

By Senator Albritton

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1                   A bill to be entitled  
2           An act relating to domestic violence injunctions;  
3           amending s. 741.30, F.S.; authorizing a court to take  
4           certain actions regarding the care, possession, or  
5           control of an animal in domestic violence injunctions;  
6           providing applicability; conforming a cross-reference;  
7           making technical changes; providing an effective date.

8  
9   Be It Enacted by the Legislature of the State of Florida:

10  
11           Section 1. Paragraph (a) of subsection (5) and subsection  
12           (6) of section 741.30, Florida Statutes, are amended to read:

13           741.30 Domestic violence; injunction; powers and duties of  
14           court and clerk; petition; notice and hearing; temporary  
15           injunction; issuance of injunction; statewide verification  
16           system; enforcement; public records exemption.—

17           (5) (a) If it appears to the court that an immediate and  
18           present danger of domestic violence exists, the court may grant  
19           a temporary injunction ex parte, pending a full hearing, and may  
20           grant such relief as the court deems proper, including an  
21           injunction:

22           1. Restraining the respondent from committing any acts of  
23           domestic violence.

24           2. Awarding to the petitioner the temporary exclusive use  
25           and possession of the dwelling that the parties share or  
26           excluding the respondent from the residence of the petitioner.

27           3. On the same basis as provided in s. 61.13, providing the  
28           petitioner a temporary parenting plan, including a time-sharing  
29           schedule, which may award the petitioner up to 100 percent of

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30 the time-sharing. The temporary parenting plan remains in effect  
31 until the order expires or an order is entered by a court of  
32 competent jurisdiction in a pending or subsequent civil action  
33 or proceeding affecting the placement of, access to, parental  
34 time with, adoption of, or parental rights and responsibilities  
35 for the minor child.

36 4. Awarding to the petitioner the temporary exclusive care,  
37 possession, or control of an animal that is owned, possessed,  
38 harbored, kept, or held by the petitioner, the respondent, or a  
39 minor child residing in the residence or household of the  
40 petitioner or respondent. The court may order the defendant to  
41 temporarily have no contact with the animal and prohibit the  
42 defendant from taking, transferring, encumbering, concealing,  
43 harming, or otherwise disposing of the animal. This subparagraph  
44 does not apply to an animal owned primarily for a bona fide  
45 agricultural purpose, as defined under s. 193.461, or to a  
46 service animal, as defined under s. 413.08, if the respondent is  
47 the service animal's handler.

48 (6) (a) Upon notice and hearing, when it appears to the  
49 court that the petitioner is either the victim of domestic  
50 violence as defined by s. 741.28 or has reasonable cause to  
51 believe he or she is in imminent danger of becoming a victim of  
52 domestic violence, the court may grant such relief as the court  
53 deems proper, including an injunction:

54 1. Restraining the respondent from committing any acts of  
55 domestic violence.

56 2. Awarding to the petitioner the exclusive use and  
57 possession of the dwelling that the parties share or excluding  
58 the respondent from the residence of the petitioner.

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59           3. On the same basis as provided in chapter 61, providing  
60 the petitioner with 100 percent of the time-sharing in a  
61 temporary parenting plan that remains in effect until the order  
62 expires or an order is entered by a court of competent  
63 jurisdiction in a pending or subsequent civil action or  
64 proceeding affecting the placement of, access to, parental time  
65 with, adoption of, or parental rights and responsibilities for  
66 the minor child.

67           4. On the same basis as provided in chapter 61,  
68 establishing temporary support for a minor child or children or  
69 the petitioner. An order of temporary support remains in effect  
70 until the order expires or an order is entered by a court of  
71 competent jurisdiction in a pending or subsequent civil action  
72 or proceeding affecting child support.

73           5. Ordering the respondent to participate in treatment,  
74 intervention, or counseling services to be paid for by the  
75 respondent. When the court orders the respondent to participate  
76 in a batterers' intervention program, the court, or any entity  
77 designated by the court, must provide the respondent with a list  
78 of batterers' intervention programs from which the respondent  
79 must choose a program in which to participate.

80           6. Referring a petitioner to a certified domestic violence  
81 center. The court must provide the petitioner with a list of  
82 certified domestic violence centers in the circuit which the  
83 petitioner may contact.

84           7. Awarding to the petitioner the exclusive care,  
85 possession, or control of an animal that is owned, possessed,  
86 harbored, kept, or held by the petitioner, the respondent, or a  
87 minor child residing in the residence or household of the

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88 petitioner or respondent. The court may order the defendant to  
89 have no contact with the animal and prohibit the defendant from  
90 taking, transferring, encumbering, concealing, harming, or  
91 otherwise disposing of the animal. This subparagraph does not  
92 apply to an animal owned primarily for a bona fide agricultural  
93 purpose, as defined under s. 193.461, or to a service animal, as  
94 defined under s. 413.08, if the respondent is the service  
95 animal's handler.

96 8.7. Ordering such other relief as the court deems  
97 necessary for the protection of a victim of domestic violence,  
98 including injunctions or directives to law enforcement agencies,  
99 as provided in this section.

100 (b) In determining whether a petitioner has reasonable  
101 cause to believe he or she is in imminent danger of becoming a  
102 victim of domestic violence, the court shall consider and  
103 evaluate all relevant factors alleged in the petition,  
104 including, but not limited to:

105 1. The history between the petitioner and the respondent,  
106 including threats, harassment, stalking, and physical abuse.

107 2. Whether the respondent has attempted to harm the  
108 petitioner or family members or individuals closely associated  
109 with the petitioner.

110 3. Whether the respondent has threatened to conceal,  
111 kidnap, or harm the petitioner's child or children.

112 4. Whether the respondent has intentionally injured or  
113 killed a family pet.

114 5. Whether the respondent has used, or has threatened to  
115 use, against the petitioner any weapons such as guns or knives.

116 6. Whether the respondent has physically restrained the

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117 petitioner from leaving the home or calling law enforcement.

118 7. Whether the respondent has a criminal history involving  
119 violence or the threat of violence.

120 8. The existence of a verifiable order of protection issued  
121 previously or from another jurisdiction.

122 9. Whether the respondent has destroyed personal property,  
123 including, but not limited to, telephones or other  
124 communications equipment, clothing, or other items belonging to  
125 the petitioner.

126 10. Whether the respondent engaged in any other behavior or  
127 conduct that leads the petitioner to have reasonable cause to  
128 believe that he or she is in imminent danger of becoming a  
129 victim of domestic violence.

130  
131 In making its determination under this paragraph, the court is  
132 not limited to those factors enumerated in subparagraphs 1.-10.

133 (c) The terms of an injunction restraining the respondent  
134 under subparagraph (a)1. or ordering other relief for the  
135 protection of the victim under subparagraph (a)8. ~~(a)7.~~ shall  
136 remain in effect until modified or dissolved. Either party may  
137 move at any time to modify or dissolve the injunction. No  
138 specific allegations are required. Such relief may be granted in  
139 addition to other civil or criminal remedies.

140 (d) A temporary or final judgment on injunction for  
141 protection against domestic violence entered under ~~pursuant to~~  
142 this section shall, on its face, indicate that:

143 1. The injunction is valid and enforceable in all counties  
144 of the State of Florida.

145 2. Law enforcement officers may use their arrest powers

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146 ~~under pursuant to~~ s. 901.15(6) to enforce the terms of the  
147 injunction.

148 3. The court had jurisdiction over the parties and matter  
149 under the laws of Florida and that reasonable notice and  
150 opportunity to be heard was given to the person against whom the  
151 order is sought sufficient to protect that person's right to due  
152 process.

153 4. The date the respondent was served with the temporary or  
154 final order, if obtainable.

155 (e) An injunction for protection against domestic violence  
156 entered ~~under pursuant to~~ this section, on its face, may order  
157 that the respondent attend a batterers' intervention program as  
158 a condition of the injunction. Unless the court makes written  
159 factual findings in its judgment or order which are based on  
160 substantial evidence, stating why batterers' intervention  
161 programs would be inappropriate, the court shall order the  
162 respondent to attend a batterers' intervention program if:

163 1. It finds that the respondent willfully violated the ex  
164 parte injunction;

165 2. The respondent, in this state or any other state, has  
166 been convicted of, had adjudication withheld on, or pled nolo  
167 contendere to a crime involving violence or a threat of  
168 violence; or

169 3. The respondent, in this state or any other state, has  
170 had at any time a prior injunction for protection entered  
171 against the respondent after a hearing with notice.

172 (f) The fact that a separate order of protection is granted  
173 to each opposing party is ~~shall~~ not ~~be~~ legally sufficient to  
174 deny any remedy to either party or to prove that the parties are

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175 equally at fault or equally endangered.

176 (g) A final judgment on injunction for protection against  
177 domestic violence entered under ~~pursuant to~~ this section must,  
178 on its face, indicate that it is a violation of s. 790.233, and  
179 a first degree misdemeanor, for the respondent to have in his or  
180 her care, custody, possession, or control any firearm or  
181 ammunition.

182 (h) All proceedings under this subsection shall be  
183 recorded. Recording may be by electronic means as provided by  
184 the Rules of Judicial Administration.

185 Section 2. This act shall take effect July 1, 2020.