

By the Committee on Judiciary; and Senators Dean and Joyner

590-03528-14

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1 A bill to be entitled

2 An act relating to protective orders; amending ss.
3 741.30, 784.046, and 784.0485, F.S.; extending the
4 effectiveness of certain temporary injunctions in
5 domestic violence, repeat violence, sexual violence,
6 dating violence, or stalking proceedings in certain
7 circumstances; amending ss. 784.047 and 784.0487,
8 F.S.; providing that it is unlawful for a person to
9 violate a final injunction for protection against
10 repeat violence, dating violence, sexual violence,
11 stalking, or cyberstalking by having in his or her
12 care, custody, possession, or control any firearm or
13 ammunition; providing penalties; amending s. 790.233,
14 F.S.; conforming provisions to changes made by the
15 act; amending s. 901.15, F.S.; expanding situations in
16 which an arrest without a warrant is lawful to include
17 probable cause of repeat violence, sexual violence,
18 stalking, cyberstalking, or child abuse; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Paragraph (c) of subsection (5) of section
24 741.30, Florida Statutes, is amended to read:

25 741.30 Domestic violence; injunction; powers and duties of
26 court and clerk; petition; notice and hearing; temporary
27 injunction; issuance of injunction; statewide verification
28 system; enforcement; public records exemption.—

29 (5)

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

36 (d) A full hearing, as provided by this section, shall be
37 set for a date no later than the date when the ex parte
38 temporary injunction ceases to be effective. The court may grant
39 a continuance of the hearing before or during a hearing for good
40 cause shown by any party. The need to obtain service of process
41 constitutes good cause. A temporary, which shall include a
42 continuance to obtain service of process. Any injunction that is
43 already served must shall be extended, if necessary, so that it
44 remains to remain in full force and effect during any period of
45 continuance.

46 Section 2. Paragraph (c) of subsection (6) of section
47 784.046, Florida Statutes, is amended to read:

48 784.046 Action by victim of repeat violence, sexual
49 violence, or dating violence for protective injunction; dating
50 violence investigations, notice to victims, and reporting;
51 pretrial release violations; public records exemption.—

52 (6)

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

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59 instance, the temporary injunction, if served, remains in full
60 force and effect until the final injunction is served upon the
61 respondent.

62 (d) A full hearing, as provided by this section, shall be
63 set for a date no later than the date when the ex parte
64 temporary injunction ceases to be effective. The court may grant
65 a continuance of the ~~ex parte injunction and the full hearing~~
66 before or during a hearing, for good cause shown by any party.
67 The need to obtain service of process constitutes good cause. A
68 temporary injunction that is already served must be extended, if
69 necessary, so that it remains in full force and effect during
70 any period of continuance.

71 Section 3. Paragraph (c) of subsection (5) of section
72 784.0485, Florida Statutes, is amended to read:

73 784.0485 Stalking; injunction; powers and duties of court
74 and clerk; petition; notice and hearing; temporary injunction;
75 issuance of injunction; statewide verification system;
76 enforcement.—

77 (5)

78 (c) Any such ex parte temporary injunction is effective for
79 a fixed period not to exceed 15 days unless, after a full
80 hearing, a final injunction is issued on the same case. In that
81 instance, the temporary injunction, if served, remains in full
82 force and effect until the final injunction is served upon the
83 respondent.

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

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88 cause shown by any party. The need to obtain service of process
89 constitutes good cause. A temporary, which shall include a
90 continuance to obtain service of process. An injunction that is
91 already served must shall be extended, if necessary, so that it
92 remains to remain in full force and effect during any period of
93 continuance.

94 Section 4. Section 784.047, Florida Statutes, is amended to
95 read:

96 784.047 Penalties for violating protective injunction
97 against violators.—

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

102 (a)~~(1)~~ Refusing to vacate the dwelling that the parties
103 share;

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

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

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

113 (e)~~(5)~~ Telephoning, contacting, or otherwise communicating
114 with the petitioner directly or indirectly, unless the
115 injunction specifically allows indirect contact through a third
116 party;

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

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

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

124

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

127 (2) A person who violates a final injunction for protection
 128 against repeat violence, sexual violence, or dating violence by
 129 having in his or her care, custody, possession, or control any
 130 firearm or ammunition violates s. 790.233 and commits a
 131 misdemeanor of the first degree, punishable as provided in s.
 132 775.082 or s. 775.083.

133 Section 5. Subsection (4) of section 784.0487, Florida
 134 Statutes, is amended, and subsection (6) is added to that
 135 section, to read:

136 784.0487 Violation of an injunction for protection against
 137 stalking or cyberstalking.—

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

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

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

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

150 (d) Telephoning, contacting, or otherwise communicating
151 with the petitioner, directly or indirectly, unless the
152 injunction specifically allows indirect contact through a third
153 party;

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

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

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

161
162 commits a misdemeanor of the first degree, punishable as
163 provided in s. 775.082 or s. 775.083.

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

169 Section 6. Section 790.233, Florida Statutes, is amended to
170 read:

171 790.233 Possession of firearm or ammunition prohibited when
172 person is subject to an injunction against committing acts of
173 domestic violence, repeat violence, dating violence, sexual
174 violence, stalking, or cyberstalking; penalties.-

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

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

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

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

183 (2) A person who violates subsection (1) commits a
184 misdemeanor of the first degree, punishable as provided in s.
185 775.082 or s. 775.083.

186 (3) It is the intent of the Legislature that the
187 disabilities regarding possession of firearms and ammunition are
188 consistent with federal law. Accordingly, this section does not
189 apply to a state or local officer as defined in s. 943.10(14),
190 holding an active certification, who receives or possesses a
191 firearm or ammunition for use in performing official duties on
192 behalf of the officer's employing agency, unless otherwise
193 prohibited by the employing agency.

194 Section 7. Subsections (6) and (7) of section 901.15,
195 Florida Statutes, are amended to read:

196 901.15 When arrest by officer without warrant is lawful.—A
197 law enforcement officer may arrest a person without a warrant
198 when:

199 (6) There is probable cause to believe that the person has
200 committed a criminal act according to s. 790.233 or according to
201 s. 39.504, s. 741.31, ~~or~~ s. 784.047, or s. 784.0487 which
202 violates an injunction for protection entered pursuant to s.
203 39.504, s. 741.30, ~~or~~ s. 784.046, or s. 784.0485, or a foreign

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204 protection order accorded full faith and credit pursuant to s.
205 741.315, over the objection of the petitioner, if necessary.

206 (7) There is probable cause to believe that the person has
207 committed an act of child abuse as provided in s. 39.01; an act
208 of domestic violence, ~~as defined in s. 741.28~~; an act of, ~~or~~
209 dating violence, repeat violence, or sexual violence as provided
210 in s. 784.046; or an act of stalking or cyberstalking as
211 provided in s. 784.0485. The decision to arrest does ~~shall~~ not
212 require consent of the victim or consideration of the
213 relationship of the parties. It is the public policy of this
214 state to strongly discourage arrest and charges of both parties
215 for domestic violence or dating violence on each other and to
216 encourage training of law enforcement and prosecutors in these
217 areas. A law enforcement officer who acts in good faith and
218 exercises due care in making an arrest under this subsection,
219 under s. 39.504, s. 741.31(4), ~~or s. 784.047~~, or s. 784.0487, or
220 pursuant to a foreign order of protection accorded full faith
221 and credit pursuant to s. 741.315, is immune from civil
222 liability that otherwise might result by reason of his or her
223 action.

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