 prison or a federal prison.

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

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

1 b. Within 5 years after the conviction of the last
2 prior enumerated felony, or within 5 years after the
3 defendant's release from a prison sentence, probation,
4 community control, control release, conditional release,
5 parole, or court-ordered or lawfully imposed supervision or
6 other sentence that is imposed as a result of a prior
7 conviction for an enumerated felony, whichever is later.

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

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

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

19 921.0022 Criminal Punishment Code; offense severity
20 ranking chart.--

21 (3) OFFENSE SEVERITY RANKING CHART

22

23 Florida	Felony	
24 Statute	Degree	Description
		(g) LEVEL 7
28 316.193(3)(c)2.	3rd	DUI resulting in serious bodily
		injury.
30 327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
		bodily injury.

31

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.
31			

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.
30			
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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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SENATE SUMMARY

Revises provisions governing protective injunctions to authorize an injunction for protection in cases where a person is a victim of violence and has reasonable cause to believe that he or she is in imminent danger of becoming a victim of another act of violence. Removes references to injunctions against acts of repeat violence. Redesignates the Domestic, Dating, and Repeat Violence Injunction Statewide Verification System in the the Department of Law Enforcement as the "Domestic, Dating, and Violence Injunction Statewide Verification System." Provides requirements for enforcing an injunction for protection against violence. Provides that it is a first-degree misdemeanor to violate an injunction for protection against violence. Revises the elements of the offense of aggravated stalking to prohibit certain acts following an injunction for protection against violence rather than following an injunction for protection against repeat violence. (See bill for details.)