

By the Committee on Agriculture; and 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.

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

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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 respondent to
41 temporarily have no contact with the animal and prohibit the
42 respondent 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 respondent to
89 have no contact with the animal and prohibit the respondent 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.