

Amendment No.

CHAMBER ACTION

Senate

House

1 Representative Gardiner offered the following:

2
3 **Amendment (with directory and title amendments)**

4 Remove lines 336-376 and insert:

5 784.046 Actions ~~Action~~ by victims ~~victim~~ of certain forms
6 of repeat violence, sexual violence, or dating violence for
7 protective injunction; powers and duties of court and court
8 ~~clerk of court; filing and form of~~ petition; notice and hearing;
9 temporary injunction; issuance; statewide verification system;
10 enforcement.--

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

12 (e) "Threatened violence" means intentional or reckless
13 engagement in a course of conduct targeted at a specific person
14 that would cause a reasonable person in the circumstances of the
15 targeted person to fear for his or her safety, or the safety of

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16 a member of his or her immediate family, and that actually
17 places the targeted person in such fear.

18 (2) There is created a cause of action for an injunction
19 for protection in cases of repeat violence, there is created a
20 separate cause of action for an injunction for protection in
21 cases of dating violence, ~~and~~ there is created a separate cause
22 of action for an injunction for protection in cases of sexual
23 violence, and there is created a separate cause of action for an
24 injunction for protection in cases of threatened violence.

25 (a) Any person who is the victim of repeat violence or the
26 parent or legal guardian of any minor child who is living at
27 home and who seeks an injunction for protection against repeat
28 violence on behalf of the minor child has standing in the
29 circuit court to file a sworn petition for an injunction for
30 protection against repeat violence.

31 (b) Any person who is the victim of dating violence and
32 has reasonable cause to believe he or she is in imminent danger
33 of becoming the victim of another act of dating violence, or any
34 person who has reasonable cause to believe he or she is in
35 imminent danger of becoming the victim of an act of dating
36 violence, or the parent or legal guardian of any minor child who
37 is living at home and who seeks an injunction for protection
38 against dating violence on behalf of that minor child, has
39 standing in the circuit court to file a sworn petition for an
40 injunction for protection against dating violence.

41 (c) A person who is the victim of sexual violence or the
42 parent or legal guardian of a minor child who is living at home
43 who is the victim of sexual violence has standing in the circuit

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44 court to file a sworn petition for an injunction for protection
45 against sexual violence on his or her own behalf or on behalf of
46 the minor child if:

47 1. The person has reported the sexual violence to a law
48 enforcement agency and is cooperating in any criminal proceeding
49 against the respondent, regardless of whether criminal charges
50 based on the sexual violence have been filed, reduced, or
51 dismissed by the state attorney; or

52 2. The respondent who committed the sexual violence
53 against the victim or minor child was sentenced to a term of
54 imprisonment in state prison for the sexual violence and the
55 respondent's term of imprisonment has expired or is due to
56 expire within 90 days following the date the petition is filed.

57 (d) A cause of action for an injunction may be sought
58 whether or not any other petition, complaint, or cause of action
59 is currently available or pending between the parties.

60 (e) A cause of action for an injunction does not require
61 that the petitioner be represented by an attorney.

62 (3)

63 (b) Notwithstanding any other law, the clerk of the court
64 may not assess a fee for filing a petition for protection
65 against repeat violence, sexual violence, ~~or~~ dating violence, or
66 threatened violence. However, subject to legislative
67 appropriation, the clerk of the court may, each quarter, submit
68 to the Office of the State Courts Administrator a certified
69 request for reimbursement for petitions for protection issued by
70 the court under this section at the rate of \$40 per petition.
71 The request for reimbursement shall be submitted in the form and
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72 manner prescribed by the Office of the State Courts
73 Administrator. From this reimbursement, the clerk shall pay the
74 law enforcement agency serving the injunction the fee requested
75 by the law enforcement agency; however, this fee may not exceed
76 \$20.

77 (d) The clerk of the court shall provide the petitioner
78 with a certified copy of any injunction for protection against
79 repeat violence, sexual violence, ~~or~~ dating violence, or
80 threatened violence entered by the court.

81 (4) (a) The sworn petition shall allege the incidents of
82 repeat violence, sexual violence, ~~or~~ dating violence, or
83 threatened violence and shall include the specific facts and
84 circumstances that form the basis upon which relief is sought.
85 With respect to a minor child who is living at home, the parent
86 or legal guardian seeking the protective injunction on behalf of
87 the minor child must:

88 1. Have been an eyewitness to, or have direct physical
89 evidence or affidavits from eyewitnesses of, the specific facts
90 and circumstances that form the basis upon which relief is
91 sought, if the party against whom the protective injunction is
92 sought is also a parent, stepparent, or legal guardian of the
93 minor child; or

94 2. Have reasonable cause to believe that the minor child
95 is a victim of repeat sexual or dating violence to form the
96 basis upon which relief is sought, if the party against whom the
97 protective injunction is sought is a person other than a parent,
98 stepparent, or legal guardian of the minor child.

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

PETITION FOR INJUNCTION FOR PROTECTION
AGAINST REPEAT VIOLENCE, SEXUAL
VIOLENCE, ~~OR~~ DATING VIOLENCE, OR THREATENED VIOLENCE

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

1. Petitioner resides at (address) (A petitioner for an injunction for protection against sexual violence may furnish an address to the court in a separate confidential filing if, for safety reasons, the petitioner requires the location of his or her current residence to be confidential pursuant to s. 119.071(2)(j), Florida Statutes.)

2. Respondent resides at (address) .

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

(enumerate incidents of violence)

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

129
130 _____
131 _____
132 _____

133
134 c. Petitioner is a victim of dating violence and has
135 reasonable cause to believe that he or she is in imminent danger
136 of becoming the victim of another act of dating violence or has
137 reasonable cause to believe that he or she is in imminent danger
138 of becoming a victim of dating violence, as demonstrated by the
139 fact that the respondent has: (list the specific incident or
140 incidents of violence and describe the length of time of the
141 relationship, whether it has been in existence during the last 6
142 months, the nature of the relationship of a romantic or intimate
143 nature, the frequency and type of interaction, and any other
144 facts that characterize the relationship.)

145
146 _____
147 _____
148 _____

150 d. Petitioner has suffered threatened violence as
151 demonstrated by the fact that the respondent has: (enumerate
152 incidents.)

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158 4. Petitioner genuinely fears repeat violence by the
159 respondent.

160 5. Petitioner seeks: an immediate injunction against the
161 respondent, enjoining him or her from committing any further
162 acts of violence; an injunction enjoining the respondent from
163 committing any further acts of violence; and an injunction
164 providing any terms the court deems necessary for the protection
165 of the petitioner and the petitioner's immediate family,
166 including any injunctions or directives to law enforcement
167 agencies.

168 (7) Upon notice and hearing, the court may grant such
169 relief as the court deems proper, including an injunction:

170 (d) A temporary or final judgment on injunction for
171 protection against repeat violence, sexual violence, ~~or~~ dating
172 violence, or threatened violence entered pursuant to this
173 section shall, on its face, indicate that:

174 1. The injunction is valid and enforceable in all counties
175 of the State of Florida.

176 2. Law enforcement officers may use their arrest powers
177 pursuant to s. 901.15(6) to enforce the terms of the injunction.

178 3. The court had jurisdiction over the parties and matter
179 under the laws of Florida and that reasonable notice and
180 opportunity to be heard was given to the person against whom the
181 order is sought sufficient to protect that person's right to due
182 process.

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183 4. The date that the respondent was served with the
184 temporary or final order, if obtainable.

185 (8) (a)1. The clerk of the court shall furnish a copy of
186 the petition, notice of hearing, and temporary injunction, if
187 any, to the sheriff or a law enforcement agency of the county
188 where the respondent resides or can be found, who shall serve it
189 upon the respondent as soon thereafter as possible on any day of
190 the week and at any time of the day or night. When requested by
191 the sheriff, the clerk of court may transmit a facsimile copy of
192 an injunction that has been certified by the clerk of court, and
193 this facsimile copy may be served in the same manner as a
194 certified copy. Upon receiving such a facsimile copy, the
195 sheriff must verify receipt with the sender before attempting to
196 serve it upon the respondent. In addition, if the sheriff is in
197 possession of an injunction for protection that has been
198 certified by the clerk of court, the sheriff may transmit a
199 facsimile copy of that injunction to a law enforcement officer
200 who shall serve it in the same manner as a certified copy. The
201 clerk of the court shall be responsible for furnishing to the
202 sheriff such information on the respondent's physical
203 description and location as is required by the department to
204 comply with the verification procedures set forth in this
205 section. Notwithstanding any other provision of law to the
206 contrary, the chief judge of each circuit, in consultation with
207 the appropriate sheriff, may authorize a law enforcement agency
208 within the chief judge's jurisdiction to effect this type of
209 service and to receive a portion of the service fee. No person
210 shall be authorized or permitted to serve or execute an

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211 injunction issued under this section unless the person is a law
212 enforcement officer as defined in chapter 943.

213 2. When an injunction is issued, if the petitioner
214 requests the assistance of a law enforcement agency, the court
215 may order that an officer from the appropriate law enforcement
216 agency accompany the petitioner and assist in the execution or
217 service of the injunction. A law enforcement officer shall
218 accept a copy of an injunction for protection against repeat
219 violence, sexual violence, ~~or~~ dating violence, or threatened
220 violence, certified by the clerk of the court, from the
221 petitioner and immediately serve it upon a respondent who has
222 been located but not yet served.

223 (b) There shall be created a Domestic, Dating, Sexual, ~~and~~
224 Repeat, and Threatened Violence Injunction Statewide
225 Verification System within the Department of Law Enforcement.
226 The department shall establish, implement, and maintain a
227 statewide communication system capable of electronically
228 transmitting information to and between criminal justice
229 agencies relating to domestic violence injunctions, dating
230 violence injunctions, sexual violence injunctions, ~~and~~ repeat
231 violence injunctions, and threatened violence injunctions issued
232 by the courts throughout the state. Such information must
233 include, but is not limited to, information as to the existence
234 and status of any injunction for verification purposes.

235 (c)1. Within 24 hours after the court issues an injunction
236 for protection against repeat violence, sexual violence, ~~or~~
237 dating violence, or threatened violence or changes or vacates an
238 injunction for protection against repeat violence, sexual

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239 violence, ~~or~~ dating violence, or threatened violence, the clerk
240 of the court must forward a copy of the injunction to the
241 sheriff with jurisdiction over the residence of the petitioner.

242 2. Within 24 hours after service of process of an
243 injunction for protection against repeat violence, sexual
244 violence, ~~or~~ dating violence, or threatened violence upon a
245 respondent, the law enforcement officer must forward the written
246 proof of service of process to the sheriff with jurisdiction
247 over the residence of the petitioner.

248 3. Within 24 hours after the sheriff receives a certified
249 copy of the injunction for protection against repeat violence,
250 sexual violence, ~~or~~ dating violence, or threatened violence, the
251 sheriff must make information relating to the injunction
252 available to other law enforcement agencies by electronically
253 transmitting such information to the department.

254 4. Within 24 hours after the sheriff or other law
255 enforcement officer has made service upon the respondent and the
256 sheriff has been so notified, the sheriff must make information
257 relating to the service available to other law enforcement
258 agencies by electronically transmitting such information to the
259 department.

260 5. Within 24 hours after an injunction for protection
261 against repeat violence, sexual violence, ~~or~~ dating violence, or
262 threatened violence is lifted, terminated, or otherwise rendered
263 no longer effective by ruling of the court, the clerk of the
264 court must notify the sheriff or local law enforcement agency
265 receiving original notification of the injunction as provided in
266 subparagraph 2. That agency shall, within 24 hours after

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267 receiving such notification from the clerk of the court, notify
268 the department of such action of the court.

269 (9)

270 (b) If the respondent is arrested by a law enforcement
271 officer under s. 901.15(6) for committing an act of repeat
272 violence, sexual violence, ~~or~~ dating violence, or threatened
273 violence in violation of an injunction for protection, the
274 respondent shall be held in custody until brought before the
275 court as expeditiously as possible for the purpose of enforcing
276 the injunction and for admittance to bail in accordance with
277 chapter 903 and the applicable rules of criminal procedure,
278 pending a hearing.

279

280 -----

281 **D I R E C T O R Y A M E N D M E N T**

282 Remove lines 334-335 and insert:

283 Section 8. Paragraph (e) is added to subsection (1) of
284 section 784.046, Florida Statutes, and subsection (2),
285 paragraphs (b) and (d) of subsection (3), subsection (4),
286 paragraph (d) of subsection (7), subsection (8), and paragraph
287 (b) of subsection (9) of that section are amended to read:

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289 -----

290 **T I T L E A M E N D M E N T**

291 Remove lines 33-41 and insert:

292 amending s. 741.30, F.S., relating to service of process in
293 cases of domestic violence or sexual abuse; authorizing clerks
294 of court to transmit facsimile copies of previously certified
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295 injunctions to sheriffs upon request; requiring sheriffs to
296 verify receipt of facsimile copies of injunctions with clerks of
297 court before attempting service; authorizing law enforcement
298 officers to serve facsimile copies of injunctions in the same
299 manner as certified copies; amending s. 784.046, F.S., relating
300 to service of process in cases of repeat violence, sexual
301 violence, or dating violence; defining the term "threatened
302 violence"; providing for injunctions against threatened
303 violence; authorizing clerks of court to transmit facsimile
304 copies of previously certified injunctions to sheriffs upon
305 request; requiring sheriffs to verify receipt of facsimile
306 copies of injunctions with clerks of court before attempting
307 service; authorizing law enforcement officers to serve facsimile
308 copies of injunctions in the same manner as certified copies;
309 providing an effective date.