

CHAMBER ACTION

1 The Committee on Public Safety & Crime Prevention recommends the
2 following:

3
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to protective injunctions; amending s.
8 741.31, F.S.; increasing the criminal penalty for certain
9 violations of protective injunctions against domestic
10 violence from a misdemeanor of the first degree to a felony
11 of the second degree; amending s. 784.047, F.S.; increasing
12 the criminal penalty for certain violations of protective
13 injunctions against repeat violence, sexual violence, or
14 dating violence from a misdemeanor of the first degree to a
15 felony of the third degree; providing that it is a third-
16 degree felony to commit a crime against the property of a
17 petitioner or a protected person in violation of such
18 protective injunctions; reenacting s. 901.15(6) and (7),
19 F.S., relating to circumstances under which an arrest
20 without warrant is lawful, for the purpose of incorporating
21 the amendments to ss. 741.31 and 784.047, F.S., in
22 references thereto; providing applicability; providing an
23 effective date.

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

Section 1. Subsection (4) of section 741.31, Florida Statutes, is amended to read:

741.31 Violation of an injunction for protection against domestic violence.--

(4)(a) A person who willfully violates an injunction for protection against domestic violence issued pursuant to s. 741.30, or a foreign protection order accorded full faith and credit pursuant to s. 741.315, by:

1. Refusing to vacate the dwelling that the parties share;
2. Going to, or being within 500 feet of, the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;
3. Committing an act of domestic violence against the petitioner;
4. Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner;
5. Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party;
6. Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle, whether or not that vehicle is occupied;

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52 7. Defacing or destroying the petitioner's personal
53 property, including the petitioner's motor vehicle; or
54 8. Refusing to surrender firearms or ammunition if ordered
55 to do so by the court

56
57 commits a felony ~~misdemeanor~~ of the second ~~first~~ degree,
58 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.
59 775.084.

60 (b) A person who willfully violates an injunction for
61 protection against domestic violence by committing a crime
62 against the property of the petitioner or other protected person
63 commits a felony of the third degree, punishable as provided in
64 s. 775.082, s. 775.083, or s. 775.084.

65 (c)~~(b)~~1. It is a violation of s. 790.233, and a
66 misdemeanor of the first degree, punishable as provided in s.
67 775.082 or s. 775.083, for a person to violate a final
68 injunction for protection against domestic violence by having in
69 his or her care, custody, possession, or control any firearm or
70 ammunition.

71 2. It is the intent of the Legislature that the
72 disabilities regarding possession of firearms and ammunition are
73 consistent with federal law. Accordingly, this paragraph shall
74 not apply to a state or local officer as defined in s.
75 943.10(14), holding an active certification, who receives or
76 possesses a firearm or ammunition for use in performing official
77 duties on behalf of the officer's employing agency, unless
78 otherwise prohibited by the employing agency.

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79 Section 2. Section 784.047, Florida Statutes, is amended
80 to read:

81 784.047 Penalties for violating protective injunction
82 against violators.--

83 (1) A person who willfully violates an injunction for
84 protection against repeat violence, sexual violence, or dating
85 violence, issued pursuant to s. 784.046, or a foreign protection
86 order accorded full faith and credit pursuant to s. 741.315, by:

87 (a)~~(1)~~ Refusing to vacate the dwelling that the parties
88 share;

89 (b)~~(2)~~ Going to the petitioner's residence, school, place
90 of employment, or a specified place frequented regularly by the
91 petitioner and any named family or household member;

92 (c)~~(3)~~ Committing an act of repeat violence or dating
93 violence against the petitioner;

94 (d)~~(4)~~ Committing any other violation of the injunction
95 through an intentional unlawful threat, word, or act to do
96 violence to the petitioner; or

97 (e)~~(5)~~ Telephoning, contacting, or otherwise communicating
98 with the petitioner directly or indirectly, unless the
99 injunction specifically allows indirect contact through a third
100 party,~~+~~

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102 commits a felony ~~misdemeanor~~ of the second ~~first~~ degree,
103 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.
104 775.084.

105 (2) A person who willfully violates an injunction for
106 protection against repeat violence, sexual violence, or dating

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107 | violence by committing a crime against the property of the
108 | petitioner or other protected person commits a felony of the
109 | third degree, punishable as provided in s. 775.082, s. 775.083,
110 | or s. 775.084.

111 | Section 3. For the purpose of incorporating the amendments
112 | to sections 741.31 and 784.047, Florida Statutes, in references
113 | thereto, subsections (6) and (7) of section 901.15, Florida
114 | Statutes, are reenacted to read:

115 | 901.15 When arrest by officer without warrant is lawful.--
116 | A law enforcement officer may arrest a person without a warrant
117 | when:

118 | (6) There is probable cause to believe that the person has
119 | committed a criminal act according to s. 790.233 or according to
120 | s. 741.31 or s. 784.047 which violates an injunction for
121 | protection entered pursuant to s. 741.30 or s. 784.046, or a
122 | foreign protection order accorded full faith and credit pursuant
123 | to s. 741.315, over the objection of the petitioner, if
124 | necessary.

125 | (7) There is probable cause to believe that the person has
126 | committed an act of domestic violence, as defined in s. 741.28.
127 | The decision to arrest shall not require consent of the victim
128 | or consideration of the relationship of the parties. It is the
129 | public policy of this state to strongly discourage arrest and
130 | charges of both parties for domestic violence on each other and
131 | to encourage training of law enforcement and prosecutors in this
132 | area. A law enforcement officer who acts in good faith and
133 | exercises due care in making an arrest under this subsection,
134 | under s. 741.31(4) or s. 784.047, or pursuant to a foreign order

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135 | of protection accorded full faith and credit pursuant to s.
136 | 741.315, is immune from civil liability that otherwise might
137 | result by reason of his or her action.

138 | Section 4. This act shall take effect July 1, 2004, and
139 | shall apply to offenses committed on or after that date.