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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/25/2012	.	
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The Committee on Criminal Justice (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 784.048, Florida Statutes, is amended to read:

784.048 Stalking; definitions; penalties.-

(1) As used in this section, the term:

(a) "Harass" means to engage in a course of conduct directed at a specific person which ~~that~~ causes substantial emotional distress to that ~~in such~~ person and serves no legitimate purpose.



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13 (b) "Course of conduct" means a pattern of conduct composed
14 of a series of acts over a period of time, however short, which
15 evidence evidencing a continuity of purpose. The term does not
16 include constitutionally protected activity such as is not
17 included within the meaning of "course of conduct." Such
18 constitutionally protected activity includes picketing or other
19 organized protests.

20 (c) "Credible threat" means a verbal or nonverbal threat,
21 including a threat delivered by electronic communication or a
22 threat implied by a pattern of conduct, or a combination of the
23 two, which places the person who is the target of the threat in
24 reasonable fear for his or her safety or the safety of his or
25 her immediate family or household member, as defined in s.
26 741.28, and which is made with the apparent ability to carry out
27 the threat to cause such harm. It is not necessary to prove that
28 the person making the threat had the intent to actually carry
29 out the threat. The present incarceration of the person making
30 the threat is not a bar to prosecution under this section made
31 with the intent to cause the person who is the target of the
32 threat to reasonably fear for his or her safety. The threat must
33 be against the life of, or a threat to cause bodily injury to, a
34 person.

35 (d) "Cyberstalk" means to engage in a course of conduct to
36 communicate, or to cause to be communicated, words, images, or
37 language by or through the use of electronic mail or electronic
38 communication, directed at a specific person, causing
39 substantial emotional distress to that person and serving no
40 legitimate purpose.

41 (e) "Immediate family" means a person's spouse, parent,



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42 child, grandparent, or sibling.

43 (2) A ~~Any~~ person who willfully, maliciously, and repeatedly
44 follows, harasses, or cyberstalks another person commits the
45 offense of stalking, a misdemeanor of the first degree,
46 punishable as provided in s. 775.082 or s. 775.083.

47 (3) A ~~Any~~ person who willfully, maliciously, and repeatedly
48 follows, harasses, or cyberstalks another person, ~~and makes a~~
49 credible threat to that person ~~with the intent to place that~~
50 ~~person in reasonable fear of death or bodily injury of the~~
51 ~~person, or the person's child, sibling, spouse, parent, or~~
52 ~~dependent,~~ commits the offense of aggravated stalking, a felony
53 of the third degree, punishable as provided in s. 775.082, s.
54 775.083, or s. 775.084.

55 (4) A ~~Any~~ person who, after an injunction for protection
56 against repeat violence, sexual violence, or dating violence
57 pursuant to s. 784.046, or an injunction for protection against
58 domestic violence pursuant to s. 741.30, or after any other
59 court-imposed prohibition of conduct toward the subject person
60 or that person's property, knowingly, willfully, maliciously,
61 and repeatedly follows, harasses, or cyberstalks another person
62 commits the offense of aggravated stalking, a felony of the
63 second ~~third~~ degree, punishable as provided in s. 775.082, s.
64 775.083, or s. 775.084.

65 (5) A ~~Any~~ person who willfully, maliciously, and repeatedly
66 follows, harasses, or cyberstalks a child ~~minor~~ under 16 years
67 of age commits the offense of aggravated stalking, a felony of
68 the first ~~third~~ degree, punishable as provided in s. 775.082, s.
69 775.083, or s. 775.084.

70 (6) A ~~Any~~ law enforcement officer may arrest, without a



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71 warrant, any person that he or she has probable cause to believe
72 has violated ~~the provisions of~~ this section.

73 (7) A Any person who, after having been sentenced for a
74 violation of s. 794.011, s. 800.04, or s. 847.0135(5) and
75 prohibited from contacting the victim of the offense under s.
76 921.244, willfully, maliciously, and repeatedly follows,
77 harasses, or cyberstalks the victim commits the offense of
78 aggravated stalking, a felony of the first ~~third~~ degree,
79 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

80 (8) The punishment imposed under this section shall run
81 consecutive to any former sentence imposed for a conviction for
82 any offense under s. 794.011, s. 800.04, or s. 847.0135(5).

83 (9) (a) The sentencing court shall consider, as a part of
84 any sentence, issuing an injunction restraining the defendant
85 from any contact with the victim, which may be valid for up to
86 10 years, as determined by the court. It is the intent of the
87 Legislature that the length of any such restraining order be
88 based upon the seriousness of the facts before the court, the
89 probability of future violations by the perpetrator, and the
90 safety of the victim and his or her immediate family.

91 (b) The injunction may be issued by the court even if the
92 defendant is sentenced to a state prison or a county jail or
93 even if the imposition of the sentence is suspended and the
94 defendant is placed on probation.

95 (10) If the court finds the defendant guilty of stalking or
96 aggravated stalking under this section, the court shall order
97 the defendant to attend a batterers' intervention program
98 pursuant to s. 741.281.

99 Section 2. Section 784.0485, Florida Statutes, is created



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100 to read:

101 784.0485 Stalking or cyberstalking; injunction; powers and
102 duties of court and clerk; petition; notice and hearing;
103 temporary injunction; issuance of injunction; statewide
104 verification system; enforcement.-

105 (1) There is created a cause of action for an injunction
106 for protection against stalking or cyberstalking.

107 (a) A person who is the victim of stalking or cyberstalking
108 or who has reasonable cause to believe that he or she is in
109 imminent danger of becoming the victim of an act of stalking or
110 cyberstalking has standing in the circuit court to file a sworn
111 petition for an injunction for protection against stalking or
112 cyberstalking.

113 (b) The cause of action for an injunction for protection
114 may be sought regardless of whether any other cause of action is
115 currently pending between the parties. However, the pendency of
116 any such cause of action shall be alleged in the petition.

117 (c) The cause of action for an injunction may be sought by
118 any affected person.

119 (d) The cause of action for an injunction does not require
120 either party to be represented by an attorney.

121 (e) The court may not issue mutual orders of protection;
122 however, the court is not precluded from issuing separate
123 injunctions for protection against stalking or cyberstalking if
124 each party has complied with this section. Compliance with this
125 section may not be waived.

126 (f) Notwithstanding chapter 47, a petition for an
127 injunction for protection against stalking or cyberstalking may
128 be filed in the circuit where the petitioner currently or



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129 temporarily resides, where the respondent resides, or where the
130 stalking or cyberstalking occurred. There is no minimum
131 requirement of residency to petition for an injunction for
132 protection.

133 (2) (a) Notwithstanding any other law, the clerk of court
134 may not assess a filing fee to file a petition for protection
135 against stalking or cyberstalking. However, subject to
136 legislative appropriation, the clerk of the circuit court may,
137 on a quarterly basis, submit to the Office of the State Courts
138 Administrator a certified request for reimbursement for
139 petitions for protection against stalking or cyberstalking
140 issued by the court, at the rate of \$40 per petition. The
141 request for reimbursement shall be submitted in the form and
142 manner prescribed by the Office of the State Courts
143 Administrator. From this reimbursement, the clerk shall pay any
144 law enforcement agency serving the injunction the fee requested
145 by the law enforcement agency; however, this fee may not exceed
146 \$20.

147 (b) A bond is not required by the court for the entry of an
148 injunction.

149 (c)1. The clerk of the court shall assist petitioners in
150 seeking both injunctions for protection against stalking and
151 enforcement of a violation thereof as specified in this section.

152 2. All offices of the clerk of the court shall provide
153 simplified petition forms for the injunction and any
154 modifications to and the enforcement thereof, including
155 instructions for completion.

156 3. The clerk of the court shall ensure the petitioner's
157 privacy to the extent practicable while completing the forms for



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158 an injunction for protection against stalking or cyberstalking.

159 4. The clerk of the court shall provide a petitioner with a
160 minimum of two certified copies of the order of injunction, one
161 of which is serviceable and will inform the petitioner of the
162 process for service and enforcement.

163 5. The clerk of court and appropriate staff in each county
164 shall receive training in the effective assistance of
165 petitioners as provided or approved by the Florida Association
166 of Court Clerks.

167 6. The clerk of the court in each county shall make
168 available informational brochures on stalking when such a
169 brochure is provided by the local certified violence center.

170 7. The clerk of the court in each county shall distribute a
171 statewide uniform informational brochure to petitioners at the
172 time of filing for an injunction for protection against stalking
173 or cyberstalking when such brochures become available. The
174 brochure must include information about the effect of giving the
175 court false information.

176 (3) (a) The sworn petition shall allege the existence of
177 such stalking or cyberstalking and shall include the specific
178 facts and circumstances for which relief is sought.

179 (b) The sworn petition shall be in substantially the
180 following form:

181
182 PETITION FOR INJUNCTION FOR PROTECTION AGAINST STALKING

183
184 Before me, the undersigned authority, personally appeared
185 Petitioner....(Name)...., who has been sworn and says that
186 the following statements are true:



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- 1. Petitioner resides at:....(address)....
(Petitioner may furnish the address to the court in a separate confidential filing if, for safety reasons, the petitioner requires the location of the current residence to be confidential.)
- 2. Respondent resides at:....(last known address)....
- 3. Respondent's last known place of employment:....(name of business and address)....
- 4. Physical description of respondent:....
- 5. Race....
- 6. Sex....
- 7. Date of birth....
- 8. Height....
- 9. Weight....
- 10. Eye color....
- 11. Hair color....
- 12. Distinguishing marks or scars....
- 13. Aliases of respondent:....

(c) The petitioner shall describe any other cause of action currently pending between the petitioner and respondent. The petitioner shall also describe any previous attempt by the petitioner to obtain an injunction for protection against stalking or cyberstalking in this or any other circuit, and the result of that attempt. (Case numbers should be included, if available.)

(d) The petition must provide space for the petitioner to specifically allege that he or she is a victim of stalking or



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216 cyberstalking or has reasonable cause to believe he or she is in
217 imminent danger of becoming a victim of stalking or
218 cyberstalking because respondent has:

219
220 (Mark all sections that apply and describe in the spaces below
221 the incidents of stalking or cyberstalking or threats to stalk
222 or cyberstalk, specifying when and where they occurred,
223 including, but not limited to, locations such as a home, school,
224 or place of employment.)

225
226 Committed or threatened to commit stalking.

227 Previously threatened, harassed, stalked,
228 cyberstalked, or physically abused the petitioner.

229 Threatened to harm the petitioner or family members or
230 individuals closely associated with the petitioner.

231 Intentionally injured or killed a family pet.

232 Used, or has threatened to use, against the petitioner
233 any weapons such as guns or knives.

234 A criminal history involving violence or the threat of
235 violence (if known).

236 Another order of protection issued against him or her
237 previously or from another jurisdiction, if known.

238 Destroyed personal property, including, but not
239 limited to, telephones or other communication equipment,
240 clothing, or other items belonging to the petitioner.

241 Engaged in any other behavior or conduct that leads
242 the petitioner to have reasonable cause to believe that he or
243 she is in imminent danger of becoming a victim of stalking or
244 cyberstalking.



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245 (e) The petitioner seeks an injunction: (Mark appropriate
246 section or sections.)

247 Immediately restraining the respondent from committing
248 any acts of stalking or cyberstalking.

249 Restraining the respondent from committing any acts of
250 stalking or cyberstalking.

251 Directing the respondent to participate in a
252 batterers' intervention program or other treatment pursuant to
253 s. 39.901.

254 Providing any terms the court deems necessary for the
255 protection of a victim of stalking or cyberstalking, including
256 any injunctions or directives to law enforcement agencies.

257 (f) Every petition for an injunction against stalking or
258 cyberstalking must contain, directly above the signature line, a
259 statement in all capital letters and bold type not smaller than
260 the surrounding text, as follows:

261
262 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
263 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT
264 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE
265 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN
266 SECTION 837.02, FLORIDA STATUTES.

267
268(initials)....

269
270 (4) Upon the filing of the petition, the court shall set a
271 hearing to be held at the earliest possible time. The respondent
272 shall be personally served with a copy of the petition, notice
273 of hearing, and temporary injunction, if any, before the



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274 hearing.

275 (5) (a) If it appears to the court that an immediate and
276 present danger of stalking or cyberstalking exists, the court
277 may grant a temporary injunction ex parte, pending a full
278 hearing, and may grant such relief as the court deems proper,
279 including an injunction restraining the respondent from
280 committing any act of stalking or cyberstalking.

281 (b) In a hearing ex parte for the purpose of obtaining such
282 ex parte temporary injunction, evidence other than verified
283 pleadings or affidavits may not be used as evidence, unless the
284 respondent appears at the hearing or has received reasonable
285 notice of the hearing. A denial of a petition for an ex parte
286 injunction shall be by written order noting the legal grounds
287 for denial. If the only ground for denial is no appearance of an
288 immediate and present danger of stalking or cyberstalking, the
289 court shall set a full hearing on the petition for injunction
290 with notice at the earliest possible time. This paragraph does
291 not affect a petitioner's right to promptly amend any petition,
292 or otherwise be heard in person on any petition consistent with
293 the Florida Rules of Civil Procedure.

294 (c) Any such ex parte temporary injunction is effective for
295 a fixed period not to exceed 15 days. A full hearing, as
296 provided in this section, shall be set for a date no later than
297 the date when the temporary injunction ceases to be effective.
298 The court may grant a continuance of the hearing before or
299 during a hearing for good cause shown by any party, which shall
300 include a continuance to obtain service of process. An
301 injunction shall be extended if necessary to remain in full
302 force and effect during any period of continuance.



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303 (6) (a) Upon notice and hearing, when it appears to the
304 court that the petitioner is the victim of stalking or
305 cyberstalking or has reasonable cause to believe that he or she
306 is in imminent danger of becoming a victim of stalking or
307 cyberstalking, the court may grant such relief as the court
308 deems proper, including an injunction:

309 1. Restraining the respondent from committing any act of
310 stalking or cyberstalking.

311 2. Ordering the respondent to participate in treatment,
312 intervention, or counseling services to be paid for by the
313 respondent.

314 3. Referring a petitioner to a certified domestic violence
315 center. The court must provide the petitioner with a list of
316 certified domestic violence centers in the circuit which the
317 petitioner may contact.

318 4. Ordering such other relief as the court deems necessary
319 for the protection of a victim of stalking or cyberstalking,
320 including injunctions or directives to law enforcement agencies,
321 as provided in this section.

322 (b) When determining whether a petitioner has reasonable
323 cause to believe that there is a credible threat that he or she
324 is in imminent danger of becoming a victim of stalking or
325 cyberstalking, the court shall consider and evaluate all
326 relevant factors alleged in the petition, including, but not
327 limited to:

328 1. The history between the petitioner and the respondent,
329 including threats, harassment, stalking or cyberstalking, and
330 physical abuse.

331 2. Whether the respondent has attempted to harm the



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332 petitioner or family members or individuals closely associated
333 with the petitioner.

334 3. Whether the respondent has intentionally injured or
335 killed a family pet.

336 4. Whether the respondent has used, or has threatened to
337 use, against the petitioner any weapons such as guns or knives.

338 5. Whether the respondent has a criminal history involving
339 violence or the threat of violence.

340 6. The existence of a verifiable order of protection issued
341 previously or from another jurisdiction.

342 7. Whether the respondent has destroyed personal property,
343 including, but not limited to, telephones or other
344 communications equipment, clothing, or other items belonging to
345 the petitioner.

346 8. Whether the respondent engaged in any other behavior or
347 conduct that leads the petitioner to have reasonable cause to
348 believe that he or she is in imminent danger of becoming a
349 victim of stalking or cyberstalking.

350
351 In making its determination under this paragraph, the court is
352 not limited to those factors enumerated in subparagraphs 1.-8.

353 (c) The terms of an injunction restraining the respondent
354 under subparagraph (a)1. or ordering other relief for the
355 protection of the victim under subparagraph (a)4. shall remain
356 in effect until modified or dissolved. Either party may move at
357 any time to modify or dissolve the injunction. Specific
358 allegations are not required. Such relief may be granted in
359 addition to other civil or criminal remedies.

360 (d) A temporary or final judgment on injunction for



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361 protection against stalking or cyberstalking entered pursuant to
362 this section shall, on its face, indicate that:

363 1. The injunction is valid and enforceable in all counties
364 of this state.

365 2. Law enforcement officers may use their arrest powers
366 pursuant to s. 901.15(6) to enforce the terms of the injunction.

367 3. The court has jurisdiction over the parties and matter
368 under the laws of this state and that reasonable notice and
369 opportunity to be heard was given to the person against whom the
370 order is sought sufficient to protect that person's right to due
371 process.

372 4. The date that the respondent was served with the
373 temporary or final order, if obtainable.

374 (e) An injunction for protection against stalking or
375 cyberstalking entered pursuant to this section, on its face, may
376 order that the respondent attend a batterers' intervention
377 program as a condition of the injunction.

378 (f) The fact that a separate order of protection is granted
379 to each opposing party is not legally sufficient to deny any
380 remedy to either party or to prove that the parties are equally
381 at fault or equally endangered.

382 (g) A final judgment on an injunction for protection
383 against stalking or cyberstalking entered pursuant to this
384 section must, on its face, indicate that it is a violation of s.
385 790.233 and a misdemeanor of the first degree for the respondent
386 to have in his or her care, custody, possession, or control any
387 firearm or ammunition.

388 (h) All proceedings under this subsection shall be
389 recorded. Recording may be by electronic means as provided by



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390 the Rules of Judicial Administration.

391 (7) The court shall allow an advocate from a state
392 attorney's office, a law enforcement agency, or a certified
393 violence center who is registered under s. 39.905 to be present
394 with the petitioner or respondent during any court proceedings
395 or hearings related to the injunction for protection if the
396 petitioner or respondent has made such a request and the
397 advocate is able to be present.

398 (8) (a) 1. The clerk of the court shall furnish a copy of the
399 petition, notice of hearing, and temporary injunction, if any,
400 to the sheriff or a law enforcement agency of the county where
401 the respondent resides or can be found, who shall serve it upon
402 the respondent as soon thereafter as possible on any day of the
403 week and at any time of the day or night. When requested by the
404 sheriff, the clerk of the court may transmit a facsimile copy of
405 an injunction that has been certified by the clerk of the court,
406 and this facsimile copy may be served in the same manner as a
407 certified copy. Upon receiving a facsimile copy, the sheriff
408 must verify receipt with the sender before attempting to serve
409 it on the respondent. In addition, if the sheriff is in
410 possession of an injunction for protection which has been
411 certified by the clerk of the court, the sheriff may transmit a
412 facsimile copy of that injunction to a law enforcement officer
413 who shall serve it in the same manner as a certified copy. The
414 clerk of the court shall furnish to the sheriff such information
415 concerning the respondent's physical description and location as
416 is required by the department to comply with the verification
417 procedures set forth in this section. Notwithstanding any other
418 law, the chief judge of each circuit, in consultation with the



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419 appropriate sheriff, may authorize a law enforcement agency
420 within the jurisdiction to effect service. A law enforcement
421 agency serving injunctions pursuant to this section shall use
422 service and verification procedures consistent with those of the
423 sheriff.

424 2. If an injunction is issued and the petitioner requests
425 the assistance of a law enforcement agency, the court may order
426 that an officer from the appropriate law enforcement agency
427 accompany the petitioner to assist in the execution or service
428 of the injunction. A law enforcement officer shall accept a copy
429 of an injunction for protection against stalking, certified by
430 the clerk of the court, from the petitioner and immediately
431 serve it upon a respondent who has been located but not yet
432 served.

433 3. An order issued, changed, continued, extended, or
434 vacated subsequent to the original service of documents
435 enumerated under subparagraph 1. shall be certified by the clerk
436 of the court and delivered to the parties at the time of the
437 entry of the order. The parties may acknowledge receipt of such
438 order in writing on the face of the original order. If a party
439 fails or refuses to acknowledge the receipt of a certified copy
440 of an order, the clerk shall note on the original order that
441 service was effected. If delivery at the hearing is not
442 possible, the clerk shall mail certified copies of the order to
443 the parties at the last known address of each party. Service by
444 mail is complete upon mailing. When an order is served pursuant
445 to this subsection, the clerk shall prepare a written
446 certification to be placed in the court file specifying the
447 time, date, and method of service and shall notify the sheriff.



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448 4. If the respondent has been served previously with a
449 temporary injunction and has failed to appear at the initial
450 hearing on the temporary injunction, any subsequent petition for
451 injunction seeking an extension of time may be served on the
452 respondent by the clerk of the court by certified mail in lieu
453 of personal service by a law enforcement officer.

454 (b)1. Within 24 hours after the court issues an injunction
455 for protection against stalking or cyberstalking or changes,
456 continues, extends, or vacates an injunction for protection
457 against stalking or cyberstalking, the clerk of the court must
458 forward a certified copy of the injunction for service to the
459 sheriff having jurisdiction over the residence of the
460 petitioner. The injunction must be served in accordance with
461 this subsection.

462 2. Within 24 hours after service of process of an
463 injunction for protection against stalking or cyberstalking upon
464 a respondent, the law enforcement officer must forward the
465 written proof of service of process to the sheriff having
466 jurisdiction over the residence of the petitioner.

467 3. Within 24 hours after the sheriff receives a certified
468 copy of the injunction for protection against stalking or
469 cyberstalking, the sheriff must make information relating to the
470 injunction available to other law enforcement agencies by
471 electronically transmitting such information to the Department
472 of Law Enforcement.

473 4. Within 24 hours after the sheriff or other law
474 enforcement officer has made service upon the respondent and the
475 sheriff has been so notified, the sheriff must make information
476 relating to the service available to other law enforcement



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477 agencies by electronically transmitting such information to the
478 Department of Law Enforcement.

479 5. Within 24 hours after an injunction for protection
480 against stalking or cyberstalking is vacated, terminated, or
481 otherwise rendered no longer effective by ruling of the court,
482 the clerk of the court must notify the sheriff receiving
483 original notification of the injunction as provided in
484 subparagraph 2. That agency shall, within 24 hours after
485 receiving such notification from the clerk of the court, notify
486 the Department of Law Enforcement of such action of the court.

487 (9) (a) The court may enforce a violation of an injunction
488 for protection against stalking or cyberstalking through a civil
489 or criminal contempt proceeding, or the state attorney may
490 prosecute it as a criminal violation under s. 784.0487. The
491 court may enforce the respondent's compliance with the
492 injunction through any appropriate civil and criminal remedies,
493 including, but not limited to, a monetary assessment or a fine.
494 The clerk of the court shall collect and receive such
495 assessments or fines. On a monthly basis, the clerk shall
496 transfer the moneys collected pursuant to this paragraph to the
497 State Treasury for deposit into the Domestic Violence Trust
498 Fund.

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



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506 (10) The petitioner or the respondent may move the court to
507 modify or dissolve an injunction at any time.

508 Section 3. Section 784.0487, Florida Statutes, is created
509 to read:

510 784.0487 Violation of an injunction for protection against
511 stalking or cyberstalking.-

512 (1) If the injunction for protection against stalking or
513 cyberstalking has been violated and the respondent has not been
514 arrested, the petitioner may contact the clerk of the circuit
515 court of the county in which the violation is alleged to have
516 occurred. The clerk shall assist the petitioner in preparing an
517 affidavit in support of reporting the violation or directing the
518 petitioner to the office operated by the court that has been
519 designated by the chief judge of that circuit as the central
520 intake point for violations of injunctions for protection where
521 the petitioner can receive assistance in the preparation of the
522 affidavit in support of the violation.

523 (2) The affidavit shall be immediately forwarded by the
524 office assisting the petitioner to the state attorney of that
525 circuit and to such judge as the chief judge determines to be
526 the recipient of affidavits of violations of an injunction. If
527 the affidavit alleges that a crime has been committed, the
528 office assisting the petitioner shall also forward a copy of the
529 petitioner's affidavit to the appropriate law enforcement agency
530 for investigation. No later than 20 days after receiving the
531 initial report, the local law enforcement agency shall complete
532 its investigation and forward a report to the state attorney.
533 The policy adopted by the state attorney in each circuit under
534 s. 741.2901(2) shall include a policy regarding intake of



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535 alleged violations of injunctions for protection against
536 stalking or cyberstalking under this section. The intake shall
537 be supervised by a state attorney who has been designated and
538 assigned to handle stalking or cyberstalking cases. The state
539 attorney shall determine within 30 working days whether his or
540 her office will file criminal charges or prepare a motion for an
541 order to show cause as to why the respondent should not be held
542 in criminal contempt, or prepare both as alternative findings,
543 or file notice that the case remains under investigation or is
544 pending subject to some other action.

545 (3) If the court has knowledge that the petitioner or
546 another person is in immediate danger if the court does not act
547 before the decision of the state attorney to proceed, the court
548 shall immediately issue an order of appointment of the state
549 attorney to file a motion for an order to show cause as to why
550 the respondent should not be held in contempt. If the court does
551 not issue an order of appointment of the state attorney, it
552 shall immediately notify the state attorney that the court is
553 proceeding to enforce the violation through criminal contempt.

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

558 1. Going to, or being within 500 feet of, the petitioner's
559 residence, school, place of employment, or a specified place
560 frequented regularly by the petitioner and any named family or
561 household member;

562 2. Committing an act of stalking or cyberstalking against
563 the petitioner;



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564 3. Committing any other violation of the injunction through
565 an intentional unlawful threat, word, or act to do violence to
566 the petitioner;

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

570 5. Knowingly and intentionally coming within 100 feet of
571 the petitioner's motor vehicle, whether or not that vehicle is
572 occupied;

573 6. Defacing or destroying the petitioner's personal
574 property, including the petitioner's motor vehicle; or

575 7. Refusing to surrender firearms or ammunition if ordered
576 to do so by the court,

577
578 commits a misdemeanor of the first degree, punishable as
579 provided in s. 775.082 or s. 775.083.

580 (b)1. A respondent violates s. 790.233, and commits a
581 misdemeanor of the first degree, punishable as provided in s.
582 775.082 or s. 775.083, if he or she violates a temporary or
583 final injunction for protection against stalking or
584 cyberstalking by having in his or her care, custody, possession,
585 or control a firearm or ammunition.

586 2. It is the intent of the Legislature that the prohibition
587 regarding possession of a firearm or ammunition is consistent
588 with federal law. Accordingly, this paragraph does not apply to
589 a state or local officer, as defined in s. 943.10(14), who holds
590 an active certification and who receives or possesses a firearm
591 or ammunition for use in performing official duties on behalf of
592 the officer's employing agency, unless otherwise prohibited by



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593 the employing agency.

594 (5) A person who suffers an injury or loss as a result of a
595 violation of an injunction for protection against stalking or
596 cyberstalking may be awarded economic damages for that injury or
597 loss by the court issuing the injunction. Damages includes costs
598 and attorney fees for enforcement of the injunction.

599 Section 4. Paragraphs (f) and (g) of subsection (3) of
600 section 921.0022, Florida Statutes, are amended to read:

601 921.0022 Criminal Punishment Code; offense severity ranking
602 chart.—

603 (3) OFFENSE SEVERITY RANKING CHART

604 (f) LEVEL 6

605

Florida Statute	Felony Degree	Description
316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
499.0051 (3)	2nd	Knowing forgery of pedigree papers.
499.0051 (4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051 (5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875 (1)	3rd	Taking firearm from law enforcement

606

607

608

609

610



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officer.

611

784.021 (1) (a) 3rd Aggravated assault; deadly weapon
without intent to kill.

612

784.021 (1) (b) 3rd Aggravated assault; intent to commit
felony.

613

784.041 3rd Felony battery; domestic battery by
strangulation.

614

784.048 (3) 3rd Aggravated stalking; credible threat.

615

784.048 (5) 1st Aggravated stalking of person under 16.
~~3rd~~

616

784.07 (2) (c) 2nd Aggravated assault on law enforcement
officer.

617

784.074 (1) (b) 2nd Aggravated assault on sexually violent
predators facility staff.

618

784.08 (2) (b) 2nd Aggravated assault on a person 65 years
of age or older.

619

784.081 (2) 2nd Aggravated assault on specified official
or employee.

620

784.082 (2) 2nd Aggravated assault by detained person on



visitor or other detainee.

- 621
- 784.083(2) 2nd Aggravated assault on code inspector.
- 622
- 787.02(2) 3rd False imprisonment; restraining with
purpose other than those in s. 787.01.
- 623
- 790.115(2)(d) 2nd Discharging firearm or weapon on school
property.
- 624
- 790.161(2) 2nd Make, possess, or throw destructive
device with intent to do bodily harm or
damage property.
- 625
- 790.164(1) 2nd False report of deadly explosive, weapon
of mass destruction, or act of arson or
violence to state property.
- 626
- 790.19 2nd Shooting or throwing deadly missiles
into dwellings, vessels, or vehicles.
- 627
- 794.011(8)(a) 3rd Solicitation of minor to participate in
sexual activity by custodial adult.
- 628
- 794.05(1) 2nd Unlawful sexual activity with specified
minor.
- 629
- 800.04(5)(d) 3rd Lewd or lascivious molestation; victim
12 years of age or older but less than



16 years; offender less than 18 years.

630

800.04 (6) (b) 2nd Lewd or lascivious conduct; offender 18 years of age or older.

631

806.031 (2) 2nd Arson resulting in great bodily harm to firefighter or any other person.

632

810.02 (3) (c) 2nd Burglary of occupied structure; unarmed; no assault or battery.

633

812.014 (2) (b) 1. 2nd Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.

634

812.014 (6) 2nd Theft; property stolen \$3,000 or more; coordination of others.

635

812.015 (9) (a) 2nd Retail theft; property stolen \$300 or more; second or subsequent conviction.

636

812.015 (9) (b) 2nd Retail theft; property stolen \$3,000 or more; coordination of others.

637

812.13 (2) (c) 2nd Robbery, no firearm or other weapon (strong-arm robbery).

638

817.034 (4) (a) 1. 1st Communications fraud, value greater than \$50,000.



639	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
640	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
641	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
642	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
643	825.103 (2) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.
644	827.03 (1)	3rd	Abuse of a child.
645	827.03 (3) (c)	3rd	Neglect of a child.
646	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
647	836.05	2nd	Threats; extortion.
648	836.10	2nd	Written threats to kill or do bodily



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injury.

649

843.12 3rd Aids or assists person to escape.

650

847.011 3rd Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.

651

847.012 3rd Knowingly using a minor in the production of materials harmful to minors.

652

847.0135(2) 3rd Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.

653

914.23 2nd Retaliation against a witness, victim, or informant, with bodily injury.

654

944.35(3)(a)2. 3rd Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.

655

944.40 2nd Escapes.

656

944.46 3rd Harboring, concealing, aiding escaped prisoners.



667	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.
668	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
669	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
670	456.065 (2)	3rd	Practicing a health care profession without a license.
671	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
672	458.327 (1)	3rd	Practicing medicine without a license.
673	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
674	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
675	461.012 (1)	3rd	Practicing podiatric medicine without a license.



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676	462.17	3rd	Practicing naturopathy without a license.
677	463.015(1)	3rd	Practicing optometry without a license.
678	464.016(1)	3rd	Practicing nursing without a license.
679	465.015(2)	3rd	Practicing pharmacy without a license.
680	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
681	467.201	3rd	Practicing midwifery without a license.
682	468.366	3rd	Delivering respiratory care services without a license.
683	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
684	483.901(9)	3rd	Practicing medical physics without a license.
685	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
686	484.053	3rd	Dispensing hearing aids without a license.



687	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
688	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
689	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
690	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
691	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
692	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator;



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harbor or conceal a sexual predator.

693

782.051(3) 2nd Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

694

782.07(1) 2nd Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

695

782.071 2nd Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).

696

782.072 2nd Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).

697

784.045(1)(a)1. 2nd Aggravated battery; intentionally causing great bodily harm or disfigurement.

698

784.045(1)(a)2. 2nd Aggravated battery; using deadly weapon.

699

784.045(1)(b) 2nd Aggravated battery; perpetrator aware victim pregnant.

700



701	784.048 (4)	<u>2nd</u> 3rd	Aggravated stalking; violation of injunction or court order.
702	784.048 (7)	<u>2nd</u> 3rd	Aggravated stalking; violation of court order.
703	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
704	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
705	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
706	784.081 (1)	1st	Aggravated battery on specified official or employee.
707	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
708	784.083 (1)	1st	Aggravated battery on code inspector.
709	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07 (1) or (2).
	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.



710	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
711	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
712	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
713	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
714	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
715	794.08 (4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
716	796.03	2nd	Procuring any person under 16 years for prostitution.
717			



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718 800.04 (5) (c) 1. 2nd Lewd or lascivious molestation; victim
less than 12 years of age; offender
less than 18 years.

719 800.04 (5) (c) 2. 2nd Lewd or lascivious molestation; victim
12 years of age or older but less than
16 years; offender 18 years or older.

720 806.01 (2) 2nd Maliciously damage structure by fire or
explosive.

721 810.02 (3) (a) 2nd Burglary of occupied dwelling; unarmed;
no assault or battery.

722 810.02 (3) (b) 2nd Burglary of unoccupied dwelling;
unarmed; no assault or battery.

723 810.02 (3) (d) 2nd Burglary of occupied conveyance;
unarmed; no assault or battery.

724 810.02 (3) (e) 2nd Burglary of authorized emergency
vehicle.

725 812.014 (2) (a) 1. 1st Property stolen, valued at \$100,000 or
more or a semitrailer deployed by a law
enforcement officer; property stolen
while causing other property damage;
1st degree grand theft.



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726	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
727	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
728	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
729	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
730	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
731	812.131 (2) (a)	2nd	Robbery by sudden snatching.
732	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
733	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.



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734	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
735	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
736	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
737	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
738	827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
739	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
740	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.



741	838.015	2nd	Bribery.
742	838.016	2nd	Unlawful compensation or reward for official behavior.
743	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
744	838.22	2nd	Bid tampering.
745	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
746	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
747	872.06	2nd	Abuse of a dead human body.
748	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
749	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or



publicly owned recreational facility or
community center.

750

893.13(1)(e)1. 1st Sell, manufacture, or deliver cocaine
or other drug prohibited under s.
893.03(1)(a), (1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4., within 1,000 feet
of property used for religious services
or a specified business site.

751

893.13(4)(a) 1st Deliver to minor cocaine (or other s.
893.03(1)(a), (1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4. drugs).

752

893.135(1)(a)1. 1st Trafficking in cannabis, more than 25
lbs., less than 2,000 lbs.

753

893.135 (1)(b)1.a. 1st Trafficking in cocaine, more than 28
grams, less than 200 grams.

754

893.135 (1)(c)1.a. 1st Trafficking in illegal drugs, more than
4 grams, less than 14 grams.

755

893.135(1)(d)1. 1st Trafficking in phencyclidine, more than
28 grams, less than 200 grams.

756

893.135(1)(e)1. 1st Trafficking in methaqualone, more than
200 grams, less than 5 kilograms.

757



758	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
759	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
760	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
761	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
762	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
763	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
764	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.



765	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
766	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
767	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
768	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
769	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
770	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
771	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
772	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.



- 773 944.607(13) 3rd Sexual offender; failure to report and
reregister; failure to respond to
address verification.
- 774 985.4815(10) 3rd Sexual offender; failure to submit to
the taking of a digitized photograph.
- 775 985.4815(12) 3rd Failure to report or providing false
information about a sexual offender;
harbor or conceal a sexual offender.
- 776 985.4815(13) 3rd Sexual offender; failure to report and
reregister; failure to respond to
address verification.

777
778 Section 5. This act shall take effect October 1, 2012.

779
780 ===== T I T L E A M E N D M E N T =====

781 And the title is amended as follows:

782
783 Delete everything before the enacting clause
784 and insert:

785 A bill to be entitled
786 An act relating to stalking and aggravated stalking;
787 amending s. 784.048, F.S.; redefining the terms
788 "course of conduct" and "credible threat" and defining
789 the term "immediate family"; providing that a person
790 who makes a threat with the intent to place another



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791 person in reasonable fear for his or her safety or the
792 safety of his or her immediate family commits the
793 offense of aggravated stalking under certain
794 circumstances; increasing the criminal penalties for
795 certain offenses of aggravated stalking; requiring
796 that the sentencing court consider issuing an
797 injunction that restrains a defendant from any contact
798 with the victim for up to 10 years; providing
799 legislative intent regarding the length of any such
800 restraining order; requiring that the court order the
801 defendant to attend a batterers' intervention program
802 if the court finds the defendant guilty of stalking or
803 aggravated stalking; creating s. 784.0485, F.S.;
804 creating a civil cause of action for an injunction for
805 protection against stalking or cyberstalking;
806 providing that the victim of stalking or
807 cyberstalking, or one who has reasonable cause to
808 believe that he or she is in imminent danger of
809 becoming a victim of stalking or cyberstalking, has
810 standing in the circuit court to file a sworn petition
811 for an injunction for protection against stalking or
812 cyberstalking; prohibiting a court from issuing mutual
813 orders of protection, but authorizing the court to
814 issue a separate injunction for protection against
815 stalking or cyberstalking if each party has complied
816 with the provisions of law; providing for venue of the
817 cause of action; prohibiting the clerk of court from
818 assessing a filing fee; providing an exception;
819 providing that a petitioner is not required to post a



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820 bond; requiring the clerks of court to assist
821 petitioners in filing petitions with the court;
822 requiring the clerk of the court in each county to
823 make available informational brochures; providing a
824 sample petition for an injunction for protection
825 against stalking or cyberstalking; authorizing the
826 court to grant a temporary injunction ex parte,
827 pending a full hearing, under certain circumstances;
828 authorizing the court to grant such relief as the
829 court deems necessary and proper; providing procedures
830 for an ex parte injunction hearing; setting forth the
831 relief the court may grant if it finds that the
832 petitioner is in imminent danger of becoming a victim
833 of stalking or cyberstalking; setting forth the
834 criteria the court must consider at the hearing;
835 requiring the court to allow an advocate from a state
836 attorney's office, law enforcement agency, or
837 certified violence center to be present with the
838 petitioner or respondent during any court proceeding;
839 requiring the clerk of the court to furnish a copy of
840 the petition, notice of hearing, and temporary
841 injunction, if any, to the sheriff or a law
842 enforcement agency of the county where the respondent
843 resides or can be found, who shall serve it upon the
844 respondent as soon thereafter as possible on any day
845 of the week and at any time of the day or night;
846 authorizing the court to order a law enforcement
847 officer to accompany the petitioner; authorizing the
848 court to enforce a violation of an injunction for



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849 protection against stalking or cyberstalking through a
850 civil or criminal contempt proceeding; authorizing a
851 state attorney to use criminal procedures for a
852 violation of an injunction for protection; creating s.
853 784.0487, F.S.; providing procedures to follow when
854 the respondent has violated the injunction for
855 protection; providing legislative intent; providing
856 criminal penalties; providing that a court may award a
857 person who suffers an injury or loss as a result of a
858 violation of an injunction for protection against
859 stalking or cyberstalking economic damages for that
860 injury or loss, including costs and attorney fees for
861 enforcement of the injunction; amending s. 921.0022,
862 F.S., relating to the offense severity ranking chart
863 of the Criminal Punishment Code; revising provisions
864 to conform to changes made by the act; providing an
865 effective date.