

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1099 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>    </u>	

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1 Committee/Subcommittee hearing bill: Judiciary Committee  
2 Representative Plakon offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsection (2) of section 741.315, Florida  
7 Statutes, is amended to read:

8 741.315 Recognition of foreign protection orders.—

9 (2) Pursuant to 18 U.S.C. s. 2265, an injunction for  
10 protection against domestic violence issued by a court of a  
11 foreign state must be accorded full faith and credit by the  
12 courts of this state and enforced by a law enforcement agency as  
13 if it were the order of a Florida court issued under s. 741.30,  
14 s. 741.31, s. 784.046, ~~or~~ s. 784.047, 784.0485, or 784.0487 and  
15 provided that the court had jurisdiction over the parties and  
16 the matter and that reasonable notice and opportunity to be  
17 heard was given to the person against whom the order is sought  
18 sufficient to protect that person's right to due process. Ex  
19 parte foreign injunctions for protection are not eligible for

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20 enforcement under this section unless notice and opportunity to  
21 be heard have been provided within the time required by the  
22 foreign state or tribal law, and in any event within a  
23 reasonable time after the order is issued, sufficient to protect  
24 the respondent's due process rights.

25 Section 2. Section 784.048, Florida Statutes, is amended to  
26 read:

27 784.048 Stalking; definitions; penalties.—

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

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

33 (b) "Course of conduct" means a pattern of conduct  
34 composed of a series of acts over a period of time, however  
35 short, which evidences ~~evidencing~~ a continuity of purpose. The  
36 term does not include constitutionally protected activity such  
37 as is not included within the meaning of "course of conduct."  
38 ~~Such constitutionally protected activity includes picketing or~~  
39 other organized protests.

40 (c) "Credible threat" means a verbal or nonverbal threat,  
41 or a combination of the two, including threats delivered by  
42 electronic communication or implied by a pattern of conduct,  
43 which places the person who is the target of the threat in  
44 reasonable fear for his or her safety or the safety of his or  
45 her family members or individuals closely associated with the  
46 person, and which is made with the apparent ability to carry out  
47 the threat to cause such harm. It is not necessary to prove that

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48 the person making the threat had the intent to actually carry  
49 out the threat. The present incarceration of the person making  
50 the threat is not a bar to prosecution under this section ~~made~~  
51 ~~with the intent to cause the person who is the target of the~~  
52 ~~threat to reasonably fear for his or her safety. The threat must~~  
53 ~~be against the life of, or a threat to cause bodily injury to, a~~  
54 ~~person.~~

55 (d) "Cyberstalk" means to engage in a course of conduct to  
56 communicate, or to cause to be communicated, words, images, or  
57 language by or through the use of electronic mail or electronic  
58 communication, directed at a specific person, causing  
59 substantial emotional distress to that person and serving no  
60 legitimate purpose.

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

65 (3) A ~~Any~~ person who willfully, maliciously, and  
66 repeatedly follows, harasses, or cyberstalks another person, ~~and~~  
67 makes a credible threat to that person ~~with the intent to place~~  
68 ~~that person in reasonable fear of death or bodily injury of the~~  
69 ~~person, or the person's child, sibling, spouse, parent, or~~  
70 ~~dependent,~~ commits the offense of aggravated stalking, a felony  
71 of the third degree, punishable as provided in s. 775.082, s.  
72 775.083, or s. 775.084.

73 (4) A ~~Any~~ person who, after an injunction for protection  
74 against repeat violence, sexual violence, or dating violence  
75 pursuant to s. 784.046, or an injunction for protection against

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76 domestic violence pursuant to s. 741.30, or after any other  
77 court-imposed prohibition of conduct toward the subject person  
78 or that person's property, knowingly, willfully, maliciously,  
79 and repeatedly follows, harasses, or cyberstalks another person  
80 commits the offense of aggravated stalking, a felony of the  
81 third degree, punishable as provided in s. 775.082, s. 775.083,  
82 or s. 775.084.

83 (5) A ~~Any~~ person who willfully, maliciously, and  
84 repeatedly follows, harasses, or cyberstalks a child ~~minor~~ under  
85 16 years of age commits the offense of aggravated stalking, a  
86 felony of the third degree, punishable as provided in s.  
87 775.082, s. 775.083, or s. 775.084.

88 (6) A ~~Any~~ law enforcement officer may arrest, without a  
89 warrant, any person that he or she has probable cause to believe  
90 has violated ~~the provisions of~~ this section.

91 (7) A ~~Any~~ person who, after having been sentenced for a  
92 violation of s. 794.011, s. 800.04, or s. 847.0135(5) and  
93 prohibited from contacting the victim of the offense under s.  
94 921.244, willfully, maliciously, and repeatedly follows,  
95 harasses, or cyberstalks the victim commits the offense of  
96 aggravated stalking, a felony of the third degree, punishable as  
97 provided in s. 775.082, s. 775.083, or s. 775.084.

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

101 (9) (a) The sentencing court shall consider, as a part of  
102 any sentence, issuing an order restraining the defendant from  
103 any contact with the victim, which may be valid for up to 10

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104 years, as determined by the court. It is the intent of the  
105 Legislature that the length of any such order be based upon the  
106 seriousness of the facts before the court, the probability of  
107 future violations by the perpetrator, and the safety of the  
108 victim and his or her family members or individuals closely  
109 associated with the victim.

110 (b) The order may be issued by the court even if the  
111 defendant is sentenced to a state prison or a county jail or  
112 even if the imposition of the sentence is suspended and the  
113 defendant is placed on probation.

114 Section 3. Section 784.0485, Florida Statutes, is created  
115 to read:

116 784.0485 Stalking; injunction; powers and duties of court  
117 and clerk; petition; notice and hearing; temporary injunction;  
118 issuance of injunction; statewide verification system;  
119 enforcement.-

120 (1) There is created a cause of action for an injunction  
121 for protection against stalking. For the purposes of injunctions  
122 for protection against stalking under this section, the offense  
123 of stalking shall include the offense of cyberstalking.

124 (a) A person who is the victim of stalking or the parent  
125 or legal guardian of a minor child who is living at home who  
126 seeks an injunction for protection against stalking on behalf of  
127 the minor child has standing in the circuit court to file a  
128 sworn petition for an injunction for protection against  
129 stalking.

130 (b) The cause of action for an injunction for protection  
131 may be sought regardless of whether any other cause of action is

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132 currently pending between the parties. However, the pendency of  
133 any such cause of action shall be alleged in the petition.

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

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

138 (e) The court may not issue mutual orders of protection;  
139 however, the court is not precluded from issuing separate  
140 injunctions for protection against stalking if each party has  
141 complied with this section. Compliance with this section may not  
142 be waived.

143 (f) Notwithstanding chapter 47, a petition for an  
144 injunction for protection against stalking may be filed in the  
145 circuit where the petitioner currently or temporarily resides,  
146 where the respondent resides, or where the stalking occurred.  
147 There is no minimum requirement of residency to petition for an  
148 injunction for protection.

149 (2) (a) Notwithstanding any other law, the clerk of court  
150 may not assess a filing fee to file a petition for protection  
151 against stalking. However, subject to legislative appropriation,  
152 the clerk of the circuit court may, on a quarterly basis, submit  
153 to the Office of the State Courts Administrator a certified  
154 request for reimbursement for petitions for protection against  
155 stalking issued by the court, at the rate of \$40 per petition.  
156 The request for reimbursement shall be submitted in the form and  
157 manner prescribed by the Office of the State Courts  
158 Administrator. From this reimbursement, the clerk shall pay any  
159 law enforcement agency serving the injunction the fee requested

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160 by the law enforcement agency; however, this fee may not exceed  
161 \$20.

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

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

167 2. All offices of the clerk of the court shall provide  
168 simplified petition forms for the injunction and any  
169 modifications to and the enforcement thereof, including  
170 instructions for completion.

171 3. The clerk of the court shall ensure the petitioner's  
172 privacy to the extent practicable while completing the forms for  
173 an injunction for protection against stalking.

174 4. The clerk of the court shall provide a petitioner with  
175 a minimum of two certified copies of the order of injunction,  
176 one of which is serviceable and will inform the petitioner of  
177 the process for service and enforcement.

178 5. The clerk of the court and appropriate staff in each  
179 county shall receive training in the effective assistance of  
180 petitioners as provided or approved by the Florida Association  
181 of Court Clerks.

182 6. The clerk of the court in each county shall make  
183 available informational brochures on stalking when such a  
184 brochure is provided by the local certified domestic violence  
185 center or certified rape crisis center.

186 7. The clerk of the court in each county shall distribute  
187 a statewide uniform informational brochure to petitioners at the

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188 time of filing for an injunction for protection against stalking  
189 when such brochures become available. The brochure must include  
190 information about the effect of giving the court false  
191 information.

192 (3) (a) The sworn petition shall allege the existence of  
193 such stalking and shall include the specific facts and  
194 circumstances for which relief is sought.

195 (b) The sworn petition shall be in substantially the  
196 following form:

197  
198 PETITION FOR INJUNCTION FOR PROTECTION AGAINST STALKING

199  
200 Before me, the undersigned authority, personally appeared  
201 Petitioner....(Name)...., who has been sworn and says that  
202 the following statements are true:

203  
204 1. Petitioner resides at:....(address)....

205 (Petitioner may furnish the address to the court in a  
206 separate confidential filing if, for safety reasons,  
207 the petitioner requires the location of the current  
208 residence to be confidential.)

209 2. Respondent resides at:....(last known address)....

210 3. Respondent's last known place of employment:....(name  
211 of business and address)....

212 4. Physical description of respondent:....

213 5. Race....

214 6. Sex....

215 7. Date of birth....



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- 216       8. Height....  
217       9. Weight....  
218       10. Eye color....  
219       11. Hair color....  
220       12. Distinguishing marks or scars....  
221       13. Aliases of respondent:....  
222

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

229       (d) The petition must provide space for the petitioner to  
230 specifically allege that he or she is a victim of stalking  
231 because respondent has:  
232

233       (Mark all sections that apply and describe in the spaces below  
234 the incidents of stalking specifying when and where they  
235 occurred, including, but not limited to, locations such as a  
236 home, school, or place of employment.)  
237

238       .... Committed stalking.

239       .... Previously threatened, harassed, stalked,  
240 cyberstalked, or physically abused the petitioner.

241       .... Threatened to harm the petitioner or family members or  
242 individuals closely associated with the petitioner.

243       .... Intentionally injured or killed a family pet.

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

246 .... A criminal history involving violence or the threat of  
247 violence (if known).

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

250 .... Destroyed personal property, including, but not  
251 limited to, telephones or other communication equipment,  
252 clothing, or other items belonging to the petitioner.

253 (e) The petitioner seeks an injunction: (Mark appropriate  
254 section or sections.)

255 .... Immediately restraining the respondent from committing  
256 any acts of stalking.

257 .... Restraining the respondent from committing any acts of  
258 stalking.

259 .... Providing any terms the court deems necessary for the  
260 protection of a victim of stalking, including any injunctions or  
261 directives to law enforcement agencies.

262 (f) Every petition for an injunction against stalking must  
263 contain, directly above the signature line, a statement in all  
264 capital letters and bold type not smaller than the surrounding  
265 text, as follows:

266  
267 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND  
268 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT  
269 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE  
270 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN  
271 SECTION 837.02, FLORIDA STATUTES.

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272  
273 ....(initials)....  
274

275 (4) Upon the filing of the petition, the court shall set a  
276 hearing to be held at the earliest possible time. The respondent  
277 shall be personally served with a copy of the petition, notice  
278 of hearing, and temporary injunction, if any, before the  
279 hearing.

280 (5) (a) If it appears to the court that stalking exists,  
281 the court may grant a temporary injunction ex parte, pending a  
282 full hearing, and may grant such relief as the court deems  
283 proper, including an injunction restraining the respondent from  
284 committing any act of stalking.

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

298 (c) Any such ex parte temporary injunction is effective  
299 for a fixed period not to exceed 15 days. A full hearing, as

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300 provided in this section, shall be set for a date no later than  
301 the date when the temporary injunction ceases to be effective.  
302 The court may grant a continuance of the hearing before or  
303 during a hearing for good cause shown by any party, which shall  
304 include a continuance to obtain service of process. An  
305 injunction shall be extended if necessary to remain in full  
306 force and effect during any period of continuance.

307 (6) (a) Upon notice and hearing, when it appears to the  
308 court that the petitioner is the victim of stalking, the court  
309 may grant such relief as the court deems proper, including an  
310 injunction:

311 1. Restraining the respondent from committing any act of  
312 stalking.

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

316 3. Referring a petitioner to appropriate services. The  
317 court may provide the petitioner with a list of certified  
318 domestic violence centers, certified rape crisis centers, and  
319 other appropriate referrals in the circuit which the petitioner  
320 may contact.

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

325 (b) The terms of an injunction restraining the respondent  
326 under subparagraph (a)1. or ordering other relief for the  
327 protection of the victim under subparagraph (a)4. shall remain

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328 in effect until modified or dissolved. Either party may move at  
329 any time to modify or dissolve the injunction. Specific  
330 allegations are not required. Such relief may be granted in  
331 addition to other civil or criminal remedies.

332 (c) A temporary or final judgment on injunction for  
333 protection against stalking entered pursuant to this section  
334 shall, on its face, indicate that:

335 1. The injunction is valid and enforceable in all counties  
336 of this state.

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

339 3. The court has jurisdiction over the parties and matter  
340 under the laws of this state and that reasonable notice and  
341 opportunity to be heard was given to the person against whom the  
342 order is sought sufficient to protect that person's right to due  
343 process.

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

346 (d) The fact that a separate order of protection is  
347 granted to each opposing party is not legally sufficient to deny  
348 any remedy to either party or to prove that the parties are  
349 equally at fault or equally endangered.

350 (e) A final judgment on an injunction for protection  
351 against stalking entered pursuant to this section must, on its  
352 face, provide that it is a violation of s. 790.233 and a  
353 misdemeanor of the first degree for the respondent to have in  
354 his or her care, custody, possession, or control any firearm or  
355 ammunition.

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356 (f) All proceedings under this subsection shall be  
357 recorded. Recording may be by electronic means as provided by  
358 the Rules of Judicial Administration.

359 (7) The court shall allow an advocate from a state  
360 attorney's office, a law enforcement agency, a certified rape  
361 crisis center, or a certified domestic violence center who is  
362 registered under s. 39.905 to be present with the petitioner or  
363 respondent during any court proceedings or hearings related to  
364 the injunction for protection if the petitioner or respondent  
365 has made such a request and the advocate is able to be present.

366 (8) (a) 1. The clerk of the court shall furnish a copy of  
367 the petition, notice of hearing, and temporary injunction, if  
368 any, to the sheriff or a law enforcement agency of the county  
369 where the respondent resides or can be found, who shall serve it  
370 upon the respondent as soon thereafter as possible on any day of  
371 the week and at any time of the day or night. When requested by  
372 the sheriff, the clerk of the court may transmit a facsimile  
373 copy of an injunction that has been certified by the clerk of  
374 the court, and this facsimile copy may be served in the same  
375 manner as a certified copy. Upon receiving a facsimile copy, the  
376 sheriff must verify receipt with the sender before attempting to  
377 serve it on the respondent. In addition, if the sheriff is in  
378 possession of an injunction for protection which has been  
379 certified by the clerk of the court, the sheriff may transmit a  
380 facsimile copy of that injunction to a law enforcement officer  
381 who shall serve it in the same manner as a certified copy. The  
382 clerk of the court shall furnish to the sheriff such information  
383 concerning the respondent's physical description and location as

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384 is required by the Department of Law Enforcement to comply with  
385 the verification procedures set forth in this section.

386 Notwithstanding any other law, the chief judge of each circuit,  
387 in consultation with the appropriate sheriff, may authorize a  
388 law enforcement agency within the jurisdiction to effect  
389 service. A law enforcement agency serving injunctions pursuant  
390 to this section shall use service and verification procedures  
391 consistent with those of the sheriff.

392 2. If an injunction is issued and the petitioner requests  
393 the assistance of a law enforcement agency, the court may order  
394 that an officer from the appropriate law enforcement agency  
395 accompany the petitioner to assist in the execution or service  
396 of the injunction. A law enforcement officer shall accept a copy  
397 of an injunction for protection against stalking, certified by  
398 the clerk of the court, from the petitioner and immediately  
399 serve it upon a respondent who has been located but not yet  
400 served.

401 3. An order issued, changed, continued, extended, or  
402 vacated subsequent to the original service of documents  
403 enumerated under subparagraph 1. shall be certified by the clerk  
404 of the court and delivered to the parties at the time of the  
405 entry of the order. The parties may acknowledge receipt of such  
406 order in writing on the face of the original order. If a party  
407 fails or refuses to acknowledge the receipt of a certified copy  
408 of an order, the clerk shall note on the original order that  
409 service was effected. If delivery at the hearing is not  
410 possible, the clerk shall mail certified copies of the order to  
411 the parties at the last known address of each party. Service by

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412 mail is complete upon mailing. When an order is served pursuant  
413 to this subsection, the clerk shall prepare a written  
414 certification to be placed in the court file specifying the  
415 time, date, and method of service and shall notify the sheriff.

416 4. If the respondent has been served previously with a  
417 temporary injunction and has failed to appear at the initial  
418 hearing on the temporary injunction, any subsequent petition for  
419 injunction seeking an extension of time may be served on the  
420 respondent by the clerk of the court by certified mail in lieu  
421 of personal service by a law enforcement officer.

422 (b)1. Within 24 hours after the court issues an injunction  
423 for protection against stalking or changes, continues, extends,  
424 or vacates an injunction for protection against stalking, the  
425 clerk of the court must forward a certified copy of the  
426 injunction for service to the sheriff having jurisdiction over  
427 the residence of the petitioner. The injunction must be served  
428 in accordance with this subsection.

429 2. Within 24 hours after service of process of an  
430 injunction for protection against stalking upon a respondent,  
431 the law enforcement officer must forward the written proof of  
432 service of process to the sheriff having jurisdiction over the  
433 residence of the petitioner.

434 3. Within 24 hours after the sheriff receives a certified  
435 copy of the injunction for protection against stalking, the  
436 sheriff must make information relating to the injunction  
437 available to other law enforcement agencies by electronically  
438 transmitting such information to the Department of Law  
439 Enforcement.

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440 4. Within 24 hours after the sheriff or other law  
441 enforcement officer has made service upon the respondent and the  
442 sheriff has been so notified, the sheriff must make information  
443 relating to the service available to other law enforcement  
444 agencies by electronically transmitting such information to the  
445 Department of Law Enforcement.

446 5. Within 24 hours after an injunction for protection  
447 against stalking is vacated, terminated, or otherwise rendered  
448 no longer effective by ruling of the court, the clerk of the  
449 court must notify the sheriff receiving original notification of  
450 the injunction as provided in subparagraph 2. That agency shall,  
451 within 24 hours after receiving such notification from the clerk  
452 of the court, notify the Department of Law Enforcement of such  
453 action of the court.

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

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

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468 pending a hearing.

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

471 Section 4. Section 784.0487, Florida Statutes, is created  
472 to read:

473 784.0487 Violation of an injunction for protection against  
474 stalking or cyberstalking.-

475 (1) If the injunction for protection against stalking or  
476 cyberstalking has been violated and the respondent has not been  
477 arrested, the petitioner may contact the clerk of the circuit  
478 court of the county in which the violation is alleged to have  
479 occurred. The clerk shall assist the petitioner in preparing an  
480 affidavit in support of reporting the violation or directing the  
481 petitioner to the office operated by the court that has been  
482 designated by the chief judge of that circuit as the central  
483 intake point for violations of injunctions for protection where  
484 the petitioner can receive assistance in the preparation of the  
485 affidavit in support of the violation.

486 (2) The affidavit shall be immediately forwarded by the  
487 office assisting the petitioner to the state attorney of that  
488 circuit and to such judge as the chief judge determines to be  
489 the recipient of affidavits of violations of an injunction. If  
490 the affidavit alleges that a crime has been committed, the  
491 office assisting the petitioner shall also forward a copy of the  
492 petitioner's affidavit to the appropriate law enforcement agency  
493 for investigation. No later than 20 days after receiving the  
494 initial report, the local law enforcement agency shall complete  
495 its investigation and forward a report to the state attorney.

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496 The policy adopted by the state attorney in each circuit under  
497 s. 741.2901(2) shall include a policy regarding intake of  
498 alleged violations of injunctions for protection against  
499 stalking or cyberstalking under this section. The intake shall  
500 be supervised by a state attorney who has been designated and  
501 assigned to handle stalking or cyberstalking cases. The state  
502 attorney shall determine within 30 working days whether his or  
503 her office will file criminal charges or prepare a motion for an  
504 order to show cause as to why the respondent should not be held  
505 in criminal contempt, or prepare both as alternative findings,  
506 or file notice that the case remains under investigation or is  
507 pending subject to some other action.

508 (3) If the court has knowledge that the petitioner or  
509 another person is in immediate danger if the court does not act  
510 before the decision of the state attorney to proceed, the court  
511 shall immediately issue an order of appointment of the state  
512 attorney to file a motion for an order to show cause as to why  
513 the respondent should not be held in contempt. If the court does  
514 not issue an order of appointment of the state attorney, it  
515 shall immediately notify the state attorney that the court is  
516 proceeding to enforce the violation through criminal contempt.

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

521 (a) Going to, or being within 500 feet of, the  
522 petitioner's residence, school, place of employment, or a  
523 specified place frequented regularly by the petitioner and any

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524 named family members or individuals closely associated with the  
525 petitioner;

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

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

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

534 (e) Knowingly and intentionally coming within 100 feet of  
535 the petitioner's motor vehicle, whether or not that vehicle is  
536 occupied;

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

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

541  
542 commits a misdemeanor of the first degree, punishable as  
543 provided in s. 775.082 or s. 775.083.

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

549 Section 5. Section 790.233, Florida Statutes, is amended  
550 to read:

Amendment No. 1

551 790.233 Possession of firearm or ammunition prohibited  
552 when person is subject to an injunction against committing acts  
553 of domestic violence, stalking, or cyberstalking; penalties.-

554 (1) A person may not have in his or her care, custody,  
555 possession, or control any firearm or ammunition if the person  
556 has been issued a final injunction that is currently in force  
557 and effect, restraining that person from committing acts of  
558 domestic violence, as and that has been issued under s. 741.30  
559 or from committing acts of stalking or cyberstalking, as issued  
560 under s. 784.0485.

561 (2) A person who violates subsection (1) commits a  
562 misdemeanor of the first degree, punishable as provided in s.  
563 775.082 or s. 775.083.

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

572 Section 6. This act shall take effect October 1, 2012.

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**T I T L E A M E N D M E N T**

Remove the entire title and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1099 (2012)

Amendment No. 1

578 An act relating to stalking; amending s. 741.315, F.S.;

579 providing injunctions issued by a court of a foreign state be

580 accorded full faith and credit by the courts of this state and

581 enforced as if it were an order issued under s. 784.0485 or s.

582 784.0487, F.S.; amending s. 784.048, F.S.; redefining the terms

583 "course of conduct" and "credible threat"; providing that a

584 person who makes a threat which places another person in

585 reasonable fear for his or her safety or the safety of his or

586 her family members or individuals closely associated with the

587 person commits the offense of aggravated stalking under certain

588 circumstances; requiring that the sentencing court consider

589 issuing an order restraining a defendant from any contact with

590 the victim for up to 10 years; providing legislative intent

591 regarding the length of any such restraining order; creating s.

592 784.0485, F.S.; creating a civil cause of action for an

593 injunction for protection against stalking or cyberstalking;

594 providing that the victim of stalking or cyberstalking or the

595 parent or legal guardian on behalf of a minor child victim has

596 standing in the circuit court to file a sworn petition for an

597 injunction for protection against stalking or cyberstalking;

598 prohibiting a court from issuing mutual orders of protection,

599 but authorizing the court to issue a separate injunction for

600 protection against stalking or cyberstalking if each party has

601 complied with the provisions of law; providing for venue of the

602 cause of action; prohibiting the clerk of the court from

603 assessing a filing fee; providing an exception; providing that a

604 petitioner is not required to post a bond; requiring the clerks

605 of court to assist petitioners in filing petitions with the

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1099 (2012)

Amendment No. 1

606 court; requiring the clerk of the court in each county to make  
607 available informational brochures; providing a sample petition  
608 for an injunction for protection against stalking or  
609 cyberstalking; authorizing the court to grant a temporary  
610 injunction ex parte, pending a full hearing, under certain  
611 circumstances; authorizing the court to grant such relief as the  
612 court deems necessary and proper; providing procedures for an ex  
613 parte injunction hearing; setting forth the criteria the court  
614 must consider at the hearing; requiring the court to allow an  
615 advocate from a state attorney's office, law enforcement agency,  
616 certified domestic violence center, or certified rape crisis  
617 center to be present with the petitioner or respondent during  
618 any court proceeding; requiring the clerk of the court to  
619 furnish a copy of the petition, notice of hearing, and temporary  
620 injunction, if any, to the sheriff or a law enforcement agency  
621 of the county where the respondent resides or can be found, who  
622 shall serve it upon the respondent as soon thereafter as  
623 possible on any day of the week and at any time of the day or  
624 night; authorizing the court to order a law enforcement officer  
625 to accompany the petitioner; authorizing the court to enforce a  
626 violation of an injunction for protection against stalking or  
627 cyberstalking through a civil or criminal contempt proceeding;  
628 authorizing a state attorney to use criminal procedures for a  
629 violation of an injunction for protection; creating s. 784.0487,  
630 F.S.; providing procedures to follow when the respondent has  
631 violated the injunction for protection; providing legislative  
632 intent; providing criminal penalties; providing that a court may  
633 award a person who suffers an injury or loss as a result of a

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1099 (2012)

Amendment No. 1

634 violation of an injunction for protection against stalking or  
635 cyberstalking economic damages for that injury or loss,  
636 including costs and attorney fees for enforcement of the  
637 injunction; amending s. 790.233, F.S.; providing that a person  
638 may not have in his or her possession any firearm or ammunition  
639 if a final injunction is currently in force to restrain that  
640 person from committing acts of stalking or cyberstalking;  
641 providing an effective date.