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1
2 An act relating to stalking; amending s. 741.315,
3 F.S.; providing that additional types of injunctions
4 issued by a court of a foreign state shall be accorded
5 full faith and credit by the courts of this state and
6 enforced as if they were orders issued under specified
7 provisions; amending s. 784.048, F.S.; redefining the
8 terms "course of conduct" and "credible threat";
9 providing that a person who makes a threat that places
10 another person in reasonable fear for his or her
11 safety or the safety of his or her family members or
12 individuals closely associated with the person commits
13 the offense of aggravated stalking under certain
14 circumstances; providing criminal penalties; requiring
15 that the sentencing court consider issuing an order
16 restraining a defendant from any contact with the
17 victim for up to 10 years; providing legislative
18 intent regarding the length of any such restraining
19 order; creating s. 784.0485, F.S.; creating a civil
20 cause of action for an injunction for protection
21 against stalking or cyberstalking; providing that a
22 victim of stalking or cyberstalking or a parent or
23 legal guardian on behalf of a minor child victim has
24 standing in the circuit court to file a sworn petition
25 for an injunction for protection against stalking or
26 cyberstalking; prohibiting a court from issuing mutual
27 orders of protection, but authorizing the court to
28 issue a separate injunction for protection against

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29 | stalking or cyberstalking if each party has complied
30 | with the provisions of law; providing for venue of the
31 | cause of action; prohibiting the clerk of the court
32 | from assessing a filing fee; providing an exception;
33 | providing that a petitioner is not required to post a
34 | bond; requiring the clerks of court to assist
35 | petitioners in filing petitions with the court;
36 | requiring the clerk of the court in each county to
37 | make available informational brochures; providing a
38 | sample petition for an injunction for protection
39 | against stalking or cyberstalking; authorizing the
40 | court to grant a temporary injunction ex parte,
41 | pending a full hearing, under certain circumstances;
42 | authorizing the court to grant such relief as the
43 | court deems necessary and proper; providing procedures
44 | for an ex parte injunction hearing; setting forth the
45 | criteria the court must consider at the hearing;
46 | requiring the court to allow an advocate from a state
47 | attorney's office, law enforcement agency, certified
48 | domestic violence center, or certified rape crisis
49 | center to be present with the petitioner or respondent
50 | during any court proceeding; requiring the clerk of
51 | the court to furnish a copy of the petition, notice of
52 | hearing, and temporary injunction, if any, to the
53 | sheriff or a law enforcement agency of the county
54 | where the respondent resides or can be found, who
55 | shall serve it upon the respondent as soon thereafter
56 | as possible on any day of the week and at any time of

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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57 | the day or night; authorizing the court to order a law
58 | enforcement officer to accompany the petitioner;
59 | authorizing the court to enforce a violation of an
60 | injunction for protection against stalking or
61 | cyberstalking through a civil or criminal contempt
62 | proceeding; authorizing a state attorney to use
63 | criminal procedures for a violation of an injunction
64 | for protection; creating s. 784.0487, F.S.; providing
65 | procedures to follow when the respondent has violated
66 | the injunction for protection; providing criminal
67 | penalties; providing that a court may award a person
68 | who suffers an injury or loss as a result of a
69 | violation of an injunction for protection against
70 | stalking or cyberstalking economic damages for that
71 | injury or loss, including costs and attorney fees for
72 | enforcement of the injunction; amending s. 790.233,
73 | F.S.; providing that a person may not have in his or
74 | her possession any firearm or ammunition if a final
75 | injunction is currently in force to restrain that
76 | person from committing acts of stalking or
77 | cyberstalking; providing criminal penalties; providing
78 | an effective date.

79 |
80 | Be It Enacted by the Legislature of the State of Florida:

81 |
82 | Section 1. Subsection (2) of section 741.315, Florida
83 | Statutes, is amended to read:

84 | 741.315 Recognition of foreign protection orders.—

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85 (2) Pursuant to 18 U.S.C. s. 2265, an injunction for
86 protection against domestic violence issued by a court of a
87 foreign state must be accorded full faith and credit by the
88 courts of this state and enforced by a law enforcement agency as
89 if it were the order of a Florida court issued under s. 741.30,
90 s. 741.31, s. 784.046, ~~or~~ s. 784.047, s. 784.0485, or s.
91 784.0487, and provided that the court had jurisdiction over the
92 parties and the matter and that reasonable notice and
93 opportunity to be heard was given to the person against whom the
94 order is sought sufficient to protect that person's right to due
95 process. Ex parte foreign injunctions for protection are not
96 eligible for enforcement under this section unless notice and
97 opportunity to be heard have been provided within the time
98 required by the foreign state or tribal law, and in any event
99 within a reasonable time after the order is issued, sufficient
100 to protect the respondent's due process rights.

101 Section 2. Section 784.048, Florida Statutes, is amended to
102 read:

103 784.048 Stalking; definitions; penalties.—

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

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

109 (b) "Course of conduct" means a pattern of conduct
110 composed of a series of acts over a period of time, however
111 short, which evidences ~~evidencing~~ a continuity of purpose. The
112 term does not include constitutionally protected activity such

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113 ~~as is not included within the meaning of "course of conduct."~~
 114 ~~Such constitutionally protected activity includes picketing or~~
 115 ~~other organized protests.~~

116 (c) "Credible threat" means a verbal or nonverbal threat,
 117 or a combination of the two, including threats delivered by
 118 electronic communication or implied by a pattern of conduct,
 119 which places the person who is the target of the threat in
 120 reasonable fear for his or her safety or the safety of his or
 121 her family members or individuals closely associated with the
 122 person, and which is made with the apparent ability to carry out
 123 the threat to cause such harm. It is not necessary to prove that
 124 the person making the threat had the intent to actually carry
 125 out the threat. The present incarceration of the person making
 126 the threat is not a bar to prosecution under this section ~~made~~
 127 ~~with the intent to cause the person who is the target of the~~
 128 ~~threat to reasonably fear for his or her safety. The threat must~~
 129 ~~be against the life of, or a threat to cause bodily injury to, a~~
 130 ~~person.~~

131 (d) "Cyberstalk" means to engage in a course of conduct to
 132 communicate, or to cause to be communicated, words, images, or
 133 language by or through the use of electronic mail or electronic
 134 communication, directed at a specific person, causing
 135 substantial emotional distress to that person and serving no
 136 legitimate purpose.

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

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141 (3) A ~~Any~~ person who willfully, maliciously, and
142 repeatedly follows, harasses, or cyberstalks another person, and
143 makes a credible threat to that person ~~with the intent to place~~
144 ~~that person in reasonable fear of death or bodily injury of the~~
145 ~~person, or the person's child, sibling, spouse, parent, or~~
146 ~~dependent,~~ commits the offense of aggravated stalking, a felony
147 of the third degree, punishable as provided in s. 775.082, s.
148 775.083, or s. 775.084.

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

159 (5) A ~~Any~~ person who willfully, maliciously, and
160 repeatedly follows, harasses, or cyberstalks a child ~~minor~~ under
161 16 years of age commits the offense of aggravated stalking, a
162 felony of the third degree, punishable as provided in s.
163 775.082, s. 775.083, or s. 775.084.

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

167 (7) A ~~Any~~ person who, after having been sentenced for a
168 violation of s. 794.011, s. 800.04, or s. 847.0135(5) and

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169 prohibited from contacting the victim of the offense under s.
170 921.244, willfully, maliciously, and repeatedly follows,
171 harasses, or cyberstalks the victim commits the offense of
172 aggravated stalking, a felony of the third degree, punishable as
173 provided in s. 775.082, s. 775.083, or s. 775.084.

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

177 (9) (a) The sentencing court shall consider, as a part of
178 any sentence, issuing an order restraining the defendant from
179 any contact with the victim, which may be valid for up to 10
180 years, as determined by the court. It is the intent of the
181 Legislature that the length of any such order be based upon the
182 seriousness of the facts before the court, the probability of
183 future violations by the perpetrator, and the safety of the
184 victim and his or her family members or individuals closely
185 associated with the victim.

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

190 Section 3. Section 784.0485, Florida Statutes, is created
191 to read:

192 784.0485 Stalking; injunction; powers and duties of court
193 and clerk; petition; notice and hearing; temporary injunction;
194 issuance of injunction; statewide verification system;
195 enforcement.-

196 (1) There is created a cause of action for an injunction

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197 for protection against stalking. For the purposes of injunctions
198 for protection against stalking under this section, the offense
199 of stalking shall include the offense of cyberstalking.

200 (a) A person who is the victim of stalking or the parent
201 or legal guardian of a minor child who is living at home who
202 seeks an injunction for protection against stalking on behalf of
203 the minor child has standing in the circuit court to file a
204 sworn petition for an injunction for protection against
205 stalking.

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

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

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

214 (e) The court may not issue mutual orders of protection;
215 however, the court is not precluded from issuing separate
216 injunctions for protection against stalking if each party has
217 complied with this section. Compliance with this section may not
218 be waived.

219 (f) Notwithstanding chapter 47, a petition for an
220 injunction for protection against stalking may be filed in the
221 circuit where the petitioner currently or temporarily resides,
222 where the respondent resides, or where the stalking occurred.
223 There is no minimum requirement of residency to petition for an
224 injunction for protection.

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225 (2) (a) Notwithstanding any other law, the clerk of court
 226 may not assess a filing fee to file a petition for protection
 227 against stalking. However, subject to legislative appropriation,
 228 the clerk of the circuit court may, on a quarterly basis, submit
 229 to the Office of the State Courts Administrator a certified
 230 request for reimbursement for petitions for protection against
 231 stalking issued by the court, at the rate of \$40 per petition.
 232 The request for reimbursement shall be submitted in the form and
 233 manner prescribed by the Office of the State Courts
 234 Administrator. From this reimbursement, the clerk shall pay any
 235 law enforcement agency serving the injunction the fee requested
 236 by the law enforcement agency; however, this fee may not exceed
 237 \$20.

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

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

243 2. All offices of the clerk of the court shall provide
 244 simplified petition forms for the injunction and any
 245 modifications to and the enforcement thereof, including
 246 instructions for completion.

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

250 4. The clerk of the court shall provide a petitioner with
 251 a minimum of two certified copies of the order of injunction,
 252 one of which is serviceable and will inform the petitioner of

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253 the process for service and enforcement.

254 5. The clerk of the court and appropriate staff in each
 255 county shall receive training in the effective assistance of
 256 petitioners as provided or approved by the Florida Association
 257 of Court Clerks and Comptrollers.

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

262 7. The clerk of the court in each county shall distribute
 263 a statewide uniform informational brochure to petitioners at the
 264 time of filing for an injunction for protection against stalking
 265 when such brochures become available. The brochure must include
 266 information about the effect of giving the court false
 267 information.

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

271 (b) The sworn petition shall be in substantially the
 272 following form:

273
 274 PETITION FOR INJUNCTION FOR PROTECTION AGAINST STALKING

275
 276 Before me, the undersigned authority, personally appeared
 277 Petitioner ...(Name)..., who has been sworn and says that
 278 the following statements are true:

279
 280 1. Petitioner resides at: ...(address)...

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281 (Petitioner may furnish the address to the court in a
 282 separate confidential filing if, for safety reasons,
 283 the petitioner requires the location of the current
 284 residence to be confidential.)

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

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

288 4. Physical description of respondent:

289 5. Race:

290 6. Sex:

291 7. Date of birth:

292 8. Height:

293 9. Weight:

294 10. Eye color:

295 11. Hair color:

296 12. Distinguishing marks or scars:

297 13. Aliases of respondent:

298
 299 (c) The petitioner shall describe any other cause of
 300 action currently pending between the petitioner and respondent.
 301 The petitioner shall also describe any previous attempt by the
 302 petitioner to obtain an injunction for protection against
 303 stalking in this or any other circuit, and the result of that
 304 attempt. (Case numbers should be included, if available.)

305 (d) The petition must provide space for the petitioner to
 306 specifically allege that he or she is a victim of stalking
 307 because respondent has:

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

313
314 Committed stalking.

315 Previously threatened, harassed, stalked,
316 cyberstalked, or physically abused the petitioner.

317 Threatened to harm the petitioner or family members or
318 individuals closely associated with the petitioner.

319 Intentionally injured or killed a family pet.

320 Used, or threatened to use, against the petitioner any
321 weapons such as guns or knives.

322 A criminal history involving violence or the threat of
323 violence, if known.

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

326 Destroyed personal property, including, but not
327 limited to, telephones or other communication equipment,
328 clothing, or other items belonging to the petitioner.

329 (e) The petitioner seeks an injunction:

330
331 (Mark appropriate section or sections.)

332
333 Immediately restraining the respondent from committing
334 any acts of stalking.

335 Restraining the respondent from committing any acts of
336 stalking.

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337 Providing any terms the court deems necessary for the
338 protection of a victim of stalking, including any injunctions or
339 directives to law enforcement agencies.

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

344
345 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
346 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT
347 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE
348 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN
349 SECTION 837.02, FLORIDA STATUTES.

350
351 ...(initials)...

352
353 (4) Upon the filing of the petition, the court shall set a
354 hearing to be held at the earliest possible time. The respondent
355 shall be personally served with a copy of the petition, notice
356 of hearing, and temporary injunction, if any, before the
357 hearing.

358 (5) (a) If it appears to the court that stalking exists,
359 the court may grant a temporary injunction ex parte, pending a
360 full hearing, and may grant such relief as the court deems
361 proper, including an injunction restraining the respondent from
362 committing any act of stalking.

363 (b) In a hearing ex parte for the purpose of obtaining
364 such ex parte temporary injunction, evidence other than verified

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365 pleadings or affidavits may not be used as evidence, unless the
366 respondent appears at the hearing or has received reasonable
367 notice of the hearing. A denial of a petition for an ex parte
368 injunction shall be by written order noting the legal grounds
369 for denial. If the only ground for denial is no appearance of an
370 immediate and present danger of stalking, the court shall set a
371 full hearing on the petition for injunction with notice at the
372 earliest possible time. This paragraph does not affect a
373 petitioner's right to promptly amend any petition, or otherwise
374 be heard in person on any petition consistent with the Florida
375 Rules of Civil Procedure.

376 (c) Any such ex parte temporary injunction is effective
377 for a fixed period not to exceed 15 days. A full hearing, as
378 provided in this section, shall be set for a date no later than
379 the date when the temporary injunction ceases to be effective.
380 The court may grant a continuance of the hearing before or
381 during a hearing for good cause shown by any party, which shall
382 include a continuance to obtain service of process. An
383 injunction shall be extended if necessary to remain in full
384 force and effect during any period of continuance.

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

389 1. Restraining the respondent from committing any act of
390 stalking.

391 2. Ordering the respondent to participate in treatment,
392 intervention, or counseling services to be paid for by the

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393 respondent.

394 3. Referring a petitioner to appropriate services. The
395 court may provide the petitioner with a list of certified
396 domestic violence centers, certified rape crisis centers, and
397 other appropriate referrals in the circuit which the petitioner
398 may contact.

399 4. Ordering such other relief as the court deems necessary
400 for the protection of a victim of stalking, including
401 injunctions or directives to law enforcement agencies, as
402 provided in this section.

403 (b) The terms of an injunction restraining the respondent
404 under subparagraph (a)1. or ordering other relief for the
405 protection of the victim under subparagraph (a)4. shall remain
406 in effect until modified or dissolved. Either party may move at
407 any time to modify or dissolve the injunction. Specific
408 allegations are not required. Such relief may be granted in
409 addition to other civil or criminal remedies.

410 (c) A temporary or final judgment on injunction for
411 protection against stalking entered pursuant to this section
412 shall, on its face, indicate:

413 1. That the injunction is valid and enforceable in all
414 counties of this state.

415 2. That law enforcement officers may use their arrest
416 powers pursuant to s. 901.15(6) to enforce the terms of the
417 injunction.

418 3. That the court has jurisdiction over the parties and
419 matter under the laws of this state and that reasonable notice
420 and opportunity to be heard was given to the person against whom

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421 the order is sought sufficient to protect that person's right to
422 due process.

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

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

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

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

438 (7) The court shall allow an advocate from a state
439 attorney's office, a law enforcement agency, a certified rape
440 crisis center, or a certified domestic violence center who is
441 registered under s. 39.905 to be present with the petitioner or
442 respondent during any court proceedings or hearings related to
443 the injunction for protection if the petitioner or respondent
444 has made such a request and the advocate is able to be present.

445 (8) (a) 1. The clerk of the court shall furnish a copy of
446 the petition, notice of hearing, and temporary injunction, if
447 any, to the sheriff or a law enforcement agency of the county
448 where the respondent resides or can be found, who shall serve it

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449 upon the respondent as soon thereafter as possible on any day of
450 the week and at any time of the day or night. When requested by
451 the sheriff, the clerk of the court may transmit a facsimile
452 copy of an injunction that has been certified by the clerk of
453 the court, and this facsimile copy may be served in the same
454 manner as a certified copy. Upon receiving a facsimile copy, the
455 sheriff must verify receipt with the sender before attempting to
456 serve it on the respondent. In addition, if the sheriff is in
457 possession of an injunction for protection that has been
458 certified by the clerk of the court, the sheriff may transmit a
459 facsimile copy of that injunction to a law enforcement officer
460 who shall serve it in the same manner as a certified copy. The
461 clerk of the court shall furnish to the sheriff such information
462 concerning the respondent's physical description and location as
463 is required by the Department of Law Enforcement to comply with
464 the verification procedures set forth in this section.
465 Notwithstanding any other law, the chief judge of each circuit,
466 in consultation with the appropriate sheriff, may authorize a
467 law enforcement agency within the jurisdiction to effect
468 service. A law enforcement agency serving injunctions pursuant
469 to this section shall use service and verification procedures
470 consistent with those of the sheriff.

471 2. If an injunction is issued and the petitioner requests
472 the assistance of a law enforcement agency, the court may order
473 that an officer from the appropriate law enforcement agency
474 accompany the petitioner to assist in the execution or service
475 of the injunction. A law enforcement officer shall accept a copy
476 of an injunction for protection against stalking, certified by

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477 the clerk of the court, from the petitioner and immediately
478 serve it upon a respondent who has been located but not yet
479 served.

480 3. An order issued, changed, continued, extended, or
481 vacated subsequent to the original service of documents
482 enumerated under subparagraph 1. shall be certified by the clerk
483 of the court and delivered to the parties at the time of the
484 entry of the order. The parties may acknowledge receipt of such
485 order in writing on the face of the original order. If a party
486 fails or refuses to acknowledge the receipt of a certified copy
487 of an order, the clerk shall note on the original order that
488 service was effected. If delivery at the hearing is not
489 possible, the clerk shall mail certified copies of the order to
490 the parties at the last known address of each party. Service by
491 mail is complete upon mailing. When an order is served pursuant
492 to this subsection, the clerk shall prepare a written
493 certification to be placed in the court file specifying the
494 time, date, and method of service and shall notify the sheriff.

495 4. If the respondent has been served previously with a
496 temporary injunction and has failed to appear at the initial
497 hearing on the temporary injunction, any subsequent petition for
498 injunction seeking an extension of time may be served on the
499 respondent by the clerk of the court by certified mail in lieu
500 of personal service by a law enforcement officer.

501 (b)1. Within 24 hours after the court issues an injunction
502 for protection against stalking or changes, continues, extends,
503 or vacates an injunction for protection against stalking, the
504 clerk of the court must forward a certified copy of the

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505 injunction for service to the sheriff having jurisdiction over
506 the residence of the petitioner. The injunction must be served
507 in accordance with this subsection.

508 2. Within 24 hours after service of process of an
509 injunction for protection against stalking upon a respondent,
510 the law enforcement officer must forward the written proof of
511 service of process to the sheriff having jurisdiction over the
512 residence of the petitioner.

513 3. Within 24 hours after the sheriff receives a certified
514 copy of the injunction for protection against stalking, the
515 sheriff must make information relating to the injunction
516 available to other law enforcement agencies by electronically
517 transmitting such information to the Department of Law
518 Enforcement.

519 4. Within 24 hours after the sheriff or other law
520 enforcement officer has made service upon the respondent and the
521 sheriff has been so notified, the sheriff must make information
522 relating to the service available to other law enforcement
523 agencies by electronically transmitting such information to the
524 Department of Law Enforcement.

525 5. Within 24 hours after an injunction for protection
526 against stalking is vacated, terminated, or otherwise rendered
527 no longer effective by ruling of the court, the clerk of the
528 court must notify the sheriff receiving original notification of
529 the injunction as provided in subparagraph 2. That agency shall,
530 within 24 hours after receiving such notification from the clerk
531 of the court, notify the Department of Law Enforcement of such
532 action of the court.

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

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

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

550 Section 4. Section 784.0487, Florida Statutes, is created
551 to read:

552 784.0487 Violation of an injunction for protection against
553 stalking or cyberstalking.—

554 (1) If the injunction for protection against stalking or
555 cyberstalking has been violated and the respondent has not been
556 arrested, the petitioner may contact the clerk of the circuit
557 court of the county in which the violation is alleged to have
558 occurred. The clerk shall assist the petitioner in preparing an
559 affidavit in support of reporting the violation or directing the
560 petitioner to the office operated by the court that has been

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561 designated by the chief judge of that circuit as the central
562 intake point for violations of injunctions for protection where
563 the petitioner can receive assistance in the preparation of the
564 affidavit in support of the violation.

565 (2) The affidavit shall be immediately forwarded by the
566 office assisting the petitioner to the state attorney of that
567 circuit and to such judge as the chief judge determines to be
568 the recipient of affidavits of violations of an injunction. If
569 the affidavit alleges that a crime has been committed, the
570 office assisting the petitioner shall also forward a copy of the
571 petitioner's affidavit to the appropriate law enforcement agency
572 for investigation. No later than 20 days after receiving the
573 initial report, the local law enforcement agency shall complete
574 its investigation and forward a report to the state attorney.
575 The policy adopted by the state attorney in each circuit under
576 s. 741.2901(2) shall include a policy regarding intake of
577 alleged violations of injunctions for protection against
578 stalking or cyberstalking under this section. The intake shall
579 be supervised by a state attorney who has been designated and
580 assigned to handle stalking or cyberstalking cases. The state
581 attorney shall determine within 30 working days whether his or
582 her office will file criminal charges or prepare a motion for an
583 order to show cause as to why the respondent should not be held
584 in criminal contempt, or prepare both as alternative findings,
585 or file notice that the case remains under investigation or is
586 pending subject to some other action.

587 (3) If the court has knowledge that the petitioner or
588 another person is in immediate danger if the court does not act

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589 before the decision of the state attorney to proceed, the court
 590 shall immediately issue an order of appointment of the state
 591 attorney to file a motion for an order to show cause as to why
 592 the respondent should not be held in contempt. If the court does
 593 not issue an order of appointment of the state attorney, it
 594 shall immediately notify the state attorney that the court is
 595 proceeding to enforce the violation through criminal contempt.

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

600 (a) Going to, or being within 500 feet of, the
 601 petitioner's residence, school, place of employment, or a
 602 specified place frequented regularly by the petitioner and any
 603 named family members or individuals closely associated with the
 604 petitioner;

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

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

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

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

616 (f) Defacing or destroying the petitioner's personal

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617 property, including the petitioner's motor vehicle; or
618 (g) Refusing to surrender firearms or ammunition if
619 ordered to do so by the court,

620
621 commits a misdemeanor of the first degree, punishable as
622 provided in s. 775.082 or s. 775.083.

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

628 Section 5. Section 790.233, Florida Statutes, is amended
629 to read:

630 790.233 Possession of firearm or ammunition prohibited
631 when person is subject to an injunction against committing acts
632 of domestic violence, stalking, or cyberstalking; penalties.-

633 (1) A person may not have in his or her care, custody,
634 possession, or control any firearm or ammunition if the person
635 has been issued a final injunction that is currently in force
636 and effect, restraining that person from committing acts of
637 domestic violence, as and that has been issued under s. 741.30
638 or from committing acts of stalking or cyberstalking, as issued
639 under s. 784.0485.

640 (2) A person who violates subsection (1) commits a
641 misdemeanor of the first degree, punishable as provided in s.
642 775.082 or s. 775.083.

643 (3) It is the intent of the Legislature that the
644 disabilities regarding possession of firearms and ammunition are

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645 consistent with federal law. Accordingly, this section does
646 ~~shall~~ not apply to a state or local officer as defined in s.
647 943.10(14), holding an active certification, who receives or
648 possesses a firearm or ammunition for use in performing official
649 duties on behalf of the officer's employing agency, unless
650 otherwise prohibited by the employing agency.

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