

1 A bill to be entitled
 2 An act relating to dating violence; providing a short
 3 title; amending s. 784.046, F.S.; revising provisions
 4 relating to dating violence incidents to provide
 5 requirements for investigations, notice to victims, and
 6 reporting similar to those for incidents of domestic
 7 violence and to apply certain immunity provisions thereto;
 8 prohibiting certain willful violations of conditions of
 9 pretrial release; providing penalties; amending s. 901.15,
 10 F.S.; providing for warrantless arrests of persons for
 11 dating violence; conforming provisions; providing an
 12 effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. This act may be cited as the "Barwick-Ruschak
 17 Act."

18 Section 2. Subsection (11) of section 784.046, Florida
 19 Statutes, is renumbered as subsection (16), and a new subsection
 20 (11) and subsections (12), (13), (14), and (15) are added to
 21 that section, to read:

22 784.046 Action by victim of repeat violence, sexual
 23 violence, or dating violence for protective injunction; dating
 24 violence investigations, notice to victims, and reporting;
 25 pretrial release violations ~~powers and duties of court and clerk~~
 26 ~~of court; filing and form of petition; notice and hearing;~~
 27 ~~temporary injunction; issuance; statewide verification system;~~
 28 enforcement.--

29 (11) Any law enforcement officer who investigates an
30 alleged incident of dating violence shall assist the victim to
31 obtain medical treatment if such is required as a result of the
32 alleged incident to which the officer responds. Any law
33 enforcement officer who investigates an alleged incident of
34 dating violence shall advise the victim of such violence that
35 there is a domestic violence center from which the victim may
36 receive services. The law enforcement officer shall give the
37 victim immediate notice of the legal rights and remedies
38 available on a standard form developed and distributed by the
39 Department of Law Enforcement. As necessary, the Department of
40 Law Enforcement shall revise the Legal Rights and Remedies
41 Notice to Victims to include a general summary of this section,
42 using simple English as well as Spanish, and shall distribute
43 the notice as a model form to be used by all law enforcement
44 agencies throughout the state. The notice shall include:

45 (a) The resource listing, including telephone number, for
46 the area domestic violence center designated by the Department
47 of Children and Family Services; and

48 (b) A copy of the following statement: "IF YOU ARE THE
49 VICTIM OF DATING VIOLENCE, you may ask the state attorney to
50 file a criminal complaint. You also have the right to go to
51 court and file a petition requesting an injunction for
52 protection from dating violence which may include, but need not
53 be limited to, provisions that restrain the abuser from further
54 acts of abuse; direct the abuser to leave your household; and
55 prevent the abuser from entering your residence, school,
56 business, or place of employment."

57 (12) When a law enforcement officer investigates an
58 allegation that an incident of dating violence has occurred, the
59 officer shall handle the incident pursuant to the arrest policy
60 provided in s. 901.15(7), and as developed in accordance with
61 subsections (13), (14), and (16). Whether or not an arrest is
62 made, the officer shall make a written police report that is
63 complete and clearly indicates that the alleged offense was an
64 incident of dating violence. Such report shall be given to the
65 officer's supervisor and filed with the law enforcement agency
66 in a manner that will permit data on dating violence cases to be
67 compiled. Such report must include:

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

69 (b) If a law enforcement officer decides not to make an
70 arrest or decides to arrest two or more parties, the grounds for
71 not arresting anyone or for arresting two or more parties.

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

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75 Whenever possible, the law enforcement officer shall obtain a
76 written statement from the victim and witnesses concerning the
77 alleged dating violence. The officer shall submit the report to
78 the supervisor or other person to whom the employer's rules or
79 policies require reports of similar allegations of criminal
80 activity to be made. The law enforcement agency shall, without
81 charge, send a copy of the initial police report, as well as any
82 subsequent, supplemental, or related report, which excludes
83 victim or witness statements or other materials that are part of
84 an active criminal investigation and are exempt from disclosure

85 under chapter 119, to the nearest locally certified domestic
 86 violence center within 24 hours after the agency's receipt of
 87 the report. The report furnished to the domestic violence center
 88 must include a narrative description of the dating violence
 89 incident.

90 (13) Whenever a law enforcement officer determines upon
 91 probable cause that an act of dating violence has been committed
 92 within the jurisdiction, the officer may arrest the person or
 93 persons suspected of its commission and charge such person or
 94 persons with the appropriate crime. The decision to arrest and
 95 charge shall not require consent of the victim or consideration
 96 of the relationship of the parties.

97 (14) (a) When complaints are received from two or more
 98 parties, the officers shall evaluate each complaint separately
 99 to determine whether there is probable cause for arrest.

100 (b) If a law enforcement officer has probable cause to
 101 believe that two or more persons have committed a misdemeanor or
 102 felony, or if two or more persons make complaints to the
 103 officer, the officer shall try to determine who was the primary
 104 aggressor. Arrest is the preferred response only with respect to
 105 the primary aggressor and not the preferred response with
 106 respect to a person who acts in a reasonable manner to protect
 107 or defend himself or herself or another family or household
 108 member from dating violence.

109 (15) A person who willfully violates a condition of
 110 pretrial release provided in s. 903.047, when the original
 111 arrest was for an act of dating violence as defined in this
 112 section, commits a misdemeanor of the first degree, punishable

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113 as provided in s. 775.082 or s. 775.083, and shall be held in
 114 custody until his or her first appearance.

115 ~~(16)(11)~~ A law enforcement officer acting in good faith
 116 under this section and the officer's employing agency shall be
 117 immune from all liability, civil or criminal, that might
 118 otherwise be incurred or imposed by reason of the officer's or
 119 agency's actions in carrying out the provisions of this section.

120 Section 3. Subsection (7) of section 901.15, Florida
 121 Statutes, is amended to read:

122 901.15 When arrest by officer without warrant is
 123 lawful.--A law enforcement officer may arrest a person without a
 124 warrant when:

125 (7) There is probable cause to believe that the person has
 126 committed an act of domestic violence, as defined in s. 741.28,
 127 or dating violence, as provided in s. 784.046. The decision to
 128 arrest shall not require consent of the victim or consideration
 129 of the relationship of the parties. It is the public policy of
 130 this state to strongly discourage arrest and charges of both
 131 parties for domestic violence or dating violence on each other
 132 and to encourage training of law enforcement and prosecutors in
 133 these areas ~~this area~~. A law enforcement officer who acts in
 134 good faith and exercises due care in making an arrest under this
 135 subsection, under s. 741.31(4) or s. 784.047, or pursuant to a
 136 foreign order of protection accorded full faith and credit
 137 pursuant to s. 741.315, is immune from civil liability that
 138 otherwise might result by reason of his or her action.

139 Section 4. This act shall take effect October 1, 2008.