

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 actions;
 6 providing applicability; providing an effective date.

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

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

12 741.30 Domestic violence; injunction; powers and duties of
 13 court and clerk; petition; notice and hearing; temporary
 14 injunction; issuance of injunction; statewide verification
 15 system; enforcement; public records exemption.—

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

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

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

26 3. On the same basis as provided in s. 61.13, providing
27 the petitioner a temporary parenting plan, including a time-
28 sharing schedule, which may award the petitioner up to 100
29 percent of the time-sharing. The temporary parenting plan
30 remains in effect until the order expires or an order is entered
31 by a court of competent jurisdiction in a pending or subsequent
32 civil action or proceeding affecting the placement of, access
33 to, parental time with, adoption of, or parental rights and
34 responsibilities for the minor child.

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

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

51 | deems proper, including an injunction:

52 | 1. Restraining the respondent from committing any acts of
53 | domestic violence.

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

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

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

71 | 5. Ordering the respondent to participate in treatment,
72 | intervention, or counseling services to be paid for by the
73 | respondent. When the court orders the respondent to participate
74 | in a batterers' intervention program, the court, or any entity
75 | designated by the court, must provide the respondent with a list

76 of batterers' intervention programs from which the respondent
77 must choose a program in which to participate.

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

82 7. Awarding to the petitioner the exclusive care,
83 possession, or control of an animal that is owned, possessed,
84 harbored, kept, or held by the petitioner, the respondent, or a
85 minor child residing in the residence or household of the
86 petitioner or respondent. The court may order the respondent to
87 have no contact with the animal and enjoin the respondent from
88 taking, transferring, encumbering, concealing, harming, or
89 otherwise disposing of the animal. This subparagraph does not
90 apply to animals owned primarily for a bona fide agricultural
91 purpose, as defined under s. 193.461.

92 ~~8.7.~~ Ordering such other relief as the court deems
93 necessary for the protection of a victim of domestic violence,
94 including injunctions or directives to law enforcement agencies,
95 as provided in this section.

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

- 101 1. The history between the petitioner and the respondent,
102 including threats, harassment, stalking, and physical abuse.
- 103 2. Whether the respondent has attempted to harm the
104 petitioner or family members or individuals closely associated
105 with the petitioner.
- 106 3. Whether the respondent has threatened to conceal,
107 kidnap, or harm the petitioner's child or children.
- 108 4. Whether the respondent has intentionally injured or
109 killed a family pet.
- 110 5. Whether the respondent has used, or has threatened to
111 use, against the petitioner any weapons such as guns or knives.
- 112 6. Whether the respondent has physically restrained the
113 petitioner from leaving the home or calling law enforcement.
- 114 7. Whether the respondent has a criminal history involving
115 violence or the threat of violence.
- 116 8. The existence of a verifiable order of protection
117 issued previously or from another jurisdiction.
- 118 9. Whether the respondent has destroyed personal property,
119 including, but not limited to, telephones or other
120 communications equipment, clothing, or other items belonging to
121 the petitioner.
- 122 10. Whether the respondent engaged in any other behavior
123 or conduct that leads the petitioner to have reasonable cause to
124 believe that he or she is in imminent danger of becoming a
125 victim of domestic violence.

126
 127 In making its determination under this paragraph, the court is
 128 not limited to those factors enumerated in subparagraphs 1.-10.
 129 (c) The terms of an injunction restraining the respondent
 130 under subparagraph (a)1. or ordering other relief for the
 131 protection of the victim under subparagraph (a)8. ~~(a)7.~~ shall
 132 remain in effect until modified or dissolved. Either party may
 133 move at any time to modify or dissolve the injunction. No
 134 specific allegations are required. Such relief may be granted in
 135 addition to other civil or criminal remedies.
 136 (d) A temporary or final judgment on injunction for
 137 protection against domestic violence entered under ~~pursuant to~~
 138 this section shall, on its face, indicate that:
 139 1. The injunction is valid and enforceable in all counties
 140 of the State of Florida.
 141 2. Law enforcement officers may use their arrest powers
 142 under ~~pursuant to~~ s. 901.15(6) to enforce the terms of the
 143 injunction.
 144 3. The court had jurisdiction over the parties and matter
 145 under the laws of Florida and that reasonable notice and
 146 opportunity to be heard was given to the person against whom the
 147 order is sought sufficient to protect that person's right to due
 148 process.
 149 4. The date respondent was served with the temporary or
 150 final order, if obtainable.

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

159 1. It finds that the respondent willfully violated the ex
160 parte injunction;

161 2. The respondent, in this state or any other state, has
162 been convicted of, had adjudication withheld on, or pled nolo
163 contendere to a crime involving violence or a threat of
164 violence; or

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

168 (f) The fact that a separate order of protection is
169 granted to each opposing party is ~~shall~~ not ~~be~~ legally
170 sufficient to deny any remedy to either party or to prove that
171 the parties are equally at fault or equally endangered.

172 (g) A final judgment on injunction for protection against
173 domestic violence entered under ~~pursuant to~~ this section must,
174 on its face, indicate that it is a violation of s. 790.233, and
175 a first degree misdemeanor, for the respondent to have in his or

176 | her care, custody, possession, or control any firearm or
177 | ammunition.

178 | (h) All proceedings under this subsection shall be
179 | recorded. Recording may be by electronic means as provided by
180 | the Rules of Judicial Administration.

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