

1 A bill to be entitled

2 An act relating to exploitation of a vulnerable adult;
3 amending s. 825.101, F.S.; defining terms; creating s.
4 825.1035, F.S.; creating a cause of action for an
5 injunction for protection against the exploitation of
6 a vulnerable adult; providing for standing to bring a
7 cause of action for an injunction; providing that an
8 injunction may be sought regardless of any other
9 action that may be pending between specified parties;
10 specifying that the right to petition for an
11 injunction is not affected by a person temporarily or
12 permanently vacating a residence or household to avoid
13 exploitation; providing that parties to an injunction
14 may not be required to be represented by an attorney;
15 providing for venue; providing that exploitation
16 already having occurred is not required as a
17 prerequisite for filing for or issuance of an
18 injunction; requiring that a petition be filed in
19 certain proceedings under ch. 744, F.S.; requiring
20 that certain proceedings be recorded; requiring a
21 sworn petition to contain certain allegations and
22 statements; requiring the court to set a hearing
23 within a certain time; requiring the clerk of the
24 circuit court to assist the petitioner in filing an
25 injunction or petition by providing certain forms and

26 | instructions; requiring the clerk of the court to
27 | ensure the petitioner's privacy; requiring the clerk
28 | of the court to provide the petitioner with certified
29 | copies of the injunction order; requiring that the
30 | clerks of the court and appropriate staff receive
31 | certain training; requiring that the clerk of the
32 | circuit court make available certain informational
33 | brochures and create and distribute a specified
34 | brochure containing specified information to the
35 | petitioner at the time of filing for an injunction;
36 | prohibiting the clerk of the circuit court from
37 | assessing a filing fee; authorizing the clerk of the
38 | circuit court to request a reimbursement for such
39 | petitions, subject to the appropriation of funds for
40 | that purpose; requiring the clerk of the circuit court
41 | to pay from such reimbursement certain fees to a law
42 | enforcement agency; authorizing the court to grant a
43 | temporary injunction ex parte under certain
44 | circumstances; prohibiting the use of evidence other
45 | than verified pleadings or affidavits in an ex parte
46 | hearing; providing an exception; authorizing the court
47 | to grant specified relief under certain circumstances;
48 | requiring the court to follow certain procedures when
49 | issuing an order denying a petition for an ex parte
50 | injunction; prohibiting an ex parte temporary

51 injunction from having a duration longer than a
52 specified number of days; requiring that a full
53 hearing be set for a date no later than the date the
54 temporary injunction expires; authorizing the court to
55 grant a continuance of the hearing for good cause;
56 providing factors that a court must consider when
57 determining whether petitioners have reasonable cause;
58 requiring the respondent to be personally served with
59 certain documents before the hearing; providing for
60 the relief a court may grant after a final hearing on
61 a petition; requiring that the court allow certain
62 advocates to be present under certain circumstances;
63 requiring that the terms of certain injunctions remain
64 in effect until modified or dissolved; requiring that
65 a temporary or final judgment on an injunction meet
66 certain requirements; providing requirements and
67 options for service of process; authorizing the court
68 to waive the service of process requirement for a
69 financial institution; requiring that the clerk of the
70 circuit court deliver a certified copy of certain
71 orders meeting certain criteria to the parties under
72 certain circumstances; providing options for noting
73 the service was effective; requiring that the clerk of
74 the circuit court place a written certification in the
75 court file and notify the sheriff under certain

76 | circumstances; authorizing the clerk of the circuit
77 | court to serve certain respondents by certified mail;
78 | requiring that the clerk of the circuit court, law
79 | enforcement officers, and sheriffs follow certain
80 | procedures within a certain timeframe after an
81 | injunction has been issued or an injunction becomes
82 | ineffective; requiring the clerk of the circuit court
83 | to provide copies of certain petitions and orders to
84 | the adult protective services program; requiring the
85 | adult protective services program to treat petitions
86 | in a certain manner; requiring the adult protective
87 | services program to submit to the court the results of
88 | any previous investigations relating to the vulnerable
89 | adult within a specified timeframe; providing options
90 | for enforcing and prosecuting a violation of an
91 | injunction; requiring that the clerk of the circuit
92 | court collect any assessment or fine; providing for
93 | deposit of funds; requiring that a respondent held in
94 | custody after an arrest for violating an injunction be
95 | brought before the court as expeditiously as possible;
96 | specifying that the petitioner is liable for actual
97 | damages under certain circumstances; authorizing
98 | either party to move at any time to modify or dissolve
99 | an injunction; providing construction; creating s.
100 | 825.1036, F.S.; requiring that a clerk of the circuit

101 court assist the petitioner in preparing an affidavit
102 or direct the petitioner to a certain office, under
103 certain circumstances; requiring the clerk of the
104 circuit court or the office assisting the petitioner
105 to immediately forward the affidavit to certain people
106 and places depending on certain circumstances;
107 requiring a law enforcement agency to complete its
108 investigation and forward the affidavit along with a
109 report of any information obtained through its
110 investigation to the state attorney within a specified
111 timeframe; requiring the state attorney to determine
112 how it will proceed within a specified timeframe;
113 authorizing the court to immediately issue an order of
114 appointment of the state attorney in certain
115 circumstances; requiring the court to immediately
116 notify the state attorney that the court is proceeding
117 to enforce the violation through a ruling of criminal
118 contempt if the court does not issue an order of
119 appointment; providing a penalty for a willful
120 violation of an injunction; providing an exception;
121 providing for how an injunction may be violated;
122 providing that a person with two or more prior
123 convictions for violation of an injunction or foreign
124 protection order against the same victim who commits a
125 subsequent violation against the same victim commits a

126 | third degree felony; defining the term "conviction";
 127 | authorizing the court to award economic damages to a
 128 | person who suffers an injury or loss as a result of a
 129 | violation of an injunction; amending s. 901.15, F.S.;
 130 | conforming provisions to changes made by the act;
 131 | providing an effective date.

132 |

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

134 |

135 | Section 1. Present subsections (6) through (12) of section
 136 | 825.101, Florida Statutes, are renumbered as subsections (7)
 137 | through (13), respectively, and a new subsection (6) and
 138 | subsection (14) are added to that section, to read:

139 | 825.101 Definitions.—As used in this chapter:

140 | (6) "Exploitation" has the same meaning as the term
 141 | "exploitation of an elderly person or disabled adult" as defined
 142 | in s. 825.103(1).

143 | (14) "Vulnerable adult" has the same meaning as in s.
 144 | 415.102.

145 | Section 2. Section 825.1035, Florida Statutes, is created
 146 | to read:

147 | 825.1035 Injunction for protection against exploitation of
 148 | a vulnerable adult.—

149 | (1) INJUNCTION CREATED.—There is created a cause of action
 150 | for an injunction for protection against the exploitation of a

151 vulnerable adult.

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

153 (a) The cause of action for an injunction may be sought
154 by:

155 1. A vulnerable adult in imminent danger of being
156 exploited;

157 2. The guardian of a vulnerable adult in imminent danger
158 of being exploited;

159 3. A person or organization acting on behalf of the
160 vulnerable adult with the consent of the vulnerable adult or his
161 or her guardian; or

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

165 (b) A sworn petition for an injunction for protection
166 against the exploitation of a vulnerable adult may be filed
167 regardless of whether any other cause of action is currently
168 pending between either the petitioner and the respondent or the
169 vulnerable adult and the respondent. However, the pendency of
170 any such cause of action must be noted in the petition.

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

174 (d) Parties to an injunction for protection against the
175 exploitation of a vulnerable adult may not be required to be

176 represented by an attorney.

177 (e) There is no minimum requirement of residency to
 178 petition for an injunction for protection against the
 179 exploitation of a vulnerable adult. It is not required as a
 180 prerequisite of filing a petition for or issuance of an
 181 injunction under this section for exploitation to have already
 182 occurred.

183 (f) If a proceeding concerning the vulnerable adult under
 184 chapter 744 is pending at the time of the filing, the petition
 185 must be filed in that proceeding. Otherwise, a petition for an
 186 injunction for protection against the exploitation of a
 187 vulnerable adult may only be filed in the circuit where the
 188 vulnerable adult resides.

189 (g) All proceedings conducted pursuant to this subsection
 190 must be recorded. Recording may be by electronic means as
 191 provided by court rule.

192 (3) FORM OF PETITION.—

193 (a) A sworn petition filed under this section must allege
 194 the existence of exploitation, or the imminent exploitation, of
 195 the vulnerable adult and must include the specific facts and
 196 circumstances for which relief is sought. The sworn petition
 197 must be in substantially the following form:

198
 199 PETITION FOR INJUNCTION
 200 FOR PROTECTION AGAINST THE EXPLOITATION OF A VULNERABLE ADULT

201
 202 Before me, the undersigned authority, personally appeared
 203 Petitioner ...(Name)..., who has been sworn and says that the
 204 following statements are true:

- 205 1. The vulnerable adult resides at: ...(address)...
- 206 2. The respondent resides at: ...(last known address)....
- 207 3. The respondent's last known place of employment is:
 208 ...(name of business and address)....
- 209 4. Physical description of the respondent:
 210 Race....
 211 Sex....
 212 Date of birth....
 213 Height....
 214 Weight....
 215 Eye color....
 216 Hair color....
 217 Distinguishing marks or scars....
- 218 5. Aliases of the respondent:
- 219 6. The respondent is associated with the vulnerable adult
 220 as follows:....
- 221 7. The following describes any other cause of action
 222 currently pending between the petitioner and the respondent, any
 223 proceeding under chapter 744 concerning the vulnerable adult,
 224 and any previous or pending attempts by the petitioner to obtain
 225 an injunction for protection against exploitation of the

226 vulnerable adult in this or any other circuit; related case
 227 numbers, if available; and the results of any such attempts:
 228

229 8. The following describes the petitioner's knowledge of
 230 any reports made to a government agency, including, but not
 231 limited to, the Department of Elderly Affairs, the Department of
 232 Children and Families, and the adult protective services program
 233 relating to the abuse, neglect, or exploitation of the
 234 vulnerable adult; any investigations performed by a government
 235 agency relating to abuse, neglect, or exploitation of the
 236 vulnerable adult; and the results of any such reports or
 237 investigations:....

238 9. The petitioner knows the vulnerable adult is either a
 239 victim of exploitation or the petitioner has reasonable cause to
 240 believe the vulnerable adult is, or is in imminent danger of
 241 becoming, a victim of exploitation because the respondent has:
 242(describe in the spaces below the incidents or threats of
 243 exploitation)

244 10. The petitioner genuinely fears imminent exploitation
 245 of the vulnerable adult by the respondent.

246 11. The petitioner seeks an injunction for the protection
 247 of the vulnerable adult, including: ...(mark appropriate section
 248 or sections)....

249Prohibiting the respondent from having any direct or
 250 indirect contact with the vulnerable adult.

251Immediately restraining the respondent from committing
 252 any acts of exploitation against the vulnerable adult.

253Freezing the assets of the vulnerable adult held at
 254 ...(name and address of depository or financial institution)...
 255 even if titled jointly with the respondent, or in the
 256 respondent's name only, in the court's discretion.

257Freezing the credit lines of the vulnerable adult at
 258 ...(name and address of financial institution)... even if
 259 jointly with the respondent, in the court's discretion.

260Providing any terms the court deems necessary for the
 261 protection of the vulnerable adult or his or her assets,
 262 including any injunctions or directives to law enforcement
 263 agencies.

264 12. Should the court enter an injunction freezing assets
 265 and credit lines, the petitioner believes that the critical
 266 expenses of the vulnerable adult will be paid for or provided by
 267 the following persons or entities, or the petitioner requests
 268 that the following expenses be paid notwithstanding the freeze:

269

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

274
 275 I HAVE READ EACH STATEMENT MADE IN THIS PETITION AND

276 EACH SUCH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND
277 THAT THE STATEMENTS MADE IN THIS PETITION ARE BEING
278 MADE UNDER PENALTY OF PERJURY PUNISHABLE AS PROVIDED
279 IN SECTION 837.02, FLORIDA STATUTES.

280
281 (c) Upon the filing of the petition, the court shall
282 schedule a hearing on the petition on the earliest possible
283 date.

284 (4) CLERK'S DUTIES, RESPONSIBILITIES, AND CHARGES.—

285 (a) The clerk of the circuit court shall assist the
286 petitioner in filing an injunction for protection against the
287 exploitation of a vulnerable adult and any petition alleging a
288 violation thereof.

289 (b) The clerk of the circuit court shall provide
290 simplified petition forms for the injunction for protection
291 against the exploitation of a vulnerable adult, and any
292 modifications thereto, and for the enforcement thereof, and
293 instructions for completion of such forms.

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

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

301 (e) If an injunction is entered, the clerk of the circuit
302 court shall provide, without charge, the petitioner with
303 certified copies of an order of injunction that may be served
304 upon any person holding property, or upon any financial
305 institution with an open line of credit, that is subject to the
306 freeze, and shall inform the petitioner of the process for
307 service and enforcement.

308 (e) Clerks of the circuit court and appropriate staff in
309 each county shall receive training in the effective assistance
310 of petitioners as provided or approved by the Florida
311 Association of Court Clerks.

312 (f) The clerk of the circuit court in each county shall
313 produce an informational brochure and provide it to the
314 petitioner at the time of filing for an injunction for
315 protection against the exploitation of a vulnerable adult. The
316 brochure must include information about the exploitation of
317 vulnerable adults and the effect of providing false information
318 to the court. The clerk of the circuit court in each county
319 shall also make available informational brochures on the
320 exploitation of vulnerable adults when such brochures are
321 provided by local senior centers, local aging and disability
322 resource centers, or appropriate state or federal agencies.

323 (g) The clerk of the court shall provide a copy of all
324 petitions filed pursuant to this section and all orders entered
325 on such petitions to the adult protective services program,

326 which shall treat such petitions in the same manner as a report
327 of abuse, neglect, or exploitation of a vulnerable adult. Within
328 24 hours after receipt of such orders or petitions, the adult
329 protective services program shall submit to the court overseeing
330 proceedings on the petition the results of any previous
331 investigations relating to the vulnerable adult.

332 (h) Notwithstanding any other provision of law, the clerk
333 of the circuit court may not assess a filing fee or service
334 charge for petitions filed under this section. However, subject
335 to legislative appropriation for such purpose, the clerk of the
336 circuit court may, on a quarterly basis, submit a certified
337 request for reimbursement to the Office of the State Courts
338 Administrator for the processing of such petitions, at the rate
339 of \$40 per petition. The request for reimbursement must be
340 submitted in the form and manner prescribed by the Office of the
341 State Courts Administrator. From each reimbursement received,
342 the clerk of the circuit court shall pay any law enforcement
343 agency serving the injunction for protection against the
344 exploitation of a vulnerable adult the fee requested by the law
345 enforcement agency. However, the fee may not exceed \$20.

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

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

350 a. An immediate and present danger of exploitation of the

351 vulnerable adult exists.

352 b. There is a likelihood of irreparable harm and
353 nonavailability of an adequate remedy at law.

354 c. There is a substantial likelihood of success on the
355 merits.

356 d. The threatened injury to the vulnerable adult outweighs
357 possible harm to the respondent.

358 e. Granting a temporary injunction will not disserve the
359 public interest.

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

362 a. Restraining the respondent from committing any acts of
363 exploitation against the vulnerable adult.

364 b. Awarding to the vulnerable adult the temporary
365 exclusive use and possession of the dwelling that the vulnerable
366 adult and the respondent share, or barring the respondent from
367 the residence of the vulnerable adult, if the court finds that
368 the vulnerable adult is able to reside safely without the
369 respondent.

370 c. Freezing any assets of the vulnerable adult in any
371 depository or financial institution whether titled solely in the
372 vulnerable adult's name, solely in the respondent's name,
373 jointly with the respondent, in guardianship, in trust, or in a
374 Totten trust, provided that:

375 (I) Assets held by a guardian for the vulnerable adult may

376 be frozen only by an order entered by the court overseeing the
377 guardianship proceeding.

378 (II) Assets held by a trust may be frozen only by an order
379 of the court if all the trustees of the trust are served with
380 process and are given reasonable notice before any hearing on
381 the petition.

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

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

392 e. Prohibiting the respondent from having any direct or
393 indirect contact with the vulnerable adult.

394 f. Providing any injunctions or directives to law
395 enforcement agencies.

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

399 (b) Except as provided in s. 90.204, in a hearing ex parte
400 for the purpose of obtaining an ex parte temporary injunction,

401 only verified pleadings or affidavits may be used as evidence
402 unless the respondent appears at the hearing or has received
403 reasonable notice of the hearing. A petition under this section
404 shall be considered a family case for purposes of s. 90.204(4).

405 (c) A denial of a petition for an ex parte injunction must
406 be by written order and must note the legal grounds for denial.
407 When the only ground for denial is failure to demonstrate
408 appearance of an immediate and present danger of exploitation of
409 a vulnerable adult, the court must set a full hearing on the
410 petition for injunction at the earliest possible date. Nothing
411 in this paragraph affects a petitioner's right to promptly amend
412 any petition consistent with court rules.

413 (d) An ex parte temporary injunction may be effective for
414 a fixed period not to exceed 15 days. A full hearing, as
415 provided by this section, must be set for a date no later than
416 the date when the temporary injunction ceases to be effective.
417 The court may grant a continuance of the hearing, before or
418 during the hearing, for good cause shown by any party, which
419 good cause may include a continuance to obtain service of
420 process. An ex parte injunction is not extended beyond the
421 initial 15 days as a result of a continuance.

422 (6) REASONABLE CAUSE.—In determining whether a petitioner
423 has reasonable cause to believe that the vulnerable adult is, or
424 is in imminent danger of becoming, a victim of exploitation, the
425 court shall consider and evaluate all relevant factors,

426 including, but not limited to, any of the following:

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

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

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

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

435 (e) Susceptibility of the vulnerable adult to undue
436 influence.

437 (f) Any criminal history of the respondent or previous
438 probable cause findings by the adult protective services
439 program, if known.

440 (7) NOTICE OF PETITION AND INJUNCTION.—The respondent
441 shall be personally served, pursuant to chapter 48, with a copy
442 of the petition, notice of hearing, and temporary injunction, if
443 any, before the final hearing. If the petitioner is acting in a
444 representative capacity, the vulnerable adult shall also be
445 served with a copy of the petition, notice of hearing, and
446 temporary injunction, if any, before the final hearing.

447 (8) FINAL HEARING ON PETITION.—

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

451 a. The vulnerable adult is the victim of exploitation or
452 that the vulnerable adult is in imminent danger of becoming a
453 victim of exploitation.

454 b. There is a likelihood of irreparable harm and
455 nonavailability of an adequate remedy at law.

456 c. The threatened injury to the vulnerable adult outweighs
457 possible harm to the respondent.

458 d. Where the injunction freezes assets of the respondent,
459 the court finds probable cause that exploitation has occurred,
460 the freeze only affects the proceeds of such exploitation, and
461 there is a substantial likelihood that such assets will be
462 ordered to be returned to the vulnerable adult.

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

465 a. Continuing the temporary injunction in part or in
466 whole.

467 b. Restraining the respondent from committing any acts of
468 exploitation.

469 c. Awarding to the vulnerable adult the exclusive use and
470 possession of the dwelling that the vulnerable adult and the
471 respondent share or excluding the respondent from the residence
472 of the vulnerable adult, if the court finds that the vulnerable
473 adult is able to reside safely without the respondent.

474 d. Ordering the respondent to participate in treatment,
475 intervention, or counseling services to be paid for by the

476 respondent.

477 e. Directing that assets under temporary freeze by
478 injunction be returned to the vulnerable adult, or directing
479 that those assets remain frozen until ownership can be
480 determined; and directing that the temporary freeze on any line
481 of credit be lifted.

482 f. Where the court has found that the respondent has
483 engaged in exploitation of the vulnerable adult, entering a
484 final cost judgment against the respondent and in favor of the
485 petitioner for all costs, and entering a final cost judgment
486 against the respondent and in favor of the clerk of the circuit
487 court for all the clerk's filing fees and service charges that
488 were waived by operation of this section.

489 g. Ordering such other relief as the court deems necessary
490 for the protection of a victim of exploitation, including
491 injunctions or directives to law enforcement agencies, as
492 provided in this section.

493 (b) The court must allow an advocate from a state
494 attorney's office, a law enforcement agency, or the adult
495 protective services program to be present with the petitioner or
496 the respondent during any court proceedings or hearings related
497 to the injunction, provided the petitioner or the respondent has
498 made such a request and the advocate is able to be present.

499 (c) The terms of an injunction restraining the respondent
500 as provided in paragraph (a) remain in effect until the

501 injunction is modified or dissolved.

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

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

507 (b) That law enforcement officers may use their arrest
 508 powers pursuant to s. 901.15(6) to enforce the terms of the
 509 injunction.

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

515 (d) The date the respondent was served with the petition
 516 for injunction.

517 (10) TRANSMITTAL TO SHERIFF; SERVICE.—

518 (a)1.a. The clerk of the circuit court shall furnish a
 519 copy of the petition, the financial affidavit, the notice of
 520 hearing, and any temporary injunction to the sheriff or a law
 521 enforcement agency of the county in which the respondent resides
 522 or can be found, who shall serve it upon the respondent as soon
 523 thereafter as possible on any day of the week and at any time of
 524 the day or night. At the request of the sheriff, the clerk of
 525 the circuit court may transmit a facsimile copy of an injunction

526 that has been certified by the clerk of the circuit court
527 pursuant to subparagraph 4., and this facsimile copy may be
528 served in the same manner as a certified copy. The clerk of the
529 circuit court shall also furnish to the sheriff such information
530 on the respondent's physical description and location as is
531 required by the Department of Law Enforcement to comply with the
532 verification procedures set forth in sub-subparagraph b.

533 b. Upon receiving a facsimile copy, the sheriff must
534 verify receipt with the clerk of the circuit court before
535 attempting to serve it upon the respondent. If the sheriff is in
536 possession of an injunction that has been certified by the clerk
537 of the circuit court, the sheriff may transmit a facsimile copy
538 of that injunction to a law enforcement officer who shall serve
539 it in the same manner as a certified copy.

540 c. Notwithstanding any other provision of law, the chief
541 judge of each circuit, in consultation with the appropriate
542 sheriff, may authorize a law enforcement agency within the
543 jurisdiction to effect service. A law enforcement agency
544 performing service pursuant to this section shall use service
545 and verification procedures consistent with those of the
546 sheriff.

547 2.a. Except where the vulnerable adult is the petitioner,
548 the clerk of the circuit court shall furnish a copy of the
549 petition, the financial affidavit, the notice of hearing, and
550 any temporary injunction to the sheriff or a law enforcement

551 agency of the county in which the vulnerable adult resides or
552 can be found, who shall serve it upon the vulnerable adult as
553 soon thereafter as possible on any day of the week and at any
554 time of the day or night. At the request of the sheriff, the
555 clerk of the circuit court may transmit a facsimile copy of an
556 injunction that has been certified by the clerk of the circuit
557 court pursuant to subparagraph 4., and this facsimile copy may
558 be served in the same manner as a certified copy. The clerk of
559 the circuit court shall also furnish to the sheriff such
560 information on the vulnerable adult's physical description and
561 location as is required by the Florida Department of Law
562 Enforcement to comply with the verification procedures set forth
563 in sub-subparagraph b.

564 b. Upon receiving a facsimile copy, the sheriff must
565 verify receipt with the clerk of the circuit court before
566 attempting to serve it upon the vulnerable adult. If the sheriff
567 is in possession of an injunction that has been certified by the
568 clerk of the circuit court, the sheriff may transmit a facsimile
569 copy of that injunction to a law enforcement officer, who shall
570 serve it in the same manner as a certified copy.

571 c. Notwithstanding any other provision of law, the chief
572 judge of each circuit, in consultation with the appropriate
573 sheriff, may authorize a law enforcement agency within the
574 jurisdiction of the circuit to effect service. A law enforcement
575 agency performing service pursuant to this section shall use

576 service and verification procedures consistent with those of the
577 sheriff.

578 3. When an injunction for protection against the
579 exploitation of a vulnerable adult is issued, if the petitioner
580 requests that a law enforcement agency assist the vulnerable
581 adult, the court may order that an officer from the appropriate
582 law enforcement agency accompany the vulnerable adult and assist
583 in the service or execution of the injunction, including
584 returning possession of a dwelling or residence to the
585 vulnerable adult. A law enforcement officer shall accept a copy
586 of an injunction, certified by the clerk of the circuit court
587 pursuant to subparagraph 4., from the petitioner and immediately
588 serve it upon a respondent who has been located but not yet
589 served. The law enforcement agency must also serve any
590 injunction freezing assets on a financial institution where
591 assets subject to dissipation are held, or where a credit line
592 may be exploited; the court may waive such service.

593 4. The clerk of the circuit court shall certify a copy of
594 all orders issued, changed, continued, extended, or vacated
595 subsequent to the original service of the original petition,
596 notice of hearing, or temporary injunction and deliver the
597 certified copy to the parties at the time of the entry of the
598 order. The parties may acknowledge receipt of a certified order
599 in writing on the face of the original order. If a party fails
600 or refuses to acknowledge the receipt of a certified copy of an

601 order, the clerk of the circuit court must note on the original
602 petition that service was effected. If delivery at the hearing
603 during which an order is issued is not possible, the clerk of
604 the circuit court shall mail certified copies of the order to
605 the parties at their respective last known mailing addresses.
606 Service by mail is complete upon mailing. When an order is
607 served pursuant to this subparagraph the clerk of the circuit
608 court shall notify the sheriff of the service and prepare a
609 written certification to be placed in the court file specifying
610 the time, date, and method of service.

611 5. If the respondent has been previously served with the
612 temporary injunction and has failed to appear at the initial
613 hearing on the temporary injunction, any subsequent petition for
614 an injunction seeking an extension of time may be served on the
615 respondent by the clerk of the court by certified mail in lieu
616 of personal service by a law enforcement officer.

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

623 2. Within 24 hours after service of an injunction for
624 protection against the exploitation of a vulnerable adult upon a
625 respondent, the law enforcement officer who served the

626 injunction must forward the written proof of service to the
627 sheriff with jurisdiction over the residence of the petitioner.

628 3. Within 24 hours after the sheriff receives a certified
629 copy of the injunction for protection against the exploitation
630 of a vulnerable adult, the sheriff must make information related
631 to the injunction available to this state's law enforcement
632 agencies by electronically transmitting such information to the
633 Florida Department of Law Enforcement.

634 4. Within 24 hours after the sheriff or other law
635 enforcement officer has made service upon the respondent and the
636 sheriff has been so notified, the sheriff must make information
637 relating to the service available to other law enforcement
638 agencies by electronically transmitting such information to the
639 Department of Law Enforcement.

640 5. Within 24 hours after an injunction for protection
641 against the exploitation of a vulnerable adult is terminated, or
642 otherwise rendered no longer effective by ruling of the court,
643 the clerk of the circuit court must notify the sheriff receiving
644 original notification of the injunction as provided in
645 subparagraph 1. The sheriff's agency shall, within 24 hours
646 after receiving such notification from the clerk of the circuit
647 court, notify the Department of Law Enforcement of such action
648 of the court.

649 (11) ENFORCEMENT.—

650 (a) The court may enforce a violation of an injunction for

651 protection against the exploitation of a vulnerable adult
652 through a civil or criminal contempt proceeding, and the state
653 attorney may prosecute it as a criminal violation under s.
654 825.1036. Any assessment or fine ordered by the court enforcing
655 such injunction shall be collected by the clerk of the circuit
656 court and transferred on a monthly basis to the Department of
657 Revenue for deposit in the Domestic Violence Trust Fund.

658 (b) If the respondent is arrested by a law enforcement
659 officer under s. 901.15(6) or for a violation of s. 825.1036,
660 the respondent must be held in custody until he or she is
661 brought before the court, which must occur as expeditiously as
662 possible, for the purpose of enforcing the injunction for
663 protection against the exploitation of a vulnerable adult and
664 for admittance to bail in accordance with chapter 903 and the
665 applicable rules of criminal procedure, pending a hearing.

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

669 (13) MODIFICATION OR DISSOLUTION OF INJUNCTION.—The
670 petitioner, respondent, or vulnerable adult may move at any time
671 to modify or dissolve the injunction in part or in whole. No
672 specific allegations are required for modification or
673 dissolution of the injunction, which may be granted in addition
674 to other civil or criminal penalties. The court shall promptly
675 hear a motion to modify or dissolve an injunction.

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

678 Section 3. Section 825.1036, Florida Statutes, is created
 679 to read:

680 825.1036 Violation of an injunction for protection against
 681 the exploitation of a vulnerable adult.—

682 (1) In the event of a violation of an injunction for
 683 protection against the exploitation of a vulnerable adult when
 684 the person who violated such injunction has not been arrested,
 685 the petitioner may contact the clerk of the circuit court of the
 686 county in which the violation is alleged to have occurred. The
 687 clerk of the circuit court shall assist the petitioner in the
 688 preparation of an affidavit in support of the violation or
 689 direct the petitioner to the office operated by the court within
 690 the circuit which has been designated by the chief judge of that
 691 circuit as the central intake point for injunction violations
 692 and where the petitioner can receive assistance in the
 693 preparation of the affidavit in support of the violation.

694 (2) The affidavit shall be immediately forwarded by the
 695 clerk of the circuit court or the office assisting the
 696 petitioner to the state attorney of that circuit and to such
 697 court or judge as the chief judge of that circuit determines to
 698 be the recipient of affidavits of violation. If the affidavit
 699 alleges that a crime has been committed, the clerk of the
 700 circuit court or the office assisting the petitioner shall also

701 forward a copy of the petitioner's affidavit to the appropriate
702 law enforcement agency for investigation. Within 20 days after
703 receipt of the affidavit, the local law enforcement agency shall
704 complete its investigation and forward the affidavit and a
705 report containing the agency's findings to the state attorney.
706 The state attorney shall determine within 30 working days
707 whether its office will proceed to file criminal charges,
708 prepare a motion for an order to show cause as to why the
709 respondent should not be held in criminal contempt, prepare both
710 as alternative findings, or file notice that the case remains
711 under investigation or is pending subject to another action.

712 (3) If, based on its familiarity with the case, the court
713 has knowledge that the vulnerable adult is in immediate danger
714 if the court fails to act before the decision of the state
715 attorney to prosecute, it should immediately issue an order of
716 appointment of the state attorney to file a motion for an order
717 to show cause as to why the respondent should not be held in
718 contempt. If the court does not issue an order of appointment of
719 the state attorney, it shall immediately notify the state
720 attorney that the court is proceeding to enforce the violation
721 through a ruling of criminal contempt.

722 (4) (a) Except as provided in paragraph (b), a person who
723 willfully violates an injunction for protection against the
724 exploitation of a vulnerable adult commits a misdemeanor of the
725 first degree, punishable as provided in s. 775.082 or s.

726 | 775.083. A person may violate such injunction by:
 727 | 1. Refusing to vacate the dwelling shared with the
 728 | vulnerable adult;
 729 | 2. Going to, or being within 500 feet of, the vulnerable
 730 | adult's residence;
 731 | 3. Exploiting or unduly influencing the vulnerable adult;
 732 | 4. Committing any other violation of the injunction
 733 | through an intentional unlawful threat, word, or act to do
 734 | violence to the vulnerable adult;
 735 | 5. Telephoning, contacting, or otherwise communicating
 736 | with the vulnerable adult directly or indirectly, unless the
 737 | injunction specifically allows indirect contact through a third
 738 | party;
 739 | 6. Knowingly and intentionally coming within 100 feet of
 740 | the vulnerable adult's motor vehicle, regardless of whether that
 741 | vehicle is occupied; or
 742 | 7. Defacing or destroying the vulnerable adult's personal
 743 | property.
 744 | (b) A person who has two or more prior convictions for
 745 | violation of an injunction or foreign protection order against
 746 | the same victim, and who subsequently commits a violation of any
 747 | injunction or foreign protection order against the same victim,
 748 | commits a felony of the third degree, punishable as provided in
 749 | s. 775.082, s. 775.083, or s. 775.084. For purposes of this
 750 | paragraph, the term "conviction" means a determination of guilt

751 which is the result of a plea or a trial, regardless of whether
752 adjudication is withheld or a plea of nolo contendere is
753 entered.

754 (5) A vulnerable adult who suffers an injury or loss as a
755 result of a violation of an injunction for protection against
756 the exploitation of a vulnerable adult may be awarded economic
757 damages for that injury or loss. Damages include costs and
758 attorney fees for enforcement of such injunction.

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

761 901.15 When arrest by officer without warrant is lawful.—A
762 law enforcement officer may arrest a person without a warrant
763 when:

764 (6) There is probable cause to believe that the person has
765 committed a criminal act according to s. 790.233 or according to
766 s. 741.31, ~~or~~ s. 784.047, or s. 825.1036 which violates an
767 injunction for protection entered pursuant to s. 741.30, ~~or~~ s.
768 784.046, or s. 825.1035 or a foreign protection order accorded
769 full faith and credit pursuant to s. 741.315, over the objection
770 of the petitioner, if necessary.

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