

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

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24 | circumstances; amending s. 20.165, F.S.; revising a cross
25 | reference to conform; providing an effective date.

26 |

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

28 |

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

32 | 784.046 Action by victim of repeat violence, sexual
33 | violence, or dating violence for protective injunction; powers
34 | and duties of court and clerk of court; filing and form of
35 | petition; notice and hearing; temporary injunction; issuance;
36 | statewide verification system; enforcement.--

37 | (4)

38 | (b) The sworn petition must be in substantially the
39 | following form:

40 |

41 | PETITION FOR INJUNCTION FOR PROTECTION
42 | AGAINST REPEAT VIOLENCE, SEXUAL
43 | VIOLENCE, OR DATING VIOLENCE

44 |

45 | Before me, the undersigned authority, personally appeared
46 | Petitioner ... (Name) ..., who has been sworn and says that
47 | the following statements are true:

48 |

49 | 1. Petitioner resides at ... (address) ... (A
50 | petitioner for an injunction for protection against sexual
51 | violence may furnish an address to the court in a separate

52 confidential filing if, for safety reasons, the petitioner
53 requires the location of his or her current residence to be
54 confidential pursuant to s. 119.07(3)(s), Florida Statutes.)
55 ...

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

57 3.a. Petitioner has suffered repeat violence as
58 demonstrated by the fact that the respondent has:
59 ... (enumerate incidents of violence) ...

60 _____
61 _____
62 _____
63 _____

64
65 b. Petitioner has suffered sexual violence as demonstrated
66 by the fact that the respondent has: (enumerate incident of
67 violence and include ~~attach~~ incident report number from ~~by~~ law
68 enforcement agency or attach notice of inmate release.)

69 _____
70 _____
71 _____
72 _____

73
74 c. Petitioner is a victim of dating violence and has
75 reasonable cause to believe that he or she is in imminent danger
76 of becoming the victim of another act of dating violence or has
77 reasonable cause to believe that he or she is in imminent danger
78 of becoming a victim of dating violence, as demonstrated by the
79 fact that the respondent has: ... (list the specific incident

80 | or incidents of violence and describe the length of time of the
 81 | relationship, whether it has been in existence during the last 6
 82 | months, the nature of the relationship of a romantic or intimate
 83 | nature, the frequency and type of interaction, and any other
 84 | facts that characterize the relationship.) ...

85 |
 86 | _____
 87 | _____
 88 | _____

89 |
 90 | 4. Petitioner genuinely fears repeat violence by the
 91 | respondent.

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

100 | (8)(a)1. The clerk of the court shall furnish a copy of
 101 | the petition, notice of hearing, and temporary injunction, if
 102 | any, to the sheriff or a law enforcement agency of the county
 103 | where the respondent resides or can be found, who shall serve it
 104 | upon the respondent as soon thereafter as possible on any day of
 105 | the week and at any time of the day or night. The clerk of the
 106 | court shall be responsible for furnishing to the sheriff such
 107 | information on the respondent's physical description and

108 location as is required by the department to comply with the
 109 verification procedures set forth in this section.
 110 Notwithstanding any other provision of law to the contrary, the
 111 chief judge of each circuit, in consultation with the
 112 appropriate sheriff, may authorize a law enforcement agency
 113 within the chief judge's jurisdiction to effect this type of
 114 service and to receive a portion of the service fee. No person
 115 shall be authorized or permitted to serve or execute an
 116 injunction issued under this section unless the person is a law
 117 enforcement officer as defined in chapter 943.

118 ~~2. If the respondent is in the custody of the Department~~
 119 ~~of Corrections and the petition for an injunction has been filed~~
 120 ~~as provided in subparagraph (2)(c)2., the clerk of the court~~
 121 ~~shall furnish a copy of the petition, notice of hearing, and~~
 122 ~~temporary injunction, if any, to the Department of Corrections~~
 123 ~~and copies shall be served upon the respondent as soon~~
 124 ~~thereafter as possible on any day of the week and at any time of~~
 125 ~~the day or night. The petition, notice of hearing, or temporary~~
 126 ~~injunction may be served in a state prison by a correctional~~
 127 ~~officer as defined in chapter 943. If the respondent in custody~~
 128 ~~is not served before his or her release, a copy of the petition,~~
 129 ~~notice of hearing, and temporary injunction, if any, shall be~~
 130 ~~forwarded to the sheriff of the county specified in the~~
 131 ~~respondent's release plan for service as provided in~~
 132 ~~subparagraph 1.~~

133 2.3. When an injunction is issued, if the petitioner
 134 requests the assistance of a law enforcement agency, the court
 135 may order that an officer from the appropriate law enforcement

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136 agency accompany the petitioner and assist in the execution or
 137 service of the injunction. A law enforcement officer shall
 138 accept a copy of an injunction for protection against repeat
 139 violence, sexual violence, or dating violence, certified by the
 140 clerk of the court, from the petitioner and immediately serve it
 141 upon a respondent who has been located but not yet served.

142 (9)

143 (b) If the respondent is arrested by a law enforcement
 144 officer under s. 901.15~~(6)(10)~~ for committing an act of repeat
 145 violence, sexual violence, or dating violence in violation of an
 146 injunction for protection, the respondent shall be held in
 147 custody until brought before the court as expeditiously as
 148 possible for the purpose of enforcing the injunction and for
 149 admittance to bail in accordance with chapter 903 and the
 150 applicable rules of criminal procedure, pending a hearing.

151 Section 2. Section 784.047, Florida Statutes, is amended
 152 to read:

153 784.047 Penalties for violating protective injunction
 154 against violators.--A person who willfully violates an
 155 injunction for protection against repeat violence, sexual
 156 violence, or dating violence, issued pursuant to s. 784.046, or
 157 a foreign protection order accorded full faith and credit
 158 pursuant to s. 741.315 by:

159 (1) Refusing to vacate the dwelling that the parties
 160 share;

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

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

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

169 (5) Telephoning, contacting, or otherwise communicating
170 with the petitioner directly or indirectly, unless the
171 injunction specifically allows indirect contact through a third
172 party;

173
174 commits a misdemeanor of the first degree, punishable as
175 provided in s. 775.082 or s. 775.083.

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

178 784.048 Stalking; definitions; penalties.--

179 (4) Any person who, after an injunction for protection
180 against repeat violence, sexual violence, or dating violence
181 pursuant to s. 784.046, or an injunction for protection against
182 domestic violence pursuant to s. 741.30, or after any other
183 court-imposed prohibition of conduct toward the subject person
184 or that person's property, knowingly, willfully, maliciously,
185 and repeatedly follows, harasses, or cyberstalks another person
186 commits the offense of aggravated stalking, a felony of the
187 third degree, punishable as provided in s. 775.082, s. 775.083,
188 or s. 775.084.

189 Section 4. Subsection (10) of section 901.15, Florida
190 Statutes, is amended, and present subsections (11) through (16)

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191 are redesignated as subsections (10) through (15), respectively,
192 to read:

193 901.15 When arrest by officer without warrant is lawful.--
194 A law enforcement officer may arrest a person without a warrant
195 when:

196 ~~(10) The officer has probable cause to believe that the~~
197 ~~person has knowingly committed an act of repeat violence in~~
198 ~~violation of an injunction for protection from repeat violence~~
199 ~~entered pursuant to s. 784.046 or a foreign protection order~~
200 ~~accorded full faith and credit pursuant to s. 741.315.~~

201 Section 5. Paragraph (b) of subsection (9) of section
202 20.165, Florida Statutes, is amended to read:

203 20.165 Department of Business and Professional
204 Regulation.--There is created a Department of Business and
205 Professional Regulation.

206 (9)

207 (b) All employees certified under chapter 943 as law
208 enforcement officers shall have felony arrest powers under s.
209 901.15(10)~~(11)~~ and shall have all the powers of deputy sheriffs
210 to:

211 1. Investigate, enforce, and prosecute, throughout the
212 state, violations and violators of:

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

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218 b. All other state laws, provided that the employee
219 exercises the powers of a deputy sheriff, only after
220 consultation and in coordination with the appropriate local
221 sheriff's office, and only if the violation could result in an
222 administrative proceeding against a license or permit issued by
223 the division.

224 2. Enforce all criminal laws of the state within specified
225 jurisdictions when the division is a party to a written mutual
226 aid agreement with a state agency, sheriff, or municipal police
227 department, or when the division participates in the Florida
228 Mutual Aid Plan during a declared state emergency.

229 Section 6. This act shall take effect July 1, 2004.