

1 A bill to be entitled

2 An act relating to violation of an injunction for
3 protection; amending ss. 741.31, 784.047, and
4 784.0487, F.S.; providing enhanced criminal penalties
5 for a third or subsequent violation of an injunction
6 for protection against specified acts of violence or a
7 foreign protection order issued under specified
8 provisions; reenacting s. 741.30(9), F.S., relating to
9 injunctions for protection against domestic violence,
10 to incorporate the amendment made by the act to s.
11 741.31, F.S., in references thereto; reenacting s.
12 741.315(2), F.S., relating to recognition of foreign
13 protection orders, to incorporate the amendment made
14 by the act to ss. 741.31, 784.047, and 784.0487, F.S.,
15 in references thereto; reenacting s. 784.0485(9),
16 F.S., relating to injunctions for protection against
17 stalking, to incorporate the amendment made by the act
18 to s. 784.0487, F.S., in references thereto;
19 reenacting s. 901.15(6) and (7), F.S., relating to
20 when an arrest by an officer without warrant is
21 lawful, to incorporate the amendment made by the act
22 to ss. 741.31 and 784.047, F.S., in references
23 thereto; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:
26

27 Section 1. Subsection (4) of section 741.31, Florida
28 Statutes, is amended to read:

29 741.31 Violation of an injunction for protection against
30 domestic violence.—

31 (4) (a) A person who willfully violates an injunction for
32 protection against domestic violence issued pursuant to s.
33 741.30, or a foreign protection order accorded full faith and
34 credit pursuant to s. 741.315, by:

35 1. Refusing to vacate the dwelling that the parties share;

36 2. Going to, or being within 500 feet of, the petitioner's
37 residence, school, place of employment, or a specified place
38 frequented regularly by the petitioner and any named family or
39 household member;

40 3. Committing an act of domestic violence against the
41 petitioner;

42 4. Committing any other violation of the injunction
43 through an intentional unlawful threat, word, or act to do
44 violence to the petitioner;

45 5. Telephoning, contacting, or otherwise communicating
46 with the petitioner directly or indirectly, unless the
47 injunction specifically allows indirect contact through a third
48 party;

49 6. Knowingly and intentionally coming within 100 feet of
50 the petitioner's motor vehicle, whether or not that vehicle is
51 occupied;

52 7. Defacing or destroying the petitioner's personal

53 | property, including the petitioner's motor vehicle; or
54 | 8. Refusing to surrender firearms or ammunition if ordered
55 | to do so by the court
56 |
57 | commits a misdemeanor of the first degree, punishable as
58 | provided in s. 775.082 or s. 775.083, except as provided in
59 | paragraph (c).
60 | (b)1. It is a violation of s. 790.233, and a misdemeanor
61 | of the first degree, punishable as provided in s. 775.082 or s.
62 | 775.083, for a person to violate a final injunction for
63 | protection against domestic violence by having in his or her
64 | care, custody, possession, or control any firearm or ammunition.
65 | 2. It is the intent of the Legislature that the
66 | disabilities regarding possession of firearms and ammunition are
67 | consistent with federal law. Accordingly, this paragraph shall
68 | not apply to a state or local officer as defined in s.
69 | 943.10(14), holding an active certification, who receives or
70 | possesses a firearm or ammunition for use in performing official
71 | duties on behalf of the officer's employing agency, unless
72 | otherwise prohibited by the employing agency.
73 | (c) A person who has two or more prior convictions for
74 | violation of an injunction and who commits any third or
75 | subsequent violation commits a felony of the third degree,
76 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
77 | For purposes of this paragraph, the term "conviction" means a
78 | determination of guilt that is the result of a plea or a trial,

79 regardless of whether adjudication is withheld or a plea of nolo
 80 contendere is entered.

81 Section 2. Section 784.047, Florida Statutes, is amended
 82 to read:

83 784.047 Penalties for violating protective injunction
 84 against violators.—

85 (1) A person who willfully violates an injunction for
 86 protection against repeat violence, sexual violence, or dating
 87 violence, issued pursuant to s. 784.046, or a foreign protection
 88 order accorded full faith and credit pursuant to s. 741.315 by:

89 (a)~~(1)~~ Refusing to vacate the dwelling that the parties
 90 share;

91 (b)~~(2)~~ Going to, or being within 500 feet of, the
 92 petitioner's residence, school, place of employment, or a
 93 specified place frequented regularly by the petitioner and any
 94 named family or household member;

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

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

100 (e)~~(5)~~ Telephoning, contacting, or otherwise communicating
 101 with the petitioner directly or indirectly, unless the
 102 injunction specifically allows indirect contact through a third
 103 party;

104 (f)~~(6)~~ Knowingly and intentionally coming within 100 feet

105 of the petitioner's motor vehicle, whether or not that vehicle
 106 is occupied;

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

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

111

112 commits a misdemeanor of the first degree, punishable as
 113 provided in s. 775.082 or s. 775.083, except as provided in
 114 subsection (2).

115 (2) A person who has two or more prior convictions for
 116 violation of an injunction and who commits any third or
 117 subsequent violation commits a felony of the third degree,
 118 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 119 For purposes of this subsection, the term "conviction" means a
 120 determination of guilt that is the result of a plea or a trial,
 121 regardless of whether adjudication is withheld or a plea of nolo
 122 contendere is entered.

123 Section 3. Subsection (4) of section 784.0487, Florida
 124 Statutes, is amended to read:

125 784.0487 Violation of an injunction for protection against
 126 stalking or cyberstalking.—

127 (4) (a) A person who willfully violates an injunction for
 128 protection against stalking or cyberstalking issued pursuant to
 129 s. 784.0485, or a foreign protection order accorded full faith
 130 and credit pursuant to s. 741.315, by:

131 1.~~(a)~~ Going to, or being within 500 feet of, the
132 petitioner's residence, school, place of employment, or a
133 specified place frequented regularly by the petitioner and any
134 named family members or individuals closely associated with the
135 petitioner;

136 2.~~(b)~~ Committing an act of stalking against the
137 petitioner;

138 3.~~(e)~~ Committing any other violation of the injunction
139 through an intentional unlawful threat, word, or act to do
140 violence to the petitioner;

141 4.~~(d)~~ Telephoning, contacting, or otherwise communicating
142 with the petitioner, directly or indirectly, unless the
143 injunction specifically allows indirect contact through a third
144 party;

145 5.~~(e)~~ Knowingly and intentionally coming within 100 feet
146 of the petitioner's motor vehicle, whether or not that vehicle
147 is occupied;

148 6.~~(f)~~ Defacing or destroying the petitioner's personal
149 property, including the petitioner's motor vehicle; or

150 7.~~(g)~~ Refusing to surrender firearms or ammunition if
151 ordered to do so by the court,

152
153 commits a misdemeanor of the first degree, punishable as
154 provided in s. 775.082 or s. 775.083, except as provided in
155 paragraph (b).

156 (b) A person who has two or more prior convictions for

157 violation of an injunction and who commits any third or
158 subsequent violation commits a felony of the third degree,
159 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
160 For purposes of this paragraph, the term "conviction" means a
161 determination of guilt that is the result of a plea or a trial,
162 regardless of whether adjudication is withheld or a plea of nolo
163 contendere is entered.

164 Section 4. For the purpose of incorporating the amendment
165 made by this act to section 741.31, Florida Statutes, in
166 references thereto, subsection (9) of section 741.30, Florida
167 Statutes, is reenacted to read:

168 741.30 Domestic violence; injunction; powers and duties of
169 court and clerk; petition; notice and hearing; temporary
170 injunction; issuance of injunction; statewide verification
171 system; enforcement; public records exemption.—

172 (9) (a) The court may enforce a violation of an injunction
173 for protection against domestic violence through a civil or
174 criminal contempt proceeding, or the state attorney may
175 prosecute it as a criminal violation under s. 741.31. The court
176 may enforce the respondent's compliance with the injunction
177 through any appropriate civil and criminal remedies, including,
178 but not limited to, a monetary assessment or a fine. The clerk
179 of the court shall collect and receive such assessments or
180 fines. On a monthly basis, the clerk shall transfer the moneys
181 collected pursuant to this paragraph to the State Treasury for
182 deposit in the Domestic Violence Trust Fund established in s.

183 741.01.

184 (b) If the respondent is arrested by a law enforcement
185 officer under s. 901.15(6) or for a violation of s. 741.31, the
186 respondent shall be held in custody until brought before the
187 court as expeditiously as possible for the purpose of enforcing
188 the injunction and for admittance to bail in accordance with
189 chapter 903 and the applicable rules of criminal procedure,
190 pending a hearing.

191 Section 5. For the purpose of incorporating the amendment
192 made by this act to sections 741.31, 784.047, and 784.0487,
193 Florida Statutes, in references thereto, subsection (2) of
194 section 741.315, Florida Statutes, is reenacted to read:

195 741.315 Recognition of foreign protection orders.—

196 (2) Pursuant to 18 U.S.C. s. 2265, an injunction for
197 protection against domestic violence issued by a court of a
198 foreign state must be accorded full faith and credit by the
199 courts of this state and enforced by a law enforcement agency as
200 if it were the order of a Florida court issued under s. 741.30,
201 s. 741.31, s. 784.046, s. 784.047, s. 784.0485, or s. 784.0487,
202 and provided that the court had jurisdiction over the parties
203 and the matter and that reasonable notice and opportunity to be
204 heard was given to the person against whom the order is sought
205 sufficient to protect that person's right to due process. Ex
206 parte foreign injunctions for protection are not eligible for
207 enforcement under this section unless notice and opportunity to
208 be heard have been provided within the time required by the

209 foreign state or tribal law, and in any event within a
210 reasonable time after the order is issued, sufficient to protect
211 the respondent's due process rights.

212 Section 6. For the purpose of incorporating the amendment
213 made by this act to section 784.0487, Florida Statutes, in
214 references thereto, subsection (9) of section 784.0485, Florida
215 Statutes, is reenacted to read:

216 784.0485 Stalking; injunction; powers and duties of court
217 and clerk; petition; notice and hearing; temporary injunction;
218 issuance of injunction; statewide verification system;
219 enforcement.—

220 (9) (a) The court may enforce a violation of an injunction
221 for protection against stalking through a civil or criminal
222 contempt proceeding, or the state attorney may prosecute it as a
223 criminal violation under s. 784.0487. Any assessments or fines
224 ordered by the court enforcing such an injunction shall be
225 collected by the clerk of the court and transferred on a monthly
226 basis to the State Treasury for deposit into the Domestic
227 Violence Trust Fund.

228 (b) If the respondent is arrested by a law enforcement
229 officer under s. 901.15(6) or for a violation of s. 784.0487,
230 the respondent shall be held in custody until brought before the
231 court as expeditiously as possible for the purpose of enforcing
232 the injunction and for admittance to bail in accordance with
233 chapter 903 and the applicable rules of criminal procedure,
234 pending a hearing.

235 Section 7. For the purpose of incorporating the amendment
 236 made by this act to sections 741.31 and 784.047, Florida
 237 Statutes, in a references thereto, subsections (6) and (7) of
 238 section 901.15, Florida Statutes, are reenacted to read:

239 901.15 When arrest by officer without warrant is lawful.—A
 240 law enforcement officer may arrest a person without a warrant
 241 when:

242 (6) There is probable cause to believe that the person has
 243 committed a criminal act according to s. 790.233 or according to
 244 s. 741.31 or s. 784.047 which violates an injunction for
 245 protection entered pursuant to s. 741.30 or s. 784.046, or a
 246 foreign protection order accorded full faith and credit pursuant
 247 to s. 741.315, over the objection of the petitioner, if
 248 necessary.

249 (7) There is probable cause to believe that the person has
 250 committed an act of domestic violence, as defined in s. 741.28,
 251 or dating violence, as provided in s. 784.046. The decision to
 252 arrest shall not require consent of the victim or consideration
 253 of the relationship of the parties. It is the public policy of
 254 this state to strongly discourage arrest and charges of both
 255 parties for domestic violence or dating violence on each other
 256 and to encourage training of law enforcement and prosecutors in
 257 these areas. A law enforcement officer who acts in good faith
 258 and exercises due care in making an arrest under this
 259 subsection, under s. 741.31(4) or s. 784.047, or pursuant to a
 260 foreign order of protection accorded full faith and credit

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261 | pursuant to s. 741.315, is immune from civil liability that
262 | otherwise might result by reason of his or her action.

263 | Section 8. This act shall take effect October 1, 2016.