

By Senator Yarborough

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A bill to be entitled

An act relating to injunctions for protection against marriage fraud; creating s. 908.14, F.S.; defining the term "marriage fraud"; creating a cause of action for an injunction for protection in cases of marriage fraud; authorizing a person who is the victim of marriage fraud to file a petition for such an injunction, regardless of any other available or pending petition, complaint, or cause of action; specifying that the petitioner does not require representation by an attorney; requiring the clerk of the court to provide certain information, forms, and assistance to certain persons; prohibiting the clerk of the court from charging a filing fee for such petitions; authorizing the clerk of the court to submit quarterly requests for certain reimbursement to the Justice Administrative Commission; requiring the clerk of the court to pay from such reimbursements certain law enforcement agency fees, up to a specified amount; prohibiting the court from requiring a bond; requiring the clerk of the court to provide a petitioner with a certified copy of such an injunction; providing requirements for a verified petition for such an injunction; providing the required form of such petition; requiring a court to set a hearing upon the filing of such petition; requiring that the respondent be personally served with certain documents before the hearing; authorizing the court to grant a temporary injunction and grant

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30 certain relief under certain circumstances; limiting
31 the evidence that may be used in certain ex parte
32 hearings; providing an exception; limiting the
33 duration of such temporary injunctions; authorizing
34 the court to grant a continuance of a temporary
35 injunction and the full hearing under certain
36 circumstances; authorizing the court to grant certain
37 relief, including an injunction, upon notice and a
38 hearing; requiring that temporary and final judgments
39 on such injunctions indicate certain information;
40 requiring the clerk of the court to electronically
41 transmit copies of such injunctions to specified
42 persons within a certain period after issuance;
43 providing requirements for service of such injunctions
44 upon respondents; providing that a chief judge may
45 authorize a law enforcement agency to effect certain
46 service and receive a portion of the service fee;
47 prohibiting a person from serving or executing such
48 injunctions unless the person is a law enforcement
49 officer; authorizing the court to order an officer to
50 accompany a petitioner and assist in the execution of
51 service of such an injunction under certain
52 circumstances; requiring the clerk of the court to
53 electronically transmit a copy of such an injunction
54 to a certain sheriff within a specified timeframe
55 after the court issues, changes, or vacates the
56 injunction; requiring a sheriff or other law
57 enforcement officer who receives such an injunction or
58 who makes service upon a respondent to make certain

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59 information available to other law enforcement
60 agencies in a specified manner within a certain
61 timeframe; requiring the Florida Association of Court
62 Clerks and Comptrollers to develop a certain automated
63 process, subject to available funding; providing
64 requirements for automated notice; authorizing the
65 Florida Association of Court Clerks and Comptrollers
66 to apply for grants for a specified purpose; requiring
67 the clerk of the court to notify a certain sheriff or
68 law enforcement agency of certain action by the court
69 within a specified timeframe; authorizing the court to
70 enforce violations of such injunctions through civil
71 or criminal contempt proceedings; providing for the
72 transfer of certain fines and assessments by the clerk
73 of the court to the Department of Revenue for deposit
74 into the Domestic Violence Trust Fund; requiring that
75 a respondent arrested for a violation of such an
76 injunction be held in custody until brought before the
77 court for a specified purpose; providing immunity from
78 civil and criminal liability for law enforcement
79 officers and agencies acting in good faith under
80 certain provisions; creating s. 908.141, F.S.;
81 authorizing a petitioner to contact the clerk of the
82 court under certain circumstances; requiring the clerk
83 of the court to assist the petitioner in preparing an
84 affidavit or direct the petitioner to a certain
85 office, under certain circumstances; requiring the
86 clerk of the court or the office assisting the
87 petitioner to immediately forward the affidavit to

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88 certain persons; requiring a law enforcement agency to
89 complete its investigation and forward the affidavit
90 along with a certain report to the state attorney
91 within a specified timeframe; requiring the state
92 attorney to make a certain determination within a
93 specified timeframe; authorizing the court to
94 immediately issue an order of appointment of the state
95 attorney under certain circumstances; requiring the
96 court to immediately notify the state attorney that
97 the court is proceeding to enforce the violation
98 through a ruling of criminal contempt under certain
99 circumstances; providing criminal penalties for a
100 willful violation of an injunction; specifying the
101 means by which a person violates such an injunction;
102 providing that a person with two or more prior
103 convictions for violation of an injunction or foreign
104 protection order against the same victim who commits a
105 subsequent violation against the same victim commits a
106 third degree felony; defining the term "conviction";
107 providing an effective date.

108
109 Be It Enacted by the Legislature of the State of Florida:

110
111 Section 1. Section 908.14, Florida Statutes, is created to
112 read:

113 908.14 Marriage fraud.—

114 (1) As used in this section, the term "marriage fraud"
115 means knowingly entering into a marriage for the purpose of
116 evading immigration laws and engaging in acts of violence,

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117 manipulation, abuse, coercion, or emotional or financial harm,
118 when the perpetrator is a person who is not a citizen of the
119 United States.

120 (2) There is created a cause of action for an injunction
121 for protection in cases of marriage fraud.

122 (a) A person who is the victim of marriage fraud has
123 standing in the circuit court to file a verified petition for an
124 injunction for protection against marriage fraud on his or her
125 own behalf, regardless of whether criminal charges based on the
126 marriage fraud have been filed, reduced, or dismissed.

127 (b) This cause of action for an injunction may be sought
128 regardless of whether any other petition, complaint, or cause of
129 action is currently available or pending between the parties.

130 (c) This cause of action for an injunction does not require
131 that the petitioner be represented by an attorney.

132 (3) (a) The clerk of the court shall provide a copy of this
133 section, simplified forms, and clerical assistance for the
134 preparation and filing of a petition for an injunction for
135 protection against marriage fraud by any person who is not
136 represented by an attorney.

137 (b) Notwithstanding any other law, the clerk of the court
138 may not charge a fee for filing a petition for an injunction for
139 protection against marriage fraud. However, subject to
140 legislative appropriation, the clerk of the court may, each
141 quarter, submit to the Justice Administrative Commission a
142 certified request for reimbursement for petitions for such
143 injunctions issued by the court under this section, at the rate
144 of \$40 per petition. The request for reimbursement must be
145 submitted in the form and manner prescribed by the Justice

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146 Administrative Commission. From this reimbursement, the clerk of
147 the court shall pay any law enforcement agency serving the
148 injunction the fee requested by the law enforcement agency;
149 however, this fee may not exceed \$20.

150 (c) A bond may not be required by the court for the entry
151 of an injunction.

152 (d) The clerk of the court shall provide the petitioner
153 with a certified copy of any injunction for protection against
154 marriage fraud entered by the court.

155 (4) (a) The verified petition must allege an incident of
156 marriage fraud and must include the specific facts and
157 circumstances that form the basis upon which relief is sought.

158 (b) The verified petition must be in substantially the
159 following form:

160
161 PETITION FOR INJUNCTION FOR PROTECTION
162 AGAINST MARRIAGE FRAUD

163
164 The undersigned petitioner ... (name) ... declares under
165 penalties of perjury that the following statements are true:

166
167 1. Petitioner resides at ... (address) ...
168 2. Respondent resides at ... (address) ...
169 3. Petitioner is the victim of marriage fraud as
170 demonstrated by the fact that respondent is not a citizen of the
171 United States and has: ... (list the specific behavior or conduct
172 that leads the petitioner to have reasonable cause to believe
173 that the respondent committed marriage fraud) ...

174 4. Petitioner seeks: an immediate injunction against the

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175 respondent, enjoining him or her from committing any further
176 acts of violence, manipulation, abuse, coercion, or emotional or
177 financial harm; and an injunction providing any terms the court
178 deems necessary for the protection of the petitioner and the
179 petitioner's immediate family, including any injunctions or
180 directives to law enforcement agencies.

181

182 (c) Every petition for an injunction against marriage fraud
183 must contain, directly above the signature line, a statement in
184 all capital letters and bold type not smaller than the
185 surrounding text, as follows:

186

187 UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE
188 FOREGOING DOCUMENT AND THAT THE FACTS STATED IN IT ARE TRUE. I
189 UNDERSTAND THAT THE STATEMENTS MADE IN THIS PETITION ARE BEING
190 MADE UNDER PENALTIES OF PERJURY, PUNISHABLE AS PROVIDED IN
191 SECTION 92.525, FLORIDA STATUTES.

192

193 ... (initials) ...

194

195 (5) Upon the filing of the petition, the court shall set a
196 hearing to be held at the earliest possible time. The respondent
197 shall be personally served with a copy of the petition, notice
198 of hearing, and temporary injunction, if any, before the
199 hearing.

200

201 (6) (a) If it appears to the court that an immediate and
202 present danger of violence exists, the court may grant a
203 temporary injunction, which may be granted in an ex parte
hearing pending a full hearing, and may grant such relief as the

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204 court deems proper, including an injunction enjoining the
205 respondent from committing any acts of violence.

206 (b) Except as provided in s. 90.204, in a hearing ex parte

207 for the purpose of obtaining such temporary injunction, only

208 verified pleadings or affidavits may be used as evidence, unless

209 the respondent appears at the hearing or has received reasonable

210 notice of the hearing.

211 (c) Any such ex parte temporary injunction shall be
212 effective for a fixed period not to exceed 15 days. A full
213 hearing must be set for a date no later than the date on which
214 the temporary injunction ceases to be effective. The court may
215 grant a continuance of the ex parte temporary injunction and the
216 full hearing before or during a hearing for good cause shown by
217 any party.

218 (7) (a) Upon notice and hearing, the court may grant such
219 relief as the court deems proper, including an injunction:

220 1. Enjoining the respondent from committing any acts of
221 violence, manipulation, abuse, coercion, or emotional or
222 financial harm.

223 2. Ordering such other relief as the court deems necessary
224 for the protection of the petitioner, including injunctions or
225 directives to law enforcement agencies, as provided in this
226 section.

227 (b) The terms of the injunction remain in full force and
228 effect until modified or dissolved. Either party may move at any
229 time to modify or dissolve the injunction. Such relief may be
230 granted in addition to other civil or criminal remedies.

231 (c) A temporary or final judgment on injunction for
232 protection against marriage fraud entered pursuant to this

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233 section must, on its face, indicate all of the following:

234 1. That the injunction is valid and enforceable in all
235 counties of the State of Florida.

236 2. That law enforcement officers may make a warrantless
237 arrest to enforce the terms of the injunction.

238 3. That the court had jurisdiction over the parties and
239 matter under the laws of Florida and reasonable notice and
240 opportunity to be heard was given to the person against whom the
241 order is sought sufficient to protect that person's right to due
242 process.

243 4. The date that the respondent was served with the
244 temporary or final order, if obtainable.

245 (8) (a)1. Within 24 hours after the court issues an
246 injunction for protection against marriage fraud, the clerk of
247 the court shall electronically transmit a copy of the petition,
248 notice of hearing, and temporary injunction, if any, to the
249 sheriff or a law enforcement agency of the county where the
250 respondent resides or can be found, who shall serve it upon the
251 respondent as soon thereafter as possible on any day of the week
252 and at any time of the day or night. An electronic copy of an
253 injunction must be certified by the clerk of the court, and the
254 electronic copy must be served in the same manner as a certified
255 copy. Upon receiving an electronic copy of the injunction, the
256 sheriff must verify receipt with the sender before attempting to
257 serve it upon the respondent. In addition, if the sheriff is in
258 possession of an injunction for protection that has been
259 certified by the clerk of the court, the sheriff may
260 electronically transmit a copy of that injunction to a law
261 enforcement officer who shall serve it in the same manner as a

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262 certified copy. The clerk of the court is responsible for
263 furnishing to the sheriff such information on the respondent's
264 physical description and location as is required by the
265 Department of Law Enforcement to comply with the verification
266 procedures set forth in this section. Notwithstanding any other
267 law to the contrary, the chief judge of each circuit, in
268 consultation with the appropriate sheriff, may authorize a law
269 enforcement agency within the chief judge's jurisdiction to
270 effect this type of service and to receive a portion of the
271 service fee. A person may not serve or execute an injunction
272 issued under this section unless the person is a law enforcement
273 officer as defined in chapter 943.

274 2. When an injunction is issued, if the petitioner requests
275 the assistance of a law enforcement agency, the court may order
276 that an officer from the appropriate law enforcement agency
277 accompany the petitioner and assist in the execution or service
278 of the injunction. A law enforcement officer must accept a copy
279 of an injunction for protection against marriage fraud,
280 certified by the clerk of the court, from the petitioner and
281 immediately serve it upon a respondent who has been located but
282 not yet served.

283 (b)1. Within 24 hours after the court issues, changes, or
284 vacates an injunction for protection against marriage fraud, the
285 clerk of the court must electronically transmit a copy of the
286 injunction to the sheriff with jurisdiction over the residence
287 of the petitioner.

288 2. Within 24 hours after the court issues an injunction for
289 protection against marriage fraud, the clerk of the court must
290 electronically transmit a copy of the injunction to the State

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291 Board of Immigration Enforcement, which must coordinate with
292 local law enforcement agencies and the Federal Government for
293 the purpose of enforcing state and federal immigration laws as
294 appropriate.

295 3. Within 24 hours after service of process of an
296 injunction for protection against marriage fraud upon a
297 respondent, the law enforcement officer must electronically
298 transmit the written proof of service of process to the sheriff
299 with jurisdiction over the residence of the petitioner.

300 4. Within 24 hours after the sheriff receives a certified
301 copy of the injunction for protection against marriage fraud,
302 the sheriff must make information relating to the injunction
303 available to other law enforcement agencies by electronically
304 transmitting such information to the Department of Law
305 Enforcement.

306 5. Within 24 hours after the sheriff or other law
307 enforcement officer has made service upon the respondent and the
308 sheriff has been so notified, the sheriff must make information
309 relating to the service available to other law enforcement
310 agencies by electronically transmitting such information to the
311 Department of Law Enforcement.

312 6. Subject to available funding, the Florida Association of
313 Court Clerks and Comptrollers shall develop an automated process
314 by which a petitioner may request notification of service of the
315 injunction for protection against marriage fraud and other court
316 actions related to the injunction. The automated notice must be
317 made within 12 hours after the sheriff or other law enforcement
318 officer serves the injunction upon the respondent. The
319 notification must include, at a minimum, the date, time, and

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320 location where the injunction was served. The Florida
321 Association of Court Clerks and Comptrollers may apply for any
322 available grants to fund the development of the automated
323 process.

324 7. Within 24 hours after an injunction for protection
325 against marriage fraud is vacated, terminated, or otherwise
326 rendered no longer effective by ruling of the court, the clerk
327 of the court must notify the sheriff or local law enforcement
328 agency that received original notification of the injunction as
329 provided in subparagraph (a)1. Such sheriff or agency shall,
330 within 24 hours after receiving such notification from the clerk
331 of the court, notify the Department of Law Enforcement of the
332 action of the court.

333 (9) (a) The court may enforce a violation of an injunction
334 for protection against marriage fraud through a civil or
335 criminal contempt proceeding, and the state attorney may
336 prosecute it as a criminal violation under s. 908.141. Any fine
337 or assessment ordered by the court enforcing such injunction
338 shall be collected by the clerk of the court and transferred on
339 a monthly basis to the Department of Revenue for deposit into
340 the Domestic Violence Trust Fund.

341 (b) If the respondent is arrested by a law enforcement
342 officer for a violation of an injunction for protection against
343 marriage fraud, the respondent shall be held in custody until
344 brought before the court as expeditiously as possible for the
345 purpose of enforcing the injunction and for admittance to bail
346 in accordance with chapter 903 and the applicable rules of
347 criminal procedure, pending a hearing.

348 (10) A law enforcement officer acting in good faith under

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349 this section and the officer's employing agency are immune from
350 all liability, civil or criminal, that might otherwise be
351 incurred or imposed by reason of the officer's or agency's
352 actions in carrying out the provisions of this section.

353 Section 2. Section 908.141, Florida Statutes, is created to
354 read:

355 908.141 Violation of an injunction for protection against
356 marriage fraud.—

357 (1) In the event of a violation of an injunction for
358 protection against marriage fraud issued under s. 908.14, when
359 the person who violated such injunction has not been arrested,
360 the petitioner may contact the clerk of the court of the county
361 in which the violation is alleged to have occurred. The clerk of
362 the court shall assist the petitioner in the preparation of an
363 affidavit in support of the violation or direct the petitioner
364 to the office operated by the court within the circuit which has
365 been designated by the chief judge of the judicial circuit as
366 the central intake point for injunction violations and where the
367 petitioner can receive assistance in the preparation of the
368 affidavit in support of the violation.

369 (2) The affidavit must be immediately forwarded by the
370 clerk of the court or the office assisting the petitioner to the
371 state attorney of the circuit and to the court or judge as the
372 chief judge of the circuit determines to be the recipient of
373 affidavits of violation. If the affidavit alleges that a crime
374 has been committed, the clerk of the court or the office
375 assisting the petitioner shall also forward a copy of the
376 affidavit to the appropriate law enforcement agency for
377 investigation. Within 20 days after receipt of the affidavit,

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378 the local law enforcement agency shall complete its
379 investigation and forward a report to the state attorney. The
380 state attorney shall determine within 30 business days whether
381 its office will proceed to file criminal charges, prepare a
382 motion for an order to show cause as to why the respondent
383 should not be held in criminal contempt, prepare both as
384 alternative findings, or file notice that the case remains under
385 investigation or is pending subject to another action.

386 (3) If, based on its familiarity with the case, the court
387 has knowledge that the victim of marriage fraud as defined in s.
388 908.14(1) is in immediate danger if the court fails to act
389 before the decision of the state attorney to prosecute, it may
390 immediately issue an order of appointment of the state attorney
391 to file a motion for an order to show cause as to why the
392 respondent should not be held in contempt. If the court does not
393 issue an order of appointment of the state attorney, it shall
394 immediately notify the state attorney that the court is
395 proceeding to enforce the violation through a ruling of criminal
396 contempt.

397 (4) A person who willfully violates an injunction for
398 protection against marriage fraud commits a misdemeanor of the
399 first degree, punishable as provided in s. 775.082 or s.
400 775.083. A person violates such injunction by:

401 (a) Refusing to vacate the dwelling shared with the victim;
402 (b) Going to or being within 500 feet of the victim's
403 residence;
404 (c) Committing any other violation of the injunction
405 through an intentional unlawful threat, word, or act to do
406 violence to the victim;

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407 (d) Telephoning, contacting, or otherwise communicating
408 with the victim directly or indirectly, unless the injunction
409 specifically allows indirect contact through a third party;

410 (e) Knowingly and intentionally coming within 100 feet of
411 the victim's motor vehicle, regardless of whether that vehicle
412 is occupied; or

413 (f) Defacing or destroying the victim's personal property.

414 (5) A person who has two or more prior convictions for
415 violation of an injunction or foreign protection order accorded
416 full faith and credit pursuant to s. 741.315 against the same
417 victim, and who subsequently commits a violation of any
418 injunction or foreign protection order accorded full faith and
419 credit pursuant to s. 741.315 against the same victim, commits a
420 felony of the third degree, punishable as provided in s.
421 775.082, s. 775.083, or s. 775.084. For purposes of this
422 subsection, the term "conviction" means a determination of guilt
423 which is the result of a plea or a trial, regardless of whether
424 adjudication is withheld or a plea of nolo contendere is
425 entered.

426 Section 3. This act shall take effect October 1, 2026.