

By the Committees on Budget Subcommittee on Criminal and Civil Justice Appropriations; and Criminal Justice; and Senators Simmons and Storms

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1 A bill to be entitled
2 An act relating to stalking; amending s. 741.315,
3 F.S.; providing that additional types of injunctions
4 issued by a court of a foreign state shall be accorded
5 full faith and credit by the courts of this state and
6 enforced as if they were orders issued under specified
7 provisions; amending s. 784.048, F.S.; redefining the
8 terms "course of conduct" and "credible threat";
9 providing that a person who makes a threat that places
10 another person in reasonable fear for his or her
11 safety or the safety of his or her family members or
12 individuals closely associated with the person commits
13 the offense of aggravated stalking under certain
14 circumstances; providing criminal penalties; requiring
15 that the sentencing court consider issuing an order
16 restraining a defendant from any contact with the
17 victim for up to 10 years; providing legislative
18 intent regarding the length of any such restraining
19 order; creating s. 784.0485, F.S.; creating a civil
20 cause of action for an injunction for protection
21 against stalking or cyberstalking; providing that a
22 victim of stalking or cyberstalking or a parent or
23 legal guardian on behalf of a minor child victim has
24 standing in the circuit court to file a sworn petition
25 for an injunction for protection against stalking or
26 cyberstalking; prohibiting a court from issuing mutual
27 orders of protection, but authorizing the court to
28 issue a separate injunction for protection against
29 stalking or cyberstalking if each party has complied

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30 with the provisions of law; providing for venue of the
31 cause of action; prohibiting the clerk of the court
32 from assessing a filing fee; providing an exception;
33 providing that a petitioner is not required to post a
34 bond; requiring the clerks of court to assist
35 petitioners in filing petitions with the court;
36 requiring the clerk of the court in each county to
37 make available informational brochures; providing a
38 sample petition for an injunction for protection
39 against stalking or cyberstalking; authorizing the
40 court to grant a temporary injunction ex parte,
41 pending a full hearing, under certain circumstances;
42 authorizing the court to grant such relief as the
43 court deems necessary and proper; providing procedures
44 for an ex parte injunction hearing; setting forth the
45 criteria the court must consider at the hearing;
46 requiring the court to allow an advocate from a state
47 attorney's office, law enforcement agency, certified
48 domestic violence center, or certified rape crisis
49 center to be present with the petitioner or respondent
50 during any court proceeding; requiring the clerk of
51 the court to furnish a copy of the petition, notice of
52 hearing, and temporary injunction, if any, to the
53 sheriff or a law enforcement agency of the county
54 where the respondent resides or can be found, who
55 shall serve it upon the respondent as soon thereafter
56 as possible on any day of the week and at any time of
57 the day or night; authorizing the court to order a law
58 enforcement officer to accompany the petitioner;

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59 authorizing the court to enforce a violation of an
60 injunction for protection against stalking or
61 cyberstalking through a civil or criminal contempt
62 proceeding; authorizing a state attorney to use
63 criminal procedures for a violation of an injunction
64 for protection; creating s. 784.0487, F.S.; providing
65 procedures to follow when the respondent has violated
66 the injunction for protection; providing criminal
67 penalties; providing that a court may award a person
68 who suffers an injury or loss as a result of a
69 violation of an injunction for protection against
70 stalking or cyberstalking economic damages for that
71 injury or loss, including costs and attorney fees for
72 enforcement of the injunction; amending s. 790.233,
73 F.S.; providing that a person may not have in his or
74 her possession any firearm or ammunition if a final
75 injunction is currently in force to restrain that
76 person from committing acts of stalking or
77 cyberstalking; providing criminal penalties; providing
78 an effective date.

79
80 Be It Enacted by the Legislature of the State of Florida:

81
82 Section 1. Subsection (2) of section 741.315, Florida
83 Statutes, is amended to read:

84 741.315 Recognition of foreign protection orders.—

85 (2) Pursuant to 18 U.S.C. s. 2265, an injunction for
86 protection against domestic violence issued by a court of a
87 foreign state must be accorded full faith and credit by the

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88 courts of this state and enforced by a law enforcement agency as
89 if it were the order of a Florida court issued under s. 741.30,
90 s. 741.31, s. 784.046, ~~or~~ s. 784.047, s. 784.0485, or s.
91 784.0487, and provided that the court had jurisdiction over the
92 parties and the matter and that reasonable notice and
93 opportunity to be heard was given to the person against whom the
94 order is sought sufficient to protect that person's right to due
95 process. Ex parte foreign injunctions for protection are not
96 eligible for enforcement under this section unless notice and
97 opportunity to be heard have been provided within the time
98 required by the foreign state or tribal law, and in any event
99 within a reasonable time after the order is issued, sufficient
100 to protect the respondent's due process rights.

101 Section 2. Section 784.048, Florida Statutes, is amended to
102 read:

103 784.048 Stalking; definitions; penalties.—

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

105 (a) "Harass" means to engage in a course of conduct
106 directed at a specific person which ~~that~~ causes substantial
107 emotional distress to that ~~in such~~ person and serves no
108 legitimate purpose.

109 (b) "Course of conduct" means a pattern of conduct composed
110 of a series of acts over a period of time, however short, which
111 evidences ~~evidencing~~ a continuity of purpose. The term does not
112 include constitutionally protected activity such as ~~is not~~
113 ~~included within the meaning of "course of conduct."~~ Such
114 ~~constitutionally protected activity includes~~ picketing or other
115 organized protests.

116 (c) "Credible threat" means a verbal or nonverbal threat,

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117 or a combination of the two, including threats delivered by
118 electronic communication or implied by a pattern of conduct,
119 which places the person who is the target of the threat in
120 reasonable fear for his or her safety or the safety of his or
121 her family members or individuals closely associated with the
122 person, and which is made with the apparent ability to carry out
123 the threat to cause such harm. It is not necessary to prove that
124 the person making the threat had the intent to actually carry
125 out the threat. The present incarceration of the person making
126 the threat is not a bar to prosecution under this section ~~made~~
127 ~~with the intent to cause the person who is the target of the~~
128 ~~threat to reasonably fear for his or her safety. The threat must~~
129 ~~be against the life of, or a threat to cause bodily injury to, a~~
130 ~~person.~~

131 (d) "Cyberstalk" means to engage in a course of conduct to
132 communicate, or to cause to be communicated, words, images, or
133 language by or through the use of electronic mail or electronic
134 communication, directed at a specific person, causing
135 substantial emotional distress to that person and serving no
136 legitimate purpose.

137 (2) A ~~Any~~ person who willfully, maliciously, and repeatedly
138 follows, harasses, or cyberstalks another person commits the
139 offense of stalking, a misdemeanor of the first degree,
140 punishable as provided in s. 775.082 or s. 775.083.

141 (3) A ~~Any~~ person who willfully, maliciously, and repeatedly
142 follows, harasses, or cyberstalks another person, ~~and makes a~~
143 credible threat to that person ~~with the intent to place that~~
144 ~~person in reasonable fear of death or bodily injury of the~~
145 ~~person, or the person's child, sibling, spouse, parent, or~~

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146 ~~dependent,~~ commits the offense of aggravated stalking, a felony
147 of the third degree, punishable as provided in s. 775.082, s.
148 775.083, or s. 775.084.

149 (4) A ~~Any~~ person who, after an injunction for protection
150 against repeat violence, sexual violence, or dating violence
151 pursuant to s. 784.046, or an injunction for protection against
152 domestic violence pursuant to s. 741.30, or after any other
153 court-imposed prohibition of conduct toward the subject person
154 or that person's property, knowingly, willfully, maliciously,
155 and repeatedly follows, harasses, or cyberstalks another person
156 commits the offense of aggravated stalking, a felony of the
157 third degree, punishable as provided in s. 775.082, s. 775.083,
158 or s. 775.084.

159 (5) A ~~Any~~ person who willfully, maliciously, and repeatedly
160 follows, harasses, or cyberstalks a child ~~minor~~ under 16 years
161 of age commits the offense of aggravated stalking, a felony of
162 the third degree, punishable as provided in s. 775.082, s.
163 775.083, or s. 775.084.

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

167 (7) A ~~Any~~ person who, after having been sentenced for a
168 violation of s. 794.011, s. 800.04, or s. 847.0135(5) and
169 prohibited from contacting the victim of the offense under s.
170 921.244, willfully, maliciously, and repeatedly follows,
171 harasses, or cyberstalks the victim commits the offense of
172 aggravated stalking, a felony of the third degree, punishable as
173 provided in s. 775.082, s. 775.083, or s. 775.084.

174 (8) The punishment imposed under this section shall run

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175 consecutive to any former sentence imposed for a conviction for
176 any offense under s. 794.011, s. 800.04, or s. 847.0135(5).

177 (9) (a) The sentencing court shall consider, as a part of
178 any sentence, issuing an order restraining the defendant from
179 any contact with the victim, which may be valid for up to 10
180 years, as determined by the court. It is the intent of the
181 Legislature that the length of any such order be based upon the
182 seriousness of the facts before the court, the probability of
183 future violations by the perpetrator, and the safety of the
184 victim and his or her family members or individuals closely
185 associated with the victim.

186 (b) The order may be issued by the court even if the
187 defendant is sentenced to a state prison or a county jail or
188 even if the imposition of the sentence is suspended and the
189 defendant is placed on probation.

190 Section 3. Section 784.0485, Florida Statutes, is created
191 to read:

192 784.0485 Stalking; injunction; powers and duties of court
193 and clerk; petition; notice and hearing; temporary injunction;
194 issuance of injunction; statewide verification system;
195 enforcement.-

196 (1) There is created a cause of action for an injunction
197 for protection against stalking. For the purposes of injunctions
198 for protection against stalking under this section, the offense
199 of stalking shall include the offense of cyberstalking.

200 (a) A person who is the victim of stalking or the parent or
201 legal guardian of a minor child who is living at home who seeks
202 an injunction for protection against stalking on behalf of the
203 minor child has standing in the circuit court to file a sworn

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204 petition for an injunction for protection against stalking.

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

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

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

213 (e) The court may not issue mutual orders of protection;
214 however, the court is not precluded from issuing separate
215 injunctions for protection against stalking if each party has
216 complied with this section. Compliance with this section may not
217 be waived.

218 (f) Notwithstanding chapter 47, a petition for an
219 injunction for protection against stalking may be filed in the
220 circuit where the petitioner currently or temporarily resides,
221 where the respondent resides, or where the stalking occurred.
222 There is no minimum requirement of residency to petition for an
223 injunction for protection.

224 (2) (a) Notwithstanding any other law, the clerk of court
225 may not assess a filing fee to file a petition for protection
226 against stalking. However, subject to legislative appropriation,
227 the clerk of the circuit court may, on a quarterly basis, submit
228 to the Office of the State Courts Administrator a certified
229 request for reimbursement for petitions for protection against
230 stalking issued by the court, at the rate of \$40 per petition.
231 The request for reimbursement shall be submitted in the form and
232 manner prescribed by the Office of the State Courts

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233 Administrator. From this reimbursement, the clerk shall pay any
234 law enforcement agency serving the injunction the fee requested
235 by the law enforcement agency; however, this fee may not exceed
236 \$20.

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

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

242 2. All offices of the clerk of the court shall provide
243 simplified petition forms for the injunction and any
244 modifications to and the enforcement thereof, including
245 instructions for completion.

246 3. The clerk of the court shall ensure the petitioner's
247 privacy to the extent practicable while completing the forms for
248 an injunction for protection against stalking.

249 4. The clerk of the court shall provide a petitioner with a
250 minimum of two certified copies of the order of injunction, one
251 of which is serviceable and will inform the petitioner of the
252 process for service and enforcement.

253 5. The clerk of the court and appropriate staff in each
254 county shall receive training in the effective assistance of
255 petitioners as provided or approved by the Florida Association
256 of Court Clerks and Comptrollers.

257 6. The clerk of the court in each county shall make
258 available informational brochures on stalking when such a
259 brochure is provided by the local certified domestic violence
260 center or certified rape crisis center.

261 7. The clerk of the court in each county shall distribute a

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262 statewide uniform informational brochure to petitioners at the
263 time of filing for an injunction for protection against stalking
264 when such brochures become available. The brochure must include
265 information about the effect of giving the court false
266 information.

267 (3) (a) The sworn petition shall allege the existence of
268 such stalking and shall include the specific facts and
269 circumstances for which relief is sought.

270 (b) The sworn petition shall be in substantially the
271 following form:

272
273 PETITION FOR INJUNCTION FOR PROTECTION AGAINST
274 STALKING

275
276 Before me, the undersigned authority, personally
277 appeared Petitioner ... (Name) ..., who has been sworn
278 and says that the following statements are true:

279
280 1. Petitioner resides at: ... (address) ...

281 (Petitioner may furnish the address to the court in a
282 separate confidential filing if, for safety reasons,
283 the petitioner requires the location of the current
284 residence to be confidential.)

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

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

288 4. Physical description of respondent:

289 5. Race:

290 6. Sex:

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- 291 7. Date of birth:
- 292 8. Height:
- 293 9. Weight:
- 294 10. Eye color:
- 295 11. Hair color:
- 296 12. Distinguishing marks or scars:
- 297 13. Aliases of respondent:

298

299 (c) The petitioner shall describe any other cause of action
 300 currently pending between the petitioner and respondent. The
 301 petitioner shall also describe any previous attempt by the
 302 petitioner to obtain an injunction for protection against
 303 stalking in this or any other circuit, and the result of that
 304 attempt. (Case numbers should be included, if available.)

305 (d) The petition must provide space for the petitioner to
 306 specifically allege that he or she is a victim of stalking
 307 because respondent has:

308

309 (Mark all sections that apply and describe in the
 310 spaces below the incidents of stalking specifying when
 311 and where they occurred, including, but not limited
 312 to, locations such as a home, school, or place of
 313 employment.)

314

315 Committed stalking.

316 Previously threatened, harassed, stalked,
 317 cyberstalked, or physically abused the petitioner.

318 Threatened to harm the petitioner or family members or
 319 individuals closely associated with the petitioner.

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320 Intentionally injured or killed a family pet.

321 Used, or threatened to use, against the petitioner any
322 weapons such as guns or knives.

323 A criminal history involving violence or the threat of
324 violence, if known.

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

327 Destroyed personal property, including, but not
328 limited to, telephones or other communication equipment,
329 clothing, or other items belonging to the petitioner.

330 (e) The petitioner seeks an injunction:

331
332 (Mark appropriate section or sections.)

333
334 Immediately restraining the respondent from committing
335 any acts of stalking.

336 Restraining the respondent from committing any acts of
337 stalking.

338 Providing any terms the court deems necessary for the
339 protection of a victim of stalking, including any injunctions or
340 directives to law enforcement agencies.

341 (f) Every petition for an injunction against stalking must
342 contain, directly above the signature line, a statement in all
343 capital letters and bold type not smaller than the surrounding
344 text, as follows:

345
346 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
347 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT
348 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE

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349 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN
350 SECTION 837.02, FLORIDA STATUTES.

351
352 ...(initials)...

353
354 (4) Upon the filing of the petition, the court shall set a
355 hearing to be held at the earliest possible time. The respondent
356 shall be personally served with a copy of the petition, notice
357 of hearing, and temporary injunction, if any, before the
358 hearing.

359 (5) (a) If it appears to the court that stalking exists, the
360 court may grant a temporary injunction ex parte, pending a full
361 hearing, and may grant such relief as the court deems proper,
362 including an injunction restraining the respondent from
363 committing any act of stalking.

364 (b) In a hearing ex parte for the purpose of obtaining such
365 ex parte temporary injunction, evidence other than verified
366 pleadings or affidavits may not be used as evidence, unless the
367 respondent appears at the hearing or has received reasonable
368 notice of the hearing. A denial of a petition for an ex parte
369 injunction shall be by written order noting the legal grounds
370 for denial. If the only ground for denial is no appearance of an
371 immediate and present danger of stalking, the court shall set a
372 full hearing on the petition for injunction with notice at the
373 earliest possible time. This paragraph does not affect a
374 petitioner's right to promptly amend any petition, or otherwise
375 be heard in person on any petition consistent with the Florida
376 Rules of Civil Procedure.

377 (c) Any such ex parte temporary injunction is effective for

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378 a fixed period not to exceed 15 days. A full hearing, as
379 provided in this section, shall be set for a date no later than
380 the date when the temporary injunction ceases to be effective.
381 The court may grant a continuance of the hearing before or
382 during a hearing for good cause shown by any party, which shall
383 include a continuance to obtain service of process. An
384 injunction shall be extended if necessary to remain in full
385 force and effect during any period of continuance.

386 (6) (a) Upon notice and hearing, when it appears to the
387 court that the petitioner is the victim of stalking, the court
388 may grant such relief as the court deems proper, including an
389 injunction:

390 1. Restraining the respondent from committing any act of
391 stalking.

392 2. Ordering the respondent to participate in treatment,
393 intervention, or counseling services to be paid for by the
394 respondent.

395 3. Referring a petitioner to appropriate services. The
396 court may provide the petitioner with a list of certified
397 domestic violence centers, certified rape crisis centers, and
398 other appropriate referrals in the circuit which the petitioner
399 may contact.

400 4. Ordering such other relief as the court deems necessary
401 for the protection of a victim of stalking, including
402 injunctions or directives to law enforcement agencies, as
403 provided in this section.

404 (b) The terms of an injunction restraining the respondent
405 under subparagraph (a)1. or ordering other relief for the
406 protection of the victim under subparagraph (a)4. shall remain

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407 in effect until modified or dissolved. Either party may move at
408 any time to modify or dissolve the injunction. Specific
409 allegations are not required. Such relief may be granted in
410 addition to other civil or criminal remedies.

411 (c) A temporary or final judgment on injunction for
412 protection against stalking entered pursuant to this section
413 shall, on its face, indicate:

414 1. That the injunction is valid and enforceable in all
415 counties of this state.

416 2. That law enforcement officers may use their arrest
417 powers pursuant to s. 901.15(6) to enforce the terms of the
418 injunction.

419 3. That the court has jurisdiction over the parties and
420 matter under the laws of this state and that reasonable notice
421 and opportunity to be heard was given to the person against whom
422 the order is sought sufficient to protect that person's right to
423 due process.

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

426 (d) The fact that a separate order of protection is granted
427 to each opposing party is not legally sufficient to deny any
428 remedy to either party or to prove that the parties are equally
429 at fault or equally endangered.

430 (e) A final judgment on an injunction for protection
431 against stalking entered pursuant to this section must, on its
432 face, provide that it is a violation of s. 790.233 and a
433 misdemeanor of the first degree for the respondent to have in
434 his or her care, custody, possession, or control any firearm or
435 ammunition.

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436 (f) All proceedings under this subsection shall be
437 recorded. Recording may be by electronic means as provided by
438 the Rules of Judicial Administration.

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

446 (8) (a) 1. The clerk of the court shall furnish a copy of the
447 petition, notice of hearing, and temporary injunction, if any,
448 to the sheriff or a law enforcement agency of the county where
449 the respondent resides or can be found, who shall serve it upon
450 the respondent as soon thereafter as possible on any day of the
451 week and at any time of the day or night. When requested by the
452 sheriff, the clerk of the court may transmit a facsimile copy of
453 an injunction that has been certified by the clerk of the court,
454 and this facsimile copy may be served in the same manner as a
455 certified copy. Upon receiving a facsimile copy, the sheriff
456 must verify receipt with the sender before attempting to serve
457 it on the respondent. In addition, if the sheriff is in
458 possession of an injunction for protection that has been
459 certified by the clerk of the court, the sheriff may transmit a
460 facsimile copy of that injunction to a law enforcement officer
461 who shall serve it in the same manner as a certified copy. The
462 clerk of the court shall furnish to the sheriff such information
463 concerning the respondent's physical description and location as
464 is required by the Department of Law Enforcement to comply with

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465 the verification procedures set forth in this section.
466 Notwithstanding any other law, the chief judge of each circuit,
467 in consultation with the appropriate sheriff, may authorize a
468 law enforcement agency within the jurisdiction to effect
469 service. A law enforcement agency serving injunctions pursuant
470 to this section shall use service and verification procedures
471 consistent with those of the sheriff.

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

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

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494 certification to be placed in the court file specifying the
495 time, date, and method of service and shall notify the sheriff.

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

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

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

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

520 4. Within 24 hours after the sheriff or other law
521 enforcement officer has made service upon the respondent and the
522 sheriff has been so notified, the sheriff must make information

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523 relating to the service available to other law enforcement
524 agencies by electronically transmitting such information to the
525 Department of Law Enforcement.

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

534 (9) (a) The court may enforce a violation of an injunction
535 for protection against stalking through a civil or criminal
536 contempt proceeding, or the state attorney may prosecute it as a
537 criminal violation under s. 784.0487. Any assessments or fines
538 ordered by the court enforcing such an injunction shall be
539 collected by the clerk of the court and transferred on a monthly
540 basis to the State Treasury for deposit into the Domestic
541 Violence Trust Fund.

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

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

551 Section 4. Section 784.0487, Florida Statutes, is created

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552 to read:

553 784.0487 Violation of an injunction for protection against
554 stalking or cyberstalking.-

555 (1) If the injunction for protection against stalking or
556 cyberstalking has been violated and the respondent has not been
557 arrested, the petitioner may contact the clerk of the circuit
558 court of the county in which the violation is alleged to have
559 occurred. The clerk shall assist the petitioner in preparing an
560 affidavit in support of reporting the violation or directing the
561 petitioner to the office operated by the court that has been
562 designated by the chief judge of that circuit as the central
563 intake point for violations of injunctions for protection where
564 the petitioner can receive assistance in the preparation of the
565 affidavit in support of the violation.

566 (2) The affidavit shall be immediately forwarded by the
567 office assisting the petitioner to the state attorney of that
568 circuit and to such judge as the chief judge determines to be
569 the recipient of affidavits of violations of an injunction. If
570 the affidavit alleges that a crime has been committed, the
571 office assisting the petitioner shall also forward a copy of the
572 petitioner's affidavit to the appropriate law enforcement agency
573 for investigation. No later than 20 days after receiving the
574 initial report, the local law enforcement agency shall complete
575 its investigation and forward a report to the state attorney.
576 The policy adopted by the state attorney in each circuit under
577 s. 741.2901(2) shall include a policy regarding intake of
578 alleged violations of injunctions for protection against
579 stalking or cyberstalking under this section. The intake shall
580 be supervised by a state attorney who has been designated and

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581 assigned to handle stalking or cyberstalking cases. The state
582 attorney shall determine within 30 working days whether his or
583 her office will file criminal charges or prepare a motion for an
584 order to show cause as to why the respondent should not be held
585 in criminal contempt, or prepare both as alternative findings,
586 or file notice that the case remains under investigation or is
587 pending subject to some other action.

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

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

601 (a) Going to, or being within 500 feet of, the petitioner's
602 residence, school, place of employment, or a specified place
603 frequented regularly by the petitioner and any named family
604 members or individuals closely associated with the petitioner;

605 (b) Committing an act of stalking against the petitioner;

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

609 (d) Telephoning, contacting, or otherwise communicating

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610 with the petitioner, directly or indirectly, unless the
611 injunction specifically allows indirect contact through a third
612 party;

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

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

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

620
621 commits a misdemeanor of the first degree, punishable as
622 provided in s. 775.082 or s. 775.083.

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

628 Section 5. Section 790.233, Florida Statutes, is amended to
629 read:

630 790.233 Possession of firearm or ammunition prohibited when
631 person is subject to an injunction against committing acts of
632 domestic violence, stalking, or cyberstalking; penalties.-

633 (1) A person may not have in his or her care, custody,
634 possession, or control any firearm or ammunition if the person
635 has been issued a final injunction that is currently in force
636 and effect, restraining that person from committing acts of
637 domestic violence, as and that has been issued under s. 741.30
638 or from committing acts of stalking or cyberstalking, as issued

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639 under s. 784.0485.

640 (2) A person who violates subsection (1) commits a
641 misdemeanor of the first degree, punishable as provided in s.
642 775.082 or s. 775.083.

643 (3) It is the intent of the Legislature that the
644 disabilities regarding possession of firearms and ammunition are
645 consistent with federal law. Accordingly, this section does
646 ~~shall~~ not apply to a state or local officer as defined in s.
647 943.10(14), holding an active certification, who receives or
648 possesses a firearm or ammunition for use in performing official
649 duties on behalf of the officer's employing agency, unless
650 otherwise prohibited by the employing agency.

651 Section 6. This act shall take effect October 1, 2012.