

By Senator Detert

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1 A bill to be entitled
2 An act relating to service of process; amending s.
3 30.231, F.S.; requiring sheriffs to charge a uniform
4 fee for service of process; amending s. 48.031, F.S.;
5 requiring an employer, employee, or representative or
6 agent of an employer to permit an authorized
7 individual to make service on an employee in a private
8 area designated by the employer; providing criminal
9 penalties for persons failing to comply with the
10 process; authorizing substitute service during the
11 first attempt of service at a business that is a sole
12 proprietorship under certain circumstances; requiring
13 the person requesting service or the person authorized
14 to serve the process to file the return-of-service
15 form; amending s. 56.27, F.S.; requiring the levying
16 creditor to deliver to the sheriff an affidavit
17 setting forth how to pay out moneys received under an
18 execution sale; providing that the sheriff is not
19 liable for damages under certain circumstances;
20 amending s. 394.463, F.S.; requiring a mental health
21 receiving facility to accept an electronic order for
22 involuntary examination served by a law enforcement
23 agency; amending s. 397.6818, F.S.; requiring a
24 substance abuse licensed service provider to accept an
25 electronic order for involuntary assessment and
26 stabilization which is served by a law enforcement
27 agency on the service provider; establishing
28 procedures to serve process; amending s. 608.463,
29 F.S.; providing that service of process on a limited

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30 liability company occurs as if it were a corporation;
31 amending s. 741.30, F.S.; setting forth the
32 effectiveness of a temporary injunction in a domestic
33 violence proceeding; amending ss. 741.31, 784.046, and
34 784.0485, F.S.; requiring that if a final order of
35 injunction for protection against domestic violence,
36 dating violence, or stalking is issued but not served,
37 the terms of the temporary injunction, if served,
38 remain in full force and effect until service of the
39 final order is effected upon the respondent; amending
40 s. 784.0487, F.S.; providing that it is unlawful for a
41 person to violate a final injunction for protection
42 against stalking or cyberstalking by having in his or
43 her care, custody, possession, or control any firearm
44 or ammunition; amending s. 901.15, F.S.; conforming
45 provisions; expanding situations in which an arrest
46 without a warrant is lawful to include probable cause
47 of stalking, cyberstalking, and child abuse; providing
48 an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Paragraph (a) of subsection (1) of section
53 30.231, Florida Statutes, is amended to read:

54 30.231 Sheriffs' fees for service of summons, subpoenas,
55 and executions.—

56 (1) The sheriffs of all counties of the state in civil
57 cases shall charge fixed, nonrefundable fees for ~~docketing and~~
58 service of process, according to the following schedule:

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59 (a) All summons or writs except executions: \$40 for each
60 summons or writ to be served, ~~except when more than one summons~~
61 ~~or writ is issued at the same time out of the same cause of~~
62 ~~action to be served upon one person or defendant at the same~~
63 ~~time, in which case the sheriff shall be entitled to one fee.~~

64 Section 2. Paragraph (b) of subsection (1), paragraph (b)
65 of subsection (2), and subsection (5) of section 48.031, Florida
66 Statutes, are amended to read:

67 48.031 Service of process generally; service of witness
68 subpoenas.—

69 (1)

70 (b) An employer ~~Employers~~, employee, or a representative or
71 agent of the employer, when contacted by an individual
72 authorized to make service of process, must ~~shall~~ permit the
73 authorized individual to make service on employees in a private
74 area designated by the employer. If the employer, employee, or a
75 representative or agent of the employer fails to comply with
76 this paragraph, he or she commits a misdemeanor of the first
77 degree, punishable as provided in s. 775.082 or s. 775.083.

78 (2)

79 (b) Substitute service may be made on an individual doing
80 business as a sole proprietorship at his or her place of
81 business, during regular business hours, by serving the person
82 in charge of the business during the first attempt of service
83 even if the owner is temporarily absent from his or her office
84 ~~at the time of service if two or more attempts to serve the~~
85 ~~owner have been made at the place of business.~~

86 (5) A person serving process shall place, on the first page
87 of at least one of the processes served, the date and time of

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88 service and his or her identification number and initials for
89 all service of process. The person serving process shall list on
90 the return-of-service form all initial pleadings delivered and
91 served along with the process. The person requesting service or
92 the person authorized to serve ~~issuing~~ the process shall file
93 the return-of-service form with the court.

94 Section 3. Paragraph (d) is added to subsection (4) of
95 section 56.27, Florida Statutes, to read:

96 56.27 Executions; payment of money collected.—

97 (4) Before the date of the first publication or posting of
98 the notice of sale provided for under s. 56.21, at the time of
99 the levy request to the sheriff, the levying creditor shall
100 deliver to the sheriff an affidavit setting forth all of the
101 following as to the judgment debtor:

102 (d) A statement directing the sheriff how to pay out all
103 moneys received under an execution sale pursuant to subsections
104 (1) and (2). The sheriff paying pursuant to the affidavit is not
105 liable to anyone for damages arising from a wrongful levy and
106 pay out.

107 Section 4. Paragraph (a) of subsection (2) of section
108 394.463, Florida Statutes, is amended to read:

109 394.463 Involuntary examination.—

110 (2) INVOLUNTARY EXAMINATION.—

111 (a) An involuntary examination may be initiated by any one
112 of the following means:

113 1. A court may enter an ex parte order stating that a
114 person appears to meet the criteria for involuntary examination,
115 giving the findings on which that conclusion is based. The ex
116 parte order for involuntary examination must be based on sworn

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117 testimony, written or oral. If other less restrictive means are
118 not available, such as voluntary appearance for outpatient
119 evaluation, a law enforcement officer, or other designated agent
120 of the court, shall take the person into custody and deliver him
121 or her to the nearest receiving facility for involuntary
122 examination. If the order was received electronically by the law
123 enforcement agency, the receiving facility shall accept the
124 electronic copy as the executable copy. The order of the court
125 shall be made a part of the patient's clinical record. A fee may
126 not ~~No fee shall~~ be charged for the filing of an order under
127 this subsection. Any receiving facility accepting the patient
128 based on this order shall ~~must~~ send a copy of the order to the
129 Agency for Health Care Administration on the next working day.
130 The order ~~is shall be~~ valid only until executed or, if not
131 executed, for the period specified in the order itself. If no
132 time limit is specified in the order, the order ~~is shall be~~
133 valid for 7 days after the date that the order was signed.

134 2. A law enforcement officer shall take a person who
135 appears to meet the criteria for involuntary examination into
136 custody and deliver the person or have him or her delivered to
137 the nearest receiving facility for examination. The officer
138 shall execute a written report detailing the circumstances under
139 which the person was taken into custody, and the report shall be
140 made a part of the patient's clinical record. Any receiving
141 facility accepting the patient based on this report shall ~~must~~
142 send a copy of the report to the Agency for Health Care
143 Administration on the next working day.

144 3. A physician, clinical psychologist, psychiatric nurse,
145 mental health counselor, marriage and family therapist, or

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146 clinical social worker may execute a certificate stating that he
147 or she has examined a person within the preceding 48 hours and
148 finds that the person appears to meet the criteria for
149 involuntary examination and stating the observations upon which
150 that conclusion is based. If other less restrictive means are
151 not available, such as voluntary appearance for outpatient
152 evaluation, a law enforcement officer shall take the person
153 named in the certificate into custody and deliver him or her to
154 the nearest receiving facility for involuntary examination. The
155 law enforcement officer shall execute a written report detailing
156 the circumstances under which the person was taken into custody.
157 The report and certificate shall be made a part of the patient's
158 clinical record. Any receiving facility accepting the patient
159 based on this certificate shall ~~must~~ send a copy of the
160 certificate to the Agency for Health Care Administration on the
161 next working day.

162 Section 5. Subsection (3) of section 397.6818, Florida
163 Statutes, is amended to read:

164 397.6818 Court determination.—At the hearing initiated in
165 accordance with s. 397.6811(1), the court shall hear all
166 relevant testimony. The respondent must be present unless the
167 court has reason to believe that his or her presence is likely
168 to be injurious to him or her, in which event the court shall
169 appoint a guardian advocate to represent the respondent. The
170 respondent has the right to examination by a court-appointed
171 qualified professional. After hearing all the evidence, the
172 court shall determine whether there is a reasonable basis to
173 believe the respondent meets the involuntary admission criteria
174 of s. 397.675.

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175 (3) If the court finds it necessary, it may order the
176 sheriff to take the respondent into custody and deliver him or
177 her to the licensed service provider specified in the court
178 order or, if none is specified, to the nearest appropriate
179 licensed service provider for involuntary assessment. If the
180 order was received electronically by a law enforcement agency,
181 the receiving licensed service provider shall accept the
182 electronic copy as the executable copy. The order is valid only
183 until executed or, if not executed, for the period specified in
184 the order itself. If no time limit is specified in the order,
185 the order is valid for 7 days after the date that the order was
186 signed.

187 (a) A law enforcement officer acting in accordance with an
188 involuntary assessment and stabilization order issued pursuant
189 to this section may serve and execute such order on any day of
190 the week, at any time of the day or night.

191 (b) A law enforcement officer acting in accordance with an
192 involuntary assessment and stabilization order issued pursuant
193 to this section may use such reasonable physical force as is
194 necessary to gain entry to the premises and any dwellings,
195 buildings, or other structures located on the premises to take
196 custody of the person who is the subject of the involuntary
197 assessment and stabilization order.

198 Section 6. Subsection (1) of section 608.463, Florida
199 Statutes, is amended to read:

200 608.463 Service of process.—

201 (1) Process against a limited liability company may be
202 served:

203 (a) In accordance with chapter 48 or chapter 49, as if the

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204 limited liability company were a corporation ~~partnership~~.

205 (b) Upon the registered agent at the agent's street
206 address.

207 Section 7. Paragraph (c) of subsection (5) of section
208 741.30, Florida Statutes, is amended to read:

209 741.30 Domestic violence; injunction; powers and duties of
210 court and clerk; petition; notice and hearing; temporary
211 injunction; issuance of injunction; statewide verification
212 system; enforcement; public records exemption.-

213 (5)

214 (c) Any such ex parte temporary injunction is ~~shall be~~
215 effective for a fixed period not to exceed 15 days unless a
216 final injunction is issued on the same case, which extends the
217 effectiveness of the temporary injunction until such time as the
218 final injunction is served. A full hearing, as provided by this
219 section, shall be set for a date no later than the date when the
220 temporary injunction ceases to be effective. The court may grant
221 a continuance of the hearing before or during a hearing for good
222 cause shown by any party, which must ~~shall~~ include a continuance
223 to obtain service of process. An ~~Any~~ injunction shall be
224 extended, if necessary, so that it remains ~~to remain~~ in full
225 force and effect during any period of continuance.

226 Section 8. Paragraph (c) is added to subsection (4) of
227 section 741.31, Florida Statutes, to read:

228 741.31 Violation of an injunction for protection against
229 domestic violence.-

230 (4)

231 (c) If a final injunction is issued but has not been
232 served, the terms of the temporary injunction, if served, remain

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233 in full force and effect until service of the final injunction
234 is effected upon the respondent.

235 Section 9. Paragraph (c) of subsection (6) of section
236 784.046, Florida Statutes, is amended to read:

237 784.046 Action by victim of repeat violence, sexual
238 violence, or dating violence for protective injunction; dating
239 violence investigations, notice to victims, and reporting;
240 pretrial release violations; public records exemption.—

241 (6)

242 (c) Any such ex parte temporary injunction is ~~shall be~~
243 effective for a fixed period not to exceed 15 days unless a
244 final injunction is issued on the same case, which extends the
245 effectiveness of the temporary injunction until such time as the
246 final injunction is served. However, an ex parte temporary
247 injunction granted under subparagraph (2)(c)2. is effective for
248 15 days following the date the respondent is released from
249 incarceration unless a final injunction is issued on the same
250 case, which extends the effectiveness of the temporary
251 injunction until such time as the final injunction is served. A
252 full hearing, as provided by this section, shall be set for a
253 date no later than the date when the temporary injunction ceases
254 to be effective. The court may grant a continuance of the ex
255 parte injunction and the full hearing before or during a
256 hearing, for good cause shown by any party.

257 Section 10. Paragraph (c) of subsection (5) of section
258 784.0485, Florida Statutes, is amended to read:

259 784.0485 Stalking; injunction; powers and duties of court
260 and clerk; petition; notice and hearing; temporary injunction;
261 issuance of injunction; statewide verification system;

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262 enforcement.—

263 (5)

264 (c) Any such ex parte temporary injunction is effective for
265 a fixed period not to exceed 15 days unless a final injunction
266 is issued on the same case, which shall extend the effectiveness
267 of the temporary injunction until such time as the final
268 injunction is served. A full hearing, as provided in this
269 section, shall be set for a date no later than the date when the
270 temporary injunction ceases to be effective. The court may grant
271 a continuance of the hearing before or during a hearing for good
272 cause shown by any party, which shall include a continuance to
273 obtain service of process. An injunction shall be extended if
274 necessary, so that it remains ~~to remain~~ in full force and effect
275 during any period of continuance.

276 Section 11. Present subsection (5) of section 784.0487,
277 Florida Statutes, is redesignated as subsection (6), and a new
278 subsection (5) is added to that section, to read:

279 784.0487 Violation of an injunction for protection against
280 stalking or cyberstalking.—

281 (5) A person who violates a final injunction for protection
282 against stalking or cyberstalking by having in his or her care,
283 custody, possession, or control any firearm or ammunition
284 commits a violation of s. 790.233, a misdemeanor of the first
285 degree, punishable as provided in s. 775.082 or s. 775.083.

286 Section 12. Subsections (6) and (7) of section 901.15,
287 Florida Statutes, are amended to read:

288 901.15 When arrest by officer without warrant is lawful.—A
289 law enforcement officer may arrest a person without a warrant
290 when:

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291 (6) There is probable cause to believe that the person has
292 committed a criminal act according to s. 790.233 or according to
293 s. 39.504, s. 741.31, ~~or~~ s. 784.047, or s. 785.0487 which
294 violates an injunction for protection entered pursuant to s.
295 39.504, s. 741.30, ~~or~~ s. 784.046, or s. 784.0485 or a foreign
296 protection order accorded full faith and credit pursuant to s.
297 741.315, over the objection of the petitioner, if necessary.

298 (7) There is probable cause to believe that the person has
299 committed an act of domestic violence, as defined in s. 741.28,
300 ~~or~~ dating violence, repeat violence or sexual violence, as
301 provided in s. 784.046, stalking or cyberstalking as provided in
302 s. 784.048, or an act of child abuse as provided in s. 39.01.

303 The decision to arrest does ~~shall~~ not require consent of the
304 victim or consideration of the relationship of the parties. It
305 is the public policy of this state to strongly discourage arrest
306 and charges of both parties for domestic violence or dating
307 violence on each other and to encourage training of law
308 enforcement and prosecutors in these areas. A law enforcement
309 officer who acts in good faith and exercises due care in making
310 an arrest under this subsection, under s. 39.504, s. 741.31(4),
311 ~~or~~ s. 784.047, or s. 784.0487 or pursuant to a foreign order of
312 protection accorded full faith and credit pursuant to s.
313 741.315, is immune from civil liability that otherwise might
314 result by reason of his or her action.

315 Section 13. This act shall take effect July 1, 2013.