



417306

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2014	.	
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The Committee on Judiciary (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (c) of subsection (5) of section
741.30, Florida Statutes, is amended to read:

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

(5)



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12 (c) Any such ex parte temporary injunction is shall be
13 effective for a fixed period not to exceed 15 days unless, after
14 a full hearing, a final injunction is issued on the same case.
15 In that instance, the temporary injunction, if served, remains
16 in full force and effect until the final injunction is served
17 upon the respondent.

18 (d) A full hearing, as provided by this section, shall be
19 set for a date no later than the date when the ex parte
20 temporary injunction ceases to be effective. The court may grant
21 a continuance of the hearing before or during a hearing for good
22 cause shown by any party. The need to obtain service of process
23 constitutes good cause. A temporary, which shall include a
24 continuance to obtain service of process. Any injunction that is
25 already served must shall be extended, if necessary, so that it
26 remains to remain in full force and effect during any period of
27 continuance.

28 Section 2. Paragraph (c) of subsection (6) of section
29 784.046, Florida Statutes, is amended to read:

30 784.046 Action by victim of repeat violence, sexual
31 violence, or dating violence for protective injunction; dating
32 violence investigations, notice to victims, and reporting;
33 pretrial release violations; public records exemption.-

34 (6)

35 (c) Any such ex parte temporary injunction is shall be
36 effective for a fixed period not to exceed 15 days. ~~However, and~~
37 an ex parte temporary injunction granted under subparagraph
38 (2)(c)2. is effective for 15 days following the date the
39 respondent is released from incarceration unless, after a full
40 hearing, a final injunction is issued on the same case. In that



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41 instance, the temporary injunction, if served, remains in full
42 force and effect until the final injunction is served upon the
43 respondent.

44 (d) A full hearing, as provided by this section, shall be
45 set for a date no later than the date when the ex parte
46 temporary injunction ceases to be effective. The court may grant
47 a continuance of the ~~ex parte injunction and the full~~ hearing
48 before or during a hearing, for good cause shown by any party.
49 The need to obtain service of process constitutes good cause. A
50 temporary injunction that is already served must be extended, if
51 necessary, so that it remains in full force and effect during
52 any period of continuance.

53 Section 3. Paragraph (c) of subsection (5) of section
54 784.0485, Florida Statutes, is amended to read:

55 784.0485 Stalking; injunction; powers and duties of court
56 and clerk; petition; notice and hearing; temporary injunction;
57 issuance of injunction; statewide verification system;
58 enforcement.-

59 (5)

60 (c) Any such ex parte temporary injunction is effective for
61 a fixed period not to exceed 15 days unless, after a full
62 hearing, a final injunction is issued on the same case. In that
63 instance, the temporary injunction, if served, remains in full
64 force and effect until the final injunction is served upon the
65 respondent.

66 (d) A full hearing, as provided in this section, shall be
67 set for a date no later than the date when the ex parte
68 temporary injunction ceases to be effective. The court may grant
69 a continuance of the hearing before or during a hearing for good



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70 cause shown by any party. The need to obtain service of process
71 constitutes good cause. A temporary, which shall include a
72 continuance to obtain service of process. An injunction that is
73 already served must shall be extended, if necessary, so that it
74 remains to remain in full force and effect during any period of
75 continuance.

76 Section 4. Section 784.047, Florida Statutes, is amended to
77 read:

78 784.047 Penalties for violating protective injunction
79 against violators.-

80 (1) A person who willfully violates an injunction for
81 protection against repeat violence, sexual violence, or dating
82 violence, issued pursuant to s. 784.046, or a foreign protection
83 order accorded full faith and credit pursuant to s. 741.315, by:

84 (a) ~~(1)~~ Refusing to vacate the dwelling that the parties
85 share;

86 (b) ~~(2)~~ Going to, or being within 500 feet of, the
87 petitioner's residence, school, or place of employment, or a
88 specified place frequented regularly by the petitioner or ~~and~~
89 any named family or household member;

90 (c) ~~(3)~~ Committing an act of repeat violence, sexual
91 violence, or dating violence against the petitioner;

92 (d) ~~(4)~~ Committing any other violation of the injunction
93 through an intentional unlawful threat, word, or act to do
94 violence to the petitioner;

95 (e) ~~(5)~~ Telephoning, contacting, or otherwise communicating
96 with the petitioner directly or indirectly, unless the
97 injunction specifically allows indirect contact through a third
98 party;



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99 (f)~~(6)~~ Knowingly and intentionally coming within 100 feet
100 of the petitioner's motor vehicle, whether or not that vehicle
101 is occupied;

102 (g)~~(7)~~ Defacing or destroying the petitioner's personal
103 property, including the petitioner's motor vehicle; or

104 (h)~~(8)~~ Refusing to surrender firearms or ammunition if
105 ordered to do so by the court,

106
107 commits a misdemeanor of the first degree, punishable as
108 provided in s. 775.082 or s. 775.083.

109 (2) A person who violates a final injunction for protection
110 against repeat violence, sexual violence, or dating violence by
111 having in his or her care, custody, possession, or control any
112 firearm or ammunition violates s. 790.233 and commits a
113 misdemeanor of the first degree, punishable as provided in s.
114 775.082 or s. 775.083.

115 Section 5. Subsection (4) of section 784.0487, Florida
116 Statutes, is amended, and subsection (6) is added to that
117 section, to read:

118 784.0487 Violation of an injunction for protection against
119 stalking or cyberstalking.—

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

124 (a) Going to, or being within 500 feet of, the petitioner's
125 residence, school, or place of employment, or a specified place
126 frequented regularly by the petitioner, ~~and~~ any named family
127 members, or individuals closely associated with the petitioner;



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

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

132 (d) Telephoning, contacting, or otherwise communicating
133 with the petitioner, directly or indirectly, unless the
134 injunction specifically allows indirect contact through a third
135 party;

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

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

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

143
144 commits a misdemeanor of the first degree, punishable as
145 provided in s. 775.082 or s. 775.083.

146 (6) A person who violates a final injunction for protection
147 against stalking or cyberstalking by having in his or her care,
148 custody, possession, or control any firearm or ammunition
149 violates s. 790.233 and commits a misdemeanor of the first
150 degree, punishable as provided in s. 775.082 or s. 775.083.

151 Section 6. Section 790.233, Florida Statutes, is amended to
152 read:

153 790.233 Possession of firearm or ammunition prohibited when
154 person is subject to an injunction against committing acts of
155 domestic violence, repeat violence, dating violence, sexual
156 violence, stalking, or cyberstalking; penalties.-



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157 (1) A person may not have in his or her care, custody,
158 possession, or control any firearm or ammunition if the person
159 has been issued a final injunction that is currently in force
160 and effect, restraining that person from committing acts of:

161 (a) Domestic violence, as issued under s. 741.30;

162 (b) Repeat violence, dating violence, or sexual violence,
163 as issued under s. 784.046; or ~~from committing acts of~~

164 (c) Stalking or cyberstalking, as issued under s. 784.0485.

165 (2) A person who violates subsection (1) commits a
166 misdemeanor of the first degree, punishable as provided in s.
167 775.082 or s. 775.083.

168 (3) It is the intent of the Legislature that the
169 disabilities regarding possession of firearms and ammunition are
170 consistent with federal law. Accordingly, this section does not
171 apply to a state or local officer as defined in s. 943.10(14),
172 holding an active certification, who receives or possesses a
173 firearm or ammunition for use in performing official duties on
174 behalf of the officer's employing agency, unless otherwise
175 prohibited by the employing agency.

176 Section 7. Subsections (6) and (7) of section 901.15,
177 Florida Statutes, are amended 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 (6) There is probable cause to believe that the person has
182 committed a criminal act according to s. 790.233 or according to
183 s. 39.504, s. 741.31, ~~or~~ s. 784.047, or s. 784.0487 which
184 violates an injunction for protection entered pursuant to s.
185 39.504, s. 741.30, ~~or~~ s. 784.046, or s. 784.0485, or a foreign



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186 protection order accorded full faith and credit pursuant to s.
187 741.315, over the objection of the petitioner, if necessary.

188 (7) There is probable cause to believe that the person has
189 committed an act of child abuse as provided in s. 39.01; an act
190 of domestic violence, as defined in s. 741.28; an act of,~~or~~
191 dating violence, repeat violence, or sexual violence as provided
192 in s. 784.046; or an act of stalking or cyberstalking as
193 provided in s. 784.0485. The decision to arrest does ~~shall~~ not
194 require consent of the victim or consideration of the
195 relationship of the parties. It is the public policy of this
196 state to strongly discourage arrest and charges of both parties
197 for domestic violence or dating violence on each other and to
198 encourage training of law enforcement and prosecutors in these
199 areas. A law enforcement officer who acts in good faith and
200 exercises due care in making an arrest under this subsection,
201 under s. 39.504, s. 741.31(4), ~~or~~ s. 784.047, or s. 784.0487, or
202 pursuant to a foreign order of protection accorded full faith
203 and credit pursuant to s. 741.315, is immune from civil
204 liability that otherwise might result by reason of his or her
205 action.

206 Section 8. This act shall take effect October 1, 2014.

207
208 ===== T I T L E A M E N D M E N T =====

209 And the title is amended as follows:

210 Delete everything before the enacting clause
211 and insert:

212 A bill to be entitled
213 An act relating to protective orders; amending ss.
214 741.30, 784.046, and 784.0485, F.S.; extending the



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215 effectiveness of certain temporary injunctions in
216 domestic violence, repeat violence, sexual violence,
217 dating violence, or stalking proceedings in certain
218 circumstances; amending ss. 784.047 and 784.0487,
219 F.S.; providing that it is unlawful for a person to
220 violate a final injunction for protection against
221 repeat violence, dating violence, sexual violence,
222 stalking, or cyberstalking by having in his or her
223 care, custody, possession, or control any firearm or
224 ammunition; providing penalties; amending s. 790.233,
225 F.S.; conforming provisions to changes made by the
226 act; amending s. 901.15, F.S.; expanding situations in
227 which an arrest without a warrant is lawful to include
228 probable cause of repeat violence, sexual violence,
229 stalking, cyberstalking, or child abuse; providing an
230 effective date.