

CHAPTER 2016-187

Committee Substitute for Senate Bill No. 380

An act relating to violation of an injunction for protection; amending ss. 741.31, 784.047, and 784.0487, F.S.; providing enhanced criminal penalties for a third or subsequent violation of an injunction for protection against specified acts of violence or a foreign protection order issued for the same victim under specified provisions; defining the term “conviction”; reenacting s. 741.30(9), F.S., relating to injunctions for protection against domestic violence, to incorporate the amendment made by the act to s. 741.31, F.S., in a reference thereto; reenacting s. 741.315(2), F.S., relating to recognition of foreign protection orders, to incorporate the amendments made by the act to ss. 741.31, 784.047, and 784.0487, F.S., in references thereto; reenacting s. 784.0485(9), F.S., relating to injunctions for protection against stalking, to incorporate the amendment made by the act to s. 784.0487, F.S., in a reference thereto; reenacting s. 901.15(6) and (7), F.S., relating to when arrest by an officer without warrant is lawful, to incorporate the amendment made by the act to ss. 741.31 and 784.047, F.S., in references thereto; providing an effective date.

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

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

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

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

1. Refusing to vacate the dwelling that the parties share;
2. Going to, or being within 500 feet of, the petitioner’s residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;
3. Committing an act of domestic violence against the petitioner;
4. Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner;
5. Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party;
6. Knowingly and intentionally coming within 100 feet of the petitioner’s motor vehicle, whether or not that vehicle is occupied;

7. Defacing or destroying the petitioner’s personal property, including the petitioner’s motor vehicle; or

8. Refusing to surrender firearms or ammunition if ordered to do so by the court

commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, except as provided in paragraph (c).

(b)1. It is a violation of s. 790.233, and a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for a person to violate a final injunction for protection against domestic violence by having in his or her care, custody, possession, or control any firearm or ammunition.

2. It is the intent of the Legislature that the disabilities regarding possession of firearms and ammunition are consistent with federal law. Accordingly, this paragraph shall not apply to a state or local officer as defined in s. 943.10(14), holding an active certification, who receives or possesses a firearm or ammunition for use in performing official duties on behalf of the officer’s employing agency, unless otherwise prohibited by the employing agency.

(c) A person who has two or more prior convictions for violation of an injunction or foreign protection order, and who subsequently commits a violation of any injunction or foreign protection order against the same victim, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083 or s.775.084. For purposes of this paragraph, the term “conviction” means a determination of guilt which is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

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

784.047 Penalties for violating protective injunction against violators.

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

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

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

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

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

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

(f)(6) Knowingly and intentionally coming within 100 feet of the petitioner’s motor vehicle, whether or not that vehicle is occupied;

(g)(7) Defacing or destroying the petitioner’s personal property, including the petitioner’s motor vehicle; or

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

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

(2) A person who has two or more prior convictions for violation of an injunction or foreign protection order, and who subsequently commits a violation of any injunction or foreign protection order against the same victim, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, the term “conviction” means a determination of guilt which is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

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

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

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

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

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

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

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

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

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

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

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

(b) A person who has two or more prior convictions for violation of an injunction or foreign protection order, and who subsequently commits a violation of any injunction or foreign protection order against the same victim, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this paragraph, the term "conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

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

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

(9)(a) The court may enforce a violation of an injunction for protection against domestic violence through a civil or criminal contempt proceeding, or the state attorney may prosecute it as a criminal violation under s. 741.31. The court may enforce the respondent's compliance with the injunction through any appropriate civil and criminal remedies, including, but not limited to, a monetary assessment or a fine. The clerk of the court shall collect and receive such assessments or fines. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Domestic Violence Trust Fund established in s. 741.01.

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

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

741.315 Recognition of foreign protection orders.—

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

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

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

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

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

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

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

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

(7) There is probable cause to believe that the person has committed an act of domestic violence, as defined in s. 741.28, or dating violence, as provided in s. 784.046. The decision to arrest shall not require consent of the victim or consideration of the relationship of the parties. It is the public policy of this state to strongly discourage arrest and charges of both parties for domestic violence or dating violence on each other and to encourage training of law enforcement and prosecutors in these areas. A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection, under s. 741.31(4) or s. 784.047, or pursuant to a foreign order of protection accorded full faith and credit pursuant to s. 741.315, is immune from civil liability that otherwise might result by reason of his or her action.

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

Approved by the Governor April 6, 2016.

Filed in Office Secretary of State April 6, 2016.