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1 A bill to be entitled
2 An act relating to domestic violence; amending s. 741.29,
3 F.S.; providing for access by the alleged victim to
4 certain materials that are part of an active criminal
5 investigation of an incident of domestic violence that are
6 exempt from disclosure under specified provisions;
7 provides for continuing exemption of material from
8 disclosure; amending s. 741.30, F.S.; providing for law
9 enforcement officers to obtain verbal emergency protection
10 orders immediately following incidents of domestic
11 violence; providing for officers to reduce such orders to
12 writing; providing for expiration of such orders;
13 specifying procedures relating to such orders; amending s.
14 943.1702, F.S.; requiring collection of statistics on
15 noncriminal judicial actions concerning domestic violence;
16 providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

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20 Section 1. Subsection (2) of section 741.29, Florida
21 Statutes, is amended to read:

22 741.29 Domestic violence; investigation of incidents;
23 notice to victims of legal rights and remedies; reporting.--

24 (2) When a law enforcement officer investigates an
25 allegation that an incident of domestic violence has occurred,
26 the officer shall handle the incident pursuant to the arrest
27 policy provided in s. 901.15(7), and as developed in accordance
28 with subsections (3), (4), and (5). Whether or not an arrest is

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29 | made, the officer shall make a written police report that is
30 | complete and clearly indicates the alleged offense was an
31 | incident of domestic violence. Such report shall be given to the
32 | officer's supervisor and filed with the law enforcement agency
33 | in a manner that will permit data on domestic violence cases to
34 | be compiled. Such report must include:

35 | (a) A description of physical injuries observed, if any.

36 | (b) If a law enforcement officer decides not to make an
37 | arrest or decides to arrest two or more parties, the officer
38 | shall include in the report the grounds for not arresting anyone
39 | or for arresting two or more parties.

40 | (c) A statement which indicates that a copy of the legal
41 | rights and remedies notice was given to the victim.

42 |

43 | Whenever possible, the law enforcement officer shall obtain a
44 | written statement from the victim and witnesses concerning the
45 | alleged domestic violence. The officer shall submit the report
46 | to the supervisor or other person to whom the employer's rules
47 | or policies require reports of similar allegations of criminal
48 | activity to be made. The law enforcement agency shall, without
49 | charge, send a copy of the initial police report, as well as any
50 | subsequent, supplemental, or related report, ~~which excludes~~
51 | ~~victim/witness statements or other materials that are part of an~~
52 | ~~active criminal investigation and are exempt from disclosure~~
53 | ~~under chapter 119,~~ to the nearest locally certified domestic
54 | violence center within 24 hours after the agency's receipt of
55 | the report. The report furnished to the domestic violence center
56 | must include a narrative description of the domestic violence

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57 incident. The report furnished to the domestic violence center
58 shall also include victim and witness statements or other
59 materials that are part of an active criminal investigation and
60 are exempt from disclosure under chapter 119; however, such
61 statements and materials shall retain their exempt status when
62 held by the locally certified domestic violence center and shall
63 not be accessed by persons other than the victim.

64 Section 2. Subsection (5) of section 741.30, Florida
65 Statutes, is amended to read:

66 741.30 Domestic violence injunctions; ~~injunction; powers~~
67 ~~and duties of court and clerk; petition; notice and hearing;~~
68 ~~temporary injunction; issuance of injunction; statewide~~
69 ~~verification system; enforcement.--~~

70 (5) (a) 1.a. In an emergency situation immediately following
71 an incident of domestic violence by a household member, an
72 emergency protection order may be issued if a law enforcement
73 officer states under oath to the court in person, by telephone,
74 in writing, or via facsimile the facts he or she believes show
75 that an emergency protection order is needed and the court finds
76 reasonable grounds to believe that the victim or the victim's
77 child is in immediate danger of domestic violence. Such an
78 emergency protection order expires 72 hours after issuance or at
79 the end of the next judicial day, whichever time is later, or
80 upon request of the victim. The time of expiration shall be
81 clearly stated on the emergency protection order.

82 b. Following the judge's issuance of the emergency
83 protection order, the law enforcement officer shall:

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84 (I) If the order is verbal, reduce the emergency
85 protection order to writing on an approved form provided by the
86 court, outline the grounds justifying issuance, and sign and
87 date the order.

88 (II) If possible, serve a signed copy of the order on the
89 offender and victim at the scene of the domestic violence
90 dispute.

91 (III) Complete the appropriate affidavit of service and
92 file the affidavit with the issuing court by the close of
93 business on the next judicial day.

94 (IV) If the order was reduced to writing and signed by the
95 officer, file the original, signed emergency order with the
96 issuing court by the close of business on the next judicial day.

97 2. In a nonemergency situation, but when it appears to the
98 court that an immediate and present danger of domestic violence
99 exists, the court may grant a temporary injunction ex parte,
100 pending a full hearing.

101 (b) In either an emergency protection order or an ex parte
102 temporary injunction order, the court ~~, and~~ may grant such
103 relief as it ~~the court~~ deems proper, including an injunction:

104 1. Restraining the respondent from committing any acts of
105 domestic violence.

106 2. Awarding to the petitioner the temporary exclusive use
107 and possession of the dwelling that the parties share or
108 excluding the respondent from the residence of the petitioner.

109 3. On the same basis as provided in s. 61.13, granting to
110 the petitioner temporary custody of a minor child. An order of
111 temporary custody remains in effect until the order expires or

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112 an order is entered by a court of competent jurisdiction in a
113 pending or subsequent civil action or proceeding affecting the
114 placement of, access to, parental time with, adoption of, or
115 parental rights and responsibilities for the minor child.

116 (c)~~(b)~~ In a hearing ex parte for the purpose of obtaining
117 an ~~such~~ ex parte temporary injunction, no evidence other than
118 verified pleadings or affidavits shall be used as evidence,
119 unless the respondent appears at the hearing or has received
120 reasonable notice of the hearing. A denial of a petition for an
121 ex parte injunction shall be by written order noting the legal
122 grounds for denial. When the only ground for denial is no
123 appearance of an immediate and present danger of domestic
124 violence, the court shall set a full hearing on the petition for
125 injunction with notice at the earliest possible time. Nothing
126 herein affects a petitioner's right to promptly amend any
127 petition, or otherwise be heard in person on any petition
128 consistent with the Florida Rules of Civil Procedure.

129 (d)~~(e)~~ Except for emergency protection orders issued under
130 subparagraph (a)1., an ~~Any such~~ ex parte temporary injunction
131 shall be effective for a fixed period not to exceed 15 days. A
132 full hearing, as provided by this section, shall be set for a
133 date no later than the date when the emergency protection order
134 or ex parte temporary injunction ceases to be effective. The
135 court may grant a continuance of the hearing before or during a
136 hearing for good cause shown by any party, which shall include a
137 continuance to obtain service of process. Any emergency
138 protection order or ex parte temporary injunction shall be

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139 extended if necessary to remain in full force and effect during
140 any period of continuance.

141 Section 3. Subsection (2) of section 943.1702, Florida
142 Statutes, is amended to read:

143 943.1702 Collection of statistics on domestic violence.--

144 (2) Each agency in the state that ~~which~~ is involved with
145 the enforcement, monitoring, or prosecution of crimes of
146 domestic violence or, as to noncriminal actions related to
147 domestic violence, including petitions seeking injunctions for
148 protection, the judicial branch, shall collect and maintain
149 records of each domestic violence incident for access by
150 investigators preparing for bond hearings and prosecutions for
151 acts of domestic violence. This information shall be provided to
152 the court at first appearance hearings and all subsequent
153 hearings.

154 Section 4. This act shall take effect October 1, 2006.