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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AE/2R	.	Floor: SA1/CA
04/23/2015 04:33 PM	.	04/28/2015 12:55 PM
	.	

Senator Soto moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

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

(4) (a) A person who willfully violates an injunction for



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12 protection against domestic violence issued pursuant to s.
13 741.30, or a foreign protection order accorded full faith and
14 credit pursuant to s. 741.315, by:

- 15 1. Refusing to vacate the dwelling that the parties share;
- 16 2. Going to, or being within 500 feet of, the petitioner's
17 residence, school, place of employment, or a specified place
18 frequented regularly by the petitioner and any named family or
19 household member;
- 20 3. Committing an act of domestic violence against the
21 petitioner;
- 22 4. Committing any other violation of the injunction through
23 an intentional unlawful threat, word, or act to do violence to
24 the petitioner;
- 25 5. Telephoning, contacting, or otherwise communicating with
26 the petitioner directly or indirectly, unless the injunction
27 specifically allows indirect contact through a third party;
- 28 6. Knowingly and intentionally coming within 100 feet of
29 the petitioner's motor vehicle, whether or not that vehicle is
30 occupied;
- 31 7. Defacing or destroying the petitioner's personal
32 property, including the petitioner's motor vehicle; or
- 33 8. Refusing to surrender firearms or ammunition if ordered
34 to do so by the court

35
36 commits a misdemeanor of the first degree, punishable as
37 provided in s. 775.082 or s. 775.083, except as provided in
38 paragraph (c).

39 (b)1. It is a violation of s. 790.233, and a misdemeanor of
40 the first degree, punishable as provided in s. 775.082 or s.



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41 775.083, for a person to violate a final injunction for
42 protection against domestic violence by having in his or her
43 care, custody, possession, or control any firearm or ammunition.

44 2. It is the intent of the Legislature that the
45 disabilities regarding possession of firearms and ammunition are
46 consistent with federal law. Accordingly, this paragraph shall
47 not apply to a state or local officer as defined in s.
48 943.10(14), holding an active certification, who receives or
49 possesses a firearm or ammunition for use in performing official
50 duties on behalf of the officer's employing agency, unless
51 otherwise prohibited by the employing agency.

52 (c) A person who has two or more prior convictions for
53 violation of an injunction and who commits any third or
54 subsequent violation commits a felony of the third degree,
55 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
56 For purposes of this paragraph, the term "conviction" means a
57 determination of guilt that is the result of a plea or a trial,
58 regardless of whether adjudication is withheld or a plea of nolo
59 contendere is entered.

60 Section 3. Section 784.047, Florida Statutes, is amended to
61 read:

62 784.047 Penalties for violating protective injunction
63 against violators.—

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

68 (a) ~~(1)~~ Refusing to vacate the dwelling that the parties
69 share;



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

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

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

79 ~~(e)(5)~~ Telephoning, contacting, or otherwise communicating
80 with the petitioner directly or indirectly, unless the
81 injunction specifically allows indirect contact through a third
82 party;

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

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

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

90
91 commits a misdemeanor of the first degree, punishable as
92 provided in s. 775.082 or s. 775.083, except as provided in
93 subsection (2).

94 (2) A person who has two or more prior convictions for
95 violation of an injunction and who commits any third or
96 subsequent violation commits a felony of the third degree,
97 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
98 For purposes of this subsection, the term "conviction" means a



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99 determination of guilt that is the result of a plea or a trial,
100 regardless of whether adjudication is withheld or a plea of nolo
101 contendere is entered.

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

104 784.0487 Violation of an injunction for protection against
105 stalking or cyberstalking.—

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

110 1.-(a) Going to, or being within 500 feet of, the
111 petitioner's residence, school, place of employment, or a
112 specified place frequented regularly by the petitioner and any
113 named family members or individuals closely associated with the
114 petitioner;

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

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

119 4.-(d) Telephoning, contacting, or otherwise communicating
120 with the petitioner, directly or indirectly, unless the
121 injunction specifically allows indirect contact through a third
122 party;

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

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



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128 7.~~(g)~~ Refusing to surrender firearms or ammunition if
129 ordered to do so by the court,
130
131 commits a misdemeanor of the first degree, punishable as
132 provided in s. 775.082 or s. 775.083, except as provided in
133 paragraph (b).

134 (b) A person who has two or more prior convictions for
135 violation of an injunction and who commits any third or
136 subsequent violation commits a felony of the third degree,
137 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
138 For purposes of this paragraph, the term "conviction" means a
139 determination of guilt that is the result of a plea or a trial,
140 regardless of whether adjudication is withheld or a plea of nolo
141 contendere is entered.

142 Section 5. Paragraph (b) of subsection (13) of section
143 775.15, Florida Statutes, is republished, and subsection (14) of
144 that section is amended, to read:

145 775.15 Time limitations; general time limitations;
146 exceptions.-

147 (13)

148 (b) If the offense is a first degree felony violation of s.
149 794.011 and the victim was under 18 years of age at the time the
150 offense was committed, a prosecution of the offense may be
151 commenced at any time. This paragraph applies to any such
152 offense except an offense the prosecution of which would have
153 been barred by subsection (2) on or before October 1, 2003.

154 (14) (a) A prosecution for a first or second degree felony
155 violation of s. 794.011, if the victim is 16 ~~18~~ years of age or
156 older at the time of the offense and the offense is reported to



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157 a law enforcement agency within 72 hours after commission of the
158 offense, may be commenced at any time. ~~If the offense is not~~
159 ~~reported within 72 hours after the commission of the offense,~~
160 ~~the prosecution must be commenced within the time periods~~
161 ~~prescribed in subsection (2).~~

162 (b) Except as provided in paragraph (a) or paragraph
163 (13) (b), a prosecution for a first or second degree felony
164 violation of s. 794.011, if the victim is 16 years of age or
165 older at the time of the offense, must be commenced within 8
166 years after the violation is committed. This paragraph applies
167 to any such offense except an offense the prosecution of which
168 would have been barred by subsection (2) on or before July 1,
169 2015.

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

173 847.0141 Sexting; prohibited acts; penalties.—

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

175 (a) ~~Commits a noncriminal violation for a first violation,~~
176 ~~punishable by 8 hours of community service or, if ordered by the~~
177 ~~court in lieu of community service, a \$60 fine. The court may~~
178 ~~also order the minor to participate in suitable training or~~
179 ~~instruction in lieu of, or in addition to, community service or~~
180 ~~a fine. The minor must sign and accept a citation indicating a~~
181 ~~promise to appear before the juvenile court. In lieu of~~
182 ~~appearing in court, the minor may complete 8 hours of community~~
183 ~~service work, pay a \$60 civil penalty, or participate in a~~
184 ~~cyber-safety program if such a program is locally available. The~~
185 ~~minor must satisfy any penalty within 30 days after receipt of~~



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186 the citation.

187 1. A citation issued to a minor under this subsection must
188 be in a form prescribed by the issuing law enforcement agency,
189 must be signed by the minor, and must contain all of the
190 following:

191 a. The date and time of issuance.

192 b. The name and address of the minor to whom the citation
193 is issued.

194 c. A thumbprint of the minor to whom the citation is
195 issued.

196 d. Identification of the noncriminal violation and the time
197 it was committed.

198 e. The facts constituting reasonable cause.

199 f. The specific section of law violated.

200 g. The name and authority of the citing officer.

201 h. The procedures that the minor must follow to contest the
202 citation, perform the required community service, pay the civil
203 penalty, and participate in a cyber-safety program.

204 2. If the citation is contested and the court determines
205 that the minor committed a noncriminal violation under this
206 section, the court may order the minor to perform 8 hours of
207 community service, pay a \$60 civil penalty, or participate in a
208 cyber-safety program, or any combination thereof.

209 3. A minor who fails to comply with the citation waives his
210 or her right to contest it, and the court may impose any of the
211 penalties identified in subparagraph 2. or issue an order to
212 show cause. Upon a finding of contempt, the court may impose
213 additional age-appropriate penalties, which may include issuance
214 of an order to the Department of Highway Safety and Motor



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215 Vehicles to withhold issuance of, or suspend the driver license
216 or driving privilege of, the minor for 30 consecutive days.
217 However, the court may not impose incarceration.

218 (b) Commits a misdemeanor of the first degree for a
219 violation that occurs after the minor has been ~~being~~ found to
220 have committed a noncriminal violation for sexting or has
221 satisfied the penalty imposed in lieu of a court appearance as
222 provided in paragraph (a), punishable as provided in s. 775.082
223 or s. 775.083, unless a law enforcement officer elects to issue
224 a civil citation as provided in paragraph (3) (a).

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

229 (5) As used in this section, the term "found to have
230 committed" means a determination of guilt that is the result of
231 a plea or trial, or a finding of delinquency that is the result
232 of a plea or an adjudicatory hearing, regardless of whether
233 adjudication is withheld.

234 (6) Eighty percent of all civil penalties received by a
235 juvenile court pursuant to this section shall be remitted by the
236 clerk of the court to the county commission to provide training
237 on cyber-safety for minors. The remaining 20 percent shall
238 remain with the clerk of the court to defray administrative
239 costs.

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

242 948.11 Electronic monitoring devices.-

243 (1) The Department of Corrections or a local law



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244 enforcement agency may, ~~at its discretion,~~ electronically
245 monitor an offender sentenced to community control or ordered to
246 comply with house arrest who is wearing electronic monitoring
247 equipment as a condition of bond or pretrial release or who is
248 otherwise wearing electronic monitoring equipment pursuant to a
249 court order for a protective injunction issued for domestic
250 violence as defined in s. 741.30; repeat violence, sexual
251 violence, or dating violence, as defined in s. 784.046; or a
252 stalking injunction as defined in s. 784.048.

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

255 985.0301 Jurisdiction.—

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

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

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

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

262
263 ===== T I T L E A M E N D M E N T =====

264 And the title is amended as follows:

265 Delete everything before the enacting clause
266 and insert:

267 A bill to be entitled
268 An act relating to criminal justice; providing a short
269 title; amending ss. 741.31, 784.047, and 784.0487,
270 F.S.; providing enhanced criminal penalties for a
271 third or subsequent violation of an injunction for
272 protection against specified acts of violence or a



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273 foreign protection order issued under specified
274 provisions; amending s. 775.15, F.S.; revising time
275 limitations for the criminal prosecution of specified
276 sexual battery offenses if the victim is 16 years of
277 age or older; providing applicability; amending s.
278 847.0141, F.S.; removing the court's discretion to
279 impose a specified penalty for a first violation of
280 sexting; requiring a minor cited for a first violation
281 to sign and accept a citation to appear before
282 juvenile court or, in lieu of appearing in court, to
283 complete community service work, pay a civil penalty,
284 or participate in a cyber-safety program within a
285 certain period of time, if such program is locally
286 available; requiring the citation to be in a form
287 prescribed by the issuing law enforcement agency;
288 requiring such citation to include certain
289 information; authorizing a court to order certain
290 penalties under certain circumstances; authorizing a
291 court to order specified additional penalties in
292 certain circumstances; authorizing a law enforcement
293 officer to issue a civil citation in lieu of criminal
294 penalties; prohibiting the court from imposing
295 incarceration; conforming provisions to changes made
296 by the act; requiring that a specified percentage of
297 civil penalties received by a juvenile court be
298 remitted by the clerk of court to the county
299 commission to provide cyber-safety training for
300 minors; requiring that the remaining percentage remain
301 with the clerk of the court to cover administrative



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302 costs; amending s. 948.11, F.S.; authorizing the
303 Department of Corrections or a local law enforcement
304 agency to electronically monitor an offender under
305 specified circumstances; amending s. 985.0301, F.S.;
306 creating exclusive original jurisdiction in the
307 circuit court when a child is alleged to have
308 committed a noncriminal violation that is assigned to
309 juvenile court; providing an effective date.