

Bill No. CS for SB 294

Amendment No. ____ Barcode 081820

CHAMBER ACTION

Senate

House

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Senator Crist moved the following amendment:

Senate Amendment

On page 4, line 10, through
page 12, line 8, delete those lines

and insert:

(2) There is created a separate cause of action for an injunction for protection in each of the following cases of ~~repeat violence;~~ and there is created a ~~separate cause of action for an injunction for protection in cases of dating violence.~~

(a) Any person who is the victim of repeat violence or the parent or legal guardian of any minor child who is living at home and who seeks an injunction for protection against repeat violence on behalf of the minor child has standing in the circuit court to file a sworn petition for an injunction for protection against repeat violence.

(b) Any person who is the victim of dating violence and has reasonable cause to believe he or she is in imminent danger of becoming the victim of another act of dating

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

9 (c) A person who is the victim of sexual violence or
10 the parent or legal guardian of a minor child who is living at
11 home who is the victim of sexual violence has standing in the
12 circuit court to file a sworn petition for an injunction for
13 protection against sexual violence on his or her own behalf or
14 on behalf of the minor child if:

15 1. The person has reported the sexual violence to a
16 law enforcement agency and is cooperating in any criminal
17 proceeding against the respondent, regardless of whether
18 criminal charges based on the sexual violence have been filed,
19 reduced, or dismissed by the state attorney; or

20 2. The respondent who committed the sexual violence
21 against the victim or minor child was sentenced to a term of
22 imprisonment in state prison for the sexual violence and the
23 respondent's term of imprisonment has expired or is due to
24 expire within 90 days following the date the petition is
25 filed.

26
27 ~~(c)~~ A This cause of action for an injunction under this
28 section may be sought whether or not any other petition,
29 complaint, or cause of action is currently available or
30 pending between the parties. ~~(d)~~ A This cause of action for
31 an injunction under this section does ~~shall~~ not require that

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1 the petitioner be represented by an attorney. In light of the
2 Department of Correction's existing responsibility to adopt
3 internal mechanisms for the protection of inmates from
4 violence by other inmates or staff members, incarcerated
5 inmates do not have standing to seek injunctions for
6 protection against other inmates or staff.

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) Notwithstanding any other law, the clerk of the
12 court may not assess a fee for filing a petition for
13 protection against repeat violence, sexual violence, or dating
14 violence. However, subject to legislative appropriation, the
15 clerk of the court may, each quarter, submit to the Office of
16 the State Courts Administrator a certified request for
17 reimbursement for petitions for protection issued by the court
18 under this section at the rate of \$40 per petition. The
19 request for reimbursement shall be submitted in the form and
20 manner prescribed by the Office of the State Courts
21 Administrator. From this reimbursement, the clerk shall pay
22 the law enforcement agency serving the injunction the fee
23 requested by the law enforcement agency; however, this fee may
24 not exceed \$20. In the event the person desiring to file for
25 an injunction pursuant to this section does not have
26 sufficient funds with which to pay filing fees to the clerk of
27 the court or service fees to the sheriff or law enforcement
28 agency and signs an affidavit so stating, the fees shall be
29 waived by the clerk of the court or the sheriff or law
30 enforcement agency to the extent necessary to process the
31 petition and serve the injunction, subject to a subsequent

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1 ~~order of the court relative to the payment of such fees.~~

2 (c) No bond shall be required by the court for the
3 entry of an injunction.

4 (d) The clerk of the court shall provide the
5 petitioner with a certified copy of any injunction for
6 protection against repeat violence, sexual violence, or dating
7 violence entered by the court.

8 (4)(a) The sworn petition shall allege the incidents
9 of repeat violence, sexual violence, or dating violence and
10 shall include the specific facts and circumstances ~~that which~~
11 form the basis upon which relief is sought. With respect to a
12 minor child who is living at home, the parent or legal
13 guardian of the minor child must have been an eyewitness to,
14 or have direct physical evidence or affidavits from
15 eyewitnesses of, the specific facts and circumstances which
16 form the basis upon which relief is sought.

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

19

20 PETITION FOR INJUNCTION FOR PROTECTION
21 AGAINST REPEAT VIOLENCE, SEXUAL VIOLENCE, OR DATING VIOLENCE

22

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

26

- 27 1. Petitioner resides at ...(address)...
- 28 2. Respondent resides at ...(address)...
- 29 3. ~~a.~~ (Check here if applicable) Petitioner has
30 suffered repeat violence as demonstrated by the fact that the
31 respondent has:

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

~~4.5.~~ 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 shall be used as evidence, unless the respondent appears at the hearing or has received reasonable notice of the hearing.

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1 (c) Any such ex parte temporary injunction shall be
 2 effective for a fixed period not to exceed 15 days. However,
 3 an ex parte temporary injunction granted under subparagraph
 4 (2)(c)2. is effective for 15 days following the date the
 5 respondent is released from state prison. A full hearing, as
 6 provided by this section, shall be set for a date no later
 7 than the date when the temporary injunction ceases to be
 8 effective. The court may grant a continuance of the ex parte
 9 injunction and the full hearing before or during a hearing,
 10 for good cause shown by any party.

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

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

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

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

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

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

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

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1 injunction.

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

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

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

27 2. If the respondent is in the custody of the
28 Department of Corrections and the petition for an injunction
29 has been filed as provided in subparagraph (2)(c)2., the clerk
30 of the court shall furnish a copy of the petition, notice of
31 hearing, and temporary injunction, if any, to the warden at

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1 the facility where the respondent is currently incarcerated
2 and copies shall be served upon the respondent as soon
3 thereafter as possible on any day of the week and at any time
4 of the day or night. If the respondent has been transferred to
5 another state correctional facility, the warden shall forward
6 the document to the warden at the respondent's current
7 facility to be served on the respondent by the warden's
8 designee at that facility. For the purposes of this section,
9 the warden's designee shall be a correctional officer or
10 correctional probation officer as defined in chapter 943. Upon
11 completion of service, the warden's designee shall complete
12 and forward to the issuing court the return of the execution
13 of process. If the respondent in custody is not served before
14 his or her release, a copy of the petition, notice of hearing,
15 and temporary injunction, if any, shall be forwarded to the
16 sheriff of the county specified in the respondent's release
17 plan for service as provided in subparagraph 1. The Department
18 of Corrections and its employees are not subject to civil or
19 criminal liability for good-faith efforts taken to comply with
20 the requirements of this section for service of process.

21 3.2. When an injunction is issued, if the petitioner
22 requests the assistance of a law enforcement agency, the court
23 may order that an officer from the appropriate law enforcement
24 agency accompany the petitioner and assist in the execution or
25 service of the injunction. A law enforcement officer shall
26 accept a copy of an injunction for protection against repeat
27 violence, sexual violence, or dating violence, certified by
28 the clerk of the court, from the petitioner and immediately
29 serve it upon a respondent who has been located but not yet
30 served.

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