

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative Plakon offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
 7 Section 1. Section 784.048, Florida Statutes, is amended to
 8 read:

9 784.048 Stalking; definitions; penalties.—

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

11 (a) "Harass" means to engage in a course of conduct
 12 directed at a specific person which ~~that~~ causes substantial
 13 emotional distress to that ~~in such~~ person and serves no
 14 legitimate purpose.

15 (b) "Course of conduct" means a pattern of conduct
 16 composed of a series of acts over a period of time, however
 17 short, which evidence ~~evidencing~~ a continuity of purpose. The
 18 term does not include constitutionally protected activity such
 19 as is not included within the meaning of "course of conduct."

Amendment No. 1

20 ~~Such constitutionally protected activity includes picketing or~~
21 ~~other organized protests.~~

22 (c) "Credible threat" means a verbal or nonverbal threat,
23 including a threat delivered by electronic communication or a
24 threat implied by a pattern of conduct, or a combination of the
25 two, which places the person who is the target of the threat in
26 reasonable fear for his or her safety or the safety of his or
27 her immediate family or household member, as defined in s.
28 741.28, and which is made with the apparent ability to carry out
29 the threat to cause such harm. It is not necessary to prove that
30 the person making the threat had the intent to actually carry
31 out the threat. The present incarceration of the person making
32 the threat is not a bar to prosecution under this section ~~made~~
33 ~~with the intent to cause the person who is the target of the~~
34 ~~threat to reasonably fear for his or her safety. The threat must~~
35 ~~be against the life of, or a threat to cause bodily injury to, a~~
36 ~~person.~~

37 (d) "Cyberstalk" means to engage in a course of conduct to
38 communicate, or to cause to be communicated, words, images, or
39 language by or through the use of electronic mail or electronic
40 communication, directed at a specific person, causing
41 substantial emotional distress to that person and serving no
42 legitimate purpose.

43 (e) "Immediate family" means a person's spouse, parent,
44 child, grandparent, or sibling.

45 (2) ~~A~~ Any person who willfully, maliciously, and
46 repeatedly follows, harasses, or cyberstalks another person
47 commits the offense of stalking, a misdemeanor of the first

905135 - h1099-strike.docx

Published On: 1/30/2012 7:42:36 PM

Amendment No. 1

48 degree, punishable as provided in s. 775.082 or s. 775.083.

49 (3) A ~~Any~~ person who willfully, maliciously, and
50 repeatedly follows, harasses, or cyberstalks another person, and
51 makes a credible threat to that person ~~with the intent to place~~
52 ~~that person in reasonable fear of death or bodily injury of the~~
53 ~~person, or the person's child, sibling, spouse, parent, or~~
54 ~~dependent,~~ commits the offense of aggravated stalking, a felony
55 of the third degree, punishable as provided in s. 775.082, s.
56 775.083, or s. 775.084.

57 (4) A ~~Any~~ person who, after an injunction for protection
58 against repeat violence, sexual violence, or dating violence
59 pursuant to s. 784.046, or an injunction for protection against
60 domestic violence pursuant to s. 741.30, or after any other
61 court-imposed prohibition of conduct toward the subject person
62 or that person's property, knowingly, willfully, maliciously,
63 and repeatedly follows, harasses, or cyberstalks another person
64 commits the offense of aggravated stalking, a felony of the
65 third degree, punishable as provided in s. 775.082, s. 775.083,
66 or s. 775.084.

67 (5) A ~~Any~~ person who willfully, maliciously, and
68 repeatedly follows, harasses, or cyberstalks a child ~~minor~~ under
69 16 years of age commits the offense of aggravated stalking, a
70 felony of the third degree, punishable as provided in s.
71 775.082, s. 775.083, or s. 775.084.

72 (6) A ~~Any~~ law enforcement officer may arrest, without a
73 warrant, any person that he or she has probable cause to believe
74 has violated ~~the provisions of~~ this section.

75 (7) A ~~Any~~ person who, after having been sentenced for a
905135 - h1099-strike.docx

Amendment No. 1

76 violation of s. 794.011, s. 800.04, or s. 847.0135(5) and
77 prohibited from contacting the victim of the offense under s.
78 921.244, willfully, maliciously, and repeatedly follows,
79 harasses, or cyberstalks the victim commits the offense of
80 aggravated stalking, a felony of the third degree, punishable as
81 provided in s. 775.082, s. 775.083, or s. 775.084.

82 (8) The punishment imposed under this section shall run
83 consecutive to any former sentence imposed for a conviction for
84 any offense under s. 794.011, s. 800.04, or s. 847.0135(5).

85 (9) (a) The sentencing court shall consider, as a part of
86 any sentence, issuing an injunction restraining the defendant
87 from any contact with the victim, which may be valid for up to
88 10 years, as determined by the court. It is the intent of the
89 Legislature that the length of any such restraining order be
90 based upon the seriousness of the facts before the court, the
91 probability of future violations by the perpetrator, and the
92 safety of the victim and his or her immediate family.

93 (b) The injunction may be issued by the court even if the
94 defendant is sentenced to a state prison or a county jail or
95 even if the imposition of the sentence is suspended and the
96 defendant is placed on probation.

97 Section 2. Section 784.0485, Florida Statutes, is created
98 to read:

99 784.0485 Stalking or cyberstalking; injunction; powers and
100 duties of court and clerk; petition; notice and hearing;
101 temporary injunction; issuance of injunction; statewide
102 verification system; enforcement.-

103 (1) There is created a cause of action for an injunction

905135 - h1099-strike.docx

Published On: 1/30/2012 7:42:36 PM

Amendment No. 1

104 for protection against stalking or cyberstalking.

105 (a) A person who is the victim of stalking or
106 cyberstalking has standing in the circuit court to file a sworn
107 petition for an injunction for protection against stalking or
108 cyberstalking.

109 (b) The cause of action for an injunction for protection
110 may be sought regardless of whether any other cause of action is
111 currently pending between the parties. However, the pendency of
112 any such cause of action shall be alleged in the petition.

113 (c) The cause of action for an injunction may be sought by
114 any affected person.

115 (d) The cause of action for an injunction does not require
116 either party to be represented by an attorney.

117 (e) The court may not issue mutual orders of protection;
118 however, the court is not precluded from issuing separate
119 injunctions for protection against stalking or cyberstalking if
120 each party has complied with this section. Compliance with this
121 section may not be waived.

122 (f) Notwithstanding chapter 47, a petition for an
123 injunction for protection against stalking or cyberstalking may
124 be filed in the circuit where the petitioner currently or
125 temporarily resides, where the respondent resides, or where the
126 stalking or cyberstalking occurred. There is no minimum
127 requirement of residency to petition for an injunction for
128 protection.

129 (2) (a) Notwithstanding any other law, the clerk of court
130 may not assess a filing fee to file a petition for protection
131 against stalking or cyberstalking. However, subject to

905135 - h1099-strike.docx

Published On: 1/30/2012 7:42:36 PM

Amendment No. 1

132 legislative appropriation, the clerk of the circuit court may,
133 on a quarterly basis, submit to the Office of the State Courts
134 Administrator a certified request for reimbursement for
135 petitions for protection against stalking or cyberstalking
136 issued by the court, at the rate of \$40 per petition. The
137 request for reimbursement shall be submitted in the form and
138 manner prescribed by the Office of the State Courts
139 Administrator. From this reimbursement, the clerk shall pay any
140 law enforcement agency serving the injunction the fee requested
141 by the law enforcement agency; however, this fee may not exceed
142 \$20.

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

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

148 2. All offices of the clerk of the court shall provide
149 simplified petition forms for the injunction and any
150 modifications to and the enforcement thereof, including
151 instructions for completion.

152 3. The clerk of the court shall ensure the petitioner's
153 privacy to the extent practicable while completing the forms for
154 an injunction for protection against stalking or cyberstalking.

155 4. The clerk of the court shall provide a petitioner with
156 a minimum of two certified copies of the order of injunction,
157 one of which is serviceable and will inform the petitioner of
158 the process for service and enforcement.

159 5. The clerk of the court and appropriate staff in each

Amendment No. 1

160 county shall receive training in the effective assistance of
161 petitioners as provided or approved by the Florida Association
162 of Court Clerks.

163 6. The clerk of the court in each county shall make
164 available informational brochures on stalking when such a
165 brochure is provided by the local certified domestic violence
166 center.

167 7. The clerk of the court in each county shall distribute
168 a statewide uniform informational brochure to petitioners at the
169 time of filing for an injunction for protection against stalking
170 or cyberstalking when such brochures become available. The
171 brochure must include information about the effect of giving the
172 court false information.

173 (3) (a) The sworn petition shall allege the existence of
174 such stalking or cyberstalking and shall include the specific
175 facts and circumstances for which relief is sought.

176 (b) The sworn petition shall be in substantially the
177 following form:

178
179 PETITION FOR INJUNCTION FOR PROTECTION AGAINST STALKING

180
181 Before me, the undersigned authority, personally appeared
182 Petitioner....(Name)...., who has been sworn and says that
183 the following statements are true:

184
185 1. Petitioner resides at:....(address)....
186 (Petitioner may furnish the address to the court in a
187 separate confidential filing if, for safety reasons,

Amendment No. 1

- 188 the petitioner requires the location of the current
189 residence to be confidential.)
190 2. Respondent resides at:....(last known address)....
191 3. Respondent's last known place of employment:....(name
192 of business and address)....
193 4. Physical description of respondent:....
194 5. Race....
195 6. Sex....
196 7. Date of birth....
197 8. Height....
198 9. Weight....
199 10. Eye color....
200 11. Hair color....
201 12. Distinguishing marks or scars....
202 13. Aliases of respondent:....

203
204 (c) The petitioner shall describe any other cause of
205 action currently pending between the petitioner and respondent.
206 The petitioner shall also describe any previous attempt by the
207 petitioner to obtain an injunction for protection against
208 stalking or cyberstalking in this or any other circuit, and the
209 result of that attempt. (Case numbers should be included, if
210 available.)

211 (d) The petition must provide space for the petitioner to
212 specifically allege that he or she is a victim of stalking or
213 cyberstalking because respondent has:

214
215 (Mark all sections that apply and describe in the spaces below

Amendment No. 1

216 the incidents of stalking or cyberstalking specifying when and
217 where they occurred, including, but not limited to, locations
218 such as a home, school, or place of employment.)

219

220 Committed or threatened to commit stalking.

221 Previously threatened, harassed, stalked,
222 cyberstalked, or physically abused the petitioner.

223 Threatened to harm the petitioner or family members or
224 individuals closely associated with the petitioner.

225 Intentionally injured or killed a family pet.

226 Used, or has threatened to use, against the petitioner
227 any weapons such as guns or knives.

228 A criminal history involving violence or the threat of
229 violence (if known).

230 Another order of protection issued against him or her
231 previously or from another jurisdiction, if known.

232 Destroyed personal property, including, but not
233 limited to, telephones or other communication equipment,
234 clothing, or other items belonging to the petitioner.

235 (e) The petitioner seeks an injunction: (Mark appropriate
236 section or sections.)

237 Immediately restraining the respondent from committing
238 any acts of stalking or cyberstalking.

239 Restraining the respondent from committing any acts of
240 stalking or cyberstalking.

241 Providing any terms the court deems necessary for the
242 protection of a victim of stalking or cyberstalking, including
243 any injunctions or directives to law enforcement agencies.

Amendment No. 1

244 (f) Every petition for an injunction against stalking or
245 cyberstalking must contain, directly above the signature line, a
246 statement in all capital letters and bold type not smaller than
247 the surrounding text, as follows:

248
249 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
250 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT
251 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE
252 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN
253 SECTION 837.02, FLORIDA STATUTES.

254
255(initials)....
256

257 (4) Upon the filing of the petition, the court shall set a
258 hearing to be held at the earliest possible time. The respondent
259 shall be personally served with a copy of the petition, notice
260 of hearing, and temporary injunction, if any, before the
261 hearing.

262 (5) (a) If it appears to the court that an immediate and
263 present danger of stalking or cyberstalking exists, the court
264 may grant a temporary injunction ex parte, pending a full
265 hearing, and may grant such relief as the court deems proper,
266 including an injunction restraining the respondent from
267 committing any act of stalking or cyberstalking.

268 (b) In a hearing ex parte for the purpose of obtaining
269 such ex parte temporary injunction, evidence other than verified
270 pleadings or affidavits may not be used as evidence, unless the
271 respondent appears at the hearing or has received reasonable

Amendment No. 1

272 notice of the hearing. A denial of a petition for an ex parte
273 injunction shall be by written order noting the legal grounds
274 for denial. If the only ground for denial is no appearance of an
275 immediate and present danger of stalking or cyberstalking, the
276 court shall set a full hearing on the petition for injunction
277 with notice at the earliest possible time. This paragraph does
278 not affect a petitioner's right to promptly amend any petition,
279 or otherwise be heard in person on any petition consistent with
280 the Florida Rules of Civil Procedure.

281 (c) Any such ex parte temporary injunction is effective
282 for a fixed period not to exceed 15 days. A full hearing, as
283 provided in this section, shall be set for a date no later than
284 the date when the temporary injunction ceases to be effective.
285 The court may grant a continuance of the hearing before or
286 during a hearing for good cause shown by any party, which shall
287 include a continuance to obtain service of process. An
288 injunction shall be extended if necessary to remain in full
289 force and effect during any period of continuance.

290 (6) (a) Upon notice and hearing, when it appears to the
291 court that the petitioner is the victim of stalking or
292 cyberstalking, the court may grant such relief as the court
293 deems proper, including an injunction:

294 1. Restraining the respondent from committing any act of
295 stalking or cyberstalking.

296 2. Ordering the respondent to participate in treatment,
297 intervention, or counseling services to be paid for by the
298 respondent.

299 3. Referring a petitioner to a certified domestic violence

Amendment No. 1

300 center. The court must provide the petitioner with a list of
301 certified domestic violence centers in the circuit which the
302 petitioner may contact.

303 4. Ordering such other relief as the court deems necessary
304 for the protection of a victim of stalking or cyberstalking,
305 including injunctions or directives to law enforcement agencies,
306 as provided in this section.

307 (b) When determining whether a petitioner has reasonable
308 cause to believe that there is a credible threat that he or she
309 is in imminent danger of becoming a victim of stalking or
310 cyberstalking, the court shall consider and evaluate all
311 relevant factors alleged in the petition, including, but not
312 limited to:

313 1. The history between the petitioner and the respondent,
314 including threats, harassment, stalking or cyberstalking, and
315 physical abuse.

316 2. Whether the respondent has attempted to harm the
317 petitioner or family members or individuals closely associated
318 with the petitioner.

319 3. Whether the respondent has intentionally injured or
320 killed a family pet.

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

323 5. Whether the respondent has a criminal history involving
324 violence or the threat of violence.

325 6. The existence of a verifiable order of protection
326 issued previously or from another jurisdiction.

327 7. Whether the respondent has destroyed personal property,

Amendment No. 1

328 including, but not limited to, telephones or other
329 communications equipment, clothing, or other items belonging to
330 the petitioner.

331
332 In making its determination under this paragraph, the court is
333 not limited to those factors enumerated in subparagraphs 1.-7.

334 (c) The terms of an injunction restraining the respondent
335 under subparagraph (a)1. or ordering other relief for the
336 protection of the victim under subparagraph (a)4. shall remain
337 in effect until modified or dissolved. Either party may move at
338 any time to modify or dissolve the injunction. Specific
339 allegations are not required. Such relief may be granted in
340 addition to other civil or criminal remedies.

341 (d) A temporary or final judgment on injunction for
342 protection against stalking or cyberstalking entered pursuant to
343 this section shall, on its face, indicate that:

344 1. The injunction is valid and enforceable in all counties
345 of this state.

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

348 3. The court has jurisdiction over the parties and matter
349 under the laws of this state and that reasonable notice and
350 opportunity to be heard was given to the person against whom the
351 order is sought sufficient to protect that person's right to due
352 process.

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

355 (e) The fact that a separate order of protection is

Amendment No. 1

356 granted to each opposing party is not legally sufficient to deny
357 any remedy to either party or to prove that the parties are
358 equally at fault or equally endangered.

359 (f) A final judgment on an injunction for protection
360 against stalking or cyberstalking entered pursuant to this
361 section may, on its face, provide that it is a violation of s.
362 790.233 and a misdemeanor of the first degree for the respondent
363 to have in his or her care, custody, possession, or control any
364 firearm or ammunition.

365 (g) All proceedings under this subsection shall be
366 recorded. Recording may be by electronic means as provided by
367 the Rules of Judicial Administration.

368 (7) The court shall allow an advocate from a state
369 attorney's office, a law enforcement agency, or a certified
370 domestic violence center who is registered under s. 39.905 to be
371 present with the petitioner or respondent during any court
372 proceedings or hearings related to the injunction for protection
373 if the petitioner or respondent has made such a request and the
374 advocate is able to be present.

375 (8) (a) 1. The clerk of the court shall furnish a copy of
376 the petition, notice of hearing, and temporary injunction, if
377 any, to the sheriff or a law enforcement agency of the county
378 where the respondent resides or can be found, who shall serve it
379 upon the respondent as soon thereafter as possible on any day of
380 the week and at any time of the day or night. When requested by
381 the sheriff, the clerk of the court may transmit a facsimile
382 copy of an injunction that has been certified by the clerk of
383 the court, and this facsimile copy may be served in the same

905135 - h1099-strike.docx

Published On: 1/30/2012 7:42:36 PM

Amendment No. 1

384 manner as a certified copy. Upon receiving a facsimile copy, the
385 sheriff must verify receipt with the sender before attempting to
386 serve it on the respondent. In addition, if the sheriff is in
387 possession of an injunction for protection which has been
388 certified by the clerk of the court, the sheriff may transmit a
389 facsimile copy of that injunction to a law enforcement officer
390 who shall serve it in the same manner as a certified copy. The
391 clerk of the court shall furnish to the sheriff such information
392 concerning the respondent's physical description and location as
393 is required by the department to comply with the verification
394 procedures set forth in this section. Notwithstanding any other
395 law, the chief judge of each circuit, in consultation with the
396 appropriate sheriff, may authorize a law enforcement agency
397 within the jurisdiction to effect service. A law enforcement
398 agency serving injunctions pursuant to this section shall use
399 service and verification procedures consistent with those of the
400 sheriff.

401 2. If an injunction is issued and the petitioner requests
402 the assistance of a law enforcement agency, the court may order
403 that an officer from the appropriate law enforcement agency
404 accompany the petitioner to assist in the execution or service
405 of the injunction. A law enforcement officer shall accept a copy
406 of an injunction for protection against stalking, certified by
407 the clerk of the court, from the petitioner and immediately
408 serve it upon a respondent who has been located but not yet
409 served.

410 3. An order issued, changed, continued, extended, or
411 vacated subsequent to the original service of documents

905135 - h1099-strike.docx

Published On: 1/30/2012 7:42:36 PM

Amendment No. 1

412 enumerated under subparagraph 1. shall be certified by the clerk
413 of the court and delivered to the parties at the time of the
414 entry of the order. The parties may acknowledge receipt of such
415 order in writing on the face of the original order. If a party
416 fails or refuses to acknowledge the receipt of a certified copy
417 of an order, the clerk shall note on the original order that
418 service was effected. If delivery at the hearing is not
419 possible, the clerk shall mail certified copies of the order to
420 the parties at the last known address of each party. Service by
421 mail is complete upon mailing. When an order is served pursuant
422 to this subsection, the clerk shall prepare a written
423 certification to be placed in the court file specifying the
424 time, date, and method of service and shall notify the sheriff.

425 4. If the respondent has been served previously with a
426 temporary injunction and has failed to appear at the initial
427 hearing on the temporary injunction, any subsequent petition for
428 injunction seeking an extension of time may be served on the
429 respondent by the clerk of the court by certified mail in lieu
430 of personal service by a law enforcement officer.

431 (b)1. Within 24 hours after the court issues an injunction
432 for protection against stalking or cyberstalking or changes,
433 continues, extends, or vacates an injunction for protection
434 against stalking or cyberstalking, the clerk of the court must
435 forward a certified copy of the injunction for service to the
436 sheriff having jurisdiction over the residence of the
437 petitioner. The injunction must be served in accordance with
438 this subsection.

439 2. Within 24 hours after service of process of an

Amendment No. 1

440 injunction for protection against stalking or cyberstalking upon
441 a respondent, the law enforcement officer must forward the
442 written proof of service of process to the sheriff having
443 jurisdiction over the residence of the petitioner.

444 3. Within 24 hours after the sheriff receives a certified
445 copy of the injunction for protection against stalking or
446 cyberstalking, the sheriff must make information relating to the
447 injunction available to other law enforcement agencies by
448 electronically transmitting such information to the Department
449 of Law Enforcement.

450 4. Within 24 hours after the sheriff or other law
451 enforcement officer has made service upon the respondent and the
452 sheriff has been so notified, the sheriff must make information
453 relating to the service available to other law enforcement
454 agencies by electronically transmitting such information to the
455 Department of Law Enforcement.

456 5. Within 24 hours after an injunction for protection
457 against stalking or cyberstalking is vacated, terminated, or
458 otherwise rendered no longer effective by ruling of the court,
459 the clerk of the court must notify the sheriff receiving
460 original notification of the injunction as provided in
461 subparagraph 2. That agency shall, within 24 hours after
462 receiving such notification from the clerk of the court, notify
463 the Department of Law Enforcement of such action of the court.

464 (9) (a) The court may enforce a violation of an injunction
465 for protection against stalking or cyberstalking through a civil
466 or criminal contempt proceeding, or the state attorney may
467 prosecute it as a criminal violation under s. 784.0487. The

Amendment No. 1

468 court may enforce the respondent's compliance with the
469 injunction through any appropriate civil and criminal remedies,
470 including, but not limited to, a monetary assessment or a fine.
471 The clerk of the court shall collect and receive such
472 assessments or fines. On a monthly basis, the clerk shall
473 transfer the moneys collected pursuant to this paragraph to the
474 State Treasury for deposit into the Domestic Violence Trust
475 Fund.

476 (b) If the respondent is arrested by a law enforcement
477 officer under s. 901.15(6) or for a violation of s. 784.0487,
478 the respondent shall be held in custody until brought before the
479 court as expeditiously as possible for the purpose of enforcing
480 the injunction and for admittance to bail in accordance with
481 chapter 903 and the applicable rules of criminal procedure,
482 pending a hearing.

483 (10) The petitioner or the respondent may move the court
484 to modify or dissolve an injunction at any time.

485 Section 3. Section 784.0487, Florida Statutes, is created
486 to read:

487 784.0487 Violation of an injunction for protection against
488 stalking or cyberstalking.—

489 (1) If the injunction for protection against stalking or
490 cyberstalking has been violated and the respondent has not been
491 arrested, the petitioner may contact the clerk of the circuit
492 court of the county in which the violation is alleged to have
493 occurred. The clerk shall assist the petitioner in preparing an
494 affidavit in support of reporting the violation or directing the
495 petitioner to the office operated by the court that has been

905135 - h1099-strike.docx

Published On: 1/30/2012 7:42:36 PM

Amendment No. 1

496 designated by the chief judge of that circuit as the central
497 intake point for violations of injunctions for protection where
498 the petitioner can receive assistance in the preparation of the
499 affidavit in support of the violation.

500 (2) The affidavit shall be immediately forwarded by the
501 office assisting the petitioner to the state attorney of that
502 circuit and to such judge as the chief judge determines to be
503 the recipient of affidavits of violations of an injunction. If
504 the affidavit alleges that a crime has been committed, the
505 office assisting the petitioner shall also forward a copy of the
506 petitioner's affidavit to the appropriate law enforcement agency
507 for investigation. No later than 20 days after receiving the
508 initial report, the local law enforcement agency shall complete
509 its investigation and forward a report to the state attorney.
510 The policy adopted by the state attorney in each circuit under
511 s. 741.2901(2) shall include a policy regarding intake of
512 alleged violations of injunctions for protection against
513 stalking or cyberstalking under this section. The intake shall
514 be supervised by a state attorney who has been designated and
515 assigned to handle stalking or cyberstalking cases. The state
516 attorney shall determine within 30 working days whether his or
517 her office will file criminal charges or prepare a motion for an
518 order to show cause as to why the respondent should not be held
519 in criminal contempt, or prepare both as alternative findings,
520 or file notice that the case remains under investigation or is
521 pending subject to some other action.

522 (3) If the court has knowledge that the petitioner or
523 another person is in immediate danger if the court does not act

Amendment No. 1

524 before the decision of the state attorney to proceed, the court
525 shall immediately issue an order of appointment of the state
526 attorney to file a motion for an order to show cause as to why
527 the respondent should not be held in contempt. If the court does
528 not issue an order of appointment of the state attorney, it
529 shall immediately notify the state attorney that the court is
530 proceeding to enforce the violation through criminal contempt.

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

535 (a) Going to, or being within 500 feet of, the
536 petitioner's residence, school, place of employment, or a
537 specified place frequented regularly by the petitioner and any
538 named family or household member;

539 (b) Committing an act of stalking or cyberstalking against
540 the petitioner;

541 (c) Committing any other violation of the injunction
542 through an intentional unlawful threat, word, or act to do
543 violence to the petitioner;

544 (d) Telephoning, contacting, or otherwise communicating
545 with the petitioner, directly or indirectly, unless the
546 injunction specifically allows indirect contact through a third
547 party;

548 (e) Knowingly and intentionally coming within 100 feet of
549 the petitioner's motor vehicle, whether or not that vehicle is
550 occupied;

551 (f) Defacing or destroying the petitioner's personal

Amendment No. 1

552 property, including the petitioner's motor vehicle; or

553 (g) Refusing to surrender firearms or ammunition if
554 ordered to do so by the court,

555
556 commits a misdemeanor of the first degree, punishable as
557 provided in s. 775.082 or s. 775.083.

558 (5) A person who suffers an injury or loss as a result of
559 a violation of an injunction for protection against stalking or
560 cyberstalking may be awarded economic damages for that injury or
561 loss by the court issuing the injunction. Damages includes costs
562 and attorney fees for enforcement of the injunction.

563 Section 4. This act shall take effect October 1, 2012.

564
565
566 -----
567 **T I T L E A M E N D M E N T**

568 Remove the entire title and insert:

569 An act relating to stalking and aggravated stalking; amending s.
570 784.048, F.S.; redefining the terms "course of conduct" and
571 "credible threat" and defining the term "immediate family";
572 providing that a person who makes a threat which places another
573 person in reasonable fear for his or her safety or the safety of
574 his or her immediate family commits the offense of aggravated
575 stalking under certain circumstances; requiring that the
576 sentencing court consider issuing an injunction that restrains a
577 defendant from any contact with the victim for up to 10 years;
578 providing legislative intent regarding the length of any such
579 restraining order; creating s. 784.0485, F.S.; creating a civil

905135 - h1099-strike.docx

Published On: 1/30/2012 7:42:36 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1099 (2012)

Amendment No. 1

580 cause of action for an injunction for protection against
581 stalking or cyberstalking; providing that the victim of stalking
582 or cyberstalking has standing in the circuit court to file a
583 sworn petition for an injunction for protection against stalking
584 or cyberstalking; prohibiting a court from issuing mutual orders
585 of protection, but authorizing the court to issue a separate
586 injunction for protection against stalking or cyberstalking if
587 each party has complied with the provisions of law; providing
588 for venue of the cause of action; prohibiting the clerk of the
589 court from assessing a filing fee; providing an exception;
590 providing that a petitioner is not required to post a bond;
591 requiring the clerks of court to assist petitioners in filing
592 petitions with the court; requiring the clerk of the court in
593 each county to make available informational brochures; providing
594 a sample petition for an injunction for protection against
595 stalking or cyberstalking; authorizing the court to grant a
596 temporary injunction ex parte, pending a full hearing, under
597 certain circumstances; authorizing the court to grant such
598 relief as the court deems necessary and proper; providing
599 procedures for an ex parte injunction hearing; setting forth the
600 relief the court may grant if it finds that the petitioner is in
601 imminent danger of becoming a victim of stalking or
602 cyberstalking; setting forth the criteria the court must
603 consider at the hearing; requiring the court to allow an
604 advocate from a state attorney's office, law enforcement agency,
605 or certified domestic violence center to be present with the
606 petitioner or respondent during any court proceeding; requiring
607 the clerk of the court to furnish a copy of the petition, notice

905135 - h1099-strike.docx

Published On: 1/30/2012 7:42:36 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1099 (2012)

Amendment No. 1

608 of hearing, and temporary injunction, if any, to the sheriff or
609 a law enforcement agency of the county where the respondent
610 resides or can be found, who shall serve it upon the respondent
611 as soon thereafter as possible on any day of the week and at any
612 time of the day or night; authorizing the court to order a law
613 enforcement officer to accompany the petitioner; authorizing the
614 court to enforce a violation of an injunction for protection
615 against stalking or cyberstalking through a civil or criminal
616 contempt proceeding; authorizing a state attorney to use
617 criminal procedures for a violation of an injunction for
618 protection; creating s. 784.0487, F.S.; providing procedures to
619 follow when the respondent has violated the injunction for
620 protection; providing legislative intent; providing criminal
621 penalties; providing that a court may award a person who suffers
622 an injury or loss as a result of a violation of an injunction
623 for protection against stalking or cyberstalking economic
624 damages for that injury or loss, including costs and attorney
625 fees for enforcement of the injunction; providing an effective
626 date.