

Bill No. SB 498

Barcode 784646

CHAMBER ACTION

Senate

House

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The Committee on Commerce and Consumer Services (Aronberg)  
recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Subsection (5) of section 741.30, Florida  
Statutes, is amended to read:

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

(5)(a)1.a. In an emergency situation immediately  
following an incident of domestic violence by a household  
member, an emergency protection order may be issued if a law  
enforcement officer states under oath to the court in person,  
by telephone, in writing, or via facsimile the facts he or she  
believes show that an emergency protection order is needed and  
the court finds reasonable grounds to believe that the victim  
or the victim's child is in immediate danger of domestic

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1 violence. Such an emergency protection order expires 72 hours  
 2 after issuance or at the end of the next judicial day,  
 3 whichever time is later, or upon request of the victim. The  
 4 time of expiration shall be clearly stated on the emergency  
 5 protection order.

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

8 (I) If the order is verbal, reduce the emergency  
 9 protection order to writing on an approved form provided by  
 10 the court, outline the grounds justifying issuance, and sign  
 11 and date the order.

12 (II) If possible, serve a signed copy of the order on  
 13 the offender and victim at the scene of the domestic violence  
 14 dispute.

15 (III) Complete the appropriate affidavit of service  
 16 and file the affidavit with the issuing court by the close of  
 17 business on the next judicial day.

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

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

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

30 1. Restraining the respondent from committing any acts  
 31 of domestic violence.

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

4           3. On the same basis as provided in s. 61.13, granting  
5 to the petitioner temporary custody of a minor child. An order  
6 of temporary custody remains in effect until the order expires  
7 or an order is entered by a court of competent jurisdiction in  
8 a pending or subsequent civil action or proceeding affecting  
9 the placement of, access to, parental time with, adoption of,  
10 or parental rights and responsibilities for the minor child.

11           ~~(c)(b)~~ In a hearing ex parte for the purpose of  
12 obtaining an ~~such~~ ex parte temporary injunction, no evidence  
13 other than verified pleadings or affidavits shall be used as  
14 evidence, unless the respondent appears at the hearing or has  
15 received reasonable notice of the hearing. A denial of a  
16 petition for an ex parte injunction shall be by written order  
17 noting the legal grounds for denial. When the only ground for  
18 denial is no appearance of an immediate and present danger of  
19 domestic violence, the court shall set a full hearing on the  
20 petition for injunction with notice at the earliest possible  
21 time. Nothing herein affects a petitioner's right to promptly  
22 amend any petition, or otherwise be heard in person on any  
23 petition consistent with the Florida Rules of Civil Procedure.

24           ~~(d)(c)~~ Except for emergency protection orders issued  
25 under subparagraph (a)1., an ~~Any such~~ ex parte temporary  
26 injunction shall be effective for a fixed period not to exceed  
27 15 days. A full hearing, as provided by this section, shall be  
28 set for a date no later than the date when the emergency  
29 protection order or ex parte temporary injunction ceases to be  
30 effective. The court may grant a continuance of the hearing  
31 before or during a hearing for good cause shown by any party,

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1 which shall include a continuance to obtain service of  
2 process. Any emergency protection order or ex parte temporary  
3 injunction shall be extended if necessary to remain in full  
4 force and effect during any period of continuance.

5 Section 2. Section 741.313, Florida Statutes, is  
6 created to read:

7 741.313 Unlawful action against employees seeking  
8 protection.--

9 (1) As used in this section, the term:

10 (a) "Domestic violence" means domestic violence, as  
11 defined in s. 741.28(2); stalking or aggravated stalking, as  
12 defined in s. 784.048; sexual battery, as defined in s.  
13 794.011(1); dating violence, as defined in s. 784.046(1); or  
14 any crime the underlying factual basis of which has been found  
15 by a court to include an act of domestic violence.

16 (b) "Employer" has the same meaning as in s.  
17 440.02(16)(a).

18 (c) "Family or household member" has the same meaning  
19 as in s. 741.28.

20 (d) "Victim" means an individual who has been  
21 subjected to domestic violence.

22 (2)(a) An employer shall permit an employee to request  
23 or take up to 3 working days of leave from work in any  
24 12-month period, with or without pay, if the employee or a  
25 family or household member of an employee is the victim of  
26 domestic violence.

27 (b) This section applies if an employee uses the leave  
28 from work to:

29 1. Seek an injunction for protection against domestic  
30 violence or an injunction for protection in cases of repeat  
31 violence, dating violence, or sexual violence;

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1           2. Obtain medical care or mental health counseling, or  
2 both, for the employee or a family or household member to  
3 address physical or psychological injuries resulting from the  
4 act of domestic violence;

5           3. Obtain services from a victim-services  
6 organization, including, but not limited to, a domestic  
7 violence shelter, program, or a rape crisis center as a result  
8 of the act of domestic violence;

9           4. Make the employee's home secure from the  
10 perpetrator of the domestic violence or to seek new housing to  
11 escape the perpetrator; or

12           5. Seek legal assistance to address issues arising  
13 from the act of domestic violence and to attend and prepare  
14 for court-related proceedings arising from the act of domestic  
15 violence.

16           (3) This section applies to an employer who employs 50  
17 or more employees and to an employee who has been employed by  
18 the employer for 12 or more months.

19           (4)(a) Except in cases of imminent danger to the  
20 health or safety of the employee, or to the health or safety  
21 of a family or household member, an employee seeking leave  
22 from work under this section must provide his or her employer  
23 with appropriate advance notice of the leave as may be  
24 required by the employer's policy and with sufficient  
25 documentation of the act of domestic violence as may be  
26 required by the employer.

27           (b) An employee seeking leave under this section must,  
28 before receiving the leave, exhaust all annual or vacation  
29 leave, personal leave, and sick leave, if applicable, which is  
30 available to the employee, unless the employer waives this  
31 requirement.

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1       (c)1. A private employer must keep all information  
2 relating to the employee's leave under this section  
3 confidential.

4       2. An agency, as defined in s. 119.011, must keep all  
5 information relating to the employee's leave under this  
6 section confidential and exempt pursuant to this section.

7       (5)(a) An employer may not interfere with, restrain,  
8 or deny the exercise of or any attempt by an employee to  
9 exercise any right provided under this section.

10       (b) An employer may not discharge, demote, suspend,  
11 retaliate, or in any other manner discriminate against an  
12 employee for exercising his or her rights under this section.

13       (c) An employee has no greater rights to continued  
14 employment or to other benefits and conditions of employment  
15 than if the employee was not entitled to leave under this  
16 section. This section does not limit the employer's right to  
17 discipline or terminate any employee for any reason,  
18 including, but not limited to, reductions in work force or  
19 termination for cause or for no reason at all, other than  
20 exercising his or her rights under this section.

21       (6) Notwithstanding any other law to the contrary, the  
22 sole remedy for any person claiming to be aggrieved by a  
23 violation of this section is to bring a civil suit for damages  
24 or equitable relief, or both, in circuit court. The person may  
25 claim as damages all wages and benefits that would have been  
26 due the person up to and including the date of the judgment  
27 had the act violating this section not occurred. However,  
28 this section does not relieve the person from the obligation  
29 to mitigate his or her damages.

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

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1 943.1702 Collection of statistics on domestic  
2 violence.--

3 (2) Each agency in the state which is involved with  
4 the enforcement, monitoring, or prosecution of crimes of  
5 domestic violence or, as to noncriminal actions related to  
6 domestic violence, including petitions seeking injunctions for  
7 protection, the judicial branch shall collect and maintain  
8 records of each domestic violence incident for access by  
9 investigators preparing for bond hearings and prosecutions for  
10 acts of domestic violence. This information shall be provided  
11 to the court at first appearance hearings and all subsequent  
12 hearings.

13 Section 4. This act shall take effect July 1, 2006.

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16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 Delete everything before the enacting clause

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20 and insert:

21 A bill to be entitled

22 An act relating to domestic violence; amending  
23 s. 741.30, F.S.; providing for law enforcement  
24 officers to obtain verbal emergency protection  
25 orders immediately following incidents of  
26 domestic violence; providing for officers to  
27 reduce such orders to writing; providing for  
28 expiration of such orders; specifying  
29 procedures relating to such orders; creating s.  
30 741.313, F.S.; defining the terms "domestic  
31 violence," "employer," "family or household

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1 member," and "victim"; requiring that an  
2 employer permit an employee to take leave from  
3 work to undertake activities resulting from an  
4 act of domestic violence; specifying the  
5 activities for which the employee may take  
6 leave; requiring the employee to notify the  
7 employer of the leave; providing exceptions;  
8 requiring that an employer keep information  
9 relating to the employee's leave confidential;  
10 prohibiting an employer from taking certain  
11 actions against the employee for exercising  
12 rights specified in the act; providing a  
13 recourse for violation of the act; amending s.  
14 943.1702, F.S.; requiring collection of  
15 statistics on noncriminal judicial actions  
16 concerning domestic violence; providing an  
17 effective date.

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