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594-02398-16

Proposed Committee Substitute by the Committee on Fiscal Policy
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to violation of an injunction for protection; amending ss. 741.31, 784.047, and 784.0487, F.S.; providing enhanced criminal penalties for a third or subsequent violation of an injunction for protection against specified acts of violence or a foreign protection order issued for the same victim under specified provisions; defining the term "conviction"; reenacting s. 741.30(9), F.S., relating to injunctions for protection against domestic violence, to incorporate the amendment made by the act to s. 741.31, F.S., in a reference thereto; reenacting s. 741.315(2), F.S., relating to recognition of foreign protection orders, to incorporate the amendments made by the act to ss. 741.31, 784.047, and 784.0487, F.S., in references thereto; reenacting s. 784.0485(9), F.S., relating to injunctions for protection against stalking, to incorporate the amendment made by the act to s. 784.0487, F.S., in a reference thereto; reenacting s. 901.15(6) and (7), F.S., relating to when arrest by an officer without warrant is lawful, to incorporate the amendment made by the act to ss. 741.31 and 784.047, F.S., in references thereto; providing an effective date.

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



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28 Section 1. Subsection (4) of section 741.31, Florida
29 Statutes, is amended to read:

30 741.31 Violation of an injunction for protection against
31 domestic violence.—

32 (4) (a) A person who willfully violates an injunction for
33 protection against domestic violence issued pursuant to s.
34 741.30, or a foreign protection order accorded full faith and
35 credit pursuant to s. 741.315, by:

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

37 2. Going to, or being within 500 feet of, the petitioner's
38 residence, school, place of employment, or a specified place
39 frequented regularly by the petitioner and any named family or
40 household member;

41 3. Committing an act of domestic violence against the
42 petitioner;

43 4. Committing any other violation of the injunction through
44 an intentional unlawful threat, word, or act to do violence to
45 the petitioner;

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

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

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

54 8. Refusing to surrender firearms or ammunition if ordered
55 to do so by the court

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57 commits a misdemeanor of the first degree, punishable as
58 provided in s. 775.082 or s. 775.083, except as provided in
59 paragraph (c).

60 (b)1. It is a violation of s. 790.233, and a misdemeanor of
61 the first degree, punishable as provided in s. 775.082 or s.
62 775.083, for a person to violate a final injunction for
63 protection against domestic violence by having in his or her
64 care, custody, possession, or control any firearm or ammunition.

65 2. It is the intent of the Legislature that the
66 disabilities regarding possession of firearms and ammunition are
67 consistent with federal law. Accordingly, this paragraph shall
68 not apply to a state or local officer as defined in s.
69 943.10(14), holding an active certification, who receives or
70 possesses a firearm or ammunition for use in performing official
71 duties on behalf of the officer's employing agency, unless
72 otherwise prohibited by the employing agency.

73 (c) A person who has two or more prior convictions for
74 violation of an injunction or foreign protection order, and who
75 subsequently commits a violation of any injunction or foreign
76 protection order against the same victim, commits a felony of
77 the third degree, punishable as provided in s. 775.082, s.
78 775.083 or s.775.084. For purposes of this paragraph, the term
79 "conviction" means a determination of guilt which is the result
80 of a plea or a trial, regardless of whether adjudication is
81 withheld or a plea of nolo contendere is entered.

82 Section 2. Section 784.047, Florida Statutes, is amended to
83 read:

84 784.047 Penalties for violating protective injunction
85 against violators.-



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

90 (a)~~(1)~~ Refusing to vacate the dwelling that the parties
91 share;

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

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

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

101 (e)~~(5)~~ Telephoning, contacting, or otherwise communicating
102 with the petitioner directly or indirectly, unless the
103 injunction specifically allows indirect contact through a third
104 party;

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

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

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

112
113 commits a misdemeanor of the first degree, punishable as
114 provided in s. 775.082 or s. 775.083, except as provided in



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115 subsection (2).

116 (2) A person who has two or more prior convictions for
117 violation of an injunction or foreign protection order, and who
118 subsequently commits a violation of any injunction or foreign
119 protection order against the same victim, commits a felony of
120 the third degree, punishable as provided in s. 775.082, s.
121 775.083, or s. 775.084. For purposes of this subsection, the
122 term "conviction" means a determination of guilt which is the
123 result of a plea or a trial, regardless of whether adjudication
124 is withheld or a plea of nolo contendere is entered.

125 Section 3. Subsection (4) of section 784.0487, Florida
126 Statutes, is amended to read:

127 784.0487 Violation of an injunction for protection against
128 stalking or cyberstalking.—

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

133 1.-(a) Going to, or being within 500 feet of, the
134 petitioner's residence, school, place of employment, or a
135 specified place frequented regularly by the petitioner and any
136 named family members or individuals closely associated with the
137 petitioner;

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

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

142 4.-(d) Telephoning, contacting, or otherwise communicating
143 with the petitioner, directly or indirectly, unless the



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144 injunction specifically allows indirect contact through a third
145 party;

146 5.(e) Knowingly and intentionally coming within 100 feet of
147 the petitioner's motor vehicle, whether or not that vehicle is
148 occupied;

149 6.(f) Defacing or destroying the petitioner's personal
150 property, including the petitioner's motor vehicle; or

151 7.(g) Refusing to surrender firearms or ammunition if
152 ordered to do so by the court,

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154 commits a misdemeanor of the first degree, punishable as
155 provided in s. 775.082 or s. 775.083, except as provided in
156 paragraph (b).

157 (b) A person who has two or more prior convictions for
158 violation of an injunction or foreign protection order, and who
159 subsequently commits a violation of any injunction or foreign
160 protection order against the same victim, commits a felony of
161 the third degree, punishable as provided in s. 775.082, s.
162 775.083, or s. 775.084. For purposes of this paragraph, the term
163 "conviction" means a determination of guilt that is the result
164 of a plea or a trial, regardless of whether adjudication is
165 withheld or a plea of nolo contendere is entered.

166 Section 4. For the purpose of incorporating the amendment
167 made by this act to section 741.31, Florida Statutes, in a
168 reference thereto, subsection (9) of section 741.30, Florida
169 Statutes, is reenacted to read:

170 741.30 Domestic violence; injunction; powers and duties of
171 court and clerk; petition; notice and hearing; temporary
172 injunction; issuance of injunction; statewide verification



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173 system; enforcement; public records exemption.-

174 (9) (a) The court may enforce a violation of an injunction
175 for protection against domestic violence through a civil or
176 criminal contempt proceeding, or the state attorney may
177 prosecute it as a criminal violation under s. 741.31. The court
178 may enforce the respondent's compliance with the injunction
179 through any appropriate civil and criminal remedies, including,
180 but not limited to, a monetary assessment or a fine. The clerk
181 of the court shall collect and receive such assessments or
182 fines. On a monthly basis, the clerk shall transfer the moneys
183 collected pursuant to this paragraph to the State Treasury for
184 deposit in the Domestic Violence Trust Fund established in s.
185 741.01.

186 (b) If the respondent is arrested by a law enforcement
187 officer under s. 901.15(6) or for a violation of s. 741.31, the
188 respondent shall be held in custody until brought before the
189 court as expeditiously as possible for the purpose of enforcing
190 the injunction and for admittance to bail in accordance with
191 chapter 903 and the applicable rules of criminal procedure,
192 pending a hearing.

193 Section 5. For the purpose of incorporating the amendment
194 made by this act to sections 741.31, 784.047, and 784.0487,
195 Florida Statutes, in references thereto, subsection (2) of
196 section 741.315, Florida Statutes, is reenacted to read:

197 741.315 Recognition of foreign protection orders.-

198 (2) Pursuant to 18 U.S.C. s. 2265, an injunction for
199 protection against domestic violence issued by a court of a
200 foreign state must be accorded full faith and credit by the
201 courts of this state and enforced by a law enforcement agency as



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202 if it were the order of a Florida court issued under s. 741.30,
203 s. 741.31, s. 784.046, s. 784.047, s. 784.0485, or s. 784.0487,
204 and provided that the court had jurisdiction over the parties
205 and the matter and that reasonable notice and opportunity to be
206 heard was given to the person against whom the order is sought
207 sufficient to protect that person's right to due process. Ex
208 parte foreign injunctions for protection are not eligible for
209 enforcement under this section unless notice and opportunity to
210 be heard have been provided within the time required by the
211 foreign state or tribal law, and in any event within a
212 reasonable time after the order is issued, sufficient to protect
213 the respondent's due process rights.

214 Section 6. For the purpose of incorporating the amendment
215 made by this act to section 784.0487, Florida Statutes, in a
216 reference thereto, subsection (9) of section 784.0485, Florida
217 Statutes, is reenacted to read:

218 784.0485 Stalking; injunction; powers and duties of court
219 and clerk; petition; notice and hearing; temporary injunction;
220 issuance of injunction; statewide verification system;
221 enforcement.—

222 (9) (a) The court may enforce a violation of an injunction
223 for protection against stalking through a civil or criminal
224 contempt proceeding, or the state attorney may prosecute it as a
225 criminal violation under s. 784.0487. Any assessments or fines
226 ordered by the court enforcing such an injunction shall be
227 collected by the clerk of the court and transferred on a monthly
228 basis to the State Treasury for deposit into the Domestic
229 Violence Trust Fund.

230 (b) If the respondent is arrested by a law enforcement



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231 officer under s. 901.15(6) or for a violation of s. 784.0487,
232 the respondent shall be held in custody until brought before the
233 court as expeditiously as possible for the purpose of enforcing
234 the injunction and for admittance to bail in accordance with
235 chapter 903 and the applicable rules of criminal procedure,
236 pending a hearing.

237 Section 7. For the purpose of incorporating the amendment
238 made by this act to sections 741.31 and 784.047, Florida
239 Statutes, in references thereto, subsections (6) and (7) of
240 section 901.15, Florida Statutes, are reenacted to read:

241 901.15 When arrest by officer without warrant is lawful.—A
242 law enforcement officer may arrest a person without a warrant
243 when:

244 (6) There is probable cause to believe that the person has
245 committed a criminal act according to s. 790.233 or according to
246 s. 741.31 or s. 784.047 which violates an injunction for
247 protection entered pursuant to s. 741.30 or s. 784.046, or a
248 foreign protection order accorded full faith and credit pursuant
249 to s. 741.315, over the objection of the petitioner, if
250 necessary.

251 (7) There is probable cause to believe that the person has
252 committed an act of domestic violence, as defined in s. 741.28,
253 or dating violence, as provided in s. 784.046. The decision to
254 arrest shall not require consent of the victim or consideration
255 of the relationship of the parties. It is the public policy of
256 this state to strongly discourage arrest and charges of both
257 parties for domestic violence or dating violence on each other
258 and to encourage training of law enforcement and prosecutors in
259 these areas. A law enforcement officer who acts in good faith



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260 and exercises due care in making an arrest under this
261 subsection, under s. 741.31(4) or s. 784.047, or pursuant to a
262 foreign order of protection accorded full faith and credit
263 pursuant to s. 741.315, is immune from civil liability that
264 otherwise might result by reason of his or her action.

265 Section 8. This act shall take effect October 1, 2016.