

House Bill No. 495

An act relating to protective injunctions from repeat, sexual, and dating violence; amending s. 784.046, F.S.; providing that a petitioner for an injunction for protection against sexual violence may list the address of his or her current residence in a separate confidential filing in certain circumstances; revising requirements relating to documents filed in support of such petition; deleting a provision providing for service of the petition, notice of hearing, and any temporary injunction in circumstances where the respondent is in the custody of the Department of Corrections; deleting a provision authorizing service by a correctional officer and specifying the circumstances of such service; revising a cross reference to conform; amending ss. 784.047, and 784.08, F.S.; clarifying cross references to conform; amending s. 901.15, F.S.; deleting a provision authorizing an officer to make an arrest without a warrant in certain circumstances; amending s. 20.165, F.S.; revising a cross reference to conform; providing an effective date.

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

Section 1. Paragraph (b) of subsection (4), paragraph (a) of subsection (8), and paragraph (b) of subsection (9) of section 784.046, Florida Statutes, are amended to read:

784.046 Action by victim of repeat violence, sexual violence, or dating violence for protective injunction; powers and duties of court and clerk of court; filing and form of petition; notice and hearing; temporary injunction; issuance; statewide verification system; enforcement.—

(4)

(b) The sworn petition must be in substantially the following form:

PETITION FOR INJUNCTION FOR PROTECTION
AGAINST REPEAT VIOLENCE, SEXUAL
VIOLENCE, OR DATING VIOLENCE

Before me, the undersigned authority, personally appeared Petitioner ...(Name)..., who has been sworn and says that the following statements are true:

1. Petitioner resides at ...(address)... ...(A petitioner for an injunction for protection against sexual violence may furnish an address to the court in a separate confidential filing if, for safety reasons, the petitioner requires the location of his or her current residence to be confidential pursuant to s. 119.07(3)(s), Florida Statutes.)...

2. Respondent resides at ...(address)...

3.a. Petitioner has suffered repeat violence as demonstrated by the fact that the respondent has:

...(enumerate incidents of violence)...

.....
.....
.....

b. Petitioner has suffered sexual violence as demonstrated by the fact that the respondent has: (enumerate incident of violence and include attach incident report number from by law enforcement agency or attach notice of inmate release.)

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.....

c. Petitioner is a victim of dating violence and has reasonable cause to believe that he or she is in imminent danger of becoming the victim of another act of dating violence or has reasonable cause to believe that he or she is in imminent danger of becoming a victim of dating violence, as demonstrated by the fact that the respondent has: ...(list the specific incident or incidents of violence and describe the length of time of the relationship, whether it has been in existence during the last 6 months, the nature of the relationship of a romantic or intimate nature, the frequency and type of interaction, and any other facts that characterize the relationship.)...

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.....

4. Petitioner genuinely fears repeat violence by the respondent.

5. Petitioner seeks: an immediate injunction against the respondent, enjoining him or her from committing any further acts of violence; an injunction enjoining the respondent from committing any further acts of violence; and an injunction providing any terms the court deems necessary for the protection of the petitioner and the petitioner's immediate family, including any injunctions or directives to law enforcement agencies.

(8)(a)1. The clerk of the court shall furnish a copy of the petition, notice of hearing, and temporary injunction, if any, to the sheriff or a law enforcement agency of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night. The clerk of the court shall be responsible for furnishing to the sheriff such information on the respondent's physical description and location as is required by the department to comply with the verification procedures set forth in this section. Notwithstanding any other provision of law to the contrary, the chief judge of each circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the chief judge's jurisdiction to effect this type of service and to receive a portion of the service fee. No person shall be authorized or permitted to serve or execute an injunction issued under this section unless the person is a law enforcement officer as defined in chapter 943.

~~2. If the respondent is in the custody of the Department of Corrections and the petition for an injunction has been filed as provided in subparagraph (2)(c)2., the clerk of the court shall furnish a copy of the petition, notice of hearing, and temporary injunction, if any, to the Department of Corrections and copies shall be served upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night. The petition, notice of hearing, or temporary injunction may be served in a state prison by a correctional officer as defined in chapter 943. If the respondent in custody is not served before his or her release, a copy of the petition, notice of hearing, and temporary injunction, if any, shall be forwarded to the sheriff of the county specified in the respondent's release plan for service as provided in subparagraph 1.~~

2.3. When an injunction is issued, if the petitioner requests the assistance of a law enforcement agency, the court may order that an officer from the appropriate law enforcement agency accompany the petitioner and assist in the execution or service of the injunction. A law enforcement officer shall accept a copy of an injunction for protection against repeat violence, sexual violence, or dating violence, certified by the clerk of the court, from the petitioner and immediately serve it upon a respondent who has been located but not yet served.

(9)

(b) If the respondent is arrested by a law enforcement officer under s. 901.15(6)(10) for committing an act of repeat violence, sexual violence, or dating violence in violation of an injunction for protection, 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 2. Section 784.047, Florida Statutes, is amended to read:

784.047 Penalties for violating protective injunction against violators.— 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:

- (1) Refusing to vacate the dwelling that the parties share;
- (2) Going to 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 repeat violence, sexual violence, or dating 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; or
- (5) Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party;

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

Section 3. Subsection (4) of section 784.048, Florida Statutes, is amended to read:

784.048 Stalking; definitions; penalties.—

(4) Any person who, after an injunction for protection against repeat violence, sexual violence, or dating violence pursuant to s. 784.046, or an injunction for protection against domestic violence pursuant to s. 741.30, or after any other court-imposed prohibition of conduct toward the subject person or that person's property, knowingly, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Subsection (10) of section 901.15, Florida Statutes, is amended, and present subsections (11) through (16) are redesignated as subsections (10) through (15), respectively, to read:

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

~~(10) The officer has probable cause to believe that the person has knowingly committed an act of repeat violence in violation of an injunction for protection from repeat violence entered pursuant to s. 784.046 or a foreign protection order accorded full faith and credit pursuant to s. 741.315.~~

Section 5. Paragraph (b) of subsection (9) of section 20.165, Florida Statutes, is amended to read:

20.165 Department of Business and Professional Regulation.—There is created a Department of Business and Professional Regulation.

(9)

(b) All employees certified under chapter 943 as law enforcement officers shall have felony arrest powers under s. 901.15~~(10)(11)~~ and shall have all the powers of deputy sheriffs to:

1. Investigate, enforce, and prosecute, throughout the state, violations and violators of:

a. Parts I and II of chapter 210; part VII of chapter 559; and chapters 561-569; and the rules promulgated thereunder, as well as other state laws which the division, all state law enforcement officers, or beverage enforcement agents are specifically authorized to enforce.

b. All other state laws, provided that the employee exercises the powers of a deputy sheriff, only after consultation and in coordination with the appropriate local sheriff's office, and only if the violation could result in an administrative proceeding against a license or permit issued by the division.

2. Enforce all criminal laws of the state within specified jurisdictions when the division is a party to a written mutual aid agreement with a state agency, sheriff, or municipal police department, or when the division participates in the Florida Mutual Aid Plan during a declared state emergency.

Section 6. This act shall take effect July 1, 2004.

Approved by the Governor April 22, 2004.

Filed in Office Secretary of State April 22, 2004.