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CS/HB 905

2022 Legislature

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An act relating to protective injunctions; amending s. 741.30, F.S.; deleting an obsolete date; specifying a timeframe in which the clerk of the court must transmit specified documents relating to an injunction for protection against domestic violence to the appropriate local sheriff or law enforcement agency; providing for the electronic transmission of certain documents rather than by facsimile; providing that electronically submitted copies of injunctions must be served in the same manner as certified copies; making conforming and technical changes; amending ss. 784.046 and 784.0485, F.S.; specifying a timeframe in which the clerk of the court must transmit specified documents relating to injunctions for protection against repeat violence, sexual violence, or dating violence and against stalking, respectively, to the appropriate local sheriff or law enforcement agency; providing for the electronic transmission of certain documents rather than by facsimile; providing that electronically submitted copies of injunctions must be served in the same manner as certified copies; making conforming and technical changes; providing an effective date.

ENROLLED

CS/HB 905

2022 Legislature

26 | Be It Enacted by the Legislature of the State of Florida:

27 |

28 | Section 1. Paragraph (a) of subsection (2) and subsection
29 | (8) of section 741.30, Florida Statutes, are amended to read:

30 | 741.30 Domestic violence; injunction; powers and duties of
31 | court and clerk; petition; notice and hearing; temporary
32 | injunction; issuance of injunction; statewide verification
33 | system; enforcement; public records exemption.-

34 | (2)(a) Notwithstanding any other ~~provision of~~ law, the
35 | assessment of a filing fee for a petition for protection against
36 | domestic violence is prohibited ~~effective October 1, 2002.~~

37 | However, subject to legislative appropriation, the clerk of the
38 | circuit court may, on a quarterly basis, submit to the Office of
39 | the State Courts Administrator a certified request for
40 | reimbursement for petitions for protection against domestic
41 | violence issued by the court, at the rate of \$40 per petition.
42 | The request for reimbursement must ~~shall~~ be submitted in the
43 | form and manner prescribed by the Office of the State Courts
44 | Administrator. From this reimbursement, the clerk shall pay any
45 | law enforcement agency serving the injunction the fee requested
46 | by the law enforcement agency; however, this fee may ~~shall~~ not
47 | exceed \$20.

48 | (8)(a)1. Within 24 hours after the court issues an
49 | injunction for protection against domestic violence, the clerk
50 | of the court shall electronically transmit ~~furnish~~ a copy of the

ENROLLED

CS/HB 905

2022 Legislature

51 petition, financial affidavit, Uniform Child Custody
 52 Jurisdiction and Enforcement Act affidavit, if any, notice of
 53 hearing, and temporary injunction, if any, to the sheriff or a
 54 law enforcement agency of the county where the respondent
 55 resides or can be found, who shall serve it upon the respondent
 56 as soon thereafter as possible on any day of the week and at any
 57 time of the day or night. An electronic ~~When requested by the~~
 58 ~~sheriff, the clerk of the court may transmit a faesimile~~ copy of
 59 an injunction must be ~~that has been~~ certified by the clerk of
 60 the court, and the electronic ~~this faesimile~~ copy must ~~may~~ be
 61 served in the same manner as a certified copy. Upon receiving an
 62 electronic a faesimile copy of the injunction, the sheriff must
 63 verify receipt with the sender before attempting to serve it
 64 upon the respondent. In addition, if the sheriff is in
 65 possession of an injunction for protection that has been
 66 certified by the clerk of the court, the sheriff may
 67 electronically transmit a ~~faesimile~~ copy of that injunction to a
 68 law enforcement officer who shall serve it in the same manner as
 69 a certified copy. The clerk of the court is ~~shall be~~ responsible
 70 for furnishing to the sheriff such information on the
 71 respondent's physical description and location as is required by
 72 the department to comply with the verification procedures set
 73 forth in this section. Notwithstanding any other ~~provision of~~
 74 law to the contrary, the chief judge of each circuit, in
 75 consultation with the appropriate sheriff, may authorize a law

ENROLLED

CS/HB 905

2022 Legislature

76 enforcement agency within the jurisdiction to effect service. A
77 law enforcement agency serving injunctions pursuant to this
78 section must ~~shall~~ use service and verification procedures
79 consistent with those of the sheriff.

80 2. When an injunction is issued, if the petitioner
81 requests the assistance of a law enforcement agency, the court
82 may order that an officer from the appropriate law enforcement
83 agency accompany the petitioner and assist in placing the
84 petitioner in possession of the dwelling or residence, or
85 otherwise assist in the execution or service of the injunction.
86 A law enforcement officer must ~~shall~~ accept a copy of an
87 injunction for protection against domestic violence, certified
88 by the clerk of the court, from the petitioner and immediately
89 serve it upon a respondent who has been located but not yet
90 served.

91 3. All orders issued, changed, continued, extended, or
92 vacated subsequent to the original service of documents
93 enumerated under subparagraph 1. must, ~~shall~~ be certified by the
94 clerk of the court and delivered to the parties at the time of
95 the entry of the order. The parties may acknowledge receipt of
96 such order in writing on the face of the original order. In the
97 event a party fails or refuses to acknowledge the receipt of a
98 certified copy of an order, the clerk shall note on the original
99 order that service was effected. If delivery at the hearing is
100 not possible, the clerk shall mail certified copies of the order

ENROLLED

CS/HB 905

2022 Legislature

101 to the parties at the last known address of each party. Service
 102 by mail is complete upon mailing. When an order is served
 103 pursuant to this subsection, the clerk shall prepare a written
 104 certification to be placed in the court file specifying the
 105 time, date, and method of service and shall notify the sheriff.
 106

107 If the respondent has been served previously with the temporary
 108 injunction and has failed to appear at the initial hearing on
 109 the temporary injunction, any subsequent petition for injunction
 110 seeking an extension of time may be served on the respondent by
 111 the clerk of the court by certified mail in lieu of personal
 112 service by a law enforcement officer.

113 (b) ~~There shall be created~~ A Domestic and Repeat Violence
 114 Injunction Statewide Verification System is created within the
 115 Department of Law Enforcement. The department shall establish,
 116 implement, and maintain a statewide communication system capable
 117 of electronically transmitting information to and between
 118 criminal justice agencies relating to domestic violence
 119 injunctions and repeat violence injunctions issued by the courts
 120 throughout the state. Such information must include, but is not
 121 limited to, information as to the existence and status of any
 122 injunction for verification purposes.

123 (c)1. Within 24 hours after the court issues an injunction
 124 for protection against domestic violence or changes, continues,
 125 extends, or vacates an injunction for protection against

ENROLLED

CS/HB 905

2022 Legislature

126 domestic violence, the clerk of the court must electronically
 127 transmit ~~forward~~ a certified copy of the injunction for service
 128 to the sheriff with jurisdiction over the residence of the
 129 petitioner. The injunction must be served in accordance with
 130 this subsection.

131 2. Within 24 hours after service of process of an
 132 injunction for protection against domestic violence upon a
 133 respondent, the law enforcement officer must electronically
 134 transmit ~~forward~~ the written proof of service of process to the
 135 sheriff with jurisdiction over the residence of the petitioner.

136 3. Within 24 hours after the sheriff receives a certified
 137 copy of the injunction for protection against domestic violence,
 138 the sheriff must make information relating to the injunction
 139 available to other law enforcement agencies by electronically
 140 transmitting such information to the department.

141 4. Within 24 hours after the sheriff or other law
 142 enforcement officer has made service upon the respondent and the
 143 sheriff has been so notified, the sheriff must make information
 144 relating to the service available to other law enforcement
 145 agencies by electronically transmitting such information to the
 146 department.

147 5. Subject to available funding, the Florida Association
 148 of Court Clerks and Comptrollers shall develop an automated
 149 process by which a petitioner may request notification of
 150 service of the injunction for protection against domestic

ENROLLED

CS/HB 905

2022 Legislature

151 violence and other court actions related to the injunction for
 152 protection. The automated notice must ~~shall~~ be made within 12
 153 hours after the sheriff or other law enforcement officer serves
 154 the injunction upon the respondent. The notification must
 155 include, at a minimum, the date, time, and location where the
 156 injunction for protection against domestic violence was served.
 157 The Florida Association of Court Clerks and Comptrollers may
 158 apply for any available grants to fund the development of the
 159 automated process.

160 6. Within 24 hours after an injunction for protection
 161 against domestic violence is vacated, terminated, or otherwise
 162 rendered no longer effective by ruling of the court, the clerk
 163 of the court must notify the sheriff receiving original
 164 notification of the injunction as provided in subparagraph 2.
 165 That agency shall, within 24 hours after receiving such
 166 notification from the clerk of the court, notify the department
 167 of such action of the court.

168 Section 2. Subsection (8) of section 784.046, Florida
 169 Statutes, is amended to read:

170 784.046 Action by victim of repeat violence, sexual
 171 violence, or dating violence for protective injunction; dating
 172 violence investigations, notice to victims, and reporting;
 173 pretrial release violations; public records exemption.—

174 (8)(a)1. Within 24 hours after the court issues an
 175 injunction for protection against repeat violence, sexual

ENROLLED

CS/HB 905

2022 Legislature

176 | violence, or dating violence, the clerk of the court shall
 177 | electronically transmit ~~furnish~~ a copy of the petition, notice
 178 | of hearing, and temporary injunction, if any, to the sheriff or
 179 | a law enforcement agency of the county where the respondent
 180 | resides or can be found, who shall serve it upon the respondent
 181 | as soon thereafter as possible on any day of the week and at any
 182 | time of the day or night. An electronic ~~When requested by the~~
 183 | ~~sheriff, the clerk of the court may transmit a faesimile~~ copy of
 184 | an injunction must be ~~that has been~~ certified by the clerk of
 185 | the court, and the electronic ~~this faesimile~~ copy must ~~may~~ be
 186 | served in the same manner as a certified copy. Upon receiving an
 187 | electronic ~~a faesimile~~ copy of the injunction, the sheriff must
 188 | verify receipt with the sender before attempting to serve it
 189 | upon the respondent. In addition, if the sheriff is in
 190 | possession of an injunction for protection that has been
 191 | certified by the clerk of the court, the sheriff may
 192 | electronically transmit a ~~faesimile~~ copy of that injunction to a
 193 | law enforcement officer who shall serve it in the same manner as
 194 | a certified copy. The clerk of the court is ~~shall be~~ responsible
 195 | for furnishing to the sheriff such information on the
 196 | respondent's physical description and location as is required by
 197 | the department to comply with the verification procedures set
 198 | forth in this section. Notwithstanding any other ~~provision of~~
 199 | law to the contrary, the chief judge of each circuit, in
 200 | consultation with the appropriate sheriff, may authorize a law

ENROLLED

CS/HB 905

2022 Legislature

201 enforcement agency within the chief judge's jurisdiction to
 202 effect this type of service and to receive a portion of the
 203 service fee. A ~~No~~ person may not ~~shall be authorized or~~
 204 ~~permitted to~~ serve or execute an injunction issued under this
 205 section unless the person is a law enforcement officer as
 206 defined in chapter 943.

207 2. When an injunction is issued, if the petitioner
 208 requests the assistance of a law enforcement agency, the court
 209 may order that an officer from the appropriate law enforcement
 210 agency accompany the petitioner and assist in the execution or
 211 service of the injunction. A law enforcement officer must ~~shall~~
 212 accept a copy of an injunction for protection against repeat
 213 violence, sexual violence, or dating violence, certified by the
 214 clerk of the court, from the petitioner and immediately serve it
 215 upon a respondent who has been located but not yet served.

216 (b) ~~There shall be created~~ A Domestic, Dating, Sexual, and
 217 Repeat Violence Injunction Statewide Verification System is
 218 created within the Department of Law Enforcement. The department
 219 shall establish, implement, and maintain a statewide
 220 communication system capable of electronically transmitting
 221 information to and between criminal justice agencies relating to
 222 domestic violence injunctions, dating violence injunctions,
 223 sexual violence injunctions, and repeat violence injunctions
 224 issued by the courts throughout the state. Such information must
 225 include, but is not limited to, information as to the existence

ENROLLED

CS/HB 905

2022 Legislature

226 and status of any injunction for verification purposes.

227 (c)1. Within 24 hours after the court issues an injunction
228 for protection against repeat violence, sexual violence, or
229 dating violence or changes or vacates an injunction for
230 protection against repeat violence, sexual violence, or dating
231 violence, the clerk of the court must electronically transmit
232 ~~forward~~ a copy of the injunction to the sheriff with
233 jurisdiction over the residence of the petitioner.

234 2. Within 24 hours after service of process of an
235 injunction for protection against repeat violence, sexual
236 violence, or dating violence upon a respondent, the law
237 enforcement officer must electronically transmit ~~forward~~ the
238 written proof of service of process to the sheriff with
239 jurisdiction over the residence of the petitioner.

240 3. Within 24 hours after the sheriff receives a certified
241 copy of the injunction for protection against repeat violence,
242 sexual violence, or dating violence, the sheriff must make
243 information relating to the injunction available to other law
244 enforcement agencies by electronically transmitting such
245 information to the department.

246 4. Within 24 hours after the sheriff or other law
247 enforcement officer has made service upon the respondent and the
248 sheriff has been so notified, the sheriff must make information
249 relating to the service available to other law enforcement
250 agencies by electronically transmitting such information to the

ENROLLED

CS/HB 905

2022 Legislature

251 department.

252 5. Subject to available funding, the Florida Association
253 of Court Clerks and Comptrollers shall develop an automated
254 process by which a petitioner may request notification of
255 service of the injunction for protection against repeat
256 violence, sexual violence, or dating violence and other court
257 actions related to the injunction for protection. The automated
258 notice must ~~shall~~ be made within 12 hours after the sheriff or
259 other law enforcement officer serves the injunction upon the
260 respondent. The notification must include, at a minimum, the
261 date, time, and location where the injunction for protection
262 against repeat violence, sexual violence, or dating violence was
263 served. The Florida Association of Court Clerks and Comptrollers
264 may apply for any available grants to fund the development of
265 the automated process.

266 6. Within 24 hours after an injunction for protection
267 against repeat violence, sexual violence, or dating violence is
268 lifted, terminated, or otherwise rendered no longer effective by
269 ruling of the court, the clerk of the court must notify the
270 sheriff or local law enforcement agency receiving original
271 notification of the injunction as provided in subparagraph 2.
272 That agency shall, within 24 hours after receiving such
273 notification from the clerk of the court, notify the department
274 of such action of the court.

275 Section 3. Subsection (8) of section 784.0485, Florida

ENROLLED

CS/HB 905

2022 Legislature

276 Statutes, is amended to read:

277 784.0485 Stalking; injunction; powers and duties of court
 278 and clerk; petition; notice and hearing; temporary injunction;
 279 issuance of injunction; statewide verification system;
 280 enforcement.—

281 (8)(a)1. Within 24 hours after the court issues an
 282 injunction for protection against stalking, the clerk of the
 283 court shall electronically transmit ~~furnish~~ a copy of the
 284 petition, notice of hearing, and temporary injunction, if any,
 285 to the sheriff or a law enforcement agency of the county where
 286 the respondent resides or can be found, who shall serve it upon
 287 the respondent as soon thereafter as possible on any day of the
 288 week and at any time of the day or night. An electronic ~~When~~
 289 ~~requested by the sheriff, the clerk of the court may transmit a~~
 290 ~~facsimile~~ copy of an injunction must be ~~that has been~~ certified
 291 by the clerk of the court, and the electronic ~~this facsimile~~
 292 copy must ~~may~~ be served in the same manner as a certified copy.
 293 Upon receiving an electronic ~~a facsimile~~ copy of the injunction,
 294 the sheriff must verify receipt with the sender before
 295 attempting to serve it on the respondent. In addition, if the
 296 sheriff is in possession of an injunction for protection that
 297 has been certified by the clerk of the court, the sheriff may
 298 electronically transmit a ~~facsimile~~ copy of that injunction to a
 299 law enforcement officer who shall serve it in the same manner as
 300 a certified copy. The clerk of the court shall furnish to the

ENROLLED

CS/HB 905

2022 Legislature

301 sheriff such information concerning the respondent's physical
302 description and location as is required by the Department of Law
303 Enforcement to comply with the verification procedures set forth
304 in this section. Notwithstanding any other law, the chief judge
305 of each circuit, in consultation with the appropriate sheriff,
306 may authorize a law enforcement agency within the jurisdiction
307 to effect service. A law enforcement agency serving injunctions
308 pursuant to this section must ~~shall~~ use service and verification
309 procedures consistent with those of the sheriff.

310 2. If an injunction is issued and the petitioner requests
311 the assistance of a law enforcement agency, the court may order
312 that an officer from the appropriate law enforcement agency
313 accompany the petitioner to assist in the execution or service
314 of the injunction. A law enforcement officer must ~~shall~~ accept a
315 copy of an injunction for protection against stalking, certified
316 by the clerk of the court, from the petitioner and immediately
317 serve it upon a respondent who has been located but not yet
318 served.

319 3. An order issued, changed, continued, extended, or
320 vacated subsequent to the original service of documents
321 enumerated under subparagraph 1. must ~~shall~~ be certified by the
322 clerk of the court and delivered to the parties at the time of
323 the entry of the order. The parties may acknowledge receipt of
324 such order in writing on the face of the original order. If a
325 party fails or refuses to acknowledge the receipt of a certified

ENROLLED

CS/HB 905

2022 Legislature

326 | copy of an order, the clerk shall note on the original order
 327 | that service was effected. If delivery at the hearing is not
 328 | possible, the clerk shall mail certified copies of the order to
 329 | the parties at the last known address of each party. Service by
 330 | mail is complete upon mailing. When an order is served pursuant
 331 | to this subsection, the clerk shall prepare a written
 332 | certification to be placed in the court file specifying the
 333 | time, date, and method of service and shall notify the sheriff.

334 | 4. If the respondent has been served previously with a
 335 | temporary injunction and has failed to appear at the initial
 336 | hearing on the temporary injunction, any subsequent petition for
 337 | injunction seeking an extension of time may be served on the
 338 | respondent by the clerk of the court by certified mail in lieu
 339 | of personal service by a law enforcement officer.

340 | (b)1. Within 24 hours after the court issues an injunction
 341 | for protection against stalking or changes, continues, extends,
 342 | or vacates an injunction for protection against stalking, the
 343 | clerk of the court must electronically transmit ~~forward~~ a
 344 | certified copy of the injunction for service to the sheriff
 345 | having jurisdiction over the residence of the petitioner. The
 346 | injunction must be served in accordance with this subsection.

347 | 2. Within 24 hours after service of process of an
 348 | injunction for protection against stalking upon a respondent,
 349 | the law enforcement officer must electronically transmit ~~forward~~
 350 | the written proof of service of process to the sheriff having

ENROLLED

CS/HB 905

2022 Legislature

351 jurisdiction over the residence of the petitioner.

352 3. Within 24 hours after the sheriff receives a certified
 353 copy of the injunction for protection against stalking, the
 354 sheriff must make information relating to the injunction
 355 available to other law enforcement agencies by electronically
 356 transmitting such information to the Department of Law
 357 Enforcement.

358 4. Within 24 hours after the sheriff or other law
 359 enforcement officer has made service upon the respondent and the
 360 sheriff has been so notified, the sheriff must make information
 361 relating to the service available to other law enforcement
 362 agencies by electronically transmitting such information to the
 363 Department of Law Enforcement.

364 5. Within 24 hours after an injunction for protection
 365 against stalking is vacated, terminated, or otherwise rendered
 366 no longer effective by ruling of the court, the clerk of the
 367 court must notify the sheriff receiving original notification of
 368 the injunction as provided in subparagraph 2. That agency shall,
 369 within 24 hours after receiving such notification from the clerk
 370 of the court, notify the Department of Law Enforcement of such
 371 action of the court.

372 Section 4. This act shall take effect October 1, 2022.