

1 A bill to be entitled

2 An act relating to protective orders; amending s.
3 493.6118, F.S.; providing for disciplinary action
4 against licensed private investigators who fail to
5 comply with specified requirements designed to protect
6 persons protected by certain injunctions; amending s.
7 493.6120, F.S.; prohibiting the release of
8 confidential information by private investigators
9 relating to persons protected by certain injunctions;
10 providing criminal penalties; amending ss. 741.30,
11 741.31, 784.046, 784.047, and 784.0485, F.S.;
12 extending the effectiveness of certain temporary
13 injunctions in domestic violence, repeat violence,
14 sexual violence, dating violence, or stalking
15 proceedings in certain circumstances; providing that a
16 respondent who directs another to commit a specified
17 violation commits a violation without regard to the
18 mental state of the person who was directed; amending
19 s. 784.0487, F.S.; providing that it is unlawful for a
20 person to violate a final injunction for protection
21 against stalking or cyberstalking by having in his or
22 her care, custody, possession, or control any firearm
23 or ammunition; providing penalties; providing that a
24 respondent who directs another to commit a specified
25 violation commits a violation without regard to the
26 mental state of the person who was directed; amending

27 s. 901.15, F.S.; conforming provisions to changes made
 28 by the act; expanding situations in which an arrest
 29 without a warrant is lawful to include probable cause
 30 of stalking, cyberstalking, or child abuse; providing
 31 an effective date.

32

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

34

35 Section 1. Paragraph (y) is added to subsection (1) of
 36 section 493.6118, Florida Statutes, to read:

37 493.6118 Grounds for disciplinary action.—

38 (1) The following constitute grounds for which
 39 disciplinary action specified in subsection (2) may be taken by
 40 the department against any licensee, agency, or applicant
 41 regulated by this chapter, or any unlicensed person engaged in
 42 activities regulated under this chapter.

43 (y) For a Class "C" licensee, failure to comply with s.
 44 493.6120(8).

45 Section 2. Subsection (8) is added to section 493.6120,
 46 Florida Statutes, to read:

47 493.6120 Violations; penalty.—

48 (8) A Class "C" licensee shall conduct a records search on
 49 the subject of the investigation to ensure that the subject is
 50 not a targeted individual of an active temporary or final
 51 domestic violence, repeat violence, stalking, cyberstalking,
 52 dating violence, or sexual violence injunction. In addition, the

53 Class "C" licensee shall conduct a search through the Office of
 54 the Attorney General to ensure that the subject is not a
 55 participant in the Address Confidentiality Program for Victims
 56 of Domestic Violence, and, if the subject is such a participant,
 57 the Class "C" licensee shall not release the subject's
 58 confidential information, in compliance with ss. 119.071 and
 59 741.30. A Class "C" licensee who violates this subsection
 60 commits a misdemeanor of the first degree, punishable as
 61 provided in s. 775.082 or s. 775.083.

62 Section 3. Paragraph (c) of subsection (5) of section
 63 741.30, Florida Statutes, is amended to read:

64 741.30 Domestic violence; injunction; powers and duties of
 65 court and clerk; petition; notice and hearing; temporary
 66 injunction; issuance of injunction; statewide verification
 67 system; enforcement; public records exemption.-

68 (5)

69 (c) Any such ex parte temporary injunction is ~~shall be~~
 70 effective for a fixed period not to exceed 15 days unless a
 71 final injunction is issued on the same case, which extends the
 72 effectiveness of the temporary injunction until such time as the
 73 final injunction is served. A full hearing, as provided by this
 74 section, shall be set for a date no later than the date when the
 75 temporary injunction ceases to be effective. The court may grant
 76 a continuance of the hearing before or during a hearing for good
 77 cause shown by any party, which must ~~shall~~ include a continuance
 78 to obtain service of process. An ~~Any~~ injunction shall be

79 extended, if necessary, so that it remains ~~to remain~~ in full
 80 force and effect during any period of continuance.

81 Section 4. Paragraph (c) is added to subsection (4) and
 82 subsection (7) is added to section 741.31, Florida Statutes, to
 83 read:

84 741.31 Violation of an injunction for protection against
 85 domestic violence.—

86 (4)

87 (c) If a final injunction is issued but has not been
 88 served, the terms of the temporary injunction, if served, remain
 89 in full force and effect until service of the final injunction
 90 is effected upon the respondent.

91 (7) A respondent who directs a third party to violate this
 92 section commits a violation of this section as if the same
 93 violation had been personally committed by the respondent
 94 without regard to the mental state of the third party acting at
 95 the direction of the respondent.

96 Section 5. Paragraph (c) of subsection (6) of section
 97 784.046, Florida Statutes, is amended to read:

98 784.046 Action by victim of repeat violence, sexual
 99 violence, or dating violence for protective injunction; dating
 100 violence investigations, notice to victims, and reporting;
 101 pretrial release violations; public records exemption.—

102 (6)

103 (c) Any such ex parte temporary injunction is ~~shall be~~
 104 effective for a fixed period not to exceed 15 days unless a

105 final injunction is issued on the same case, which extends the
 106 effectiveness of the temporary injunction until such time as the
 107 final injunction is served. However, an ex parte temporary
 108 injunction granted under subparagraph (2)(c)2. is effective for
 109 15 days following the date the respondent is released from
 110 incarceration unless a final injunction is issued on the same
 111 case, which extends the effectiveness of the temporary
 112 injunction until such time as the final injunction is served. A
 113 full hearing, as provided by this section, shall be set for a
 114 date no later than the date when the temporary injunction ceases
 115 to be effective. The court may grant a continuance of the ex
 116 parte injunction and the full hearing before or during a
 117 hearing, for good cause shown by any party.

118 Section 6. Section 784.047, Florida Statutes, is amended
 119 to read:

120 784.047 Penalties for violating protective injunction
 121 against violators.—

122 (1) A person who willfully violates an injunction for
 123 protection against repeat violence, sexual violence, or dating
 124 violence~~7~~ issued pursuant to s. 784.046~~7~~ or a foreign protection
 125 order accorded full faith and credit pursuant to s. 741.315 by:

126 (a)~~(1)~~ Refusing to vacate the dwelling that the parties
 127 share;

128 (b)~~(2)~~ Going to, or being within 500 feet of, the
 129 petitioner's residence, school, place of employment, or a
 130 specified place frequented regularly by the petitioner and any

131 named family or household member;

132 (c)~~(3)~~ Committing an act of repeat violence, sexual
133 violence, or dating violence against the petitioner;

134 (d)~~(4)~~ Committing any other violation of the injunction
135 through an intentional unlawful threat, word, or act to do
136 violence to the petitioner;

137 (e)~~(5)~~ Telephoning, contacting, or otherwise communicating
138 with the petitioner directly or indirectly, unless the
139 injunction specifically allows indirect contact through a third
140 party;

141 (f)~~(6)~~ Knowingly and intentionally coming within 100 feet
142 of the petitioner's motor vehicle, regardless of whether ~~or not~~
143 that vehicle is occupied;

144 (g)~~(7)~~ Defacing or destroying the petitioner's personal
145 property, including the petitioner's motor vehicle; or

146 (h)~~(8)~~ Refusing to surrender firearms or ammunition if
147 ordered to do so by the court,

148
149 commits a misdemeanor of the first degree, punishable as
150 provided in s. 775.082 or s. 775.083.

151 (2) A respondent who directs a third party to violate this
152 section commits a violation of this section as if the same
153 violation had been personally committed by the respondent
154 without regard to the mental state of the third party acting at
155 the direction of the respondent.

156 Section 7. Paragraph (c) of subsection (5) of section

157 784.0485, Florida Statutes, is amended to read:

158 784.0485 Stalking; injunction; powers and duties of court
 159 and clerk; petition; notice and hearing; temporary injunction;
 160 issuance of injunction; statewide verification system;
 161 enforcement.—

162 (5)

163 (c) Any such ex parte temporary injunction is effective
 164 for a fixed period not to exceed 15 days unless a final
 165 injunction is issued on the same case, which extends the
 166 effectiveness of the temporary injunction until such time as the
 167 final injunction is served. A full hearing, as provided in this
 168 section, shall be set for a date no later than the date when the
 169 temporary injunction ceases to be effective. The court may grant
 170 a continuance of the hearing before or during a hearing for good
 171 cause shown by any party, which shall include a continuance to
 172 obtain service of process. An injunction shall be extended, if
 173 necessary, so that it remains ~~to remain~~ in full force and effect
 174 during any period of continuance.

175 Section 8. Subsections (6) and (7) are added to section
 176 784.0487, Florida Statutes, to read:

177 784.0487 Violation of an injunction for protection against
 178 stalking or cyberstalking.—

179 (6) A person who violates a final injunction for
 180 protection against stalking or cyberstalking by having in his or
 181 her care, custody, possession, or control any firearm or
 182 ammunition violates s. 790.233 and commits a misdemeanor of the

183 first degree, punishable as provided in s. 775.082 or s.
184 775.083.

185 (7) A respondent who directs a third party to violate this
186 section commits a violation of this section as if the same
187 violation had been personally committed by the respondent
188 without regard to the mental state of the third party acting at
189 the direction of the respondent.

190 Section 9. Subsections (6) and (7) of section 901.15,
191 Florida Statutes, are amended to read:

192 901.15 When arrest by officer without warrant is lawful.—A
193 law enforcement officer may arrest a person without a warrant
194 when:

195 (6) There is probable cause to believe that the person has
196 committed a criminal act according to s. 790.233 or according to
197 s. 39.504, s. 741.31, ~~or~~ s. 784.047, or s. 784.0487 which
198 violates an injunction for protection entered pursuant to s.
199 39.504, s. 741.30, ~~or~~ s. 784.046, or s. 784.0485, or a foreign
200 protection order accorded full faith and credit pursuant to s.
201 741.315, over the objection of the petitioner, if necessary.

202 (7) There is probable cause to believe that the person has
203 committed an act of domestic violence~~;~~ as defined in s. 741.28;~~;~~
204 ~~or~~ dating violence, repeat violence, or sexual violence as
205 provided in s. 784.046; stalking or cyberstalking as provided in
206 s. 784.048; or an act of child abuse as provided in s. 39.01.

207 The decision to arrest does ~~shall~~ not require consent of the
208 victim or consideration of the relationship of the parties. It

HB 659

2014

209 is the public policy of this state to strongly discourage arrest
210 and charges of both parties for domestic violence or dating
211 violence on each other and to encourage training of law
212 enforcement and prosecutors in these areas. A law enforcement
213 officer who acts in good faith and exercises due care in making
214 an arrest under this subsection, under s. 39.504, s. 741.31(4),
215 ~~or~~ s. 784.047, or s. 784.0487, or pursuant to a foreign order of
216 protection accorded full faith and credit pursuant to s.
217 741.315, is immune from civil liability that otherwise might
218 result by reason of his or her action.

219 Section 10. This act shall take effect October 1, 2014.