

By Senator Fasano

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1 A bill to be entitled
2 An act relating to domestic violence against family
3 pets; amending s. 741.28, F.S.; redefining the term
4 "domestic violence" to include inflicting, or
5 attempting to inflict, physical injury against an
6 animal owned, possessed, leased, kept, or held by one
7 family or household member by another family or
8 household member, or placing a family or household
9 member in fear of physical harm to an animal owned,
10 possessed, leased, kept, or held by that family or
11 household member; amending s. 741.30, F.S.; providing
12 that a court may issue an injunction for protection
13 against domestic violence granting the petitioner the
14 exclusive care, custody, or control of any animal
15 owned, possessed, leased, kept, or held by the
16 petitioner, the respondent, or a minor child residing
17 in the residence or household of the petitioner or
18 respondent; amending s. 741.31, F.S.; providing that
19 it is a first-degree misdemeanor for a person to
20 willfully violate an injunction for protection against
21 domestic violence by knowingly and intentionally
22 injuring or threatening to injure any animal owned,
23 possessed, leased, kept, or held by the petitioner,
24 the respondent, or a minor child of the petitioner or
25 respondent; providing criminal penalties; reenacting
26 s. 61.1825(3), F.S., relating to the State Case
27 Registry, to incorporate the amendment made to s.
28 741.30, F.S., in a reference thereto; reenacting s.
29 901.15(7), F.S., relating to an arrest without warrant

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30 by a law enforcement officer, to incorporate the
31 amendment made to s. 741.31, F.S., in a reference
32 thereto; providing an effective date.
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34 Be It Enacted by the Legislature of the State of Florida:
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36 Section 1. Subsection (2) of section 741.28, Florida
37 Statutes, is amended to read:

38 741.28 Domestic violence; definitions.—As used in ss.
39 741.28-741.31:

40 (2) "Domestic violence" means any assault, aggravated
41 assault, battery, aggravated battery, sexual assault, sexual
42 battery, stalking, aggravated stalking, kidnapping, false
43 imprisonment, or any criminal offense resulting in physical
44 injury or death of one family or household member by another
45 family or household member. The term also includes inflicting,
46 or attempting to inflict, physical injury against an animal
47 owned, possessed, leased, kept, or held by one family or
48 household member by another family or household member, or
49 placing a family or household member in fear of physical harm to
50 an animal owned, possessed, leased, kept, or held by that family
51 or household member.

52 Section 2. Paragraph (a) of subsection (6) of section
53 741.30, Florida Statutes, is amended to read:

54 741.30 Domestic violence; injunction; powers and duties of
55 court and clerk; petition; notice and hearing; temporary
56 injunction; issuance of injunction; statewide verification
57 system; enforcement.—

58 (6) (a) Upon notice and hearing, when it appears to the

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59 court that the petitioner is either the victim of domestic
60 violence as defined by s. 741.28 or has reasonable cause to
61 believe he or she is in imminent danger of becoming a victim of
62 domestic violence, the court may grant such relief as the court
63 deems proper, including an injunction:

64 1. Restraining the respondent from committing any acts of
65 domestic violence.

66 2. Awarding to the petitioner the exclusive use and
67 possession of the dwelling that the parties share or excluding
68 the respondent from the residence of the petitioner.

69 3. On the same basis as provided in chapter 61, providing
70 the petitioner with 100 percent of the time-sharing in a
71 temporary parenting plan that shall remain in effect until the
72 order expires or an order is entered by a court of competent
73 jurisdiction in a pending or subsequent civil action or
74 proceeding affecting the placement of, access to, parental time
75 with, adoption of, or parental rights and responsibilities for
76 the minor child.

77 4. On the same basis as provided in chapter 61,
78 establishing temporary support for a minor child or children or
79 the petitioner. An order of temporary support remains in effect
80 until the order expires or an order is entered by a court of
81 competent jurisdiction in a pending or subsequent civil action
82 or proceeding affecting child support.

83 5. Ordering the respondent to participate in treatment,
84 intervention, or counseling services to be paid for by the
85 respondent. When the court orders the respondent to participate
86 in a batterers' intervention program, the court, or any entity
87 designated by the court, must provide the respondent with a list

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88 of all certified batterers' intervention programs and all
89 programs which have submitted an application to the Department
90 of Children and Family Services to become certified under s.
91 741.32, from which the respondent must choose a program in which
92 to participate. If there are no certified batterers'
93 intervention programs in the circuit, the court shall provide a
94 list of acceptable programs from which the respondent must
95 choose a program in which to participate.

96 6. Referring a petitioner to a certified domestic violence
97 center. The court must provide the petitioner with a list of
98 certified domestic violence centers in the circuit which the
99 petitioner may contact.

100 7. Granting to the petitioner the exclusive care, custody,
101 or control of any animal owned, possessed, leased, kept, or held
102 by the petitioner, the respondent, or a minor child residing in
103 the residence or household of the petitioner or the respondent;
104 ordering the respondent to stay away from the animal; or
105 forbidding the respondent from taking, transferring,
106 encumbering, concealing, harming, or otherwise disposing of the
107 animal.

108 ~~8.7.~~ Ordering such other relief as the court deems
109 necessary for the protection of a victim of domestic violence,
110 including injunctions or directives to law enforcement agencies,
111 as provided in this section.

112 Section 3. Paragraph (a) of subsection (4) of section
113 741.31, Florida Statutes, is amended to read:

114 741.31 Violation of an injunction for protection against
115 domestic violence.—

116 (4) (a) A person who willfully violates an injunction for

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117 protection against domestic violence issued pursuant to s.
118 741.30, or a foreign protection order accorded full faith and
119 credit pursuant to s. 741.315, by:

- 120 1. Refusing to vacate the dwelling that the parties share;
- 121 2. Going to, or being within 500 feet of, the petitioner's
122 residence, school, place of employment, or a specified place
123 frequented regularly by the petitioner and any named family or
124 household member;
- 125 3. Committing an act of domestic violence against the
126 petitioner;
- 127 4. Committing any other violation of the injunction through
128 an intentional unlawful threat, word, or act to do violence to
129 the petitioner;
- 130 5. Telephoning, contacting, or otherwise communicating with
131 the petitioner directly or indirectly, unless the injunction
132 specifically allows indirect contact through a third party;
- 133 6. Knowingly and intentionally coming within 100 feet of
134 the petitioner's motor vehicle, whether or not that vehicle is
135 occupied;
- 136 7. Defacing or destroying the petitioner's personal
137 property, including the petitioner's motor vehicle; ~~or~~
- 138 8. Refusing to surrender firearms or ammunition if ordered
139 to do so by the court; or
- 140 9. Knowingly and intentionally injuring or threatening to
141 injure any animal owned, possessed, leased, kept, or held by the
142 petitioner, the respondent, or a minor child of the petitioner
143 or respondent,

144
145 commits a misdemeanor of the first degree, punishable as

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146 provided in s. 775.082 or s. 775.083.

147 Section 4. For the purpose of incorporating the amendment
148 made by this act to section 741.30, Florida Statutes, in a
149 reference thereto, subsection (3) of section 61.1825, Florida
150 Statutes, is reenacted to read:

151 61.1825 State Case Registry.—

152 (3) (a) For the purpose of this section, a family violence
153 indicator must be placed on a record when:

154 1. A party executes a sworn statement requesting that a
155 family violence indicator be placed on that party's record which
156 states that the party has reason to believe that release of
157 information to the Federal Case Registry may result in physical
158 or emotional harm to the party or the child; or

159 2. A temporary or final injunction for protection against
160 domestic violence has been granted pursuant to s. 741.30(6), an
161 injunction for protection against domestic violence has been
162 issued by a court of a foreign state pursuant to s. 741.315, or
163 a temporary or final injunction for protection against repeat
164 violence has been granted pursuant to s. 784.046; or

165 3. The department has received information on a Title IV-D
166 case from the Domestic Violence and Repeat Violence Injunction
167 Statewide Verification System, established pursuant to s.
168 784.046(8) (b), that a court has granted a party a domestic
169 violence or repeat violence injunction.

170 (b) Before the family violence indicator can be removed
171 from a record, the protected person must be afforded notice and
172 an opportunity to appear before the court on the issue of
173 whether the disclosure will result in harm.

174 Section 5. For the purpose of incorporating the amendment

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175 made by this act to section 741.31, Florida Statutes, in a
176 reference thereto, subsection (7) of section 901.15, Florida
177 Statutes, is reenacted to read:

178 901.15 When arrest by officer without warrant is lawful.—A
179 law enforcement officer may arrest a person without a warrant
180 when:

181 (7) There is probable cause to believe that the person has
182 committed an act of domestic violence, as defined in s. 741.28,
183 or dating violence, as provided in s. 784.046. The decision to
184 arrest shall not require consent of the victim or consideration
185 of the relationship of the parties. It is the public policy of
186 this state to strongly discourage arrest and charges of both
187 parties for domestic violence or dating violence on each other
188 and to encourage training of law enforcement and prosecutors in
189 these areas. A law enforcement officer who acts in good faith
190 and exercises due care in making an arrest under this
191 subsection, under s. 741.31(4) or s. 784.047, or pursuant to a
192 foreign order of protection accorded full faith and credit
193 pursuant to s. 741.315, is immune from civil liability that
194 otherwise might result by reason of his or her action.

195 Section 6. This act shall take effect July 1, 2012.