

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 852

INTRODUCER: Criminal Justice Committee and Senator Calatayud and others

SUBJECT: Interpersonal Violence Injunction Petitions

DATE: February 13, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Wyant</u>	<u>Stokes</u>	<u>CJ</u>	Fav/CS
3.	<u>Davis</u>	<u>Twogood</u>	<u>RC</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 852 amends three interpersonal violence injunction statutes to make filing a petition for injunctive relief less burdensome. The bill deletes the current requirement that the petitioner appear in person before a notary or deputy court clerk and swear that the statements made in a petition for an interpersonal violence injunction are true. Instead, the bill requires that the petitioner declare in writing that the statements are true under the penalty of perjury.

The bill adds that for an interpersonal injunction issued after July 1, 2025, the clerk of court must provide to the Department of Highway Safety and Motor Vehicles that such an injunction was issued and update the Department of Highway Safety and Motor Vehicles when an injunction is no longer in place. The bill requires such information to be entered into the Driver and Vehicle Information Database.

The changes made in the bill do not affect the penalty for making a false statement in a petition for an interpersonal violence injunction. The penalty remains a third degree felony.

The bill takes effect July 1, 2024.

II. Present Situation:

Filing Sworn Petitions for Injunctive Relief

Interpersonal violence is a term that includes domestic violence, repeat violence, sexual violence, dating violence, and stalking. Under current law, victims who seek an injunction in circuit court for protection against forms of interpersonal violence are required to file a “sworn” petition with the court.¹ The petition requires that the victim personally appear before an authority, either a notary public or deputy clerk of court,² and swear that the statements in the petition are true. The petition must include the signature of the authorized person whom the petitioner appeared before and was sworn. The statements contained in the petition are made under penalty of perjury, as provided in s. 837.02, F.S., which is punishable as a third degree felony.³

There are currently two methods to affirm the truth of a statement made in a legal document. The first method is by providing a written verification and the second is by appearing before a notary public and swearing that the information contained in the document is true. Personally appearing before a notary has the added feature that the notary verifies the person’s identity.

The requirement to personally appear and be sworn has created an obstacle for petitioners on at least two fronts. In addition to the challenge of locating a notary, a petitioner must often bear the cost of paying for the notary’s services. Because many of the petitioners are proceeding pro se as victims of domestic violence, this requirement poses an obstacle to them completing the process in a timely and cost-effective manner.⁴

The DIY Florida E-Portal⁵ is a website initiated by the Florida Supreme Court to permit individuals greater access to the court system. By answering specific guided questions, people may generate legal documents that can either be filed electronically or in person with a local clerk of court. The “Florida Interpersonal Violence Interviews” is a category on the webpage that asks a series of questions to guide people through interviews that will help them access the necessary petition forms for filing injunctions against interpersonal violence.

However, even pleadings or other legal documents that require the acknowledgement of a notary public or deputy clerk of court cannot be completed solely through the DIY Florida portal. Filers must first download the form, print it, have the form notarized, then upload the form for e-filing or personally take the form to the clerk of court’s office to obtain the deputy clerk’s signature. Because this process is burdensome and even costly if a notary fee is involved, the Office of the

¹ The domestic violence injunction provisions are contained in s. 741.30, F.S., the repeat violence, sexual violence, or dating violence injunction provisions are contained in s. 784.046, F.S., and the stalking injunction provisions are contained in s. 784.0485, F.S.

² For example, see Florida Supreme Court approved form “*Instructions for Florida Supreme Court Approved Family Law Form 12.980(t), Petition for Injunction for Protection Against Stalking*,” pages 1 and 7 (Aug. 2023), which allows for a deputy clerk signature. https://www.flcourts.gov/content/download/685974/file_pdf/980t-%208.28.pdf (last visited Feb. 1, 2024).

³ A third degree felony is punishable by a term of imprisonment that does not exceed 5 years (s. 775.082(3)(e), F.S.) and a fine that does not exceed \$5,000 (s. 775.083(1)(c), F.S.).

⁴ Office of the State Courts Administrator, *2024 Judicial Impact Statement for SB 852*, (Jan. 14, 2024) (on file with the Senate Committee on Judiciary).

⁵ DIY Florida (Do It Yourself) <https://help.flcourts.gov/DIY-Florida> (last visited Jan. 31, 2023).

State Courts Administrator states that few litigants have used the portal to file petitions for injunctions against interpersonal violence.⁶

III. Effect of Proposed Changes:

The bill amends the injunction petition provisions of s. 741.30, F.S., relating to domestic violence, s. 784.046, F.S., relating to repeat violence, sexual violence, or dating violence, and s. 784.0485, F.S., relating to stalking. The bill replaces the requirement that the petition be sworn before a notary or deputy court clerk with a requirement that the petition be “verified” by written declaration. This declaration, which is part of the statutory petition forms, requires a petitioner to sign his or her name after the following statement:

I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN SECTION 92.525, FLORIDA STATUTES.

A person who makes a false declaration is guilty of the crime of perjury by false written declaration which is a third degree felony.⁷ This is the same penalty that currently exists for making a false statement in a notarized or sworn petition. A person who makes a false statement in a notarized or sworn petition commits perjury in official proceedings under s. 837.02, F.S. Perjury in official proceedings occurs when someone makes a false statement, which he or she does not believe to be true, under oath in an official proceeding with regard to any material matter.

The bill adds that for an interpersonal injunction issued after July 1, 2025, the clerk of court must provide to the Department of Highway Safety and Motor Vehicles that such an injunction was issued and update the Department of Highway Safety and Motor Vehicles when an injunction is no longer in place. The bill requires such information to be entered into the Driver and Vehicle Information Database.

The bill does away with the requirement that an official, either a notary or deputy court clerk, personally verify the identity of the person petitioning for an interpersonal violence injunction.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁶ See *supra*, note 3.

⁷ A third degree felony is punishable by a term of imprisonment that does not exceed 5 years (s. 775.082(3)(e), F.S.) and a fine that does not exceed \$5,000 (s. 775.083(1)(c), F.S.).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill will allow petitioners for an interpersonal violence injunction to save time and possibly money because they will no longer be required to submit “sworn” petitions which involve locating a notary and possibly paying a notary fee. If petitioners use the DIY Florida E-Portal, they will be allowed to complete their documents online without downloading forms, seeking authorized signatures, and uploading the forms for filing.

C. Government Sector Impact:

The Office of the State Courts Administrator does not anticipate that this change will impact the judicial or court workload.⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Office of the State Courts Administrator believes that the bill will require amendments to a number of family law rules and forms to update instructions, remove the current provisions relating to acknowledgement by a notary or clerk, and make conforming changes.⁹

⁸ Office of the State Courts Administrator, *2024 Judicial Impact Statement for SB 852* (Jan. 14, 2024) on file with the Senate Committee on Judiciary.

⁹ *Id.*

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 741.30, 784.046, 784.0485, 39.301, 39.504, 61.45, 741.29, 741.2902, 741.31, 790.233, 61.1825, 61.1827, 394.4597, 394.4598, 397.6978, 784.048, 790.065, 901.15, 921.141, 921.1425, 28.2221, 57.105, 741.315, 790.401, 934.03, 934.425, 784.047, and 784.0487.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on February 6, 2024:

The committee substitute:

- Requires the clerk of court to inform the Department of Highway Safety and Motor vehicles of an injunction issued after July 1, 2025, so that it may be included in the Driver and Vehicle Information Database.
- Requires the clerk of court to update the Department of Highway Safety and Motor vehicles when an injunction issued after July 1, 2025, is no longer in place.

- B. **Amendments:**

None.