

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Civil Justice & Claims
 2 Subcommittee

3 Representative Burton offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Present subsections (6) through (12) of section
 8 825.101, Florida Statutes, are redesignated as subsections (7)
 9 through (13), respectively, and a new subsection (6) and
 10 subsection (14) are added to that section, to read:

11 825.101 Definitions.—As used in this chapter:

12 (6) "Exploitation" has the same meaning as the term
 13 "exploitation of an elderly person or disabled adult" as defined
 14 in s. 825.103(1).

15 (14) "Vulnerable adult" has the same meaning as in s.
 16 415.102.

Amendment No.

17 Section 2. Section 825.1035, Florida Statutes, is created
18 to read:

19 825.1035 Injunction for protection against exploitation of
20 a vulnerable adult.—

21 (1) INJUNCTION CREATED.—There is created a cause of action
22 for an injunction for protection against the exploitation of a
23 vulnerable adult.

24 (2) WHO MAY FILE; VENUE; RECORDING.—

25 (a) The cause of action for an injunction may be sought
26 by:

27 1. A vulnerable adult in imminent danger of being
28 exploited;

29 2. The guardian of a vulnerable adult in imminent danger
30 of being exploited;

31 3. A person or organization acting on behalf of the
32 vulnerable adult with the consent of the vulnerable adult or his
33 or her guardian; or

34 4. A person who simultaneously files a petition for
35 determination of incapacity and appointment of an emergency
36 temporary guardian with respect to the vulnerable adult.

37 (b) A sworn petition for an injunction for protection
38 against the exploitation of a vulnerable adult may be filed
39 regardless of whether any other cause of action is currently
40 pending between either the petitioner and the respondent or the
41 vulnerable adult and the respondent. However, the pendency of

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

42 any such cause of action shall be noted in the petition.

43 (c) A person temporarily or permanently vacating a
44 residence or household in an attempt to avoid exploitation does
45 not affect his or her right to petition for an injunction.

46 (d) Parties to an injunction for protection against the
47 exploitation of a vulnerable adult may not be required to be
48 represented by an attorney.

49 (e) There is no minimum requirement of residency to
50 petition for an injunction for protection against the
51 exploitation of a vulnerable adult. It is not required as a
52 prerequisite of filing a petition for or issuance of an
53 injunction under this section for exploitation to have already
54 occurred.

55 (f) If a proceeding concerning the vulnerable adult under
56 chapter 744 is pending at the time of the filing, the petition
57 must be filed in that proceeding. Otherwise, a petition for an
58 injunction for protection against the exploitation of a
59 vulnerable adult may only be filed in the circuit where the
60 vulnerable adult resides.

61 (g) All proceedings conducted pursuant to this subsection
62 must be recorded. Recording may be by electronic means as
63 provided by court rule.

64 (3) FORM OF PETITION.—

65 (a) A sworn petition filed under this section must allege
66 the existence of exploitation, or the imminent exploitation, of

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

67 the vulnerable adult and must include the specific facts and
68 circumstances for which relief is sought. The sworn petition
69 must be in substantially the following form:

71 PETITION FOR INJUNCTION

72 FOR Protection against the exploitation of a vulnerable adult

73
74 Before me, the undersigned authority, personally appeared
75 Petitioner ...(Name)..., who has been sworn and says that the
76 following statements are true:

77 1. The vulnerable adult resides at: ...(address)...

78 2. The respondent resides at: ...(last known address)....

79 3. The respondent's last known place of employment is:

80 ...(name of business and address)....

81 4. Physical description of the respondent:

82 Race....

83 Sex....

84 Date of birth....

85 Height....

86 Weight....

87 Eye color....

88 Hair color....

89 Distinguishing marks or scars....

90 5. Aliases of the respondent:

91 6. The respondent is associated with the vulnerable adult

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Published On: 1/22/2018 6:09:52 PM

Amendment No.

92 as follows:

93 7. The following describes any other cause of action
94 currently pending between the petitioner and the respondent, any
95 proceeding under chapter 744 concerning the vulnerable adult,
96 and any previous or pending attempts by the petitioner to obtain
97 an injunction for protection against exploitation of the
98 vulnerable adult in this or any other circuit; related case
99 numbers, if available; and the results of any such attempts:

100
101 8. The following describes the petitioner's knowledge of
102 any reports made to a government agency, including, but not
103 limited to, the Department of Elderly Affairs, the Department of
104 Children and Families, and the adult protective services program
105 relating to the abuse, neglect, or exploitation of the
106 vulnerable adult; any investigations performed by a government
107 agency relating to abuse, neglect, or exploitation of the
108 vulnerable adult; and the results of any such reports or
109 investigations:

110
111 9. The petitioner knows the vulnerable adult is either a
112 victim of exploitation or the petitioner has reasonable cause to
113 believe the vulnerable adult is, or is in imminent danger of
114 becoming, a victim of exploitation because the respondent has:
115(describe in the spaces below the incidents or threats of
116 exploitation)

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Published On: 1/22/2018 6:09:52 PM

Amendment No.

117 10. The petitioner genuinely fears imminent exploitation of
118 the vulnerable adult by the respondent.

119 11. The petitioner seeks an injunction for the protection
120 of the vulnerable adult, including: ... (mark appropriate section
121 or sections)....

122 Prohibiting the respondent from having any direct or
123 indirect contact with the vulnerable adult.

124 Immediately restraining the respondent from committing
125 any acts of exploitation against the vulnerable adult.

126 Freezing the assets of the vulnerable adult held at
127 ...(name and address of depository or financial institution)...
128 even if titled jointly with the respondent, or in the
129 respondent's name only, in the court's discretion.

130 Freezing the credit lines of the vulnerable adult at
131 ...(name and address of financial institution)... even if
132 jointly with the respondent, in the court's discretion.

133 Providing any terms the court deems necessary for the
134 protection of the vulnerable adult or his or her assets,
135 including any injunctions or directives to law enforcement
136 agencies.

137 12. Should the court enter an injunction freezing assets
138 and credit lines, the petitioner believes that the critical
139 expenses of the vulnerable adult will be paid for or provided by
140 the following persons or entities, or the petitioner requests
141 that the following expenses be paid notwithstanding the freeze:

Amendment No.

142

143
144 (b) Each petition for an injunction for protection against
145 the exploitation of a vulnerable adult must contain, directly
146 above the signature line, a statement in all capital letters and
147 bold type not smaller than the surrounding text, as follows:

148
149 I HAVE READ EACH STATEMENT MADE IN THIS PETITION AND
150 EACH SUCH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND
151 THAT THE STATEMENTS MADE IN THIS PETITION ARE BEING
152 MADE UNDER PENALTY OF PERJURY PUNISHABLE AS PROVIDED
153 IN SECTION 837.02, FLORIDA STATUTES.

154
155 (c) Upon the filing of the petition, the court shall
156 schedule a hearing on the petition on the earliest possible
157 date.

158 (4) CLERK'S DUTIES, RESPONSIBILITIES, AND CHARGES.-

159 (a) The clerk of the circuit court shall assist the
160 petitioner in filing an injunction for protection against the
161 exploitation of a vulnerable adult and any petition alleging a
162 violation thereof.

163 (b) The clerk of the circuit court shall provide
164 simplified petition forms for the injunction for protection
165 against the exploitation of a vulnerable adult, and any
166 modifications thereto, and for the enforcement thereof, and

Amendment No.

167 instructions for completion of such forms.

168 (c) The clerk of the circuit court shall, to the extent
169 practicable, ensure the petitioner's privacy while completing
170 such forms.

171 (d) The clerk of the circuit court shall provide, without
172 charge, the petitioner with two certified copies of the petition
173 for an injunction, and shall inform the petitioner of the steps
174 necessary for service or process and enforcement.

175 (e) If an injunction is entered, the clerk of the circuit
176 court shall provide, without charge, the petitioner with
177 certified copies of an order of injunction that may be served
178 upon any person holding property, or upon any financial
179 institution with an open line of credit, that is subject to the
180 freeze, and shall inform the petitioner of the process for
181 service and enforcement.

182 (e) Clerks of the circuit court and appropriate staff in
183 each county shall receive training in the effective assistance
184 of petitioners as provided or approved by the Florida
185 Association of Court Clerks.

186 (f) The clerk of the circuit court in each county shall
187 produce an informational brochure and provide it to the
188 petitioner at the time of filing for an injunction for
189 protection against the exploitation of a vulnerable adult. The
190 brochure must include information about the exploitation of
191 vulnerable adults and the effect of providing false information

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

192 to the court. The clerk of the circuit court in each county
193 shall also make available informational brochures on the
194 exploitation of vulnerable adults when such brochures are
195 provided by local senior centers, local aging and disability
196 resource centers, or appropriate state or federal agencies.

197 (g) The clerk of the court shall provide a copy of all
198 petitions filed pursuant to this section and all orders entered
199 on such petitions to the adult protective services program,
200 which shall treat such petitions in the same manner as a report
201 of abuse, neglect, or exploitation of a vulnerable adult. Within
202 24 hours after receipt of such orders or petitions, the adult
203 protective services program shall submit to the court overseeing
204 proceedings on the petition the results of any previous
205 investigations relating to the vulnerable adult.

206 (h) Notwithstanding any other provision of law, the clerk
207 of the circuit court may not assess a filing fee or service
208 charge for petitions filed under this section. However, subject
209 to legislative appropriation for such purpose, the clerk of the
210 circuit court may, on a quarterly basis, submit a certified
211 request for reimbursement to the Office of the State Courts
212 Administrator for the processing of such petitions, at the rate
213 of \$40 per petition. The request for reimbursement must be
214 submitted in the form and manner prescribed by the Office of the
215 State Courts Administrator. From each reimbursement received,
216 the clerk of the circuit court shall pay any law enforcement

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

217 agency serving the injunction for protection against the
218 exploitation of a vulnerable adult the fee requested by the law
219 enforcement agency. However, the fee may not exceed \$20.

220 (5) TEMPORARY INJUNCTION; SERVICE; HEARING.—

221 (a)1. The court may grant a temporary injunction ex parte,
222 pending a full hearing, and may grant such relief as the court
223 deems proper if it appears to the court that:

224 a. An immediate and present danger of exploitation of the
225 vulnerable adult exists;

226 b. There is a likelihood of irreparable harm and
227 nonavailability of an adequate remedy at law;

228 c. There is a substantial likelihood of success on the
229 merits;

230 d. The threatened injury to the vulnerable adult outweighs
231 possible harm to the respondent; and

232 e. Granting a temporary injunction will not disserve the
233 public interest.

234 2. Such relief the court deems proper may include, but is
235 not limited to, injunctions doing any of the following:

236 a. Restraining the respondent from committing any acts of
237 exploitation against the vulnerable adult.

238 b. Awarding to the vulnerable adult the temporary
239 exclusive use and possession of the dwelling that the vulnerable
240 adult and the respondent share, or barring the respondent from
241 the residence of the vulnerable adult, if the court finds that

Amendment No.

242 the vulnerable adult is able to reside safely without the
243 respondent.

244 c. Freezing any assets of the vulnerable adult in any
245 depository or financial institution whether titled solely in the
246 vulnerable adult's name, solely in the respondent's name,
247 jointly with the respondent, in guardianship, in trust, or in a
248 Totten trust, provided that:

249 (I) Assets held by a guardian for the vulnerable adult may
250 be frozen only by an order entered by the court overseeing the
251 guardianship proceeding.

252 (II) Assets held by a trust may be frozen only by an order
253 of the court if all the trustees of the trust are served with
254 process and are given reasonable notice prior to any hearing on
255 the petition.

256 (III) Assets held solely in the name of the respondent may
257 only be frozen on an ex parte basis if the petition and
258 affidavit demonstrate to the court probable cause that such
259 assets are traceable to the unlawful exploitation of the
260 vulnerable adult, that such assets are likely to be returned to
261 the vulnerable adult after a final evidentiary hearing, and that
262 no other adequate remedy at law is reasonably available.

263 d. Freezing any line of credit of the vulnerable adult at
264 any depository or financial institution whether listed solely in
265 the vulnerable adult's name or jointly with the respondent.

266 e. Prohibiting the respondent from having any direct or

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

267 indirect contact with the vulnerable adult.

268 f. Providing any injunctions or directives to law
269 enforcement agencies.

270 g. If the court has ordered an asset and credit freeze, the
271 court may order that specified living expenses of the vulnerable
272 adult continue to be paid notwithstanding the freeze.

273 (b) Except as provided in s. 90.204, in a hearing ex parte
274 for the purpose of obtaining an ex parte temporary injunction,
275 only verified pleadings or affidavits may be used as evidence
276 unless the respondent appears at the hearing or has received
277 reasonable notice of the hearing. For purposes of s. 90.204(4),
278 a petition under this section shall be considered a "family
279 case."

280 (c) A denial of a petition for an ex parte injunction must
281 be by written order and must note the legal grounds for denial.
282 When the only ground for denial is failure to demonstrate
283 appearance of an immediate and present danger of exploitation of
284 a vulnerable adult, the court must set a full hearing on the
285 petition for injunction at the earliest possible date. Nothing
286 in this paragraph affects a petitioner's right to promptly amend
287 any petition consistent with court rules.

288 (d) An ex parte temporary injunction may be effective for
289 a fixed period not to exceed 15 days. A full hearing, as
290 provided by this section, must be set for a date no later than
291 the date when the temporary injunction ceases to be effective.

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

292 The court may grant a continuance of the hearing, before or
293 during the hearing, for good cause shown by any party, which
294 good cause may include a continuance to obtain service of
295 process. An ex parte injunction is not extended beyond the
296 initial 15 days as a result of a continuance.

297 (6) REASONABLE CAUSE.—In determining whether a petitioner
298 has reasonable cause to believe that the vulnerable adult is, or
299 is in imminent danger of becoming, a victim of exploitation, the
300 court shall consider and evaluate all relevant factors,
301 including, but not limited to, any of the following:

302 (a) The existence of a verifiable order of protection
303 issued previously or from another jurisdiction.

304 (b) Any history of exploitation by the respondent upon the
305 vulnerable adult in the petition or any other vulnerable adult.

306 (c) Any history of the vulnerable adult being previously
307 exploited or unduly influenced.

308 (d) The capacity of the vulnerable adult to make decisions
309 related to his or her finances and property.

310 (e) Susceptibility of the vulnerable adult to undue
311 influence.

312 (f) Any criminal history of the respondent or previous
313 probable cause findings by the adult protective services
314 program, if known.

315 (7) NOTICE OF PETITION AND INJUNCTION.—

316 (a) The respondent shall be personally served, pursuant to

Amendment No.

317 chapter 48, with a copy of the petition, notice of hearing, and
318 temporary injunction, if any, prior to the final hearing. Where
319 the petitioner is acting in a representative capacity, the
320 vulnerable adult shall also be served with a copy of the
321 petition, notice of hearing, and temporary injunction, if any,
322 prior to the hearing.

323 (8) FINAL HEARING ON PETITION.—

324 (a)1. The court may grant such relief as the court deems
325 proper when, upon notice and hearing, it appears to the court
326 that:

327 a. The vulnerable adult is the victim of exploitation or
328 that the vulnerable adult is in imminent danger of becoming a
329 victim of exploitation;

330 b. There is a likelihood of irreparable harm and
331 nonavailability of an adequate remedy at law;

332 c. The threatened injury to the vulnerable adult outweighs
333 possible harm to the respondent; and

334 d. Where the injunction freezes assets of the respondent,
335 the court finds probable cause that exploitation has occurred,
336 the freeze only affects the proceeds of such exploitation, and
337 there is a substantial likelihood that such assets will be
338 ordered to be returned to the vulnerable adult.

339 2. Such relief may include, but need not be limited to,
340 injunctions doing any of the following:

341 a. Continuing the temporary injunction in part or in

Amendment No.

342 whole.

343 b. Restraining the respondent from committing any acts of
344 exploitation.

345 c. Awarding to the vulnerable adult the exclusive use and
346 possession of the dwelling that the vulnerable adult and the
347 respondent share or excluding the respondent from the residence
348 of the vulnerable adult, if the court finds that the vulnerable
349 adult is able to reside safely without the respondent.

350 d. Ordering the respondent to participate in treatment,
351 intervention, or counseling services to be paid for by the
352 respondent.

353 e. Directing that assets under temporary freeze by
354 injunction be returned to the vulnerable adult, or directing
355 that those assets remain frozen until ownership can be
356 determined; and directing that the temporary freeze on any line
357 of credit be lifted.

358 f. Where the court has found that the respondent has
359 engaged in exploitation of the vulnerable adult, entering a
360 final cost judgment against the respondent and in favor of the
361 petitioner for all costs, and entering a final cost judgment
362 against the respondent and in favor of the clerk of the circuit
363 court for all clerk's filing fees and service charges that were
364 waived by operation of this section.

365 g. Ordering such other relief as the court deems necessary
366 for the protection of a victim of exploitation, including

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

367 injunctions or directives to law enforcement agencies, as
368 provided in this section.

369 (b) The court must allow an advocate from a state
370 attorney's office, a law enforcement agency, or the adult
371 protective services program to be present with the petitioner or
372 the respondent during any court proceedings or hearings related
373 to the injunction, provided the petitioner or the respondent has
374 made such a request and the advocate is able to be present.

375 (c) The terms of an injunction restraining the respondent
376 as provided in paragraph (a) remain in effect until the
377 injunction is modified or dissolved.

378 (9) PROVISIONS REQUIRED IN ANY TEMPORARY OR PERMANENT
379 INJUNCTION.—A temporary or final judgment on an injunction must,
380 on its face, indicate:

381 (a) That the injunction is valid and enforceable in all
382 counties of this state.

383 (b) That law enforcement officers may use their arrest
384 powers pursuant to s. 901.15(6) to enforce the terms of the
385 injunction.

386 (c) That the court had jurisdiction over the parties and
387 subject matter under state law and that reasonable notice and
388 opportunity to be heard were given to the person against whom
389 the order was sought, in a manner that was sufficient to protect
390 that person's right to due process.

391 (d) The date the respondent was served with the petition

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

392 for injunction.

393 (10) TRANSMITTAL TO SHERIFF; SERVICE.-

394 (a)1.a. The clerk of the circuit court shall furnish a
395 copy of the petition, the financial affidavit, the notice of
396 hearing, and any temporary injunction to the sheriff or a law
397 enforcement agency of the county in which the respondent resides
398 or can be found, who shall serve it upon the respondent as soon
399 thereafter as possible on any day of the week and at any time of
400 the day or night. At the request of the sheriff, the clerk of
401 the circuit court may transmit a facsimile copy of an injunction
402 that has been certified by the clerk of the circuit court
403 pursuant to subparagraph 4., and this facsimile copy may be
404 served in the same manner as a certified copy. The clerk of the
405 circuit court shall also furnish to the sheriff such information
406 on the respondent's physical description and location as is
407 required by the Florida Department of Law Enforcement to comply
408 with the verification procedures set forth in sub-subparagraph
409 b.

410 b. Upon receiving a facsimile copy, the sheriff must
411 verify receipt with the clerk of the circuit court before
412 attempting to serve it upon the respondent. If the sheriff is in
413 possession of an injunction that has been certified by the clerk
414 of the circuit court, the sheriff may transmit a facsimile copy
415 of that injunction to a law enforcement officer who shall serve
416 it in the same manner as a certified copy.

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

417 c. Notwithstanding any other provision of law, the chief
418 judge of each circuit, in consultation with the appropriate
419 sheriff, may authorize a law enforcement agency within the
420 jurisdiction to effect service. A law enforcement agency
421 performing service pursuant to this section shall use service
422 and verification procedures consistent with those of the
423 sheriff.

424 2.a. Except where the vulnerable adult is the petitioner,
425 the clerk of the circuit court shall furnish a copy of the
426 petition, the financial affidavit, the notice of hearing, and
427 any temporary injunction to the sheriff or a law enforcement
428 agency of the county in which the vulnerable adult resides or
429 can be found, who shall serve it upon the vulnerable adult as
430 soon thereafter as possible on any day of the week and at any
431 time of the day or night. At the request of the sheriff, the
432 clerk of the circuit court may transmit a facsimile copy of an
433 injunction that has been certified by the clerk of the circuit
434 court pursuant to subparagraph 4., and this facsimile copy may
435 be served in the same manner as a certified copy. The clerk of
436 the circuit court shall also furnish to the sheriff such
437 information on the vulnerable adult's physical description and
438 location as is required by the Florida Department of Law
439 Enforcement to comply with the verification procedures set forth
440 in sub-subparagraph b.

441 b. Upon receiving a facsimile copy, the sheriff must

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

442 verify receipt with the clerk of the circuit court before
443 attempting to serve it upon the vulnerable adult. If the sheriff
444 is in possession of an injunction that has been certified by the
445 clerk of the circuit court, the sheriff may transmit a facsimile
446 copy of that injunction to a law enforcement officer, who shall
447 serve it in the same manner as a certified copy.

448 c. Notwithstanding any other provision of law, the chief
449 judge of each circuit, in consultation with the appropriate
450 sheriff, may authorize a law enforcement agency within the
451 jurisdiction of the circuit to effect service. A law enforcement
452 agency performing service pursuant to this section shall use
453 service and verification procedures consistent with those of the
454 sheriff.

455 3. When an injunction for protection against the
456 exploitation of a vulnerable adult is issued, if the petitioner
457 requests that a law enforcement agency assist the vulnerable
458 adult, the court may order that an officer from the appropriate
459 law enforcement agency accompany the vulnerable adult and assist
460 in the service or execution of the injunction, including
461 returning possession of a dwelling or residence to the
462 vulnerable adult. A law enforcement officer shall accept a copy
463 of an injunction, certified by the clerk of the circuit court
464 pursuant to subparagraph 4., from the petitioner and immediately
465 serve it upon a respondent who has been located but not yet
466 served. The law enforcement agency must also serve any

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

467 injunction freezing assets on a financial institution where
468 assets subject to dissipation are held, or where a credit line
469 may be exploited; the court may waive such service.

470 4. The clerk of the circuit court shall certify a copy of
471 all orders issued, changed, continued, extended, or vacated
472 subsequent to the original service of the original petition,
473 notice of hearing, or temporary injunction and deliver the
474 certified copy to the parties at the time of the entry of the
475 order. The parties may acknowledge receipt of a certified order
476 in writing on the face of the original order. If a party fails
477 or refuses to acknowledge the receipt of a certified copy of an
478 order, the clerk of the circuit court must note on the original
479 petition that service was effected. If delivery at the hearing
480 during which an order is issued is not possible, the clerk of
481 the circuit court shall mail certified copies of the order to
482 the parties at their respective last known mailing addresses.
483 Service by mail is complete upon mailing. When an order is
484 served pursuant to this subparagraph the clerk of the circuit
485 court shall notify the sheriff of the service and prepare a
486 written certification to be placed in the court file specifying
487 the time, date, and method of service.

488 5. If the respondent has been previously served with the
489 temporary injunction and has failed to appear at the initial
490 hearing on the temporary injunction, any subsequent petition for
491 an injunction seeking an extension of time may be served on the

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

492 respondent by the clerk of the court by certified mail in lieu
493 of personal service by a law enforcement officer.

494 (b)1. Within 24 hours after the court issues an injunction
495 for protection against the exploitation of a vulnerable adult or
496 changes, continues, extends, or vacates such an injunction, the
497 clerk of the circuit court must forward a certified copy of the
498 order to the sheriff with jurisdiction over the residence of the
499 petitioner for service in accordance with this subsection.

500 2. Within 24 hours after service of an injunction for
501 protection against the exploitation of a vulnerable adult upon a
502 respondent, the law enforcement officer who served the
503 injunction must forward the written proof of service to the
504 sheriff with jurisdiction over the residence of the petitioner.

505 3. Within 24 hours after the sheriff receives a certified
506 copy of the injunction for protection against the exploitation
507 of a vulnerable adult, the sheriff must make information related
508 to the injunction available to this state's law enforcement
509 agencies by electronically transmitting such information to the
510 Florida Department of Law Enforcement.

511 4. Within 24 hours after the sheriff or other law
512 enforcement officer has made service upon the respondent and the
513 sheriff has been so notified, the sheriff must make information
514 relating to the service available to other law enforcement
515 agencies by electronically transmitting such information to the
516 Florida Department of Law Enforcement.

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

517 5. Within 24 hours after an injunction for protection
518 against the exploitation of a vulnerable adult is terminated, or
519 otherwise rendered no longer effective by ruling of the court,
520 the clerk of the circuit court must notify the sheriff receiving
521 original notification of the injunction as provided in
522 subparagraph 1. The sheriff's agency shall, within 24 hours
523 after receiving such notification from the clerk of the circuit
524 court, notify the Florida Department of Law Enforcement of such
525 action of the court.

526 (11) ENFORCEMENT.—

527 (a) The court may enforce a violation of an injunction for
528 protection against the exploitation of a vulnerable adult
529 through a civil or criminal contempt proceeding, and the state
530 attorney may prosecute it as a criminal violation under s.
531 825.1036. Any assessment or fine ordered by the court enforcing
532 such injunction shall be collected by the clerk of the circuit
533 court and transferred on a monthly basis to the Department of
534 Revenue for deposit in the Domestic Violence Trust Fund.

535 (b) If the respondent is arrested by a law enforcement
536 officer under s. 901.15(6) or for a violation of s. 825.1036,
537 the respondent must be held in custody until he or she is
538 brought before the court, which must occur as expeditiously as
539 possible, for the purpose of enforcing the injunction for
540 protection against the exploitation of a vulnerable adult and
541 for admittance to bail in accordance with chapter 903 and the

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

542 applicable rules of criminal procedure, pending a hearing.

543 (12) JUDGMENT FOR DAMAGES.—Actual damages may be assessed
544 in a proceeding under this section if the court finds that the
545 petition was without substantial fact or legal support.

546 (13) MODIFICATION OR DISSOLUTION OF INJUNCTION.— The
547 petitioner, respondent, or vulnerable adult may move at any time
548 to modify or dissolve the injunction in part or in whole. No
549 specific allegations are required for modification or
550 dissolution of the injunction, which may be granted in addition
551 to other civil or criminal penalties. The court shall promptly
552 hear a motion to modify or dissolve an injunction.

553 (14) LIMITATION.—Nothing in this section may affect the
554 title to real property.

555 Section 3. Section 825.1036, Florida Statutes, is created
556 to read:

557 825.1036 Violation of an injunction for protection against
558 the exploitation of a vulnerable adult.—

559 (1) In the event of a violation of an injunction for
560 protection against the exploitation of a vulnerable adult when
561 the person who violated such injunction has not been arrested,
562 the petitioner may contact the clerk of the circuit court of the
563 county in which the violation is alleged to have occurred. The
564 clerk of the circuit court shall assist the petitioner in the
565 preparation of an affidavit in support of the violation or
566 direct the petitioner to the office operated by the court within

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

567 the circuit which has been designated by the chief judge of that
568 circuit as the central intake point for injunction violations
569 and where the petitioner can receive assistance in the
570 preparation of the affidavit in support of the violation.

571 (2) The affidavit shall be immediately forwarded by the
572 clerk of the circuit court or the office assisting the
573 petitioner to the state attorney of that circuit and to such
574 court or judge as the chief judge of that circuit determines to
575 be the recipient of affidavits of violation. If the affidavit
576 alleges that a crime has been committed, the clerk of the
577 circuit court or the office assisting the petitioner shall also
578 forward a copy of the petitioner's affidavit to the appropriate
579 law enforcement agency for investigation. Within 20 days after
580 receipt of the affidavit, the local law enforcement agency shall
581 complete its investigation and forward the affidavit and a
582 report containing the agency's findings to the state attorney.
583 The state attorney shall determine within 30 working days
584 whether its office will proceed to file criminal charges,
585 prepare a motion for an order to show cause as to why the
586 respondent should not be held in criminal contempt, prepare both
587 as alternative findings, or file notice that the case remains
588 under investigation or is pending subject to another action.

589 (3) If, based on its familiarity with the case, the court
590 has knowledge that the vulnerable adult is in immediate danger
591 if the court fails to act prior to the decision of the state

Amendment No.

592 attorney to prosecute, it should immediately issue an order of
593 appointment of the state attorney to file a motion for an order
594 to show cause as to why the respondent should not be held in
595 contempt. If the court does not issue an order of appointment of
596 the state attorney, it shall immediately notify the state
597 attorney that the court is proceeding to enforce the violation
598 through a ruling of criminal contempt.

599 (4) (a) Except as provided in paragraph (b), a person who
600 willfully violates an injunction for protection against the
601 exploitation of a vulnerable adult commits a misdemeanor of the
602 first degree, punishable as provided in s. 775.082 or s.
603 775.083. A person may violate such injunction by:

604 1. Refusing to vacate the dwelling shared with the
605 vulnerable adult;

606 2. Going to, or being within 500 feet of, the vulnerable
607 adult's residence;

608 3. Exploiting or unduly influencing the vulnerable adult;

609 4. Committing any other violation of the injunction
610 through an intentional unlawful threat, word, or act to do
611 violence to the vulnerable adult;

612 5. Telephoning, contacting, or otherwise communicating
613 with the vulnerable adult directly or indirectly, unless the
614 injunction specifically allows indirect contact through a third
615 party;

616 6. Knowingly and intentionally coming within 100 feet of

Amendment No.

617 the vulnerable adult's motor vehicle, regardless of whether that
618 vehicle is occupied; or

619 7. Defacing or destroying the vulnerable adult's personal
620 property.

621 (b) A person who has two or more prior convictions for
622 violation of an injunction or foreign protection order against
623 the same victim, and who subsequently commits a violation of any
624 injunction or foreign protection order against the same victim,
625 commits a felony of the third degree, punishable as provided in
626 s. 775.082, s. 775.083, or s. 775.084. For purposes of this
627 paragraph, the term "conviction" means a determination of guilt
628 which is the result of a plea or a trial, regardless of whether
629 adjudication is withheld or a plea of nolo contendere is
630 entered.

631 (5) A vulnerable adult who suffers an injury or loss as a
632 result of a violation of an injunction for protection against
633 the exploitation of a vulnerable adult may be awarded economic
634 damages for that injury or loss. Damages include costs and
635 attorney fees for enforcement of such injunction.

636 Section 4. Subsection (6) of section 901.15, Florida
637 Statutes, is amended to read:

638 901.15 When arrest by officer without warrant is lawful.—A
639 law enforcement officer may arrest a person without a warrant
640 when:

641 (6) There is probable cause to believe that the person has

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

642 committed a criminal act according to s. 790.233 or according to
643 s. 741.31, ~~or~~ s. 784.047, or s. 825.1036 which violates an
644 injunction for protection entered pursuant to s. 741.30, ~~or~~ s.
645 784.046, or s. 825.1035 or a foreign protection order accorded
646 full faith and credit pursuant to s. 741.315, over the objection
647 of the petitioner, if necessary.

648 Section 5. This act shall take effect July 1, 2018.

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T I T L E A M E N D M E N T

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654 Remove everything before the enacting clause and insert:

655

656 An act relating to exploitation of a vulnerable person; amending
657 s. 825.101, F.S.; defining terms; creating s. 825.1035, F.S.;
658 creating a cause of action for an injunction for protection
659 against the exploitation of a vulnerable adult; providing for
660 standing to bring a cause of action for an injunction; providing
661 that an injunction may be sought regardless of any other action
662 that may be pending between specified parties; specifying that
663 the right to petition for an injunction is not affected by a
664 person temporarily or permanently vacating a residence or
665 household to avoid exploitation; providing that parties to an
666 injunction may not be required to be represented by an attorney;

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1059 (2018)

Amendment No.

667 providing for venue; providing that exploitation already having
668 occurred is not required as a prerequisite for filing for or
669 issuance of an injunction; requiring that a petition be filed in
670 certain proceedings under ch. 744, F.S.; requiring that certain
671 proceedings be recorded; requiring a sworn petition to contain
672 certain allegations and statements; requiring the court to set a
673 hearing within a certain time; requiring the clerk of the
674 circuit court to assist the petitioner in filing an injunction
675 or petition by providing certain forms and instructions;
676 requiring the clerk of the court to ensure the petitioner's
677 privacy; requiring the clerk of the court to provide the
678 petitioner with certified copies of the injunction order;
679 requiring that the clerks of the court and appropriate staff
680 receive certain training; requiring that the clerk of the
681 circuit court make available certain informational brochures and
682 create and distribute a specified brochure containing specified
683 information to the petitioner at the time of filing for an
684 injunction; prohibiting the clerk of the circuit court from
685 assessing a filing fee; authorizing the clerk of the circuit
686 court to request a reimbursement for such petitions, subject to
687 the appropriation of funds for that purpose; requiring the clerk
688 of the circuit court to pay from such reimbursement certain fees
689 to a law enforcement agency; authorizing the court to grant a
690 temporary injunction ex parte under certain circumstances;
691 prohibiting the use of evidence other than verified pleadings or

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

692 affidavits in an ex parte hearing; providing an exception;
693 authorizing the court to grant specified relief under certain
694 circumstances; requiring the court to follow certain procedures
695 when issuing an order denying a petition for an ex parte
696 injunction; prohibiting an ex parte temporary injunction from
697 having a duration longer than a specified number of days;
698 requiring that a full hearing be set for a date no later than
699 the date the temporary injunction expires; authorizing the court
700 to grant a continuance of the hearing for good cause; providing
701 factors that a court must consider when determining whether
702 petitioners have reasonable cause; requiring the respondent to
703 be personally served with certain documents prior to the
704 hearing; providing for the relief a court may grant after a
705 final hearing on a petition; requiring that the court allow
706 certain advocates to be present under certain circumstances;
707 requiring that the terms of certain injunctions remain in effect
708 until modified or dissolved; requiring that a temporary or final
709 judgment on an injunction meet certain requirements; providing
710 requirements and options for service of process; authorizing the
711 court to waive the service of process requirement for a
712 financial institution; requiring that the clerk of the circuit
713 court deliver a certified copy of certain orders meeting certain
714 criteria to the parties under certain circumstances; providing
715 options for noting the service was effective; requiring that the
716 clerk of the circuit court place a written certification in the

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Published On: 1/22/2018 6:09:52 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1059 (2018)

Amendment No.

717 court file and notify the sheriff under certain circumstances;
718 authorizing the clerk of the circuit court to serve certain
719 respondents by certified mail; requiring that the clerk of the
720 circuit court, law enforcement officers, and sheriffs follow
721 certain procedures within a certain timeframe after an
722 injunction has been issued or an injunction becomes ineffective;
723 requiring the clerk of the circuit court to provide copies of
724 certain petitions and orders to the adult protective services
725 program; requiring the adult protective services program to
726 treat petitions in a certain manner; requiring the adult
727 protective services program to submit to the court the results
728 of any previous investigations relating to the vulnerable adult
729 within a specified timeframe; providing options for enforcing
730 and prosecuting a violation of an injunction; requiring that the
731 clerk of the circuit collect any assessment or fine ordered by
732 the court and transfer it to the Department of Revenue for
733 deposit into the General Revenue fund on a monthly basis;
734 requiring that a respondent held in custody after an arrest for
735 violating an injunction be brought before the court as
736 expeditiously as possible; specifying that the petitioner is
737 liable for actual damages under certain circumstances;
738 authorizing either party to move at any time to modify or
739 dissolve an injunction; providing construction; creating s.
740 825.1036, F.S.; requiring that a clerk of the circuit court
741 assist the petitioner in preparing an affidavit or direct the

709113 - h1059-strike.docx

Published On: 1/22/2018 6:09:52 PM

Amendment No.

742 petitioner to a certain office, under certain circumstances;
743 requiring the clerk of the circuit court or the office assisting
744 the petitioner to immediately forward the affidavit to certain
745 people and places depending on certain circumstances; requiring
746 a law enforcement agency to complete its investigation and
747 forward the affidavit along with a report of any information
748 obtained through its investigation to the state attorney within
749 a specified timeframe; requiring the state attorney to determine
750 how it will proceed within a specified timeframe; authorizing
751 the court to immediately issue an order of appointment of the
752 state attorney in certain circumstances; requiring the court to
753 immediately notify the state attorney that the court is
754 proceeding to enforce the violation through a ruling of criminal
755 contempt if the court does not issue an order of appointment;
756 providing a penalty for a willful violation of an injunction;
757 providing an exception; providing for how an injunction may be
758 violated; providing that a person with two or more prior
759 convictions for violation of an injunction or foreign protection
760 order against the same victim who commits a subsequent violation
761 against the same victim commits a third degree felony; defining
762 conviction; authorizing the court to award economic damages to a
763 person who suffers an injury or loss as a result of a violation
764 of an injunction; amending s. 901.15, F.S.; conforming
765 provisions to changes made by the act; providing an effective
766 date.

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