

By the Committee on Fiscal Policy; and Senator Soto

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1 A bill to be entitled
2 An act relating to criminal justice; providing a short
3 title; amending ss. 741.31, 784.047, and 784.0487,
4 F.S.; providing enhanced criminal penalties for a
5 third or subsequent violation of an injunction for
6 protection against specified acts of violence or a
7 foreign protection order issued under specified
8 provisions; amending s. 775.15, F.S.; revising time
9 limitations for the criminal prosecution of specified
10 sexual battery offenses if the victim is 16 years of
11 age or older; providing applicability; amending s.
12 847.0141, F.S.; removing the court's discretion to
13 impose a specified penalty for a first violation of
14 sexting; requiring a minor cited for a first violation
15 to sign and accept a citation to appear before
16 juvenile court or, in lieu of appearing in court, to
17 complete community service work, pay a civil penalty,
18 or participate in a cyber-safety program within a
19 certain period of time, if such program is locally
20 available; requiring the citation to be in a form
21 prescribed by the issuing law enforcement agency;
22 requiring such citation to include certain
23 information; authorizing a court to order certain
24 penalties under certain circumstances; authorizing a
25 court to order specified additional penalties in
26 certain circumstances; authorizing a law enforcement
27 officer to issue a civil citation in lieu of criminal
28 penalties; prohibiting the court from imposing
29 incarceration; specifying that all court records and

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30 any information obtained or produced are confidential;
31 providing retroactive application of confidentiality
32 provisions for certain violations; conforming
33 provisions to changes made by the act; requiring that
34 a specified percentage of civil penalties received by
35 a juvenile court be remitted by the clerk of court to
36 the county commission to provide cyber-safety training
37 for minors; requiring that the remaining percentage
38 remain with the clerk of the court to cover
39 administrative costs; amending s. 948.11, F.S.;

40 authorizing the Department of Corrections or a local
41 law enforcement agency to electronically monitor an
42 offender under specified circumstances; amending s.
43 985.0301, F.S.; creating exclusive original
44 jurisdiction in the circuit court when a child is
45 alleged to have committed a noncriminal violation that
46 is assigned to juvenile court; providing an effective
47 date.

48
49 Be It Enacted by the Legislature of the State of Florida:

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51 Section 1. This act may be cited as the "43 Days Initiative
52 Act."

53 Section 2. Subsection (4) of section 741.31, Florida
54 Statutes, is amended to read:

55 741.31 Violation of an injunction for protection against
56 domestic violence.—

57 (4) (a) A person who willfully violates an injunction for
58 protection against domestic violence issued pursuant to s.

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59 741.30, or a foreign protection order accorded full faith and
60 credit pursuant to s. 741.315, by:

61 1. Refusing to vacate the dwelling that the parties share;

62 2. Going to, or being within 500 feet of, the petitioner's
63 residence, school, place of employment, or a specified place
64 frequented regularly by the petitioner and any named family or
65 household member;

66 3. Committing an act of domestic violence against the
67 petitioner;

68 4. Committing any other violation of the injunction through
69 an intentional unlawful threat, word, or act to do violence to
70 the petitioner;

71 5. Telephoning, contacting, or otherwise communicating with
72 the petitioner directly or indirectly, unless the injunction
73 specifically allows indirect contact through a third party;

74 6. Knowingly and intentionally coming within 100 feet of
75 the petitioner's motor vehicle, whether or not that vehicle is
76 occupied;

77 7. Defacing or destroying the petitioner's personal
78 property, including the petitioner's motor vehicle; or

79 8. Refusing to surrender firearms or ammunition if ordered
80 to do so by the court

81
82 commits a misdemeanor of the first degree, punishable as
83 provided in s. 775.082 or s. 775.083, except as provided in
84 paragraph (c).

85 (b)1. It is a violation of s. 790.233, and a misdemeanor of
86 the first degree, punishable as provided in s. 775.082 or s.
87 775.083, for a person to violate a final injunction for

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88 protection against domestic violence by having in his or her
89 care, custody, possession, or control any firearm or ammunition.

90 2. It is the intent of the Legislature that the
91 disabilities regarding possession of firearms and ammunition are
92 consistent with federal law. Accordingly, this paragraph shall
93 not apply to a state or local officer as defined in s.
94 943.10(14), holding an active certification, who receives or
95 possesses a firearm or ammunition for use in performing official
96 duties on behalf of the officer's employing agency, unless
97 otherwise prohibited by the employing agency.

98 (c) A person who has two or more prior convictions for
99 violation of an injunction and who commits any third or
100 subsequent violation commits a felony of the third degree,
101 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
102 For purposes of this paragraph, the term "conviction" means a
103 determination of guilt that is the result of a plea or a trial,
104 regardless of whether adjudication is withheld or a plea of nolo
105 contendere is entered.

106 Section 3. Section 784.047, Florida Statutes, is amended to
107 read:

108 784.047 Penalties for violating protective injunction
109 against violators.—

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

114 (a)~~(1)~~ Refusing to vacate the dwelling that the parties
115 share;

116 (b)~~(2)~~ Going to, or being within 500 feet of, the

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117 petitioner's residence, school, place of employment, or a
118 specified place frequented regularly by the petitioner and any
119 named family or household member;

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

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

125 (e)~~(5)~~ Telephoning, contacting, or otherwise communicating
126 with the petitioner directly or indirectly, unless the
127 injunction specifically allows indirect contact through a third
128 party;

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

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

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

136

137 commits a misdemeanor of the first degree, punishable as
138 provided in s. 775.082 or s. 775.083, except as provided in
139 subsection (2).

140 (2) A person who has two or more prior convictions for
141 violation of an injunction and who commits any third or
142 subsequent violation commits a felony of the third degree,
143 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
144 For purposes of this subsection, the term "conviction" means a
145 determination of guilt that is the result of a plea or a trial,

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146 regardless of whether adjudication is withheld or a plea of nolo
147 contendere is entered.

148 Section 4. Subsection (4) of section 784.0487, Florida
149 Statutes, is amended to read:

150 784.0487 Violation of an injunction for protection against
151 stalking or cyberstalking.—

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

156 1.-(a) Going to, or being within 500 feet of, the
157 petitioner's residence, school, place of employment, or a
158 specified place frequented regularly by the petitioner and any
159 named family members or individuals closely associated with the
160 petitioner;

161 2.-(b) Committing an act of stalking against the petitioner;

162 3.-(c) Committing any other violation of the injunction
163 through an intentional unlawful threat, word, or act to do
164 violence to the petitioner;

165 4.-(d) Telephoning, contacting, or otherwise communicating
166 with the petitioner, directly or indirectly, unless the
167 injunction specifically allows indirect contact through a third
168 party;

169 5.-(e) Knowingly and intentionally coming within 100 feet of
170 the petitioner's motor vehicle, whether or not that vehicle is
171 occupied;

172 6.-(f) Defacing or destroying the petitioner's personal
173 property, including the petitioner's motor vehicle; or

174 7.-(g) Refusing to surrender firearms or ammunition if

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175 ordered to do so by the court,

176
177 commits a misdemeanor of the first degree, punishable as
178 provided in s. 775.082 or s. 775.083, except as provided in
179 paragraph (b).

180 (b) A person who has two or more prior convictions for
181 violation of an injunction and who commits any third or
182 subsequent violation commits a felony of the third degree,
183 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
184 For purposes of this paragraph, the term "conviction" means a
185 determination of guilt that is the result of a plea or a trial,
186 regardless of whether adjudication is withheld or a plea of nolo
187 contendere is entered.

188 Section 5. Paragraph (b) of subsection (13) of section
189 775.15, Florida Statutes, is republished, and subsection (14) of
190 that section is amended, to read:

191 775.15 Time limitations; general time limitations;
192 exceptions.—

193 (13)

194 (b) If the offense is a first degree felony violation of s.
195 794.011 and the victim was under 18 years of age at the time the
196 offense was committed, a prosecution of the offense may be
197 commenced at any time. This paragraph applies to any such
198 offense except an offense the prosecution of which would have
199 been barred by subsection (2) on or before October 1, 2003.

200 (14) (a) A prosecution for a first or second degree felony
201 violation of s. 794.011, if the victim is 16 ~~18~~ years of age or
202 older at the time of the offense and the offense is reported to
203 a law enforcement agency within 72 hours after commission of the

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204 offense, may be commenced at any time. ~~If the offense is not~~
205 ~~reported within 72 hours after the commission of the offense,~~
206 ~~the prosecution must be commenced within the time periods~~
207 ~~prescribed in subsection (2).~~

208 (b) Except as provided in paragraph (a) or paragraph
209 (13) (b), a prosecution for a first or second degree felony
210 violation of s. 794.011, if the victim is 16 years of age or
211 older at the time of the offense, must be commenced within 6
212 years after the violation is committed. This paragraph applies
213 to any such offense except an offense the prosecution of which
214 would have been barred by subsection (2) on or before July 1,
215 2015.

216 Section 6. Subsections (3) and (5) of section 847.0141,
217 Florida Statutes, are amended, and subsection (6) is added to
218 that section, to read:

219 847.0141 Sexting; prohibited acts; penalties.—

220 (3) A minor who violates subsection (1):

221 (a) ~~Commits a noncriminal violation for a first violation,~~
222 ~~punishable by 8 hours of community service or, if ordered by the~~
223 ~~court in lieu of community service, a \$60 fine. The court may~~
224 ~~also order the minor to participate in suitable training or~~
225 ~~instruction in lieu of, or in addition to, community service or~~
226 ~~a fine. The minor must sign and accept a citation indicating a~~
227 ~~promise to appear before the juvenile court. In lieu of~~
228 ~~appearing in court, the minor may complete 8 hours of community~~
229 ~~service work, pay a \$60 civil penalty, or participate in a~~
230 ~~cyber-safety program if such a program is locally available. The~~
231 ~~minor must satisfy any penalty within 30 days after receipt of~~
232 ~~the citation.~~

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- 233 1. A citation issued to a minor under this subsection must
234 be in a form prescribed by the issuing law enforcement agency,
235 must be signed by the minor, and must contain all of the
236 following:
- 237 a. The date and time of issuance.
 - 238 b. The name and address of the minor to whom the citation
239 is issued.
 - 240 c. A thumbprint of the minor to whom the citation is
241 issued.
 - 242 d. Identification of the noncriminal violation and the time
243 it was committed.
 - 244 e. The facts constituting reasonable cause.
 - 245 f. The specific section of law violated.
 - 246 g. The name and authority of the citing officer.
 - 247 h. The procedures that the minor must follow to contest the
248 citation, perform the required community service, pay the civil
249 penalty, and participate in a cyber-safety program.
- 250 2. If the citation is contested and the court determines
251 that the minor committed a noncriminal violation under this
252 section, the court may order the minor to perform 8 hours of
253 community service, pay a \$60 civil penalty, or participate in a
254 cyber-safety program, or any combination thereof.
- 255 3. A minor who fails to comply with the citation waives his
256 or her right to contest it, and the court may impose any of the
257 penalties identified in subparagraph 2. or issue an order to
258 show cause. Upon a finding of contempt, the court may impose
259 additional age-appropriate penalties, which may include issuance
260 of an order to the Department of Highway Safety and Motor
261 Vehicles to withhold issuance of, or suspend the driver license

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262 or driving privilege of, the minor for 30 consecutive days.
263 However, the court may not impose incarceration.

264 4. All court records and information obtained or produced
265 under this paragraph shall be afforded the same level of
266 confidentiality provided under ss. 985.04 and 985.045. All
267 noncriminal violations for sexting that occurred on or after
268 October 1, 2011, are considered confidential.

269 (b) Commits a misdemeanor of the first degree for a
270 violation that occurs after the minor has been ~~being~~ found to
271 have committed a noncriminal violation for sexting or has
272 satisfied the penalty imposed in lieu of a court appearance as
273 provided in paragraph (a), punishable as provided in s. 775.082
274 or s. 775.083, unless a law enforcement officer elects to issue
275 a civil citation as provided in paragraph (3) (a).

276 (c) Commits a felony of the third degree for a violation
277 that occurs after the minor has been ~~being~~ found to have
278 committed a misdemeanor of the first degree for sexting,
279 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

280 (5) As used in this section, the term "found to have
281 committed" means a determination of guilt that is the result of
282 a plea or trial, or a finding of delinquency that is the result
283 of a plea or an adjudicatory hearing, regardless of whether
284 adjudication is withheld.

285 (6) Eighty percent of all civil penalties received by a
286 juvenile court pursuant to this section shall be remitted by the
287 clerk of the court to the county commission to provide training
288 on cyber-safety for minors. The remaining 20 percent shall
289 remain with the clerk of the court to defray administrative
290 costs.

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291 Section 7. Subsection (1) of section 948.11, Florida
292 Statutes, is amended to read:

293 948.11 Electronic monitoring devices.—

294 (1) The Department of Corrections or a local law
295 enforcement agency may, ~~at its discretion,~~ electronically
296 monitor an offender sentenced to community control or ordered to
297 comply with house arrest who is wearing electronic monitoring
298 equipment as a condition of bond or pretrial release or who is
299 otherwise wearing electronic monitoring equipment pursuant to a
300 court order for a protective injunction issued for domestic
301 violence as defined in s. 741.30; repeat violence, sexual
302 violence, or dating violence, as defined in s. 784.046; or a
303 stalking injunction as defined in s. 784.048.

304 Section 8. Subsection (1) of section 985.0301, Florida
305 Statutes, is amended to read:

306 985.0301 Jurisdiction.—

307 (1) The circuit court has exclusive original jurisdiction
308 of proceedings in which a child is alleged to have committed:

309 (a) to have committed A delinquent act or violation of law.

310 (b) A noncriminal violation that has been assigned to
311 juvenile court by law.

312 Section 9. This act shall take effect July 1, 2015.