

By Senator Flores

38-01145A-11

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1 A bill to be entitled
2 An act relating to domestic violence and stalking;
3 amending s. 741.28, F.S.; redefining the term
4 "domestic violence"; amending s. 784.046, F.S.;
5 removing the terms "stalking" and "aggravated
6 stalking" from the definition of "violence" as it
7 pertains to repeat violence, sexual violence, or
8 dating violence; requiring the clerk of the court to
9 assess a fee for filing a petition for protection
10 against repeat violence; authorizing the court to
11 require the respondent to reimburse the victim the
12 amount of the filing fee; creating s. 784.0485, F.S.;
13 creating a cause of action for an injunction for
14 protection against stalking or cyberstalking;
15 providing that any person who is the victim of
16 stalking or cyberstalking or has reasonable cause to
17 believe that there is a credible threat that he or she
18 is in imminent danger of becoming the victim of any
19 act of stalking or cyberstalking has standing in the
20 circuit court to file a sworn petition for an
21 injunction for protection against stalking or
22 cyberstalking; providing that attorneys are not
23 required to represent the parties; prohibiting a court
24 from issuing mutual orders of protection; providing an
25 exception for issuing separate orders of protection;
26 providing for the venue where the petition for the
27 injunction may be filed; defining terms; providing for
28 the functions and duties of the clerk of the circuit
29 court; specifying the form and content of the petition

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30 for injunction for protection against stalking or
31 cyberstalking; providing for the issuance of a
32 temporary injunction ex parte when there is an
33 immediate and present danger of stalking or
34 cyberstalking against the petitioner; requiring that
35 any ex parte temporary injunction be effective for a
36 fixed period not to exceed 15 days; providing for a
37 hearing after notice; providing for the content of the
38 injunction issued for protection from stalking or
39 cyberstalking; specifying the criteria for "reasonable
40 cause" for determining whether the injunction for
41 protection should be issued; providing that the
42 injunction and other relief ordered for the protection
43 of the victim remain in effect until modified or
44 dissolved; authorizing either party to move at any
45 time to modify or dissolve the injunction; requiring
46 the clerk of the circuit court to furnish a copy of
47 the documents to the sheriff; providing the duties and
48 functions of the sheriff's office; requiring the
49 sheriff to assist the victim to execute the orders of
50 the court; creating the Stalking and Cyberstalking
51 Injunction Statewide Verification System within the
52 Department of Law Enforcement; requiring the
53 department to establish, implement, and maintain a
54 statewide communication system capable of
55 electronically transmitting information to and between
56 criminal justice agencies relating to stalking or
57 cyberstalking injunctions issued by the courts
58 throughout the state; authorizing the court to enforce

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59 a violation of an injunction for protection against
60 stalking or cyberstalking through a civil or criminal
61 contempt proceeding or the state attorney to prosecute
62 it as a criminal violation; creating s. 784.0487,
63 F.S.; providing remedies for a willful violation of an
64 injunction for protection against stalking or
65 cyberstalking; specifying the grounds that violate the
66 injunction; providing criminal penalties; providing
67 that a person who suffers an injury or loss as a
68 result of a violation of an injunction for protection
69 against stalking or cyberstalking may be awarded
70 economic damages for that injury or loss, including
71 costs and attorney's fees; providing an effective
72 date.

73
74 Be It Enacted by the Legislature of the State of Florida:

75
76 Section 1. Subsection (2) of section 741.28, Florida
77 Statutes, is amended to read:

78 741.28 Domestic violence; definitions.—As used in ss.
79 741.28-741.31:

80 (2) "Domestic violence" means any assault, aggravated
81 assault, battery, aggravated battery, sexual assault, sexual
82 battery, stalking, cyberstalking, aggravated stalking,
83 kidnapping, false imprisonment, burglary, criminal mischief,
84 trespass, harassing, obscene telephone calls, or any criminal
85 offense resulting in physical injury or death of one family or
86 household member, or pet, by another family or household member.

87 Section 2. Paragraphs (a) and (b) of subsection (1) and

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88 paragraph (b) of subsection (3) of section 784.046, Florida
89 Statutes, are amended to read:

90 784.046 Action by victim of repeat violence, sexual
91 violence, or dating violence for protective injunction; dating
92 violence investigations, notice to victims, and reporting;
93 pretrial release violations.—

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

95 (a) "Violence" means any assault, aggravated assault,
96 battery, aggravated battery, sexual assault, sexual battery,
97 ~~stalking, aggravated stalking,~~ kidnapping, or false
98 imprisonment, or any criminal offense resulting in physical
99 injury or death, by a person against any other person.

100 (b) "Repeat violence" means two incidents of violence ~~or~~
101 ~~stalking~~ committed by the respondent, one of which must have
102 been within 6 months of the filing of the petition, which are
103 directed against the petitioner or the petitioner's immediate
104 family member.

105 (3)

106 (b)1. Notwithstanding any other law, the clerk of the court
107 may not assess a fee for filing a petition for protection
108 against ~~repeat violence,~~ sexual violence, or dating violence.
109 However, subject to legislative appropriation, the clerk of the
110 court may, each quarter, submit to the Office of the State
111 Courts Administrator a certified request for reimbursement for
112 petitions for protection, other than for repeat violence, issued
113 by the court under this section at the rate of \$40 per petition.
114 The request for reimbursement shall be submitted in the form and
115 manner prescribed by the Office of the State Courts
116 Administrator. From this reimbursement, the clerk shall pay the

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117 law enforcement agency serving the injunction the fee requested
118 by the law enforcement agency; however, this fee may not exceed
119 \$20.

120 2. The clerk of the court shall assess a fee for filing a
121 petition for protection against repeat violence in the amount of
122 \$75 per petition. If the court determines that the petitioner is
123 a victim of repeat violence and an injunction is entered, the
124 court may order the respondent to reimburse the victim the
125 amount of the filing fee.

126 Section 3. Section 784.0485, Florida Statutes, is created
127 to read:

128 784.0485 Stalking or cyberstalking; injunction; powers and
129 duties of court and clerk; petition; notice and hearing;
130 temporary injunction; issuance of injunction; statewide
131 verification system; enforcement.-

132 (1) There is created a cause of action for an injunction
133 for protection against stalking or cyberstalking.

134 (a) Any person who is the victim of stalking or
135 cyberstalking or who has reasonable cause to believe that there
136 is a credible threat that he or she is in imminent danger of
137 becoming the victim of any act of stalking or cyberstalking has
138 standing in the circuit court to file a sworn petition for an
139 injunction for protection against stalking or cyberstalking.

140 (b) This cause of action for an injunction may be sought
141 regardless of whether any other cause of action is currently
142 pending between the parties. However, the pendency of any such
143 cause of action shall be alleged in the petition.

144 (c) The cause of action for an injunction may be sought by
145 any affected person. A person is not precluded from seeking

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146 injunctive relief pursuant to this section solely on the basis
147 that the person is not a spouse.

148 (d) This cause of action for an injunction does not require
149 either party to be represented by an attorney.

150 (e) Any person, including an officer of the court, who
151 offers evidence or recommendations relating to the cause of
152 action must present the evidence or recommendations in writing
153 to the court, with copies provided to each party and their
154 attorney, or must present the evidence under oath at a hearing
155 at which all parties are present.

156 (f) This section does not affect the title to any real
157 estate.

158 (g) The court may not issue mutual orders of protection;
159 however, the court is not precluded from issuing separate
160 injunctions for protection against stalking or cyberstalking if
161 each party has complied with the provisions of this section.
162 Compliance with this section may not be waived.

163 (h) Notwithstanding any provision of chapter 47, a petition
164 for an injunction for protection against stalking or
165 cyberstalking may be filed in the circuit where the petitioner
166 currently or temporarily resides, where the respondent resides,
167 or where the stalking or cyberstalking occurred. There is no
168 minimum requirement of residency to petition for an injunction
169 for protection.

170 (2) As used in this section, the term:

171 (a) "Course of conduct" means a pattern of conduct composed
172 of a series of acts over a period of time, however short,
173 evidencing a continuity of purpose. The term does not include
174 constitutionally protected activity. Such constitutionally

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175 protected activity includes picketing or other organized
176 protests.

177 (b) "Credible threat" means a threat made with the intent
178 to cause the person who is the target of the threat to
179 reasonably fear for his or her safety. The threat must be
180 against the life of, or a threat to cause bodily injury to, a
181 person.

182 (c) "Cyberstalk" means to engage in a course of conduct to
183 communicate, or to cause to be communicated, words, images, or
184 language by or through the use of electronic mail or electronic
185 communication, directed at a specific person, causing
186 substantial emotional distress to that person and serving no
187 legitimate purpose.

188 (d) "Harassment" means to engage in a course of conduct
189 directed at a specific person which causes substantial emotional
190 distress in such person and serves no legitimate purpose.

191 (e) "Stalking" means the repeated and obsessive harassment
192 of a person by another who, through a course of conduct,
193 presents a credible threat to the victim in ways that alarm and
194 frighten the victim. Typically, stalking begins with annoying or
195 threatening phone calls, letters, or electronic communications
196 and escalates to constant following or surveillance.

197 (3) (a) Notwithstanding any other law, the assessment of a
198 filing fee for a petition for protection against stalking is
199 prohibited. However, subject to legislative appropriation, the
200 clerk of the circuit court may, on a quarterly basis, submit to
201 the Office of the State Courts Administrator a certified request
202 for reimbursement for petitions for protection against stalking
203 issued by the court, at the rate of \$40 per petition. The

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204 request for reimbursement shall be submitted in the form and
205 manner prescribed by the Office of the State Courts
206 Administrator. From this reimbursement, the clerk shall pay any
207 law enforcement agency serving the injunction the fee requested
208 by the law enforcement agency; however, this fee may not exceed
209 \$20.

210 (b) A bond is not required by the court for the entry of an
211 injunction.

212 (c)1. The clerk of the court shall assist petitioners in
213 seeking both injunctions for protection against stalking and
214 enforcement of a violation thereof as specified in this section.

215 2. All offices of the clerk of the court shall provide
216 simplified petition forms for the injunction and any
217 modifications to and the enforcement thereof, including
218 instructions for completion.

219 3. The clerk of the court shall ensure the petitioner's
220 privacy to the extent practicable while completing the forms for
221 injunctions for protection against stalking.

222 4. The clerk of the court shall provide petitioners with a
223 minimum of two certified copies of the order of injunction, one
224 of which is serviceable and will inform the petitioner of the
225 process for service and enforcement.

226 5. Clerks of court and appropriate staff in each county
227 shall receive training in the effective assistance of
228 petitioners as provided or approved by the Florida Association
229 of Court Clerks.

230 6. The clerk of the court in each county shall make
231 available informational brochures on stalking when such
232 brochures are provided by local certified violence centers.

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233 7. The clerk of the court in each county shall distribute a
 234 statewide uniform informational brochure to petitioners at the
 235 time of filing for an injunction for protection against stalking
 236 or cyberstalking when such brochures become available. The
 237 brochure must include information about the effect of giving the
 238 court false information.

239 (4) (a) The sworn petition shall allege the existence of
 240 such stalking and shall include the specific facts and
 241 circumstances for which relief is sought.

242 (b) The sworn petition shall be in substantially the
 243 following form:

244
 245 PETITION FOR
 246 INJUNCTION FOR PROTECTION
 247 AGAINST STALKING
 248

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

252 (a) Petitioner resides at: ...(address)...

253 (Petitioner may furnish address to the court in a separate
 254 confidential filing if, for safety reasons, the petitioner
 255 requires the location of the current residence to be
 256 confidential.)

257 (b) Respondent resides at: ...(last known address)...

258 (c) Respondent's last known place of employment: ...(name
 259 of business and address)...

260 (d) Physical description of respondent:

261 Race

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262 Sex

263 Date of birth

264 Height

265 Weight

266 Eye color

267 Hair color

268 Distinguishing marks or scars

269 (e) Aliases of respondent:

270 (f) The following describes any other cause of action
271 currently pending between the petitioner and respondent:
272

273 The petitioner should also describe any previous or pending
274 attempts by the petitioner to obtain an injunction for
275 protection against stalking in this or any other circuit, and
276 the results of that attempt. (Case numbers should be included if
277 available.).....
278

279 (g) Petitioner is a victim of stalking or cyberstalking or
280 has reasonable cause to believe he or she is in imminent danger
281 of becoming a victim of stalking or cyberstalking because
282 respondent has(Mark all sections that apply and describe in
283 the spaces below the incidents of violence or threats of
284 violence, specifying when and where they occurred, including,
285 but not limited to, locations such as a home, school, or place
286 of employment.)
287 committed or threatened to commit stalking.
288 previously threatened, harassed, stalked,
289 cyberstalked, or physically abused the petitioner.
290 threatened to harm the petitioner or family members or

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291 individuals closely associated with the petitioner.
292 intentionally injured or killed a family pet.
293 used, or has threatened to use, against the petitioner
294 any weapons such as guns or knives.
295 a criminal history involving violence or the threat of
296 violence (if known).
297 another order of protection issued against him or her
298 previously or from another jurisdiction (if known).
299 destroyed personal property, including, but not
300 limited to, telephones or other communication equipment,
301 clothing, or other items belonging to the petitioner.
302 engaged in any other behavior or conduct that leads
303 the petitioner to have reasonable cause to believe that he or
304 she is in imminent danger of becoming a victim of stalking or
305 cyberstalking.
306 (h) Petitioner genuinely fears imminent stalking or
307 cyberstalking by respondent.
308 (i) Petitioner seeks an injunction: (Mark appropriate
309 section or sections.)
310 Immediately restraining the respondent from committing
311 any acts of stalking or cyberstalking.
312 Restraining the respondent from committing any acts of
313 stalking or cyberstalking.
314 Directing the respondent to participate in a
315 batterers' intervention program or other treatment pursuant to
316 s. 39.901, Florida Statutes.
317 Providing any terms the court deems necessary for the
318 protection of a victim of stalking or cyberstalking, including
319 any injunctions or directives to law enforcement agencies.

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320 (j) Every petition for an injunction against stalking or
321 cyberstalking shall contain, directly above the signature line,
322 a statement in all capital letters and bold type not smaller
323 than the surrounding text, as follows:

324
325 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
326 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT
327 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE
328 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN
329 SECTION 837.02, FLORIDA STATUTES.

330 ...(initials)...
331

332 (5) Upon the filing of the petition, the court shall set a
333 hearing to be held at the earliest possible time. The respondent
334 shall be personally served with a copy of the petition, notice
335 of hearing, and temporary injunction, if any, before the
336 hearing.

337 (6) (a) If it appears to the court that an immediate and
338 present danger of stalking or cyberstalking exists, the court
339 may grant a temporary injunction ex parte, pending a full
340 hearing, and may grant such relief as the court deems proper,
341 including an injunction restraining the respondent from
342 committing any acts of stalking or cyberstalking.

343 (b) In a hearing ex parte for the purpose of obtaining such
344 ex parte temporary injunction, no evidence other than verified
345 pleadings or affidavits shall be used as evidence, unless the
346 respondent appears at the hearing or has received reasonable
347 notice of the hearing. A denial of a petition for an ex parte
348 injunction shall be by written order noting the legal grounds

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349 for denial. If the only ground for denial is no appearance of an
350 immediate and present danger of stalking or cyberstalking, the
351 court shall set a full hearing on the petition for injunction
352 with notice at the earliest possible time. Nothing herein
353 affects a petitioner's right to promptly amend any petition, or
354 otherwise be heard in person on any petition consistent with the
355 Florida Rules of Civil Procedure.

356 (c) Any such ex parte temporary injunction shall be
357 effective for a fixed period not to exceed 15 days. A full
358 hearing, as provided in this section, shall be set for a date no
359 later than the date when the temporary injunction ceases to be
360 effective. The court may grant a continuance of the hearing
361 before or during a hearing for good cause shown by any party,
362 which shall include a continuance to obtain service of process.
363 Any injunction shall be extended if necessary to remain in full
364 force and effect during any period of continuance.

365 (7) (a) Upon notice and hearing, when it appears to the
366 court that the petitioner is the victim of stalking or
367 cyberstalking as defined in subsection (2) or has reasonable
368 cause to believe that there is a credible threat that he or she
369 is in imminent danger of becoming a victim of stalking or
370 cyberstalking, the court may grant such relief as the court
371 deems proper, including an injunction:

372 1. Restraining the respondent from committing any acts of
373 stalking or cyberstalking.

374 2. Ordering the respondent to participate in treatment,
375 intervention, or counseling services to be paid for by the
376 respondent. When the court orders the respondent to participate
377 in a batterers' intervention program, the court, or any entity

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378 designated by the court, must provide the respondent with a list
379 of all certified batterers' intervention programs and all
380 programs that have submitted an application to the Department of
381 Children and Family Services to become certified under s.
382 741.32, from which the respondent must choose a program in which
383 to participate. If there are no certified batterers'
384 intervention programs in the circuit, the court shall provide a
385 list of acceptable programs from which the respondent must
386 choose a program in which to participate.

387 3. Referring a petitioner to a certified violence center.
388 The court must provide the petitioner with a list of certified
389 violence centers in the circuit which the petitioner may
390 contact.

391 4. Ordering such other relief as the court deems necessary
392 for the protection of a victim of stalking or cyberstalking,
393 including injunctions or directives to law enforcement agencies,
394 as provided in this section.

395 (b) In determining whether a petitioner has reasonable
396 cause to believe that there is a credible threat that he or she
397 is in imminent danger of becoming a victim of stalking or
398 cyberstalking, the court shall consider and evaluate all
399 relevant factors alleged in the petition, including, but not
400 limited to:

401 1. The history between the petitioner and the respondent,
402 including threats, harassment, stalking or cyberstalking, and
403 physical abuse.

404 2. Whether the respondent has attempted to harm the
405 petitioner or family members or individuals closely associated
406 with the petitioner.

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407 3. Whether the respondent has intentionally injured or
408 killed a family pet.

409 4. Whether the respondent has used, or has threatened to
410 use, against the petitioner any weapons such as guns or knives.

411 5. Whether the respondent has a criminal history involving
412 violence or the threat of violence.

413 6. The existence of a verifiable order of protection issued
414 previously or from another jurisdiction.

415 7. Whether the respondent has destroyed personal property,
416 including, but not limited to, telephones or other
417 communications equipment, clothing, or other items belonging to
418 the petitioner.

419 8. Whether the respondent engaged in any other behavior or
420 conduct that leads the petitioner to have reasonable cause to
421 believe that there is a credible threat that he or she is in
422 imminent danger of becoming a victim of stalking or
423 cyberstalking.

424
425 In making its determination under this paragraph, the court is
426 not limited to those factors enumerated in subparagraphs 1.-8.

427 (c) The terms of an injunction restraining the respondent
428 under subparagraph (a)1. or ordering other relief for the
429 protection of the victim under subparagraph (a)4. shall remain
430 in effect until modified or dissolved. Either party may move at
431 any time to modify or dissolve the injunction. No specific
432 allegations are required. Such relief may be granted in addition
433 to other civil or criminal remedies.

434 (d) A temporary or final judgment on injunction for
435 protection against stalking or cyberstalking entered pursuant to

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436 this section shall, on its face, indicate that:

437 1. The injunction is valid and enforceable in all counties
438 of the State of Florida.

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

441 3. The court had jurisdiction over the parties and matter
442 under the laws of Florida and that reasonable notice and
443 opportunity to be heard was given to the person against whom the
444 order is sought sufficient to protect that person's right to due
445 process.

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

448 (e) An injunction for protection against stalking or
449 cyberstalking entered pursuant to this section, on its face, may
450 order that the respondent attend a batterers' intervention
451 program as a condition of the injunction. Unless the court makes
452 written factual findings in its judgment or order which are
453 based on substantial evidence, stating why batterers'
454 intervention programs would be inappropriate, the court shall
455 order the respondent to attend a batterers' intervention program
456 if:

457 1. It finds that the respondent willfully violated the ex
458 parte injunction;

459 2. The respondent, in this state or any other state, has
460 been convicted of, had adjudication withheld on, or pled nolo
461 contendere to a crime involving violence or a threat of
462 violence; or

463 3. The respondent, in this state or any other state, has
464 had at any time a prior injunction for protection entered

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465 against the respondent after a hearing with notice.

466
467 It is mandatory that such programs be certified under s. 741.32.

468 (f) The fact that a separate order of protection is granted
469 to each opposing party is not legally sufficient to deny any
470 remedy to either party or to prove that the parties are equally
471 at fault or equally endangered.

472 (g) A final judgment on injunction for protection against
473 stalking or cyberstalking entered pursuant to this section must,
474 on its face, indicate that it is a violation of s. 790.233 and a
475 first-degree misdemeanor for the respondent to have in his or
476 her care, custody, possession, or control any firearm or
477 ammunition.

478 (h) All proceedings under this subsection shall be
479 recorded. Recording may be by electronic means as provided by
480 the Rules of Judicial Administration.

481 (8) The court shall allow an advocate from a state
482 attorney's office, an advocate from a law enforcement agency, or
483 an advocate from a certified violence center who is registered
484 under s. 39.905 to be present with the petitioner or respondent
485 during any court proceedings or hearings related to the
486 injunction for protection if the petitioner or respondent has
487 made such a request and the advocate is able to be present.

488 (9) (a) 1. The clerk of the court shall furnish a copy of the
489 petition, notice of hearing, and temporary injunction, if any,
490 to the sheriff or a law enforcement agency of the county where
491 the respondent resides or can be found, who shall serve it upon
492 the respondent as soon thereafter as possible on any day of the
493 week and at any time of the day or night. When requested by the

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494 sheriff, the clerk of the court may transmit a facsimile copy of
495 an injunction that has been certified by the clerk of the court,
496 and this facsimile copy may be served in the same manner as a
497 certified copy. Upon receiving a facsimile copy, the sheriff
498 must verify receipt with the sender before attempting to serve
499 it on the respondent. In addition, if the sheriff is in
500 possession of an injunction for protection that has been
501 certified by the clerk of the court, the sheriff may transmit a
502 facsimile copy of that injunction to a law enforcement officer
503 who shall serve it in the same manner as a certified copy. The
504 clerk of the court shall furnish to the sheriff such information
505 concerning the respondent's physical description and location as
506 is required by the department to comply with the verification
507 procedures set forth in this section. Notwithstanding any other
508 provision of law to the contrary, the chief judge of each
509 circuit, in consultation with the appropriate sheriff, may
510 authorize a law enforcement agency within the jurisdiction to
511 effect service. A law enforcement agency serving injunctions
512 pursuant to this section shall use service and verification
513 procedures consistent with those of the sheriff.

514 2. When an injunction is issued, if the petitioner requests
515 the assistance of a law enforcement agency, the court may order
516 that an officer from the appropriate law enforcement agency
517 accompany the petitioner to assist in the execution or service
518 of the injunction. A law enforcement officer shall accept a copy
519 of an injunction for protection against stalking, certified by
520 the clerk of the court, from the petitioner and immediately
521 serve it upon a respondent who has been located but not yet
522 served.

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523 3. All orders issued, changed, continued, extended, or
524 vacated subsequent to the original service of documents
525 enumerated under subparagraph 1. shall be certified by the clerk
526 of the court and delivered to the parties at the time of the
527 entry of the order. The parties may acknowledge receipt of such
528 order in writing on the face of the original order. If a party
529 fails or refuses to acknowledge the receipt of a certified copy
530 of an order, the clerk shall note on the original order that
531 service was effected. If delivery at the hearing is not
532 possible, the clerk shall mail certified copies of the order to
533 the parties at the last known address of each party. Service by
534 mail is complete upon mailing. When an order is served pursuant
535 to this subsection, the clerk shall prepare a written
536 certification to be placed in the court file specifying the
537 time, date, and method of service and shall notify the sheriff.

538
539 If the respondent has been served previously with the temporary
540 injunction and has failed to appear at the initial hearing on
541 the temporary injunction, any subsequent petition for injunction
542 seeking an extension of time may be served on the respondent by
543 the clerk of the court by certified mail in lieu of personal
544 service by a law enforcement officer.

545 (b) There is created a Stalking and Cyberstalking
546 Injunction Statewide Verification System within the Department
547 of Law Enforcement. The department shall establish, implement,
548 and maintain a statewide communication system capable of
549 electronically transmitting information to and between criminal
550 justice agencies relating to stalking or cyberstalking
551 injunctions issued by the courts throughout the state. Such

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552 information must include, but is not limited to, information as
553 to the existence and status of any injunction for verification
554 purposes.

555 (c)1. Within 24 hours after the court issues an injunction
556 for protection against stalking or cyberstalking or changes,
557 continues, extends, or vacates an injunction for protection
558 against stalking or cyberstalking, the clerk of the court must
559 forward a certified copy of the injunction for service to the
560 sheriff having jurisdiction over the residence of the
561 petitioner. The injunction must be served in accordance with
562 this subsection.

563 2. Within 24 hours after service of process of an
564 injunction for protection against stalking or cyberstalking upon
565 a respondent, the law enforcement officer must forward the
566 written proof of service of process to the sheriff having
567 jurisdiction over the residence of the petitioner.

568 3. Within 24 hours after the sheriff receives a certified
569 copy of the injunction for protection against stalking or
570 cyberstalking, the sheriff must make information relating to the
571 injunction available to other law enforcement agencies by
572 electronically transmitting such information to the department.

573 4. Within 24 hours after the sheriff or other law
574 enforcement officer has made service upon the respondent and the
575 sheriff has been so notified, the sheriff must make information
576 relating to the service available to other law enforcement
577 agencies by electronically transmitting such information to the
578 department.

579 5. Within 24 hours after an injunction for protection
580 against stalking or cyberstalking is vacated, terminated, or

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581 otherwise rendered no longer effective by ruling of the court,
582 the clerk of the court must notify the sheriff receiving
583 original notification of the injunction as provided in
584 subparagraph 2. That agency shall, within 24 hours after
585 receiving such notification from the clerk of the court, notify
586 the department of such action of the court.

587 (10) (a) The court may enforce a violation of an injunction
588 for protection against stalking or cyberstalking through a civil
589 or criminal contempt proceeding or the state attorney may
590 prosecute it as a criminal violation under s. 784.0487. The
591 court may enforce the respondent's compliance with the
592 injunction through any appropriate civil and criminal remedies,
593 including, but not limited to, a monetary assessment or a fine.
594 The clerk of the court shall collect and receive such
595 assessments or fines. On a monthly basis, the clerk shall
596 transfer the moneys collected pursuant to this paragraph to the
597 State Treasury for deposit into the Domestic Violence Trust
598 Fund.

599 (b) If the respondent is arrested by a law enforcement
600 officer under s. 901.15(6) or for a violation of s. 741.31, the
601 respondent shall be held in custody until brought before the
602 court as expeditiously as possible for the purpose of enforcing
603 the injunction and for admittance to bail in accordance with
604 chapter 903 and the applicable rules of criminal procedure,
605 pending a hearing.

606 (11) The petitioner or the respondent may move the court to
607 modify or dissolve an injunction at any time.

608 Section 4. Section 784.0487, Florida Statutes, is created
609 to read:

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610 784.0487 Violation of an injunction for protection against
611 stalking or cyberstalking.-

612 (1) In the event of a violation of the injunction for
613 protection against stalking or cyberstalking when there has not
614 been an arrest, the petitioner may contact the clerk of the
615 circuit court of the county in which the violation is alleged to
616 have occurred. The clerk shall assist the petitioner in the
617 preparation of an affidavit in support of the violation or
618 direct the petitioner to the office operated by the court within
619 the circuit that has been designated by the chief judge of that
620 circuit as the central intake point for injunction violations
621 and where the petitioner can receive assistance in the
622 preparation of the affidavit in support of the violation.

623 (2) The affidavit shall be immediately forwarded by the
624 office assisting the petitioner to the state attorney of that
625 circuit and to such court or judge as the chief judge of that
626 circuit determines to be the recipient of affidavits of
627 violation. If the affidavit alleges that a crime has been
628 committed, the office assisting the petitioner shall also
629 forward a copy of the petitioner's affidavit to the appropriate
630 law enforcement agency for investigation. No later than 20 days
631 after receiving the initial report, the local law enforcement
632 agency shall complete its investigation and forward a report to
633 the state attorney. The policy adopted by the state attorney in
634 each circuit under s. 741.2901(2) shall include a policy
635 regarding intake of alleged violations of injunctions for
636 protection against stalking or cyberstalking under this section.
637 The intake shall be supervised by a prosecutor who has been
638 designated and assigned to handle stalking or cyberstalking

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639 cases. The state attorney shall determine within 30 working days
640 whether its office will file criminal charges, prepare a motion
641 for an order to show cause as to why the respondent should not
642 be held in criminal contempt, or prepare both as alternative
643 findings, or file notice that the case remains under
644 investigation or is pending subject to some other action.

645 (3) If the court has knowledge, based on its familiarity
646 with the case, that the petitioner or another person is in
647 immediate danger if the court fails to act before the decision
648 of the state attorney to prosecute, it shall immediately issue
649 an order of appointment of the state attorney to file a motion
650 for an order to show cause as to why the respondent should not
651 be held in contempt. If the court does not issue an order of
652 appointment of the state attorney, it shall immediately notify
653 the state attorney that the court is proceeding to enforce the
654 violation through criminal contempt.

655 (4) (a) A person who willfully violates an injunction for
656 protection against stalking or cyberstalking issued pursuant to
657 s. 784.0485, or a foreign protection order accorded full faith
658 and credit pursuant to s. 741.315, by:

659 1. Going to, or being within 500 feet of, the petitioner's
660 residence, school, place of employment, or a specified place
661 frequented regularly by the petitioner and any named family or
662 household member;

663 2. Committing an act of stalking or cyberstalking against
664 the petitioner;

665 3. Committing any other violation of the injunction through
666 an intentional unlawful threat, word, or act to do violence to
667 the petitioner;

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668 4. Telephoning, contacting, or otherwise communicating with
669 the petitioner, directly or indirectly, unless the injunction
670 specifically allows indirect contact through a third party;

671 5. Knowingly and intentionally coming within 100 feet of
672 the petitioner's motor vehicle, whether or not that vehicle is
673 occupied;

674 6. Defacing or destroying the petitioner's personal
675 property, including the petitioner's motor vehicle; or

676 7. Refusing to surrender firearms or ammunition if ordered
677 to do so by the court,

678
679 commits a misdemeanor of the first degree, punishable as
680 provided in s. 775.082 or s. 775.083.

681 (b)1. It is a violation of s. 790.233, and a misdemeanor of
682 the first degree, punishable as provided in s. 775.082 or s.
683 775.083, for a person to violate a final injunction for
684 protection against stalking or cyberstalking by having in his or
685 her care, custody, possession, or control any firearm or
686 ammunition.

687 2. It is the intent of the Legislature that the prohibition
688 regarding possession of firearms and ammunition are consistent
689 with federal law. Accordingly, this paragraph does not apply to
690 a state or local officer, as defined in s. 943.10(14), who holds
691 an active certification and who receives or possesses a firearm
692 or ammunition for use in performing official duties on behalf of
693 the officer's employing agency, unless otherwise prohibited by
694 the employing agency.

695 (5) Whether or not there is a criminal prosecution under
696 subsection (4), the court shall order the respondent to attend a

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697 batterers' intervention program if it finds a willful violation
698 of a stalking or cyberstalking injunction, unless the court
699 makes written factual findings in its judgment or order which
700 are based on substantial evidence, stating why a batterers'
701 intervention program would be inappropriate.

702 (6) Any person who suffers an injury or loss as a result of
703 a violation of an injunction for protection against stalking or
704 cyberstalking may be awarded economic damages for that injury or
705 loss by the court issuing the injunction. Damages includes costs
706 and attorney's fees for enforcement of the injunction.

707 Section 5. This act shall take effect July 1, 2011.