

By the Committee on Criminal Justice; and Senator Crist

307-2233-04

1 A bill to be entitled
2 An act relating to protective injunctions from
3 repeat, sexual, and dating violence; amending
4 s. 784.046, F.S.; providing that a petitioner
5 for an injunction for protection against sexual
6 violence may list the address of his or her
7 current residence in a separate confidential
8 filing in certain circumstances; revising
9 requirements relating to documents filed in
10 support of such petition; deleting a provision
11 providing for service of the petition, notice
12 of hearing, and any temporary injunction in
13 circumstances where the respondent is in the
14 custody of the Department of Corrections;
15 deleting a provision authorizing service by a
16 correctional officer and specifying the
17 circumstances of such service; revising a
18 cross-reference to conform; amending ss.
19 784.047 and 784.08, F.S; clarifying
20 cross-references to conform; amending s.
21 901.15, F.S.; deleting a provision authorizing
22 an officer to make an arrest without a warrant
23 in certain circumstances; amending s. 20.165,
24 F.S.; revising a cross-reference to conform;
25 providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Paragraph (b) of subsection (4), paragraph
30 (a) of subsection (8), and paragraph (b) of subsection (9) of
31 section 784.046, Florida Statutes, are amended to read:

1 784.046 Action by victim of repeat violence, sexual
2 violence, or dating violence for protective injunction; powers
3 and duties of court and clerk of court; filing and form of
4 petition; notice and hearing; temporary injunction; issuance;
5 statewide verification system; enforcement.--

6 (4)

7 (b) The sworn petition must be in substantially the
8 following form:

9
10 PETITION FOR INJUNCTION FOR PROTECTION
11 AGAINST REPEAT VIOLENCE, SEXUAL
12 VIOLENCE, OR DATING VIOLENCE
13

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

17
18 1. Petitioner resides at ... (address) ... (A
19 petitioner for an injunction for protection against sexual
20 violence may furnish an address to the court in a separate
21 confidential filing if, for safety reasons, the petitioner
22 requires the location of his or her current residence to be
23 confidential pursuant to s. 119.07(3)(s), Florida
24 Statutes.) ...

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

26 3.a. Petitioner has suffered repeat violence as
27 demonstrated by the fact that the respondent has:

28 ... (enumerate incidents of violence) ...
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b. Petitioner has suffered sexual violence as demonstrated by the fact that the respondent has: (enumerate incident of violence and include ~~attach~~ incident report number from ~~by~~ law enforcement agency or attach notice of inmate release.)

c. Petitioner is a victim of dating violence and has reasonable cause to believe that he or she is in imminent danger of becoming the victim of another act of dating violence or has reasonable cause to believe that he or she is in imminent danger of becoming a victim of dating violence, as demonstrated by the fact that the respondent has: ... (list the specific incident or incidents of violence and describe the length of time of the relationship, whether it has been in existence during the last 6 months, the nature of the relationship of a romantic or intimate nature, the frequency and type of interaction, and any other facts that characterize the relationship.) ...

4. Petitioner genuinely fears repeat violence by the respondent.

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

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 Department~~

1 ~~of Corrections and copies shall be served upon the respondent~~
2 ~~as soon thereafter as possible on any day of the week and at~~
3 ~~any time of the day or night. The petition, notice of hearing,~~
4 ~~or temporary injunction may be served in a state prison by a~~
5 ~~correctional officer as defined in chapter 943. If the~~
6 ~~respondent in custody is not served before his or her release,~~
7 ~~a copy of the petition, notice of hearing, and temporary~~
8 ~~injunction, if any, shall be forwarded to the sheriff of the~~
9 ~~county specified in the respondent's release plan for service~~
10 ~~as provided in subparagraph 1.~~

11 2.3. When an injunction is issued, if the petitioner
12 requests the assistance of a law enforcement agency, the court
13 may order that an officer from the appropriate law enforcement
14 agency accompany the petitioner and assist in the execution or
15 service of the injunction. A law enforcement officer shall
16 accept a copy of an injunction for protection against repeat
17 violence, sexual violence, or dating violence, certified by
18 the clerk of the court, from the petitioner and immediately
19 serve it upon a respondent who has been located but not yet
20 served.

21 (9)

22 (b) If the respondent is arrested by a law enforcement
23 officer under s. 901.15(6)~~(10)~~ for committing an act of repeat
24 violence, sexual violence, or dating violence in violation of
25 an injunction for protection, the respondent shall be held in
26 custody until brought before the court as expeditiously as
27 possible for the purpose of enforcing the injunction and for
28 admittance to bail in accordance with chapter 903 and the
29 applicable rules of criminal procedure, pending a hearing.

30 Section 2. Section 784.047, Florida Statutes, is
31 amended to read:

1 784.047 Penalties for violating protective injunction
2 against violators.--A person who willfully violates an
3 injunction for protection against repeat violence, sexual
4 violence, or dating violence, issued pursuant to s. 784.046,
5 or a foreign protection order accorded full faith and credit
6 pursuant to s. 741.315 by:

7 (1) Refusing to vacate the dwelling that the parties
8 share;

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

12 (3) Committing an act of repeat violence, sexual
13 violence, or dating violence against the petitioner;

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

17 (5) Telephoning, contacting, or otherwise
18 communicating with the petitioner directly or indirectly,
19 unless the injunction specifically allows indirect contact
20 through a third party;

21
22 commits a misdemeanor of the first degree, punishable as
23 provided in s. 775.082 or s. 775.083.

24 Section 3. Subsection (4) of section 784.048, Florida
25 Statutes, is amended to read:

26 784.048 Stalking; definitions; penalties.--

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

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

6 Section 4. Subsection (10) of section 901.15, Florida
7 Statutes, is amended, and present subsections (11) through
8 (16) are redesignated as subsections (10) through (15),
9 respectively, to read:

10 901.15 When arrest by officer without warrant is
11 lawful.--A law enforcement officer may arrest a person without
12 a warrant when:

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

19 Section 5. Paragraph (b) of subsection (9) of section
20 20.165, Florida Statutes, is amended to read:

21 20.165 Department of Business and Professional
22 Regulation.--There is created a Department of Business and
23 Professional Regulation.

24 (9)

25 (b) All employees certified under chapter 943 as law
26 enforcement officers shall have felony arrest powers under s.
27 901.15(10)~~(11)~~and shall have all the powers of deputy
28 sheriffs to:

29 1. Investigate, enforce, and prosecute, throughout the
30 state, violations and violators of:

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1 a. Parts I and II of chapter 210; part VII of chapter
2 559; and chapters 561-569; and the rules promulgated
3 thereunder, as well as other state laws which the division,
4 all state law enforcement officers, or beverage enforcement
5 agents are specifically authorized to enforce.

6 b. All other state laws, provided that the employee
7 exercises the powers of a deputy sheriff, only after
8 consultation and in coordination with the appropriate local
9 sheriff's office, and only if the violation could result in an
10 administrative proceeding against a license or permit issued
11 by the division.

12 2. Enforce all criminal laws of the state within
13 specified jurisdictions when the division is a party to a
14 written mutual aid agreement with a state agency, sheriff, or
15 municipal police department, or when the division participates
16 in the Florida Mutual Aid Plan during a declared state
17 emergency.

18 Section 6. This act shall take effect July 1, 2004.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1568

1. Amends s. 784.048(4), F.S., to include violating a sexual violence injunction as aggravated stalking, if the person knowingly, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person. (Repeat and dating violence injunction violations are already covered and the current penalty for this offense is a third degree felony.)
2. Removes statutory language instructing the Department of Corrections to serve respondents of protective injunctions against sexual violence if they are in the custody of the DOC. (This change will result in the sheriff serving incarcerated respondents.)
3. Eliminates duplicative language in s. 901.15(10), F.S., which gives a law enforcement officer warrantless arrest authority when probable cause exists that a person has knowingly committed an act of repeat violence in violation of a repeat violence injunction. (This change will result in warrantless arrest authority for all protective injunction violations being covered in subsection (6) of s. 901.15, F.S.)