

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 an initial filing fee; authorizing the clerk
38 | of the circuit court to request a reimbursement for
39 | such petitions, subject to the appropriation of funds
40 | for that purpose; requiring the clerk of the circuit
41 | court to pay from such reimbursement certain fees to a
42 | law enforcement agency; authorizing the court to grant
43 | a 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 form of process
74 upon a financial institution; requiring that the clerk
75 of the circuit court place a written certification in

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

101 825.1036, F.S.; requiring that a clerk of the circuit
102 court assist the petitioner in preparing an affidavit
103 or direct the petitioner to a certain office, under
104 certain circumstances; requiring the clerk of the
105 circuit court or the office assisting the petitioner
106 to immediately forward the affidavit to certain people
107 and places depending on certain circumstances;
108 requiring a law enforcement agency to complete its
109 investigation and forward the affidavit along with a
110 report of any information obtained through its
111 investigation to the state attorney within a specified
112 timeframe; requiring the state attorney to determine
113 how it will proceed within a specified timeframe;
114 authorizing the court to immediately issue an order of
115 appointment of the state attorney in certain
116 circumstances; requiring the court to immediately
117 notify the state attorney that the court is proceeding
118 to enforce the violation through a ruling of criminal
119 contempt if the court does not issue an order of
120 appointment; providing a penalty for a willful
121 violation of an injunction; providing an exception;
122 providing for how an injunction may be violated;
123 providing that a person with two or more prior
124 convictions for violation of an injunction or foreign
125 protection order against the same victim who commits a

126 subsequent violation against the same victim commits a
127 third degree felony; defining the term "conviction";
128 authorizing the court to award economic damages to a
129 person who suffers an injury or loss as a result of a
130 violation of an injunction; limiting liability of a
131 financial institution related to an injunction
132 freezing assets or a credit line; amending s. 901.15,
133 F.S.; conforming provisions to changes made by the
134 act; amending s. 415.107, F.S.; granting the court
135 access to records in protective injunction
136 proceedings; providing an effective date.

137
138 Be It Enacted by the Legislature of the State of Florida:

139
140 Section 1. Present subsections (6) through (12) of section
141 825.101, Florida Statutes, are renumbered as subsections (7)
142 through (13), respectively, and a new subsection (6) and
143 subsection (14) are added to that section, to read:

144 825.101 Definitions.—As used in this chapter:

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

148 (14) "Vulnerable adult" has the same meaning as in s.
149 415.102(28).

150 Section 2. Section 825.1035, Florida Statutes, is created

151 to read:

152 825.1035 Injunction for protection against exploitation of
153 a vulnerable adult.—

154 (1) INJUNCTION CREATED.—There is created a cause of action
155 for an injunction for protection against exploitation of a
156 vulnerable adult.

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

158 (a) The cause of action may be sought in an adversary
159 proceeding by:

160 1. A vulnerable adult in imminent danger of being
161 exploited;

162 2. The guardian of a vulnerable adult in imminent danger
163 of being exploited;

164 3. A person or organization acting on behalf of the
165 vulnerable adult with the consent of the vulnerable adult or his
166 or her guardian; or

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

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

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

179 (d) Parties to an injunction for protection against
180 exploitation of a vulnerable adult may not be required to be
181 represented by an attorney.

182 (e) There is no minimum requirement of residency to
183 petition for an injunction for protection against exploitation
184 of a vulnerable adult. It is not required as a prerequisite of
185 filing a petition for or issuance of an injunction under this
186 section for exploitation to have already occurred.

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

193 (g) All proceedings conducted pursuant to this subsection
194 must be recorded. Recording may be by electronic means as
195 provided by court rule.

196 (3) FORM OF PETITION.—

197 (a) A sworn petition filed under this section must allege
198 the existence of exploitation, or the imminent exploitation, of
199 the vulnerable adult and must include the specific facts and
200 circumstances for which relief is sought. The sworn petition

201 must be in substantially the following form:

202

203 PETITION FOR INJUNCTION

204 FOR PROTECTION AGAINST EXPLOITATION OF A VULNERABLE ADULT

205

206 Before me, the undersigned authority, personally appeared

207 Petitioner ...(Name)..., who has been sworn and says that the

208 following statements are true:

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

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

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

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

213 4. Physical description of the respondent:

214 Race....

215 Sex....

216 Date of birth....

217 Height....

218 Weight....

219 Eye color....

220 Hair color....

221 Distinguishing marks or scars....

222 5. Aliases of the respondent:

223 6. The respondent is associated with the vulnerable adult

224 as follows:....

225 7. The following describes any other cause of action

226 currently pending between the petitioner and the respondent, any
 227 proceeding under chapter 744 concerning the vulnerable adult,
 228 and any previous or pending attempts by the petitioner to obtain
 229 an injunction for protection against exploitation of the
 230 vulnerable adult in this or any other circuit; related case
 231 numbers, if available; and the results of any such attempts:

232

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

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

248 10. The following describes the petitioner's knowledge of
 249 the vulnerable adult's dependence on the respondent for care;
 250 alternative provisions for the vulnerable adult's care in the

251 absence of the respondent, if necessary; available resources the
 252 vulnerable adult has to access such alternative provisions; and
 253 the vulnerable adult's willingness to use such alternative
 254 provisions:....

255 11. The petitioner knows the vulnerable adult maintains
 256 assets, account, or lines of credit at the following financial
 257 institution(s):(list name, address, and account number of
 258 each)....

259 12. The petitioner believes that the vulnerable adult's
 260 assets to be frozen are: ...(mark one)....

- 261Worth less than \$1500;
- 262Worth between \$1500 and \$5000; or
- 263Worth more than \$5000;

264 13. The petitioner genuinely fears imminent exploitation
 265 of the vulnerable adult by the respondent.

266 14. The petitioner seeks an injunction for the protection
 267 of the vulnerable adult, including: ...(mark appropriate section
 268 or sections)....

269Prohibiting the respondent from having any direct or
 270 indirect contact with the vulnerable adult.

271Immediately restraining the respondent from committing
 272 any acts of exploitation against the vulnerable adult.

273Freezing the assets of the vulnerable adult held at
 274 ...(name and address of depository or financial institution)...
 275 even if titled jointly with the respondent, or in the

276 respondent's name only, in the court's discretion.

277Freezing the credit lines of the vulnerable adult at
278 ...(name and address of financial institution)... even if
279 jointly with the respondent, in the court's discretion.

280Providing any terms the court deems necessary for the
281 protection of the vulnerable adult or his or her assets,
282 including any injunctions or directives to law enforcement
283 agencies.

284 15. Should the court enter an injunction freezing assets
285 and credit lines, the petitioner believes that the critical
286 expenses of the vulnerable adult will be paid for or provided by
287 the following persons or entities, or the petitioner requests
288 that the following expenses be paid notwithstanding the freeze:
289(for each expense, list the name of the payee, address,
290 account number if known, amount, and a brief explanation of why
291 payment is critical)....

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

296
297 I ACKNOWLEDGE THAT PURSUANT TO SECTION 415.1034,
298 FLORIDA STATUTES, ANY PERSON WHO KNOWS, OR HAS
299 REASONABLE CAUSE TO SUSPECT, THAT A VULNERABLE ADULT
300 HAS BEEN OR IS BEING ABUSED, NEGLECTED, OR EXPLOITED

301 HAS A DUTY TO IMMEDIATELY REPORT SUCH KNOWLEDGE OR
 302 SUSPICION TO THE CENTRAL ABUSE HOTLINE.

303
 304 I HAVE READ EACH STATEMENT MADE IN THIS PETITION AND
 305 EACH SUCH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND
 306 THAT THE STATEMENTS MADE IN THIS PETITION ARE BEING
 307 MADE UNDER PENALTY OF PERJURY PUNISHABLE AS PROVIDED
 308 IN SECTION 837.02, FLORIDA STATUTES.

309
 310 (c) Upon the filing of the petition, the court shall
 311 schedule a hearing on the petition on the earliest possible
 312 date.

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

314 (a) The clerk of the circuit court shall assist the
 315 petitioner in filing an injunction for protection against
 316 exploitation of a vulnerable adult and any petition alleging a
 317 violation thereof.

318 (b) The clerk of the circuit court shall provide
 319 simplified petition forms for the injunction for protection
 320 against exploitation of a vulnerable adult, and any
 321 modifications thereto, and for the enforcement thereof, and
 322 instructions for completion of such forms.

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

326 (d) The clerk of the circuit court shall provide the
327 petitioner with two certified copies of the petition for an
328 injunction without charge, and shall inform the petitioner of
329 the steps necessary for service of process and enforcement.

330 (e) If an injunction is entered, the clerk of the circuit
331 court shall provide, without charge, the petitioner with
332 certified copies of an order of injunction that may be served
333 upon any person holding property, upon any financial institution
334 holding property or accounts, or upon any financial institution
335 with an open line of credit that is subject to the freeze, and
336 shall inform the petitioner of the service of process and
337 enforcement.

338 (e) The clerk of the circuit court and appropriate staff
339 in each county shall receive training in the effective
340 assistance of petitioners as provided or approved by the Florida
341 Association of Court Clerks.

342 (f) The clerk of the circuit court in each county shall
343 produce an informational brochure and provide it to the
344 petitioner at the time of filing for an injunction for
345 protection against exploitation of a vulnerable adult. The
346 brochure must include information about the exploitation of
347 vulnerable adults and the effect of providing false information
348 to the court. The clerk of the circuit court in each county
349 shall also make available informational brochures on the
350 exploitation of vulnerable adults to local senior centers, local

351 aging and disability resource centers, or appropriate state or
352 federal agencies.

353 (g) The clerk of the circuit court shall provide a copy of
354 all petitions filed pursuant to this section and all orders
355 entered on such petitions to the adult protective services
356 program. Within 72 hours after receipt of such orders or
357 petitions, the adult protective services program shall submit to
358 the court overseeing proceedings on the petition the results of
359 any relevant investigations relating to the vulnerable adult.

360 (h) Notwithstanding any other provision of law, the clerk
361 of the circuit court may not assess an initial filing fee or
362 service charge for petitions filed under this section. However,
363 subject to legislative appropriation, the clerk of the circuit
364 court may, on a quarterly basis, submit a certified request for
365 reimbursement to the Office of the State Courts Administrator
366 for the processing of such petitions, at the rate of \$40 per
367 petition. The request for reimbursement must be submitted in the
368 form and manner prescribed by the office. From each
369 reimbursement received, the clerk of the circuit court shall pay
370 any law enforcement agency serving the injunction for protection
371 against exploitation of a vulnerable adult the fee requested by
372 the law enforcement agency, to not exceed \$20.

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

374 (a)1. The court may grant a temporary injunction ex parte,
375 pending a full hearing, and may grant such relief as the court

376 deems proper if the court finds that:

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

378 vulnerable adult exists.

379 b. There is a likelihood of irreparable harm and

380 nonavailability of an adequate remedy at law.

381 c. There is a substantial likelihood of success on the

382 merits.

383 d. The threatened injury to the vulnerable adult outweighs

384 possible harm to the respondent.

385 e. Granting a temporary injunction will not disserve the

386 public interest.

387 2. Such relief the court deems proper may include, but is

388 not limited to, injunctions doing any of the following:

389 a. Restraining the respondent from committing any acts of

390 exploitation against the vulnerable adult.

391 b. Awarding to the vulnerable adult the temporary

392 exclusive use and possession of the dwelling that the vulnerable

393 adult and the respondent share, or barring the respondent from

394 the residence of the vulnerable adult.

395 c. Freezing any assets of the vulnerable adult in any

396 depository or financial institution whether titled solely in the

397 vulnerable adult's name, solely in the respondent's name,

398 jointly with the respondent, in guardianship, in trust, or in a

399 Totten trust, provided that:

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

401 be frozen only by an order entered by the court overseeing the
402 guardianship proceeding.

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

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

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

417 (I) Lines of credit held by a guardian for the vulnerable
418 adult may be frozen only by an order entered by the court
419 overseeing the guardianship proceeding.

420 (II) Lines of credit held by a trust may be frozen only by
421 an order of the court if all the trustees of the trust are
422 served with process and are given reasonable notice before any
423 hearing on the petition.

424 e. Prohibiting the respondent from having direct or
425 indirect contact with the vulnerable adult.

426 f. Providing directives to law enforcement agencies.

427 g. If the court has ordered an asset and credit freeze,
428 ordering that specified living expenses of the vulnerable adult
429 continue to be paid.

430 h. Ordering any financial institution holding assets of
431 the vulnerable adult to pay the clerk of the circuit court from
432 unencumbered assets of the vulnerable adult, if any, a fee of
433 \$75 if the assets of the petitioner are between \$1,500 and
434 \$5,000 or a fee of \$200 if the assets are in excess of \$5,000.
435 The court may rely on the estimate of the value of the assets in
436 the petition when assessing the fee. The fee shall be taxed as
437 costs against the respondent if the court enters an injunction.

438 (b) Except as provided in s. 90.204, in a hearing ex parte
439 for the purpose of obtaining an ex parte temporary injunction,
440 only verified pleadings or affidavits may be used as evidence
441 unless the respondent appears at the hearing or has received
442 reasonable notice of the hearing. A petition under this section
443 shall be considered a family case for purposes of s. 90.204(4).

444 (c) A denial of a petition for an ex parte injunction must
445 be by written order and must note the legal grounds for denial.
446 When the only ground for denial is failure to demonstrate
447 appearance of an immediate and present danger of exploitation of
448 a vulnerable adult, the court must set a full hearing on the
449 petition for injunction at the earliest possible date. Nothing
450 in this paragraph affects a petitioner's right to promptly amend

451 any petition consistent with court rules.

452 (d) An ex parte temporary injunction may be effective for
453 a fixed period not to exceed 15 days. A full hearing, as
454 provided by this section, must be set for a date no later than
455 the date when the temporary injunction ceases to be effective.
456 The court may grant a continuance of the hearing, before or
457 during the hearing, for good cause shown by any party, which
458 good cause may include a continuance to obtain service of
459 process. An ex parte injunction is not extended beyond the
460 initial 15 days as a result of a continuance.

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

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

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

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

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

474 (e) Susceptibility of the vulnerable adult to undue
475 influence.

476 (f) Any criminal history of the respondent or previous
477 probable cause findings by the adult protective services
478 program, if known.

479 (7) NOTICE OF PETITION AND INJUNCTION.—

480 (a) The respondent shall be personally served, pursuant to
481 chapter 48, with a copy of the petition, notice of hearing, and
482 temporary injunction, if any, before the final hearing.

483 (b) If the petitioner is acting in a representative
484 capacity, the vulnerable adult shall also be served with a copy
485 of the petition, notice of hearing, and temporary injunction, if
486 any, before the final hearing.

487 (c) If any assets or lines of credit are ordered to be
488 frozen, the depository or financial institution must be served
489 as provided in s. 655.0201.

490 (8) FINAL HEARING ON PETITION.—

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

494 a. The vulnerable adult is the victim of exploitation or
495 that the vulnerable adult is in imminent danger of becoming a
496 victim of exploitation.

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

499 c. The threatened injury to the vulnerable adult outweighs
500 possible harm to the respondent.

501 d. Where the injunction freezes assets of the respondent,
502 the court finds probable cause that exploitation has occurred,
503 the freeze only affects the proceeds of such exploitation, and
504 there is a substantial likelihood that such assets will be
505 ordered to be returned to the vulnerable adult.

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

508 a. Continuing the temporary injunction in part or in
509 whole.

510 b. Restraining the respondent from committing any acts of
511 exploitation.

512 c. Awarding to the vulnerable adult the exclusive use and
513 possession of the dwelling that the vulnerable adult and the
514 respondent share or excluding the respondent from the residence
515 of the vulnerable adult.

516 d. Ordering the respondent to participate in treatment,
517 intervention, or counseling services to be paid for by the
518 respondent.

519 e. Directing that assets under temporary freeze by
520 injunction be returned to the vulnerable adult, or directing
521 that those assets remain frozen until ownership can be
522 determined; and directing that the temporary freeze on any line
523 of credit be lifted.

524 f. Where the court has found that the respondent has
525 engaged in exploitation of the vulnerable adult, entering a

526 final cost judgment against the respondent and in favor of the
527 petitioner for all taxable costs, and entering a final cost
528 judgment against the respondent and in favor of the clerk of the
529 circuit court for all the clerk's filing fees and service
530 charges that were waived by operation of this section.

531 g. Ordering such other relief as the court deems necessary
532 for the protection of a victim of exploitation, including
533 injunctions or directives to law enforcement agencies, as
534 provided in this section.

535 (b) The court must allow an advocate from a state
536 attorney's office, a law enforcement agency, or the adult
537 protective services program to be present with the petitioner or
538 the respondent during any court proceedings or hearings related
539 to the injunction, provided the petitioner or the respondent has
540 made such a request and the advocate is able to be present.

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

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

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

549 (b) That law enforcement officers may use their arrest
550 powers under s. 901.15(6) to enforce the terms of the

551 injunction.

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

557 (d) If any assets or lines of credit are ordered to be
558 frozen, the date that the depository or financial institution
559 was served with the injunction as provided in s. 655.0201.

560 (e) The date the respondent was served with the petition
561 for injunction.

562 (10) TRANSMITTAL TO SHERIFF; SERVICE.—

563 (a)1.a. The clerk of the circuit court shall furnish a
564 copy of the petition, the financial affidavit, the notice of
565 hearing, and any temporary injunction to the sheriff or a law
566 enforcement agency of the county in which the respondent resides
567 or can be found, who shall serve it upon the respondent as soon
568 thereafter as possible on any day of the week and at any time of
569 the day or night. At the request of the sheriff, the clerk of
570 the circuit court may transmit a facsimile copy of an injunction
571 that has been certified by the clerk of the circuit court
572 pursuant to subparagraph 4., and this facsimile copy may be
573 served in the same manner as a certified copy. The clerk of the
574 circuit court shall also furnish to the sheriff such information
575 on the respondent's physical description and location as is

576 required by the Department of Law Enforcement to comply with the
577 verification procedures set forth in sub-subparagraph b.

578 b. Upon receiving a facsimile copy, the sheriff must
579 verify receipt with the clerk of the circuit court before
580 attempting to serve it upon the respondent. If the sheriff is in
581 possession of an injunction that has been certified by the clerk
582 of the circuit court, the sheriff may transmit a facsimile copy
583 of that injunction to a law enforcement officer who shall serve
584 it in the same manner as a certified copy.

585 c. Notwithstanding any other provision of law, the chief
586 judge of each judicial circuit, in consultation with the
587 appropriate sheriff, may authorize a law enforcement agency
588 within the jurisdiction to effect service. A law enforcement
589 agency performing service pursuant to this section shall use
590 service and verification procedures consistent with those of the
591 sheriff.

592 2.a. Except where the vulnerable adult is the petitioner,
593 the clerk of the circuit court shall furnish a copy of the
594 petition, the financial affidavit, the notice of hearing, and
595 any temporary injunction to the sheriff or a law enforcement
596 agency of the county in which the vulnerable adult resides or
597 can be found, who shall serve it upon the vulnerable adult as
598 soon thereafter as possible on any day of the week and at any
599 time of the day or night. At the request of the sheriff, the
600 clerk of the circuit court may transmit a facsimile copy of an

601 injunction that has been certified by the clerk of the circuit
602 court pursuant to subparagraph 4., and this facsimile copy may
603 be served in the same manner as a certified copy. The clerk of
604 the circuit court shall also furnish to the sheriff such
605 information on the vulnerable adult's physical description and
606 location as is required by the Department of Law Enforcement to
607 comply with the verification procedures set forth in sub-
608 subparagraph b.

609 b. Upon receiving a facsimile copy, the sheriff must
610 verify receipt with the clerk of the circuit court before
611 attempting to serve it upon the vulnerable adult. If the sheriff
612 is in possession of an injunction that has been certified by the
613 clerk of the circuit court, the sheriff may transmit a facsimile
614 copy of that injunction to a law enforcement officer, who shall
615 serve it in the same manner as a certified copy.

616 c. Notwithstanding any other provision of law, the chief
617 judge of each judicial circuit, in consultation with the
618 appropriate sheriff, may authorize a law enforcement agency
619 within the jurisdiction of the circuit to effect service. A law
620 enforcement agency performing service pursuant to this section
621 shall use service and verification procedures consistent with
622 those of the sheriff.

623 3. When an injunction for protection against exploitation
624 of a vulnerable adult is issued, if the petitioner requests that
625 a law enforcement agency assist the vulnerable adult, the court

626 may order that an officer from the appropriate law enforcement
627 agency accompany the vulnerable adult and assist in the service
628 or execution of the injunction, including returning possession
629 of a dwelling or residence to the vulnerable adult. A law
630 enforcement officer shall accept a copy of an injunction,
631 certified by the clerk of the circuit court pursuant to
632 subparagraph 4., from the petitioner and immediately serve it
633 upon a respondent who has been located but not yet served. The
634 law enforcement agency must also serve any injunction freezing
635 assets on a financial institution where assets subject to
636 dissipation are held, or where a credit line may be exploited.
637 Service upon the depository or financial institution must be
638 served as provided in s. 655.0201.

639 4. The clerk of the circuit court shall certify a copy of
640 all orders issued, changed, continued, extended, or vacated
641 subsequent to the original service of the original petition,
642 notice of hearing, or temporary injunction and deliver the
643 certified copy to the parties at the time of the entry of the
644 order. The parties may acknowledge receipt of a certified order
645 in writing on the face of the original order. If a party fails
646 or refuses to acknowledge the receipt of a certified copy of an
647 order, the clerk of the circuit court must note on the original
648 petition that service was effected. If delivery at the hearing
649 during which an order is issued is not possible, the clerk of
650 the circuit court shall mail certified copies of the order to

651 the parties at their respective last known mailing addresses;
652 except that service upon a depository or financial institution
653 must be served as provided in s. 655.0201. Service by mail is
654 complete upon mailing. When an order is served pursuant to this
655 subparagraph the clerk of the circuit court shall notify the
656 sheriff of the service and prepare a written certification to be
657 placed in the court file specifying the time, date, and method
658 of service.

659 5. If the respondent has been previously served with the
660 temporary injunction and has failed to appear at the initial
661 hearing on the temporary injunction, any subsequent petition for
662 an injunction seeking an extension of time may be served on the
663 respondent by the clerk of the court by certified mail in lieu
664 of personal service by a law enforcement officer.

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

671 2. Within 24 hours after service of an injunction for
672 protection against exploitation of a vulnerable adult upon a
673 respondent, the law enforcement officer who served the
674 injunction must forward the written proof of service to the
675 sheriff with jurisdiction over the residence of the petitioner.

676 3. Within 24 hours after the sheriff receives a certified
677 copy of the injunction for protection against exploitation of a
678 vulnerable adult, the sheriff must make information related to
679 the injunction available to this state's law enforcement
680 agencies by electronically transmitting such information to the
681 Department of Law Enforcement.

682 4. Within 24 hours after the sheriff or other law
683 enforcement officer has made service upon the respondent and the
684 sheriff has been so notified, the sheriff must make information
685 relating to the service available to other law enforcement
686 agencies by electronically transmitting such information to the
687 Department of Law Enforcement.

688 5. Within 24 hours after an injunction for protection
689 against exploitation of a vulnerable adult is terminated or
690 otherwise rendered no longer effective by ruling of the court,
691 the clerk of the circuit court must notify the sheriff receiving
692 original notification of the injunction as provided in
693 subparagraph 1. The sheriff shall, within 24 hours after
694 receiving such notification from the clerk of the circuit court,
695 notify the Department of Law Enforcement of such court action.

696 (11) ENFORCEMENT.—

697 (a) As to the respondent, the court may enforce a
698 violation of an injunction for protection against exploitation
699 of a vulnerable adult through a civil or criminal contempt
700 proceeding, and the state attorney may prosecute it as a

701 criminal violation under s. 825.1036. Any assessment or fine
702 ordered by the court enforcing such injunction shall be
703 collected by the clerk of the circuit court and transferred on a
704 monthly basis to the Department of Revenue for deposit in the
705 Domestic Violence Trust Fund.

706 (b) If the respondent is arrested by a law enforcement
707 officer under s. 901.15(6) or for a violation of s. 825.1036,
708 the respondent must be held in custody until he or she is
709 brought before the court, which must occur as expeditiously as
710 possible, for the purpose of enforcing the injunction for
711 protection against exploitation of a vulnerable adult and for
712 admittance to bail in accordance with chapter 903 and the
713 applicable rules of criminal procedure, pending a hearing.

714 (12) JUDGMENT FOR DAMAGES.—Actual damages may be assessed
715 against the petitioner in a proceeding under this section if the
716 court finds that the petition lacks substantial fact or legal
717 support.

718 (13) MODIFICATION OR DISSOLUTION OF INJUNCTION.—The
719 petitioner, respondent, or vulnerable adult may move at any time
720 to modify or dissolve the injunction in part or in whole. No
721 specific allegations are required for modification or
722 dissolution of the injunction, which may be granted in addition
723 to other civil or criminal penalties. The court shall promptly
724 hear a motion to modify or dissolve an injunction.

725 (14) LIMITATION.—Nothing in this section may affect title

726 to real property.

727 Section 3. Section 825.1036, Florida Statutes, is created
728 to read:

729 825.1036 Violation of an injunction for protection against
730 exploitation of a vulnerable adult.—

731 (1) In the event of a violation of an injunction for
732 protection against exploitation of a vulnerable adult when the
733 person who violated such injunction has not been arrested, the
734 petitioner may contact the clerk of the circuit court of the
735 county in which the violation is alleged to have occurred. The
736 clerk of the circuit court shall assist the petitioner in the
737 preparation of an affidavit in support of the violation or
738 direct the petitioner to the office operated by the court within
739 the circuit which has been designated by the chief judge of the
740 judicial circuit as the central intake point for injunction
741 violations and where the petitioner can receive assistance in
742 the preparation of the affidavit in support of the violation.

743 (2) The affidavit shall be immediately forwarded by the
744 clerk of the circuit court or the office assisting the
745 petitioner to the state attorney of the circuit and to the court
746 or judge as the chief judge of the circuit determines to be the
747 recipient of affidavits of violation. If the affidavit alleges
748 that a crime has been committed, the clerk of the circuit court
749 or the office assisting the petitioner shall also forward a copy
750 of the affidavit to the appropriate law enforcement agency for

751 investigation. Within 20 days after receipt of the affidavit,
752 the local law enforcement agency shall complete its
753 investigation and forward the affidavit and a report containing
754 the agency's findings to the state attorney. The state attorney
755 shall determine within 30 business days whether its office will
756 proceed to file criminal charges, prepare a motion for an order
757 to show cause as to why the respondent should not be held in
758 criminal contempt, prepare both as alternative findings, or file
759 notice that the case remains under investigation or is pending
760 subject to another action.

761 (3) If, based on its familiarity with the case, the court
762 has knowledge that the vulnerable adult is in immediate danger
763 if the court fails to act before the decision of the state
764 attorney to prosecute, it should immediately issue an order of
765 appointment of the state attorney to file a motion for an order
766 to show cause as to why the respondent should not be held in
767 contempt. If the court does not issue an order of appointment of
768 the state attorney, it shall immediately notify the state
769 attorney that the court is proceeding to enforce the violation
770 through a ruling of criminal contempt.

771 (4) (a) Except as provided in paragraph (b), a person who
772 willfully violates an injunction for protection against
773 exploitation of a vulnerable adult commits a misdemeanor of the
774 first degree, punishable as provided in s. 775.082 or s.
775 775.083. A person may violate such injunction by:

- 776 1. Refusing to vacate the dwelling shared with the
777 vulnerable adult;
- 778 2. Going to or being within 500 feet of the vulnerable
779 adult's residence;
- 780 3. Exploiting or unduly influencing the vulnerable adult;
- 781 4. Committing any other violation of the injunction
782 through an intentional unlawful threat, word, or act to do
783 violence to the vulnerable adult;
- 784 5. Telephoning, contacting, or otherwise communicating
785 with the vulnerable adult directly or indirectly, unless the
786 injunction specifically allows indirect contact through a third
787 party;
- 788 6. Knowingly and intentionally coming within 100 feet of
789 the vulnerable adult's motor vehicle, regardless of whether that
790 vehicle is occupied; or
- 791 7. Defacing or destroying the vulnerable adult's personal
792 property.
- 793 (b) A person who has two or more prior convictions for
794 violation of an injunction or foreign protection order against
795 the same victim, and who subsequently commits a violation of any
796 injunction or foreign protection order against the same victim,
797 commits a felony of the third degree, punishable as provided in
798 s. 775.082, s. 775.083, or s. 775.084. For purposes of this
799 paragraph, the term "conviction" means a determination of guilt
800 which is the result of a plea or a trial, regardless of whether

801 adjudication is withheld or a plea of nolo contendere is
 802 entered.

803 (5) A vulnerable adult who suffers an injury or loss as a
 804 result of a violation of an injunction for protection against
 805 exploitation of a vulnerable adult may be awarded economic
 806 damages and attorney fees and costs for enforcement of such
 807 injunction.

808 (6) A financial institution holding assets or having
 809 issued a line of credit ordered to be frozen under s. 825.1035
 810 is not considered a party to the action and is not liable for
 811 damages or penalty by reason of any action or inaction made in
 812 accordance with s. 825.1035. No private cause of action may be
 813 brought against a financial institution for any action or
 814 inaction made pursuant to an injunction or any other court order
 815 entered pursuant to s. 825.1035, unless such action was a
 816 knowing and intentional violation of the injunction.

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

819 901.15 When arrest by officer without warrant is lawful.—A
 820 law enforcement officer may arrest a person without a warrant
 821 when:

822 (6) There is probable cause to believe that the person has
 823 committed a criminal act according to s. 790.233 or according to
 824 s. 741.31, ~~or~~ s. 784.047, or s. 825.1036 which violates an
 825 injunction for protection entered pursuant to s. 741.30, ~~or~~ s.

826 784.046, or s. 825.1035 or a foreign protection order accorded
 827 full faith and credit pursuant to s. 741.315, over the objection
 828 of the petitioner, if necessary.

829 Section 5. Paragraph (e) of subsection (3) of section
 830 415.107, Florida Statutes, is amended to read:

831 415.107 Confidentiality of reports and records.—

832 (3) Access to all records, excluding the name of the
 833 reporter which shall be released only as provided in subsection
 834 (6), shall be granted only to the following persons, officials,
 835 and agencies:

836 (e) A court, pursuant to s. 825.1035(4)(g); or by
 837 subpoena, upon its finding that access to such records may be
 838 necessary for the determination of an issue before the court;
 839 however, such access must be limited to inspection in camera,
 840 unless the court determines that public disclosure of the
 841 information contained in such records is necessary for the
 842 resolution of an issue then pending before it.

843 Section 6. This act shall take effect July 1, 2018.