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2018 Legislature

1  
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

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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

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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

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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.

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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

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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

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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.

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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



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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

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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

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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)....

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

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

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

273 ....Freezing 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

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

277 ....Freezing 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.

280 ....Providing 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

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301 HAS A DUTY TO IMMEDIATELY REPORT SUCH KNOWLEDGE OR  
 302 SUSPICION TO THE CENTRAL ABUSE HOTLINE. I HAVE  
 303 REPORTED THE ALLEGATIONS IN THIS PETITION TO THE  
 304 CENTRAL ABUSE HOTLINE.

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

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

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

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

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

325 (c) The clerk of the circuit court shall, to the extent

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326 practicable, ensure the petitioner's privacy while completing  
327 such forms.

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

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

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

344 (g) The clerk of the circuit court in each county shall  
345 produce an informational brochure and provide it to the  
346 petitioner at the time of filing for an injunction for  
347 protection against exploitation of a vulnerable adult. The  
348 brochure must include information about the exploitation of  
349 vulnerable adults and the effect of providing false information  
350 to the court. The clerk of the circuit court in each county

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351 shall also make available informational brochures on the  
352 exploitation of vulnerable adults to local senior centers, local  
353 aging and disability resource centers, or appropriate state or  
354 federal agencies.

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

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

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

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376 (a)1. The court may grant a temporary injunction ex parte,  
 377 pending a full hearing, and may grant such relief as the court  
 378 deems proper if the court finds that:

379 a. An immediate and present danger of exploitation of the  
 380 vulnerable adult exists.

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

383 c. There is a substantial likelihood of success on the  
 384 merits.

385 d. The threatened injury to the vulnerable adult outweighs  
 386 possible harm to the respondent.

387 e. Granting a temporary injunction will not disserve the  
 388 public interest.

389 f. Such injunction provides for the vulnerable adult's  
 390 physical or financial safety.

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

393 a. Restraining the respondent from committing any acts of  
 394 exploitation against the vulnerable adult.

395 b. Awarding to the vulnerable adult the temporary  
 396 exclusive use and possession of the dwelling that the vulnerable  
 397 adult and the respondent share, or barring the respondent from  
 398 the residence of the vulnerable adult. The court shall confirm  
 399 the availability of any required services or alternative  
 400 caregivers that may be necessary to ensure the vulnerable



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401 adult's safety.

402 c. Freezing any assets of the vulnerable adult in any  
 403 depository or financial institution whether titled solely in the  
 404 vulnerable adult's name, solely in the respondent's name,  
 405 jointly with the respondent, in guardianship, in trust, or in a  
 406 Totten trust, provided that:

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

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

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

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

424 (I) Lines of credit held by a guardian for the vulnerable  
 425 adult may be frozen only by an order entered by the court

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426 overseeing the guardianship proceeding.

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

431 e. Prohibiting the respondent from having direct or  
 432 indirect contact with the vulnerable adult.

433 f. Providing directives to law enforcement agencies.

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

437 h. Ordering any financial institution holding assets of  
 438 the vulnerable adult to pay the clerk of the circuit court from  
 439 unencumbered assets of the vulnerable adult, if any, a fee of  
 440 \$75 if the assets of the petitioner are between \$1,500 and  
 441 \$5,000 or a fee of \$200 if the assets are in excess of \$5,000.  
 442 The court may rely on the estimate of the value of the assets in  
 443 the petition when assessing the fee. The fee shall be taxed as  
 444 costs against the respondent if the court enters an injunction.

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

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451 (c) A denial of a petition for an ex parte injunction must  
452 be by written order and must note the legal grounds for denial.  
453 When the only ground for denial is failure to demonstrate  
454 appearance of an immediate and present danger of exploitation of  
455 a vulnerable adult, the court must set a full hearing on the  
456 petition for injunction at the earliest possible date. Nothing  
457 in this paragraph affects a petitioner's right to promptly amend  
458 any petition consistent with court rules.

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

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

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

475 (b) Any history of exploitation by the respondent upon the

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476 vulnerable adult in the petition or any other vulnerable adult.

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

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

481 (e) Susceptibility of the vulnerable adult to undue  
 482 influence.

483 (f) Any criminal history of the respondent or previous  
 484 probable cause findings by the adult protective services  
 485 program, if known.

486 (7) NOTICE OF PETITION AND INJUNCTION.—

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

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

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

497 (8) FINAL HEARING ON PETITION.—

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

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501 a. The vulnerable adult is the victim of exploitation or  
 502 that the vulnerable adult is in imminent danger of becoming a  
 503 victim of exploitation.

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

506 c. The threatened injury to the vulnerable adult outweighs  
 507 possible harm to the respondent.

508 d. Where the injunction freezes assets of the respondent,  
 509 the court finds probable cause that exploitation has occurred,  
 510 the freeze only affects the proceeds of such exploitation, and  
 511 there is a substantial likelihood that such assets will be  
 512 ordered to be returned to the vulnerable adult.

513 e. The relief provides for the vulnerable adult's physical  
 514 or financial safety.

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

517 a. Continuing the temporary injunction in part or in  
 518 whole.

519 b. Restraining the respondent from committing any acts of  
 520 exploitation.

521 c. Awarding to the vulnerable adult the exclusive use and  
 522 possession of the dwelling that the vulnerable adult and the  
 523 respondent share or excluding the respondent from the residence  
 524 of the vulnerable adult. The court shall confirm the  
 525 availability of any required services or alternative caregivers

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526 that may be necessary to ensure the vulnerable adult's safety.

527 d. Ordering the respondent to participate in treatment,  
528 intervention, or counseling services to be paid for by the  
529 respondent.

530 e. Directing that assets under temporary freeze by  
531 injunction be returned to the vulnerable adult, or directing  
532 that those assets remain frozen until ownership can be  
533 determined; and directing that the temporary freeze on any line  
534 of credit be lifted.

535 f. Where the court has found that the respondent has  
536 engaged in exploitation of the vulnerable adult, entering a  
537 final cost judgment against the respondent and in favor of the  
538 petitioner for all taxable costs, and entering a final cost  
539 judgment against the respondent and in favor of the clerk of the  
540 circuit court for all the clerk's filing fees and service  
541 charges that were waived by operation of this section.

542 g. Ordering such other relief as the court deems necessary  
543 for the protection of a victim of exploitation, including  
544 injunctions or directives to law enforcement agencies, as  
545 provided in this section.

546 (b) The court must allow an advocate from a state  
547 attorney's office, a law enforcement agency, or the adult  
548 protective services program to be present with the petitioner or  
549 the respondent during any court proceedings or hearings related  
550 to the injunction, provided the petitioner or the respondent has

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551 made such a request and the advocate is able to be present.

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

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

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

560 (b) That law enforcement officers may use their arrest  
561 powers under s. 901.15(6) to enforce the terms of the  
562 injunction.

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

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

571 (e) The date the respondent was served with the petition  
572 for injunction.

573 (10) TRANSMITTAL TO SHERIFF; SERVICE.—

574 (a)1.a. The clerk of the circuit court shall furnish a  
575 copy of the petition, the financial affidavit, the notice of

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576 hearing, and any temporary injunction to the sheriff or a law  
577 enforcement agency of the county in which the respondent resides  
578 or can be found, who shall serve it upon the respondent as soon  
579 thereafter as possible on any day of the week and at any time of  
580 the day or night. At the request of the sheriff, the clerk of  
581 the circuit court may transmit a facsimile copy of an injunction  
582 that has been certified by the clerk of the circuit court  
583 pursuant to subparagraph 4., and this facsimile copy may be  
584 served in the same manner as a certified copy. The clerk of the  
585 circuit court shall also furnish to the sheriff such information  
586 on the respondent's physical description and location as is  
587 required by the Department of Law Enforcement to comply with the  
588 verification procedures set forth in sub-subparagraph b.

589 b. Upon receiving a facsimile copy, the sheriff must  
590 verify receipt with the clerk of the circuit court before  
591 attempting to serve it upon the respondent. If the sheriff is in  
592 possession of an injunction that has been certified by the clerk  
593 of the circuit court, the sheriff may transmit a facsimile copy  
594 of that injunction to a law enforcement officer who shall serve  
595 it in the same manner as a certified copy.

596 c. Notwithstanding any other provision of law, the chief  
597 judge of each judicial circuit, in consultation with the  
598 appropriate sheriff, may authorize a law enforcement agency  
599 within the jurisdiction to effect service. A law enforcement  
600 agency performing service pursuant to this section shall use



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601 service and verification procedures consistent with those of the  
602 sheriff.

603 2.a. Except where the vulnerable adult is the petitioner,  
604 the clerk of the circuit court shall furnish a copy of the  
605 petition, the financial affidavit, the notice of hearing, and  
606 any temporary injunction to the sheriff or a law enforcement  
607 agency of the county in which the vulnerable adult resides or  
608 can be found, who shall serve it upon the vulnerable adult as  
609 soon thereafter as possible on any day of the week and at any  
610 time of the day or night. At the request of the sheriff, the  
611 clerk of the circuit court may transmit a facsimile copy of an  
612 injunction that has been certified by the clerk of the circuit  
613 court pursuant to subparagraph 4., and this facsimile copy may  
614 be served in the same manner as a certified copy. The clerk of  
615 the circuit court shall also furnish to the sheriff such  
616 information on the vulnerable adult's physical description and  
617 location as is required by the Department of Law Enforcement to  
618 comply with the verification procedures set forth in sub-  
619 subparagraph b.

620 b. Upon receiving a facsimile copy, the sheriff must  
621 verify receipt with the clerk of the circuit court before  
622 attempting to serve it upon the vulnerable adult. If the sheriff  
623 is in possession of an injunction that has been certified by the  
624 clerk of the circuit court, the sheriff may transmit a facsimile  
625 copy of that injunction to a law enforcement officer, who shall

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626 serve it in the same manner as a certified copy.

627 c. Notwithstanding any other provision of law, the chief  
628 judge of each judicial circuit, in consultation with the  
629 appropriate sheriff, may authorize a law enforcement agency  
630 within the jurisdiction of the circuit to effect service. A law  
631 enforcement agency performing service pursuant to this section  
632 shall use service and verification procedures consistent with  
633 those of the sheriff.

634 3. When an injunction for protection against exploitation  
635 of a vulnerable adult is issued, if the petitioner requests that  
636 a law enforcement agency assist the vulnerable adult, the court  
637 may order that an officer from the appropriate law enforcement  
638 agency accompany the vulnerable adult and assist in the service  
639 or execution of the injunction, including returning possession  
640 of a dwelling or residence to the vulnerable adult. A law  
641 enforcement officer shall accept a copy of an injunction,  
642 certified by the clerk of the circuit court pursuant to  
643 subparagraph 4., from the petitioner and immediately serve it  
644 upon a respondent who has been located but not yet served. The  
645 law enforcement agency must also serve any injunction freezing  
646 assets on a financial institution where assets subject to  
647 dissipation are held, or where a credit line may be exploited.  
648 Service upon the depository or financial institution must be  
649 served as provided in s. 655.0201.

650 4. The clerk of the circuit court shall certify a copy of

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651 all orders issued, changed, continued, extended, or vacated  
652 subsequent to the original service of the original petition,  
653 notice of hearing, or temporary injunction and deliver the  
654 certified copy to the parties at the time of the entry of the  
655 order. The parties may acknowledge receipt of a certified order  
656 in writing on the face of the original order. If a party fails  
657 or refuses to acknowledge the receipt of a certified copy of an  
658 order, the clerk of the circuit court must note on the original  
659 petition that service was effected. If delivery at the hearing  
660 during which an order is issued is not possible, the clerk of  
661 the circuit court shall mail certified copies of the order to  
662 the parties at their respective last known mailing addresses;  
663 except that service upon a depository or financial institution  
664 must be served as provided in s. 655.0201. Service by mail is  
665 complete upon mailing. When an order is served pursuant to this  
666 subparagraph the clerk of the circuit court shall notify the  
667 sheriff of the service and prepare a written certification to be  
668 placed in the court file specifying the time, date, and method  
669 of service.

670 5. If the respondent has been previously served with the  
671 temporary injunction and has failed to appear at the initial  
672 hearing on the temporary injunction, any subsequent petition for  
673 an injunction seeking an extension of time may be served on the  
674 respondent by the clerk of the court by certified mail in lieu  
675 of personal service by a law enforcement officer.

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

682       2. Within 24 hours after service of an injunction for  
683 protection against exploitation of a vulnerable adult upon a  
684 respondent, the law enforcement officer who served the  
685 injunction must forward the written proof of service to the  
686 sheriff with jurisdiction over the residence of the petitioner.

687       3. Within 24 hours after the sheriff receives a certified  
688 copy of the injunction for protection against exploitation of a  
689 vulnerable adult, the sheriff must make information related to  
690 the injunction available to this state's law enforcement  
691 agencies by electronically transmitting such information to the  
692 Department of Law Enforcement.

693       4. Within 24 hours after the sheriff or other law  
694 enforcement officer has made service upon the respondent and the  
695 sheriff has been so notified, the sheriff must make information  
696 relating to the service available to other law enforcement  
697 agencies by electronically transmitting such information to the  
698 Department of Law Enforcement.

699       5. Within 24 hours after an injunction for protection  
700 against exploitation of a vulnerable adult is terminated or

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701 otherwise rendered no longer effective by ruling of the court,  
702 the clerk of the circuit court must notify the sheriff receiving  
703 original notification of the injunction as provided in  
704 subparagraph 1. The sheriff shall, within 24 hours after  
705 receiving such notification from the clerk of the circuit court,  
706 notify the Department of Law Enforcement of such court action.

707 (11) ENFORCEMENT.—

708 (a) As to the respondent, the court may enforce a  
709 violation of an injunction for protection against exploitation  
710 of a vulnerable adult through a civil or criminal contempt  
711 proceeding, and the state attorney may prosecute it as a  
712 criminal violation under s. 825.1036. Any assessment or fine  
713 ordered by the court enforcing such injunction shall be  
714 collected by the clerk of the circuit court and transferred on a  
715 monthly basis to the Department of Revenue for deposit in the  
716 Domestic Violence Trust Fund.

717 (b) If the respondent is arrested by a law enforcement  
718 officer under s. 901.15(6) or for a violation of s. 825.1036,  
719 the respondent must be held in custody until he or she is  
720 brought before the court, which must occur as expeditiously as  
721 possible, for the purpose of enforcing the injunction for  
722 protection against exploitation of a vulnerable adult and for  
723 admittance to bail in accordance with chapter 903 and the  
724 applicable rules of criminal procedure, pending a hearing.

725 (12) JUDGMENT FOR DAMAGES.—Actual damages may be assessed

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726 against the petitioner in a proceeding under this section if the  
727 court finds that the petition lacks substantial fact or legal  
728 support.

729 (13) MODIFICATION OR DISSOLUTION OF INJUNCTION.—The  
730 petitioner, respondent, or vulnerable adult may move at any time  
731 to modify or dissolve the injunction in part or in whole. No  
732 specific allegations are required for modification or  
733 dissolution of the injunction, which may be granted in addition  
734 to other civil or criminal penalties. The court shall promptly  
735 hear a motion to modify or dissolve an injunction.

736 (14) LIMITATION.—Nothing in this section may affect title  
737 to real property.

738 Section 3. Section 825.1036, Florida Statutes, is created  
739 to read:

740 825.1036 Violation of an injunction for protection against  
741 exploitation of a vulnerable adult.—

742 (1) In the event of a violation of an injunction for  
743 protection against exploitation of a vulnerable adult when the  
744 person who violated such injunction has not been arrested, the  
745 petitioner may contact the clerk of the circuit court of the  
746 county in which the violation is alleged to have occurred. The  
747 clerk of the circuit court shall assist the petitioner in the  
748 preparation of an affidavit in support of the violation or  
749 direct the petitioner to the office operated by the court within  
750 the circuit which has been designated by the chief judge of the

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751 judicial circuit as the central intake point for injunction  
752 violations and where the petitioner can receive assistance in  
753 the preparation of the affidavit in support of the violation.

754 (2) The affidavit shall be immediately forwarded by the  
755 clerk of the circuit court or the office assisting the  
756 petitioner to the state attorney of the circuit and to the court  
757 or judge as the chief judge of the circuit determines to be the  
758 recipient of affidavits of violation. If the affidavit alleges  
759 that a crime has been committed, the clerk of the circuit court  
760 or the office assisting the petitioner shall also forward a copy  
761 of the affidavit to the appropriate law enforcement agency for  
762 investigation. Within 20 days after receipt of the affidavit,  
763 the local law enforcement agency shall complete its  
764 investigation and forward the affidavit and a report containing  
765 the agency's findings to the state attorney. The state attorney  
766 shall determine within 30 business days whether its office will  
767 proceed to file criminal charges, prepare a motion for an order  
768 to show cause as to why the respondent should not be held in  
769 criminal contempt, prepare both as alternative findings, or file  
770 notice that the case remains under investigation or is pending  
771 subject to another action.

772 (3) If, based on its familiarity with the case, the court  
773 has knowledge that the vulnerable adult is in immediate danger  
774 if the court fails to act before the decision of the state  
775 attorney to prosecute, it should immediately issue an order of

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776 appointment of the state attorney to file a motion for an order  
777 to show cause as to why the respondent should not be held in  
778 contempt. If the court does not issue an order of appointment of  
779 the state attorney, it shall immediately notify the state  
780 attorney that the court is proceeding to enforce the violation  
781 through a ruling of criminal contempt.

782 (4) (a) Except as provided in paragraph (b), a person who  
783 willfully violates an injunction for protection against  
784 exploitation of a vulnerable adult commits a misdemeanor of the  
785 first degree, punishable as provided in s. 775.082 or s.  
786 775.083. A person may violate such injunction by:

787 1. Refusing to vacate the dwelling shared with the  
788 vulnerable adult;

789 2. Going to or being within 500 feet of the vulnerable  
790 adult's residence;

791 3. Exploiting or unduly influencing the vulnerable adult;

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

795 5. Telephoning, contacting, or otherwise communicating  
796 with the vulnerable adult directly or indirectly, unless the  
797 injunction specifically allows indirect contact through a third  
798 party;

799 6. Knowingly and intentionally coming within 100 feet of  
800 the vulnerable adult's motor vehicle, regardless of whether that



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801 vehicle is occupied; or

802 7. Defacing or destroying the vulnerable adult's personal  
803 property.

804 (b) A person who has two or more prior convictions for  
805 violation of an injunction or foreign protection order against  
806 the same victim, and who subsequently commits a violation of any  
807 injunction or foreign protection order against the same victim,  
808 commits a felony of the third degree, punishable as provided in  
809 s. 775.082, s. 775.083, or s. 775.084. For purposes of this  
810 paragraph, the term "conviction" means a determination of guilt  
811 which is the result of a plea or a trial, regardless of whether  
812 adjudication is withheld or a plea of nolo contendere is  
813 entered.

814 (5) A vulnerable adult who suffers an injury or loss as a  
815 result of a violation of an injunction for protection against  
816 exploitation of a vulnerable adult may be awarded economic  
817 damages and attorney fees and costs for enforcement of such  
818 injunction.

819 (6) A financial institution holding assets or having  
820 issued a line of credit ordered to be frozen under s. 825.1035  
821 is not considered a party to the action and is not liable for  
822 damages or penalty by reason of any action or inaction made in  
823 accordance with s. 825.1035. No private cause of action may be  
824 brought against a financial institution for any action or  
825 inaction made pursuant to an injunction or any other court order

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826 | entered pursuant to s. 825.1035, unless such action was a  
 827 | knowing and intentional violation of the injunction.

828 | Section 4. Subsection (6) of section 901.15, Florida  
 829 | Statutes, is amended to read:

830 | 901.15 When arrest by officer without warrant is lawful.—A  
 831 | law enforcement officer may arrest a person without a warrant  
 832 | when:

833 | (6) There is probable cause to believe that the person has  
 834 | committed a criminal act according to s. 790.233 or according to  
 835 | s. 741.31, ~~or~~ s. 784.047, or s. 825.1036 which violates an  
 836 | injunction for protection entered pursuant to s. 741.30, ~~or~~ s.  
 837 | 784.046, or s. 825.1035 or a foreign protection order accorded  
 838 | full faith and credit pursuant to s. 741.315, over the objection  
 839 | of the petitioner, if necessary.

840 | Section 5. Paragraph (e) of subsection (3) of section  
 841 | 415.107, Florida Statutes, is amended to read:

842 | 415.107 Confidentiality of reports and records.—

843 | (3) Access to all records, excluding the name of the  
 844 | reporter which shall be released only as provided in subsection  
 845 | (6), shall be granted only to the following persons, officials,  
 846 | and agencies:

847 | (e) A court, pursuant to s. 825.1035(4)(h); or by  
 848 | subpoena, upon its finding that access to such records may be  
 849 | necessary for the determination of an issue before the court;  
 850 | however, such access must be limited to inspection in camera,

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851 | unless the court determines that public disclosure of the  
852 | information contained in such records is necessary for the  
853 | resolution of an issue then pending before it.

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