

1 A bill to be entitled
2 An act relating to stalking and aggravated stalking;
3 amending s. 784.048, F.S.; redefining the terms
4 "course of conduct" and "credible threat" and defining
5 the term "immediate family"; providing that a person
6 who makes a threat which places another person in
7 reasonable fear for his or her safety or the safety of
8 his or her immediate family commits the offense of
9 aggravated stalking under certain circumstances;
10 requiring that the sentencing court consider issuing
11 an injunction that restrains a defendant from any
12 contact with the victim for up to 10 years; providing
13 legislative intent regarding the length of any such
14 restraining order; creating s. 784.0485, F.S.;
15 creating a civil cause of action for an injunction for
16 protection against stalking or cyberstalking;
17 providing that the victim of stalking or cyberstalking
18 has standing in the circuit court to file a sworn
19 petition for an injunction for protection against
20 stalking or cyberstalking; prohibiting a court from
21 issuing mutual orders of protection, but authorizing
22 the court to issue a separate injunction for
23 protection against stalking or cyberstalking if each
24 party has complied with the provisions of law;
25 providing for venue of the cause of action;
26 prohibiting the clerk of the court from assessing a
27 filing fee; providing an exception; providing that a
28 petitioner is not required to post a bond; requiring

29 | the clerks of court to assist petitioners in filing
30 | petitions with the court; requiring the clerk of the
31 | court in each county to make available informational
32 | brochures; providing a sample petition for an
33 | injunction for protection against stalking or
34 | cyberstalking; authorizing the court to grant a
35 | temporary injunction ex parte, pending a full hearing,
36 | under certain circumstances; authorizing the court to
37 | grant such relief as the court deems necessary and
38 | proper; providing procedures for an ex parte
39 | injunction hearing; setting forth the relief the court
40 | may grant if it finds that the petitioner is in
41 | imminent danger of becoming a victim of stalking or
42 | cyberstalking; setting forth the criteria the court
43 | must consider at the hearing; requiring the court to
44 | allow an advocate from a state attorney's office, law
45 | enforcement agency, or certified domestic violence
46 | center to be present with the petitioner or respondent
47 | during any court proceeding; requiring the clerk of
48 | the court to furnish a copy of the petition, notice of
49 | hearing, and temporary injunction, if any, to the
50 | sheriff or a law enforcement agency of the county
51 | where the respondent resides or can be found, who
52 | shall serve it upon the respondent as soon thereafter
53 | as possible on any day of the week and at any time of
54 | the day or night; authorizing the court to order a law
55 | enforcement officer to accompany the petitioner;
56 | authorizing the court to enforce a violation of an

57 | injunction for protection against stalking or
 58 | cyberstalking through a civil or criminal contempt
 59 | proceeding; authorizing a state attorney to use
 60 | criminal procedures for a violation of an injunction
 61 | for protection; creating s. 784.0487, F.S.; providing
 62 | procedures to follow when the respondent has violated
 63 | the injunction for protection; providing legislative
 64 | intent; providing criminal penalties; providing that a
 65 | court may award a person who suffers an injury or loss
 66 | as a result of a violation of an injunction for
 67 | protection against stalking or cyberstalking economic
 68 | damages for that injury or loss, including costs and
 69 | attorney fees for enforcement of the injunction;
 70 | providing an effective date.

71 |
 72 | Be It Enacted by the Legislature of the State of Florida:
 73 |

74 | Section 1. Section 784.048, Florida Statutes, is amended
 75 | to read:

76 | 784.048 Stalking; definitions; penalties.—

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

78 | (a) "Harass" means to engage in a course of conduct
 79 | directed at a specific person which ~~that~~ causes substantial
 80 | emotional distress to that ~~in such~~ person and serves no
 81 | legitimate purpose.

82 | (b) "Course of conduct" means a pattern of conduct
 83 | composed of a series of acts over a period of time, however
 84 | short, which evidence ~~evidencing~~ a continuity of purpose. The

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85 term does not include constitutionally protected activity such
86 as is not included within the meaning of "course of conduct."
87 ~~Such constitutionally protected activity includes picketing or~~
88 ~~other organized protests.~~

89 (c) "Credible threat" means a verbal or nonverbal threat,
90 including a threat delivered by electronic communication or a
91 threat implied by a pattern of conduct, or a combination of the
92 two, which places the person who is the target of the threat in
93 reasonable fear for his or her safety or the safety of his or
94 her immediate family or household member, as defined in s.
95 741.28, and which is made with the apparent ability to carry out
96 the threat to cause such harm. It is not necessary to prove that
97 the person making the threat had the intent to actually carry
98 out the threat. The present incarceration of the person making
99 the threat is not a bar to prosecution under this section ~~made~~
100 ~~with the intent to cause the person who is the target of the~~
101 ~~threat to reasonably fear for his or her safety. The threat must~~
102 ~~be against the life of, or a threat to cause bodily injury to, a~~
103 ~~person.~~

104 (d) "Cyberstalk" means to engage in a course of conduct to
105 communicate, or to cause to be communicated, words, images, or
106 language by or through the use of electronic mail or electronic
107 communication, directed at a specific person, causing
108 substantial emotional distress to that person and serving no
109 legitimate purpose.

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

112 (2) A ~~Any~~ person who willfully, maliciously, and

113 repeatedly follows, harasses, or cyberstalks another person
 114 commits the offense of stalking, a misdemeanor of the first
 115 degree, punishable as provided in s. 775.082 or s. 775.083.

116 (3) A ~~Any~~ person who willfully, maliciously, and
 117 repeatedly follows, harasses, or cyberstalks another person, and
 118 makes a credible threat to that person ~~with the intent to place~~
 119 ~~that person in reasonable fear of death or bodily injury of the~~
 120 ~~person, or the person's child, sibling, spouse, parent, or~~
 121 ~~dependent,~~ commits the offense of aggravated stalking, a felony
 122 of the third degree, punishable as provided in s. 775.082, s.
 123 775.083, or s. 775.084.

124 (4) A ~~Any~~ person who, after an injunction for protection
 125 against repeat violence, sexual violence, or dating violence
 126 pursuant to s. 784.046, or an injunction for protection against
 127 domestic violence pursuant to s. 741.30, or after any other
 128 court-imposed prohibition of conduct toward the subject person
 129 or that person's property, knowingly, willfully, maliciously,
 130 and repeatedly follows, harasses, or cyberstalks another person
 131 commits the offense of aggravated stalking, a felony of the
 132 third degree, punishable as provided in s. 775.082, s. 775.083,
 133 or s. 775.084.

134 (5) A ~~Any~~ person who willfully, maliciously, and
 135 repeatedly follows, harasses, or cyberstalks a child ~~minor~~ under
 136 16 years of age commits the offense of aggravated stalking, a
 137 felony of the third degree, punishable as provided in s.
 138 775.082, s. 775.083, or s. 775.084.

139 (6) A ~~Any~~ law enforcement officer may arrest, without a
 140 warrant, any person that he or she has probable cause to believe

141 has violated ~~the provisions of~~ this section.

142 (7) A ~~Any~~ person who, after having been sentenced for a
 143 violation of s. 794.011, s. 800.04, or s. 847.0135(5) and
 144 prohibited from contacting the victim of the offense under s.
 145 921.244, willfully, maliciously, and repeatedly follows,
 146 harasses, or cyberstalks the victim commits the offense of
 147 aggravated stalking, a felony of the third degree, punishable as
 148 provided in s. 775.082, s. 775.083, or s. 775.084.

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

152 (9) (a) The sentencing court shall consider, as a part of
 153 any sentence, issuing an injunction restraining the defendant
 154 from any contact with the victim, which may be valid for up to
 155 10 years, as determined by the court. It is the intent of the
 156 Legislature that the length of any such restraining order be
 157 based upon the seriousness of the facts before the court, the
 158 probability of future violations by the perpetrator, and the
 159 safety of the victim and his or her immediate family.

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

164 Section 2. Section 784.0485, Florida Statutes, is created
 165 to read:

166 784.0485 Stalking or cyberstalking; injunction; powers and
 167 duties of court and clerk; petition; notice and hearing;
 168 temporary injunction; issuance of injunction; statewide

169 verification system; enforcement.-

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

172 (a) A person who is the victim of stalking or
173 cyberstalking has standing in the circuit court to file a sworn
174 petition for an injunction for protection against stalking or
175 cyberstalking.

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

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

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

184 (e) The court may not issue mutual orders of protection;
185 however, the court is not precluded from issuing separate
186 injunctions for protection against stalking or cyberstalking if
187 each party has complied with this section. Compliance with this
188 section may not be waived.

189 (f) Notwithstanding chapter 47, a petition for an
190 injunction for protection against stalking or cyberstalking may
191 be filed in the circuit where the petitioner currently or
192 temporarily resides, where the respondent resides, or where the
193 stalking or cyberstalking occurred. There is no minimum
194 requirement of residency to petition for an injunction for
195 protection.

196 (2) (a) Notwithstanding any other law, the clerk of court

197 may not assess a filing fee to file a petition for protection
198 against stalking or cyberstalking. However, subject to
199 legislative appropriation, the clerk of the circuit court may,
200 on a quarterly basis, submit to the Office of the State Courts
201 Administrator a certified request for reimbursement for
202 petitions for protection against stalking or cyberstalking
203 issued by the court, at the rate of \$40 per petition. The
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
211 an 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 an injunction for protection against stalking or cyberstalking.

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

225 the process for service and enforcement.

226 5. The clerk of the court and appropriate staff in each
 227 county 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 a
 232 brochure is provided by the local certified domestic violence
 233 center.

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

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

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

245
 246 PETITION FOR INJUNCTION FOR PROTECTION AGAINST STALKING

247
 248 Before me, the undersigned authority, personally appeared
 249 Petitioner....(Name)...., who has been sworn and says that
 250 the following statements are true:

251
 252 1. Petitioner resides at:....(address)....

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

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

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

260 4. Physical description of respondent:....

261 5. Race....

262 6. Sex....

263 7. Date of birth....

264 8. Height....

265 9. Weight....

266 10. Eye color....

267 11. Hair color....

268 12. Distinguishing marks or scars....

269 13. Aliases of respondent:....

271 (c) The petitioner shall describe any other cause of
 272 action currently pending between the petitioner and respondent.
 273 The petitioner shall also describe any previous attempt by the
 274 petitioner to obtain an injunction for protection against
 275 stalking or cyberstalking in this or any other circuit, and the
 276 result of that attempt. (Case numbers should be included, if
 277 available.)

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

281
 282 (Mark all sections that apply and describe in the spaces below
 283 the incidents of stalking or cyberstalking specifying when and
 284 where they occurred, including, but not limited to, locations
 285 such as a home, school, or place of employment.)

286
 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
 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 (e) The petitioner seeks an injunction: (Mark appropriate
 303 section or sections.)

304 Immediately restraining the respondent from committing
 305 any acts of stalking or cyberstalking.

306 Restraining the respondent from committing any acts of
 307 stalking or cyberstalking.

308 Providing any terms the court deems necessary for the

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309 protection of a victim of stalking or cyberstalking, including
310 any injunctions or directives to law enforcement agencies.

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

315
316 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
317 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT
318 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE
319 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN
320 SECTION 837.02, FLORIDA STATUTES.

321
322(initials)....

323
324 (4) Upon the filing of the petition, the court shall set a
325 hearing to be held at the earliest possible time. The respondent
326 shall be personally served with a copy of the petition, notice
327 of hearing, and temporary injunction, if any, before the
328 hearing.

329 (5) (a) If it appears to the court that an immediate and
330 present danger of stalking or cyberstalking exists, the court
331 may grant a temporary injunction ex parte, pending a full
332 hearing, and may grant such relief as the court deems proper,
333 including an injunction restraining the respondent from
334 committing any act of stalking or cyberstalking.

335 (b) In a hearing ex parte for the purpose of obtaining
336 such ex parte temporary injunction, evidence other than verified

337 pleadings or affidavits may not be used as evidence, unless the
338 respondent appears at the hearing or has received reasonable
339 notice of the hearing. A denial of a petition for an ex parte
340 injunction shall be by written order noting the legal grounds
341 for denial. If the only ground for denial is no appearance of an
342 immediate and present danger of stalking or cyberstalking, the
343 court shall set a full hearing on the petition for injunction
344 with notice at the earliest possible time. This paragraph does
345 not affect a petitioner's right to promptly amend any petition,
346 or otherwise be heard in person on any petition consistent with
347 the Florida Rules of Civil Procedure.

348 (c) Any such ex parte temporary injunction is effective
349 for a fixed period not to exceed 15 days. A full hearing, as
350 provided in this section, shall be set for a date no later than
351 the date when the temporary injunction ceases to be effective.
352 The court may grant a continuance of the hearing before or
353 during a hearing for good cause shown by any party, which shall
354 include a continuance to obtain service of process. An
355 injunction shall be extended if necessary to remain in full
356 force and effect during any period of continuance.

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

361 1. Restraining the respondent from committing any act of
362 stalking or cyberstalking.

363 2. Ordering the respondent to participate in treatment,
364 intervention, or counseling services to be paid for by the

365 respondent.

366 3. Referring a petitioner to a certified domestic violence
367 center. The court must provide the petitioner with a list of
368 certified domestic violence centers in the circuit which the
369 petitioner may contact.

370 4. Ordering such other relief as the court deems necessary
371 for the protection of a victim of stalking or cyberstalking,
372 including injunctions or directives to law enforcement agencies,
373 as provided in this section.

374 (b) When determining whether a petitioner has reasonable
375 cause to believe that there is a credible threat that he or she
376 is in imminent danger of becoming a victim of stalking or
377 cyberstalking, the court shall consider and evaluate all
378 relevant factors alleged in the petition, including, but not
379 limited to:

380 1. The history between the petitioner and the respondent,
381 including threats, harassment, stalking or cyberstalking, and
382 physical abuse.

383 2. Whether the respondent has attempted to harm the
384 petitioner or family members or individuals closely associated
385 with the petitioner.

386 3. Whether the respondent has intentionally injured or
387 killed a family pet.

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

390 5. Whether the respondent has a criminal history involving
391 violence or the threat of violence.

392 6. The existence of a verifiable order of protection

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393 issued previously or from another jurisdiction.

394 7. Whether the respondent has destroyed personal property,
395 including, but not limited to, telephones or other
396 communications equipment, clothing, or other items belonging to
397 the petitioner.

398
399 In making its determination under this paragraph, the court is
400 not limited to those factors enumerated in subparagraphs 1.-7.

401 (c) The terms of an injunction restraining the respondent
402 under subparagraph (a)1. or ordering other relief for the
403 protection of the victim under subparagraph (a)4. shall remain
404 in effect until modified or dissolved. Either party may move at
405 any time to modify or dissolve the injunction. Specific
406 allegations are not required. Such relief may be granted in
407 addition to other civil or criminal remedies.

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

411 1. The injunction is valid and enforceable in all counties
412 of this state.

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

415 3. The court has jurisdiction over the parties and matter
416 under the laws of this state and that reasonable notice and
417 opportunity to be heard was given to the person against whom the
418 order is sought sufficient to protect that person's right to due
419 process.

420 4. The date that the respondent was served with the

421 temporary or final order, if obtainable.

422 (e) The fact that a separate order of protection is
423 granted to each opposing party is not legally sufficient to deny
424 any remedy to either party or to prove that the parties are
425 equally at fault or equally endangered.

426 (f) A final judgment on an injunction for protection
427 against stalking or cyberstalking entered pursuant to this
428 section may, on its face, provide that it is a violation of s.
429 790.233 and a misdemeanor of the first degree for the respondent
430 to have in his or her care, custody, possession, or control any
431 firearm or ammunition.

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

435 (7) The court shall allow an advocate from a state
436 attorney's office, a law enforcement agency, or a certified
437 domestic violence center who is registered under s. 39.905 to be
438 present with the petitioner or respondent during any court
439 proceedings or hearings related to the injunction for protection
440 if the petitioner or respondent has made such a request and the
441 advocate is able to be present.

442 (8)(a)1. The clerk of the court shall furnish a copy of
443 the petition, notice of hearing, and temporary injunction, if
444 any, to the sheriff or a law enforcement agency of the county
445 where the respondent resides or can be found, who shall serve it
446 upon the respondent as soon thereafter as possible on any day of
447 the week and at any time of the day or night. When requested by
448 the sheriff, the clerk of the court may transmit a facsimile

449 copy of an injunction that has been certified by the clerk of
450 the court, and this facsimile copy may be served in the same
451 manner as a certified copy. Upon receiving a facsimile copy, the
452 sheriff must verify receipt with the sender before attempting to
453 serve it on the respondent. In addition, if the sheriff is in
454 possession of an injunction for protection which has been
455 certified by the clerk of the court, the sheriff may transmit a
456 facsimile copy of that injunction to a law enforcement officer
457 who shall serve it in the same manner as a certified copy. The
458 clerk of the court shall furnish to the sheriff such information
459 concerning the respondent's physical description and location as
460 is required by the department to comply with the verification
461 procedures set forth in this section. Notwithstanding any other
462 law, the chief judge of each circuit, in consultation with the
463 appropriate sheriff, may authorize a law enforcement agency
464 within the jurisdiction to effect service. A law enforcement
465 agency serving injunctions pursuant to this section shall use
466 service and verification procedures consistent with those of the
467 sheriff.

468 2. If an injunction is issued and the petitioner requests
469 the assistance of a law enforcement agency, the court may order
470 that an officer from the appropriate law enforcement agency
471 accompany the petitioner to assist in the execution or service
472 of the injunction. A law enforcement officer shall accept a copy
473 of an injunction for protection against stalking, certified by
474 the clerk of the court, from the petitioner and immediately
475 serve it upon a respondent who has been located but not yet
476 served.

477 3. An order issued, changed, continued, extended, or
478 vacated subsequent to the original service of documents
479 enumerated under subparagraph 1. shall be certified by the clerk
480 of the court and delivered to the parties at the time of the
481 entry of the order. The parties may acknowledge receipt of such
482 order in writing on the face of the original order. If a party
483 fails or refuses to acknowledge the receipt of a certified copy
484 of an order, the clerk shall note on the original order that
485 service was effected. If delivery at the hearing is not
486 possible, the clerk shall mail certified copies of the order to
487 the parties at the last known address of each party. Service by
488 mail is complete upon mailing. When an order is served pursuant
489 to this subsection, the clerk shall prepare a written
490 certification to be placed in the court file specifying the
491 time, date, and method of service and shall notify the sheriff.

492 4. If the respondent has been served previously with a
493 temporary injunction and has failed to appear at the initial
494 hearing on the temporary injunction, any subsequent petition for
495 injunction seeking an extension of time may be served on the
496 respondent by the clerk of the court by certified mail in lieu
497 of personal service by a law enforcement officer.

498 (b)1. Within 24 hours after the court issues an injunction
499 for protection against stalking or cyberstalking or changes,
500 continues, extends, or vacates an injunction for protection
501 against stalking or cyberstalking, the clerk of the court must
502 forward a certified copy of the injunction for service to the
503 sheriff having jurisdiction over the residence of the
504 petitioner. The injunction must be served in accordance with

505 this subsection.

506 2. Within 24 hours after service of process of an
507 injunction for protection against stalking or cyberstalking upon
508 a respondent, the law enforcement officer must forward the
509 written proof of service of process to the sheriff having
510 jurisdiction over the residence of the petitioner.

511 3. Within 24 hours after the sheriff receives a certified
512 copy of the injunction for protection against stalking or
513 cyberstalking, the sheriff must make information relating to the
514 injunction available to other law enforcement agencies by
515 electronically transmitting such information to the Department
516 of Law Enforcement.

517 4. Within 24 hours after the sheriff or other law
518 enforcement officer has made service upon the respondent and the
519 sheriff has been so notified, the sheriff must make information
520 relating to the service available to other law enforcement
521 agencies by electronically transmitting such information to the
522 Department of Law Enforcement.

523 5. Within 24 hours after an injunction for protection
524 against stalking or cyberstalking is vacated, terminated, or
525 otherwise rendered no longer effective by ruling of the court,
526 the clerk of the court must notify the sheriff receiving
527 original notification of the injunction as provided in
528 subparagraph 2. That agency shall, within 24 hours after
529 receiving such notification from the clerk of the court, notify
530 the Department of Law Enforcement of such action of the court.

531 (9) (a) The court may enforce a violation of an injunction
532 for protection against stalking or cyberstalking through a civil

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533 or criminal contempt proceeding, or the state attorney may
534 prosecute it as a criminal violation under s. 784.0487. The
535 court may enforce the respondent's compliance with the
536 injunction through any appropriate civil and criminal remedies,
537 including, but not limited to, a monetary assessment or a fine.
538 The clerk of the court shall collect and receive such
539 assessments or fines. On a monthly basis, the clerk shall
540 transfer the moneys collected pursuant to this paragraph to the
541 State Treasury for deposit into the Domestic Violence Trust
542 Fund.

543 (b) If the respondent is arrested by a law enforcement
544 officer under s. 901.15(6) or for a violation of s. 784.0487,
545 the respondent shall be held in custody until brought before the
546 court as expeditiously as possible for the purpose of enforcing
547 the injunction and for admittance to bail in accordance with
548 chapter 903 and the applicable rules of criminal procedure,
549 pending a hearing.

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

552 Section 3. Section 784.0487, Florida Statutes, is created
553 to read:

554 784.0487 Violation of an injunction for protection against
555 stalking or cyberstalking.-

556 (1) If the injunction for protection against stalking or
557 cyberstalking has been violated and the respondent has not been
558 arrested, the petitioner may contact the clerk of the circuit
559 court of the county in which the violation is alleged to have
560 occurred. The clerk shall assist the petitioner in preparing an

561 affidavit in support of reporting the violation or directing the
562 petitioner to the office operated by the court that has been
563 designated by the chief judge of that circuit as the central
564 intake point for violations of injunctions for protection where
565 the petitioner can receive assistance in the preparation of the
566 affidavit in support of the violation.

567 (2) The affidavit shall be immediately forwarded by the
568 office assisting the petitioner to the state attorney of that
569 circuit and to such judge as the chief judge determines to be
570 the recipient of affidavits of violations of an injunction. If
571 the affidavit alleges that a crime has been committed, the
572 office assisting the petitioner shall also forward a copy of the
573 petitioner's affidavit to the appropriate law enforcement agency
574 for investigation. No later than 20 days after receiving the
575 initial report, the local law enforcement agency shall complete
576 its investigation and forward a report to the state attorney.
577 The policy adopted by the state attorney in each circuit under
578 s. 741.2901(2) shall include a policy regarding intake of
579 alleged violations of injunctions for protection against
580 stalking or cyberstalking under this section. The intake shall
581 be supervised by a state attorney who has been designated and
582 assigned to handle stalking or cyberstalking cases. The state
583 attorney shall determine within 30 working days whether his or
584 her office will file criminal charges or prepare a motion for an
585 order to show cause as to why the respondent should not be held
586 in criminal contempt, or prepare both as alternative findings,
587 or file notice that the case remains under investigation or is
588 pending subject to some other action.

589 (3) If the court has knowledge that the petitioner or
590 another person is in immediate danger if the court does not act
591 before the decision of the state attorney to proceed, the court
592 shall immediately issue an order of appointment of the state
593 attorney to file a motion for an order to show cause as to why
594 the respondent should not be held in contempt. If the court does
595 not issue an order of appointment of the state attorney, it
596 shall immediately notify the state attorney that the court is
597 proceeding to enforce the violation through criminal contempt.

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

602 (a) Going to, or being within 500 feet of, the
603 petitioner's residence, school, place of employment, or a
604 specified place frequented regularly by the petitioner and any
605 named family or household member;

606 (b) Committing an act of stalking or cyberstalking against
607 the petitioner;

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

611 (d) Telephoning, contacting, or otherwise communicating
612 with the petitioner, directly or indirectly, unless the
613 injunction specifically allows indirect contact through a third
614 party;

615 (e) Knowingly and intentionally coming within 100 feet of
616 the petitioner's motor vehicle, whether or not that vehicle is

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617 occupied;

618 (f) Defacing or destroying the petitioner's personal
619 property, including the petitioner's motor vehicle; or

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

622

623 commits a misdemeanor of the first degree, punishable as
624 provided in s. 775.082 or s. 775.083.

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

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