

1 A bill to be entitled

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

21
22 Be It Enacted by the Legislature of the State of Florida:

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

27 784.046 Action by victim of repeat violence, sexual
28 violence, or dating violence for protective injunction; powers

29 | and duties of court and clerk of court; filing and form of
 30 | petition; notice and hearing; temporary injunction; issuance;
 31 | statewide verification system; enforcement.--

32 | (4)

33 | (b) The sworn petition must be in substantially the
 34 | following form:

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 36 | PETITION FOR INJUNCTION FOR PROTECTION
 37 | AGAINST REPEAT VIOLENCE, SEXUAL
 38 | VIOLENCE, OR DATING VIOLENCE
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40 | Before me, the undersigned authority, personally appeared
 41 | Petitioner ... (Name) ..., who has been sworn and says that
 42 | the following statements are true:

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 44 | 1. Petitioner resides at ... (address) ... (A
 45 | petitioner for an injunction for protection against sexual
 46 | violence may furnish an address to the court in a separate
 47 | confidential filing if, for safety reasons, the petitioner
 48 | requires the location of his or her current residence to be
 49 | confidential pursuant to s. 119.07(3)(s), Florida Statutes.)

50 | ...

51 | 2. Respondent resides at ... (address) ...

52 | 3.a. Petitioner has suffered repeat violence as
 53 | demonstrated by the fact that the respondent has:

54 | ... (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.) ...

85 | 4. Petitioner genuinely fears repeat violence by the
86 | respondent.

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

95 | (8)(a)1. The clerk of the court shall furnish a copy of
96 | the petition, notice of hearing, and temporary injunction, if
97 | any, to the sheriff or a law enforcement agency of the county
98 | where the respondent resides or can be found, who shall serve it
99 | upon the respondent as soon thereafter as possible on any day of
100 | the week and at any time of the day or night. The clerk of the
101 | court shall be responsible for furnishing to the sheriff such
102 | information on the respondent's physical description and
103 | location as is required by the department to comply with the
104 | verification procedures set forth in this section.
105 | Notwithstanding any other provision of law to the contrary, the
106 | chief judge of each circuit, in consultation with the
107 | appropriate sheriff, may authorize a law enforcement agency
108 | within the chief judge's jurisdiction to effect this type of
109 | service and to receive a portion of the service fee. No person
110 | shall be authorized or permitted to serve or execute an
111 | injunction issued under this section unless the person is a law
112 | enforcement officer as defined in chapter 943.

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

128 2.3. When an injunction is issued, if the petitioner
129 requests the assistance of a law enforcement agency, the court
130 may order that an officer from the appropriate law enforcement
131 agency accompany the petitioner and assist in the execution or
132 service of the injunction. A law enforcement officer shall
133 accept a copy of an injunction for protection against repeat
134 violence, sexual violence, or dating violence, certified by the
135 clerk of the court, from the petitioner and immediately serve it
136 upon a respondent who has been located but not yet served.

137 (9)

138 (b) If the respondent is arrested by a law enforcement
139 officer under s. 901.15(6)~~(10)~~ for committing an act of repeat
140 violence, sexual violence, or dating violence in violation of an

141 injunction for protection, the respondent shall be held in
 142 custody until brought before the court as expeditiously as
 143 possible for the purpose of enforcing the injunction and for
 144 admittance to bail in accordance with chapter 903 and the
 145 applicable rules of criminal procedure, pending a hearing.

146 Section 2. Section 784.047, Florida Statutes, is amended
 147 to read:

148 784.047 Penalties for violating protective injunction
 149 against violators.--A person who willfully violates an
 150 injunction for protection against repeat violence, sexual
 151 violence, or dating violence, issued pursuant to s. 784.046, or
 152 a foreign protection order accorded full faith and credit
 153 pursuant to s. 741.315 by:

154 (1) Refusing to vacate the dwelling that the parties
 155 share;

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

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

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

164 (5) Telephoning, contacting, or otherwise communicating
 165 with the petitioner directly or indirectly, unless the
 166 injunction specifically allows indirect contact through a third
 167 party;

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169 | commits a misdemeanor of the first degree, punishable as
 170 | provided in s. 775.082 or s. 775.083.

171 | Section 3. Subsection (4) of section 784.048, Florida
 172 | Statutes, is amended to read:

173 | 784.048 Stalking; definitions; penalties.--

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

184 | Section 4. Subsection (10) of section 901.15, Florida
 185 | Statutes, is amended, and present subsections (11) through (16)
 186 | are redesignated as subsections (10) through (15), respectively,
 187 | to read:

188 | 901.15 When arrest by officer without warrant is lawful.--
 189 | A law enforcement officer may arrest a person without a warrant
 190 | when:

191 | ~~(10) The officer has probable cause to believe that the~~
 192 | ~~person has knowingly committed an act of repeat violence in~~
 193 | ~~violation of an injunction for protection from repeat violence~~
 194 | ~~entered pursuant to s. 784.046 or a foreign protection order~~
 195 | ~~accorded full faith and credit pursuant to s. 741.315.~~

196 Section 5. Paragraph (b) of subsection (9) of section
 197 20.165, Florida Statutes, is amended to read:

198 20.165 Department of Business and Professional
 199 Regulation.--There is created a Department of Business and
 200 Professional Regulation.

201 (9)

202 (b) All employees certified under chapter 943 as law
 203 enforcement officers shall have felony arrest powers under s.
 204 901.15(10)~~(11)~~ and shall have all the powers of deputy sheriffs
 205 to:

206 1. Investigate, enforce, and prosecute, throughout the
 207 state, violations and violators of:

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

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

219 2. Enforce all criminal laws of the state within specified
 220 jurisdictions when the division is a party to a written mutual
 221 aid agreement with a state agency, sheriff, or municipal police
 222 department, or when the division participates in the Florida
 223 Mutual Aid Plan during a declared state emergency.

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