

1 A bill to be entitled

2 An act relating to protective injunctions; amending s.
3 741.31, F.S.; increasing the criminal penalty for certain
4 violations of protective injunctions against domestic
5 violence from a misdemeanor of the first degree to a felony
6 of the second degree; amending s. 784.047, F.S.; increasing
7 the criminal penalty for certain violations of protective
8 injunctions against repeat violence, sexual violence, or
9 dating violence from a misdemeanor of the first degree to a
10 felony of the third degree; providing that it is a third-
11 degree felony to commit a crime against the property of a
12 petitioner or a protected person in violation of such
13 protective injunctions; reenacting s. 901.15(6) and (7),
14 F.S., relating to circumstances under which an arrest
15 without warrant is lawful, for the purpose of incorporating
16 the amendments to ss. 741.31 and 784.047, F.S., in
17 references thereto; providing applicability; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Subsection (4) of section 741.31, Florida
23 Statutes, is amended to read:

24 741.31 Violation of an injunction for protection against
25 domestic violence.--

26 (4)(a) A person who willfully violates an injunction for
27 protection against domestic violence issued pursuant to s.

28 | 741.30, or a foreign protection order accorded full faith and
 29 | credit pursuant to s. 741.315, by:

30 | 1. Refusing to vacate the dwelling that the parties share;

31 | 2. Going to, or being within 500 feet of, the petitioner's
 32 | residence, school, place of employment, or a specified place
 33 | frequented regularly by the petitioner and any named family or
 34 | household member;

35 | 3. Committing an act of domestic violence against the
 36 | petitioner;

37 | 4. Committing any other violation of the injunction
 38 | through an intentional unlawful threat, word, or act to do
 39 | violence to the petitioner;

40 | 5. Telephoning, contacting, or otherwise communicating
 41 | with the petitioner directly or indirectly, unless the
 42 | injunction specifically allows indirect contact through a third
 43 | party;

44 | 6. Knowingly and intentionally coming within 100 feet of
 45 | the petitioner's motor vehicle, whether or not that vehicle is
 46 | occupied;

47 | 7. Defacing or destroying the petitioner's personal
 48 | property, including the petitioner's motor vehicle; or

49 | 8. Refusing to surrender firearms or ammunition if ordered
 50 | to do so by the court

51 |
 52 | commits a felony ~~misdemeanor~~ of the second ~~first~~ degree,
 53 | punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.
 54 | 775.084.

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

60 (c)~~(b)~~1. It is a violation of s. 790.233, and a
 61 misdemeanor of the first degree, punishable as provided in s.
 62 775.082 or s. 775.083, for a person to violate a final
 63 injunction for protection against domestic violence by having in
 64 his or her care, custody, possession, or control any firearm or
 65 ammunition.

66 2. It is the intent of the Legislature that the
 67 disabilities regarding possession of firearms and ammunition are
 68 consistent with federal law. Accordingly, this paragraph shall
 69 not apply to a state or local officer as defined in s.
 70 943.10(14), holding an active certification, who receives or
 71 possesses a firearm or ammunition for use in performing official
 72 duties on behalf of the officer's employing agency, unless
 73 otherwise prohibited by the employing agency.

74 Section 2. Section 784.047, Florida Statutes, is amended
 75 to read:

76 784.047 Penalties for violating protective injunction
 77 against violators.--

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

82 ~~(a)(1)~~ Refusing to vacate the dwelling that the parties
 83 share;

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

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

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

92 ~~(e)(5)~~ Telephoning, contacting, or otherwise communicating
 93 with the petitioner directly or indirectly, unless the
 94 injunction specifically allows indirect contact through a third
 95 party,⁺

96
 97 commits a felony ~~misdemeanor~~ of the second ~~first~~ degree,
 98 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.
 99 775.084.

100 (2) A person who willfully violates an injunction for
 101 protection against repeat violence, sexual violence, or dating
 102 violence by committing a crime against the property of the
 103 petitioner or other protected person commits a felony of the
 104 third degree, punishable as provided in s. 775.082, s. 775.083,
 105 or s. 775.084.

106 Section 3. For the purpose of incorporating the amendments
 107 to sections 741.31 and 784.047, Florida Statutes, in references
 108 thereto, subsections (6) and (7) of section 901.15, Florida
 109 Statutes, are reenacted to read:

110 901.15 When arrest by officer without warrant is lawful.--
111 A law enforcement officer may arrest a person without a warrant
112 when:

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

120 (7) There is probable cause to believe that the person has
121 committed an act of domestic violence, as defined in s. 741.28.
122 The decision to arrest shall not require consent of the victim
123 or consideration of the relationship of the parties. It is the
124 public policy of this state to strongly discourage arrest and
125 charges of both parties for domestic violence on each other and
126 to encourage training of law enforcement and prosecutors in this
127 area. A law enforcement officer who acts in good faith and
128 exercises due care in making an arrest under this subsection,
129 under s. 741.31(4) or s. 784.047, or pursuant to a foreign order
130 of protection accorded full faith and credit pursuant to s.
131 741.315, is immune from civil liability that otherwise might
132 result by reason of his or her action.

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