

1 A bill to be entitled  
2 An act relating to service of process; amending s.  
3 30.231, F.S.; requiring sheriffs to charge a uniform  
4 fee for service of process; amending s. 48.031, F.S.;  
5 requiring an employer, employee, or representative or  
6 agent of an employer to permit an authorized  
7 individual to make service on an employee in a private  
8 area designated by the employer; providing criminal  
9 penalties for persons failing to comply with the  
10 process; authorizing substitute service during the  
11 first attempt of service at a business that is a sole  
12 proprietorship under certain circumstances; requiring  
13 the person requesting service or the person authorized  
14 to serve the process to file the return-of-service  
15 form; amending s. 48.081, F.S.; revising provisions  
16 relating to service on a corporation; amending s.  
17 56.27, F.S.; requiring the levying creditor to deliver  
18 to the sheriff an affidavit setting forth how to pay  
19 out moneys received under an execution sale; providing  
20 that the sheriff is not liable for damages under  
21 certain circumstances; amending s. 394.463, F.S.;  
22 requiring a mental health receiving facility to accept  
23 an electronic order for involuntary examination served  
24 by a law enforcement agency; amending s. 397.6818,  
25 F.S.; requiring a substance abuse licensed service  
26 provider to accept an electronic order for involuntary  
27 assessment and stabilization which is served by a law  
28 enforcement agency on the service provider;

29 | establishing procedures to serve process; amending s.  
 30 | 608.463, F.S.; providing that service of process on a  
 31 | limited liability company occurs as if it were a  
 32 | corporation; amending s. 741.30, F.S.; setting forth  
 33 | the effectiveness of a temporary injunction in a  
 34 | domestic violence proceeding; amending ss. 741.31,  
 35 | 784.046, and 784.0485, F.S.; requiring that if a final  
 36 | order of injunction for protection against domestic  
 37 | violence, dating violence, or stalking is issued but  
 38 | not served, the terms of the temporary injunction, if  
 39 | served, remain in full force and effect until service  
 40 | of the final order is effected upon the respondent;  
 41 | amending s. 784.0487, F.S.; providing that it is  
 42 | unlawful for a person to violate a final injunction  
 43 | for protection against stalking or cyberstalking by  
 44 | having in his or her care, custody, possession, or  
 45 | control any firearm or ammunition; amending s. 901.15,  
 46 | F.S.; conforming provisions; expanding situations in  
 47 | which an arrest without a warrant is lawful to include  
 48 | probable cause of stalking, cyberstalking, and child  
 49 | abuse; providing an effective date.

50 |

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

52 |

53 | Section 1. Paragraph (a) of subsection (1) of section  
 54 | 30.231, Florida Statutes, is amended to read:

55 | 30.231 Sheriffs' fees for service of summons, subpoenas,  
 56 | and executions.—

57 (1) The sheriffs of all counties of the state in civil  
 58 cases shall charge fixed, nonrefundable fees for ~~docketing and~~  
 59 service of process, according to the following schedule:

60 (a) All summons or writs except executions: \$40 for each  
 61 summons or writ to be served, ~~except when more than one summons~~  
 62 ~~or writ is issued at the same time out of the same cause of~~  
 63 ~~action to be served upon one person or defendant at the same~~  
 64 ~~time, in which case the sheriff shall be entitled to one fee.~~

65 Section 2. Paragraph (b) of subsection (1), paragraph (b)  
 66 of subsection (2), and subsection (5) of section 48.031, Florida  
 67 Statutes, are amended to read:

68 48.031 Service of process generally; service of witness  
 69 subpoenas.—

70 (1)

71 (b) An employer ~~Employers~~, employee, or a representative  
 72 or agent of the employer, when contacted by an individual  
 73 authorized to make service of process, must ~~shall~~ permit the  
 74 authorized individual to make service on employees in a private  
 75 area designated by the employer. If the employer, employee, or a  
 76 representative or agent of the employer fails to comply with  
 77 this paragraph, he or she commits a misdemeanor of the first  
 78 degree, punishable as provided in s. 775.082 or s. 775.083.

79 (2)

80 (b) Substitute service may be made on an individual doing  
 81 business as a sole proprietorship at his or her place of  
 82 business, during regular business hours, by serving the person  
 83 in charge of the business during the first attempt of service  
 84 even if the owner is temporarily absent from his or her office

85 ~~at the time of service if two or more attempts to serve the~~  
 86 ~~owner have been made at the place of business.~~

87 (5) A person serving process shall place, on the first  
 88 page of at least one of the processes served, the date and time  
 89 of service and his or her identification number and initials for  
 90 all service of process. The person serving process shall list on  
 91 the return-of-service form all initial pleadings delivered and  
 92 served along with the process. The person requesting service or  
 93 the person authorized to serve ~~issuing~~ the process shall file  
 94 the return-of-service form with the court.

95 Section 3. Paragraph (b) of subsection (3) of section  
 96 48.081, Florida Statutes, is amended to read:

97 48.081 Service on corporation.—

98 (3)

99 (b) If the address ~~provided~~ for the registered agent,  
 100 officer, director, or principal place of business is a residence  
 101 or private mailbox, service on the corporation may be made by  
 102 serving the registered agent, officer, or director in accordance  
 103 with s. 48.031.

104 Section 4. Paragraph (d) is added to subsection (4) of  
 105 section 56.27, Florida Statutes, to read:

106 56.27 Executions; payment of money collected.—

107 (4) Before the date of the first publication or posting of  
 108 the notice of sale provided for under s. 56.21, at the time of  
 109 the levy request to the sheriff, the levying creditor shall  
 110 deliver to the sheriff an affidavit setting forth all of the  
 111 following as to the judgment debtor:

112 (d) A statement directing the sheriff how to pay out all

113 moneys received under an execution sale pursuant to subsections  
114 (1) and (2). The sheriff paying pursuant to the affidavit is not  
115 liable to anyone for damages arising from a wrongful levy and  
116 pay out.

117 Section 5. Paragraph (a) of subsection (2) of section  
118 394.463, Florida Statutes, is amended to read:

119 394.463 Involuntary examination.—

120 (2) INVOLUNTARY EXAMINATION.—

121 (a) An involuntary examination may be initiated by any one  
122 of the following means:

123 1. A court may enter an ex parte order stating that a  
124 person appears to meet the criteria for involuntary examination,  
125 giving the findings on which that conclusion is based. The ex  
126 parte order for involuntary examination must be based on sworn  
127 testimony, written or oral. If other less restrictive means are  
128 not available, such as voluntary appearance for outpatient  
129 evaluation, a law enforcement officer, or other designated agent  
130 of the court, shall take the person into custody and deliver him  
131 or her to the nearest receiving facility for involuntary  
132 examination. If the order was received electronically by the law  
133 enforcement agency, the receiving facility shall accept the  
134 electronic copy as the executable copy. The order of the court  
135 shall be made a part of the patient's clinical record. A fee may  
136 not ~~No fee shall~~ be charged for the filing of an order under  
137 this subsection. Any receiving facility accepting the patient  
138 based on this order shall ~~must~~ send a copy of the order to the  
139 Agency for Health Care Administration on the next working day.  
140 The order is ~~shall be~~ valid only until executed or, if not

141 | executed, for the period specified in the order itself. If no  
142 | time limit is specified in the order, the order is ~~shall be~~  
143 | valid for 7 days after the date that the order was signed.

144 |       2. A law enforcement officer shall take a person who  
145 | appears to meet the criteria for involuntary examination into  
146 | custody and deliver the person or have him or her delivered to  
147 | the nearest receiving facility for examination. The officer  
148 | shall execute a written report detailing the circumstances under  
149 | which the person was taken into custody, and the report shall be  
150 | made a part of the patient's clinical record. Any receiving  
151 | facility accepting the patient based on this report shall ~~must~~  
152 | send a copy of the report to the Agency for Health Care  
153 | Administration on the next working day.

154 |       3. A physician, clinical psychologist, psychiatric nurse,  
155 | mental health counselor, marriage and family therapist, or  
156 | clinical social worker may execute a certificate stating that he  
157 | or she has examined a person within the preceding 48 hours and  
158 | finds that the person appears to meet the criteria for  
159 | involuntary examination and stating the observations upon which  
160 | that conclusion is based. If other less restrictive means are  
161 | not available, such as voluntary appearance for outpatient  
162 | evaluation, a law enforcement officer shall take the person  
163 | named in the certificate into custody and deliver him or her to  
164 | the nearest receiving facility for involuntary examination. The  
165 | law enforcement officer shall execute a written report detailing  
166 | the circumstances under which the person was taken into custody.  
167 | The report and certificate shall be made a part of the patient's  
168 | clinical record. Any receiving facility accepting the patient

169 based on this certificate shall ~~must~~ send a copy of the  
170 certificate to the Agency for Health Care Administration on the  
171 next working day.

172 Section 6. Subsection (3) of section 397.6818, Florida  
173 Statutes, is amended to read:

174 397.6818 Court determination.—At the hearing initiated in  
175 accordance with s. 397.6811(1), the court shall hear all  
176 relevant testimony. The respondent must be present unless the  
177 court has reason to believe that his or her presence is likely  
178 to be injurious to him or her, in which event the court shall  
179 appoint a guardian advocate to represent the respondent. The  
180 respondent has the right to examination by a court-appointed  
181 qualified professional. After hearing all the evidence, the  
182 court shall determine whether there is a reasonable basis to  
183 believe the respondent meets the involuntary admission criteria  
184 of s. 397.675.

185 (3) If the court finds it necessary, it may order the  
186 sheriff to take the respondent into custody and deliver him or  
187 her to the licensed service provider specified in the court  
188 order or, if none is specified, to the nearest appropriate  
189 licensed service provider for involuntary assessment. If the  
190 order was received electronically by a law enforcement agency,  
191 the receiving licensed service provider shall accept the  
192 electronic copy as the executable copy. The order is valid only  
193 until executed or, if not executed, for the period specified in  
194 the order itself. If no time limit is specified in the order,  
195 the order is valid for 7 days after the date that the order was  
196 signed.

197        (a) A law enforcement officer acting in accordance with an  
 198 involuntary assessment and stabilization order issued pursuant  
 199 to this section may serve and execute such order on any day of  
 200 the week, at any time of the day or night.

201        (b) A law enforcement officer acting in accordance with an  
 202 involuntary assessment and stabilization order issued pursuant  
 203 to this section may use such reasonable physical force as is  
 204 necessary to gain entry to the premises and any dwellings,  
 205 buildings, or other structures located on the premises to take  
 206 custody of the person who is the subject of the involuntary  
 207 assessment and stabilization order.

208        Section 7. Subsection (1) of section 608.463, Florida  
 209 Statutes, is amended to read:

210        608.463 Service of process.—

211        (1) Process against a limited liability company may be  
 212 served:

213        (a) In accordance with chapter 48 or chapter 49, as if the  
 214 limited liability company were a corporation ~~partnership~~.

215        (b) Upon the registered agent at the agent's street  
 216 address.

217        Section 8. Paragraph (c) of subsection (5) of section  
 218 741.30, Florida Statutes, is amended to read:

219        741.30 Domestic violence; injunction; powers and duties of  
 220 court and clerk; petition; notice and hearing; temporary  
 221 injunction; issuance of injunction; statewide verification  
 222 system; enforcement; public records exemption.—

223        (5)

224        (c) Any such ex parte temporary injunction is ~~shall be~~



225 effective for a fixed period not to exceed 15 days unless a  
226 final injunction is issued on the same case, which extends the  
227 effectiveness of the temporary injunction until such time as the  
228 final injunction is served. A full hearing, as provided by this  
229 section, shall be set for a date no later than the date when the  
230 temporary injunction ceases to be effective. The court may grant  
231 a continuance of the hearing before or during a hearing for good  
232 cause shown by any party, which must ~~shall~~ include a continuance  
233 to obtain service of process. An ~~Any~~ injunction shall be  
234 extended, if necessary, so that it remains ~~to remain~~ in full  
235 force and effect during any period of continuance.

236 Section 9. Paragraph (c) is added to subsection (4) of  
237 section 741.31, Florida Statutes, to read:

238 741.31 Violation of an injunction for protection against  
239 domestic violence.—

240 (4)

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

245 Section 10. Paragraph (c) of subsection (6) of section  
246 784.046, Florida Statutes, is amended to read:

247 784.046 Action by victim of repeat violence, sexual  
248 violence, or dating violence for protective injunction; dating  
249 violence investigations, notice to victims, and reporting;  
250 pretrial release violations; public records exemption.—

251 (6)

252 (c) Any such ex parte temporary injunction is ~~shall be~~

253 effective for a fixed period not to exceed 15 days unless a  
254 final injunction is issued on the same case, which extends the  
255 effectiveness of the temporary injunction until such time as the  
256 final injunction is served. However, an ex parte temporary  
257 injunction granted under subparagraph (2)(c)2. is effective for  
258 15 days following the date the respondent is released from  
259 incarceration unless a final injunction is issued on the same  
260 case, which extends the effectiveness of the temporary  
261 injunction until such time as the final injunction is served. A  
262 full hearing, as provided by this section, shall be set for a  
263 date no later than the date when the temporary injunction ceases  
264 to be effective. The court may grant a continuance of the ex  
265 parte injunction and the full hearing before or during a  
266 hearing, for good cause shown by any party.

267 Section 11. Paragraph (c) of subsection (5) of section  
268 784.0485, Florida Statutes, is amended to read:

269 784.0485 Stalking; injunction; powers and duties of court  
270 and clerk; petition; notice and hearing; temporary injunction;  
271 issuance of injunction; statewide verification system;  
272 enforcement.—

273 (5)

274 (c) Any such ex parte temporary injunction is effective  
275 for a fixed period not to exceed 15 days unless a final  
276 injunction is issued on the same case, which shall extend the  
277 effectiveness of the temporary injunction until such time as the  
278 final injunction is served. A full hearing, as provided in this  
279 section, shall be set for a date no later than the date when the  
280 temporary injunction ceases to be effective. The court may grant

281 a continuance of the hearing before or during a hearing for good  
 282 cause shown by any party, which shall include a continuance to  
 283 obtain service of process. An injunction shall be extended if  
 284 necessary, so that it remains ~~to remain~~ in full force and effect  
 285 during any period of continuance.

286 Section 12. Present subsection (5) of section 784.0487,  
 287 Florida Statutes, is redesignated as subsection (6), and a new  
 288 subsection (5) is added to that section, to read:

289 784.0487 Violation of an injunction for protection against  
 290 stalking or cyberstalking.—

291 (5) A person who violates a final injunction for  
 292 protection against stalking or cyberstalking by having in his or  
 293 her care, custody, possession, or control any firearm or  
 294 ammunition commits a violation of s. 790.233, a misdemeanor of  
 295 the first degree, punishable as provided in s. 775.082 or s.  
 296 775.083.

297 Section 13. Subsections (6) and (7) of section 901.15,  
 298 Florida Statutes, are amended to read:

299 901.15 When arrest by officer without warrant is lawful.—A  
 300 law enforcement officer may arrest a person without a warrant  
 301 when:

302 (6) There is probable cause to believe that the person has  
 303 committed a criminal act according to s. 790.233 or according to  
 304 s. 39.504, s. 741.31, ~~or~~ s. 784.047, or s. 785.0487 which  
 305 violates an injunction for protection entered pursuant to s.  
 306 39.504, s. 741.30, ~~or~~ s. 784.046, or s. 784.0485 or a foreign  
 307 protection order accorded full faith and credit pursuant to s.  
 308 741.315, over the objection of the petitioner, if necessary.

CS/HB 1379

2013

309 (7) There is probable cause to believe that the person has  
310 committed an act of domestic violence, as defined in s. 741.28,  
311 ~~or~~ dating violence, repeat violence or sexual violence, as  
312 provided in s. 784.046, stalking or cyberstalking as provided in  
313 s. 784.048, or an act of child abuse as provided in s. 39.01.  
314 The decision to arrest does ~~shall~~ not require consent of the  
315 victim or consideration of the relationship of the parties. It  
316 is the public policy of this state to strongly discourage arrest  
317 and charges of both parties for domestic violence or dating  
318 violence on each other and to encourage training of law  
319 enforcement and prosecutors in these areas. A law enforcement  
320 officer who acts in good faith and exercises due care in making  
321 an arrest under this subsection, under s. 39.504, s. 741.31(4),  
322 ~~or~~ s. 784.047, or s. 784.0487 or pursuant to a foreign order of  
323 protection accorded full faith and credit pursuant to s.  
324 741.315, is immune from civil liability that otherwise might  
325 result by reason of his or her action.

326 Section 14. This act shall take effect July 1, 2013.