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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2012	.	
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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



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13 legitimate purpose.

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

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

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



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42           (e) "Immediate family" means a person's spouse, parent,  
43 child, grandparent, or sibling.

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

48           (3) A ~~Any~~ person who willfully, maliciously, and repeatedly  
49 follows, harasses, or cyberstalks another person, ~~and makes a~~  
50 ~~credible threat to that person with the intent to place that~~  
51 ~~person in reasonable fear of death or bodily injury of the~~  
52 ~~person, or the person's child, sibling, spouse, parent, or~~  
53 ~~dependent,~~ commits the offense of aggravated stalking, a felony  
54 of the third degree, punishable as provided in s. 775.082, s.  
55 775.083, or s. 775.084.

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

66           (5) A ~~Any~~ person who willfully, maliciously, and repeatedly  
67 follows, harasses, or cyberstalks a child ~~minor~~ under 16 years  
68 of age commits the offense of aggravated stalking, a felony of  
69 the third degree, punishable as provided in s. 775.082, s.  
70 775.083, or s. 775.084.



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

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

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

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

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

96 Section 2. Section 784.0485, Florida Statutes, is created  
97 to read:

98 784.0485 Stalking or cyberstalking; injunction; powers and  
99 duties of court and clerk; petition; notice and hearing;



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100 temporary injunction; issuance of injunction; statewide  
101 verification system; enforcement.—

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

104 (a) A person who is the victim of stalking or cyberstalking  
105 has standing in the circuit court to file a sworn petition for  
106 an injunction for protection against stalking or cyberstalking.

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

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

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

115 (e) The court may not issue mutual orders of protection;  
116 however, the court is not precluded from issuing separate  
117 injunctions for protection against stalking or cyberstalking if  
118 each party has complied with this section. Compliance with this  
119 section may not be waived.

120 (f) Notwithstanding chapter 47, a petition for an  
121 injunction for protection against stalking or cyberstalking may  
122 be filed in the circuit where the petitioner currently or  
123 temporarily resides, where the respondent resides, or where the  
124 stalking or cyberstalking occurred. There is no minimum  
125 requirement of residency to petition for an injunction for  
126 protection.

127 (2) (a) A bond is not required by the court for the entry of  
128 an injunction.



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129       (b)1. The clerk of the court shall assist petitioners in  
130 seeking both injunctions for protection against stalking and  
131 enforcement of a violation thereof as specified in this section.

132       2. All offices of the clerk of the court shall provide  
133 simplified petition forms for the injunction and any  
134 modifications to and the enforcement thereof, including  
135 instructions for completion.

136       3. The clerk of the court shall ensure the petitioner's  
137 privacy to the extent practicable while completing the forms for  
138 an injunction for protection against stalking or cyberstalking.

139       4. The clerk of the court shall provide a petitioner with a  
140 minimum of two certified copies of the order of injunction, one  
141 of which is serviceable and will inform the petitioner of the  
142 process for service and enforcement.

143       5. The clerk of court and appropriate staff in each county  
144 shall receive training in the effective assistance of  
145 petitioners as provided or approved by the Florida Association  
146 of Court Clerks.

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

150       7. The clerk of the court in each county shall distribute a  
151 statewide uniform informational brochure to petitioners at the  
152 time of filing for an injunction for protection against stalking  
153 or cyberstalking when such brochures become available. The  
154 brochure must include information about the effect of giving the  
155 court false information.

156       (3) (a) The sworn petition shall allege the existence of  
157 such stalking or cyberstalking and shall include the specific



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158 facts and circumstances for which relief is sought.

159 (b) The sworn petition shall be in substantially the  
160 following form:

161  
162 PETITION FOR INJUNCTION FOR PROTECTION AGAINST STALKING

163  
164 Before me, the undersigned authority, personally appeared  
165 Petitioner....(Name)...., who has been sworn and says that  
166 the following statements are true:

167  
168 1. Petitioner resides at:....(address)....

169 (Petitioner may furnish the address to the court in a  
170 separate confidential filing if, for safety reasons,  
171 the petitioner requires the location of the current  
172 residence to be confidential.)

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

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

176 4. Physical description of respondent:....

177 5. Race....

178 6. Sex....

179 7. Date of birth....

180 8. Height....

181 9. Weight....

182 10. Eye color....

183 11. Hair color....

184 12. Distinguishing marks or scars....

185 13. Aliases of respondent:....



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

194       (d) The petition must provide space for the petitioner to  
195 specifically allege that he or she is a victim of stalking or  
196 cyberstalking because respondent has:

197  
198 (Mark all sections that apply and describe in the spaces below  
199 the incidents of stalking or cyberstalking specifying when and  
200 where they occurred, including, but not limited to, locations  
201 such as a home, school, or place of employment.)

202  
203       .... Committed or threatened to commit stalking.

204       .... Previously threatened, harassed, stalked,  
205 cyberstalked, or physically abused the petitioner.

206       .... Threatened to harm the petitioner or family members or  
207 individuals closely associated with the petitioner.

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

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

211       .... A criminal history involving violence or the threat of  
212 violence (if known).

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

215       .... Destroyed personal property, including, but not





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216 limited to, telephones or other communication equipment,  
217 clothing, or other items belonging to the petitioner.

218 (e) The petitioner seeks an injunction: (Mark appropriate  
219 section or sections.)

220 .... Immediately restraining the respondent from committing  
221 any acts of stalking or cyberstalking.

222 .... Restraining the respondent from committing any acts of  
223 stalking or cyberstalking.

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

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

231  
232 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND  
233 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT  
234 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE  
235 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN  
236 SECTION 837.02, FLORIDA STATUTES.

237  
238 ....(initials)....

239  
240 (4) Upon the filing of the petition, the court shall set a  
241 hearing to be held at the earliest possible time. The respondent  
242 shall be personally served with a copy of the petition, notice  
243 of hearing, and temporary injunction, if any, before the  
244 hearing.



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245       (5) (a) If it appears to the court that an immediate and  
246 present danger of stalking or cyberstalking exists, the court  
247 may grant a temporary injunction ex parte, pending a full  
248 hearing, and may grant such relief as the court deems proper,  
249 including an injunction restraining the respondent from  
250 committing any act of stalking or cyberstalking.

251       (b) In a hearing ex parte for the purpose of obtaining such  
252 ex parte temporary injunction, evidence other than verified  
253 pleadings or affidavits may not be used as evidence, unless the  
254 respondent appears at the hearing or has received reasonable  
255 notice of the hearing. A denial of a petition for an ex parte  
256 injunction shall be by written order noting the legal grounds  
257 for denial. If the only ground for denial is no appearance of an  
258 immediate and present danger of stalking or cyberstalking, the  
259 court shall set a full hearing on the petition for injunction  
260 with notice at the earliest possible time. This paragraph does  
261 not affect a petitioner's right to promptly amend any petition,  
262 or otherwise be heard in person on any petition consistent with  
263 the Florida Rules of Civil Procedure.

264       (c) Any such ex parte temporary injunction is effective for  
265 a fixed period not to exceed 15 days. A full hearing, as  
266 provided in this section, shall be set for a date no later than  
267 the date when the temporary injunction ceases to be effective.  
268 The court may grant a continuance of the hearing before or  
269 during a hearing for good cause shown by any party, which shall  
270 include a continuance to obtain service of process. An  
271 injunction shall be extended if necessary to remain in full  
272 force and effect during any period of continuance.

273       (6) (a) Upon notice and hearing, when it appears to the



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274 court that the petitioner is the victim of stalking or  
275 cyberstalking, the court may grant such relief as the court  
276 deems proper, including an injunction:

277 1. Restraining the respondent from committing any act of  
278 stalking or cyberstalking.

279 2. Ordering the respondent to participate in treatment,  
280 intervention, or counseling services to be paid for by the  
281 respondent.

282 3. Referring a petitioner to a certified domestic violence  
283 center. The court must provide the petitioner with a list of  
284 certified domestic violence centers in the circuit which the  
285 petitioner may contact.

286 4. Ordering such other relief as the court deems necessary  
287 for the protection of a victim of stalking or cyberstalking,  
288 including injunctions or directives to law enforcement agencies,  
289 as provided in this section.

290 (b) When determining whether a petitioner has reasonable  
291 cause to believe that there is a credible threat that he or she  
292 is in imminent danger of becoming a victim of stalking or  
293 cyberstalking, the court shall consider and evaluate all  
294 relevant factors alleged in the petition, including, but not  
295 limited to:

296 1. The history between the petitioner and the respondent,  
297 including threats, harassment, stalking or cyberstalking, and  
298 physical abuse.

299 2. Whether the respondent has attempted to harm the  
300 petitioner or family members or individuals closely associated  
301 with the petitioner.

302 3. Whether the respondent has intentionally injured or



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303 killed a family pet.

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

306 5. Whether the respondent has a criminal history involving  
307 violence or the threat of violence.

308 6. The existence of a verifiable order of protection issued  
309 previously or from another jurisdiction.

310 7. Whether the respondent has destroyed personal property,  
311 including, but not limited to, telephones or other  
312 communications equipment, clothing, or other items belonging to  
313 the petitioner.

314  
315 In making its determination under this paragraph, the court is  
316 not limited to those factors enumerated in subparagraphs 1.-7.

317 (c) The terms of an injunction restraining the respondent  
318 under subparagraph (a)1. or ordering other relief for the  
319 protection of the victim under subparagraph (a)4. shall remain  
320 in effect until modified or dissolved. Either party may move at  
321 any time to modify or dissolve the injunction. Specific  
322 allegations are not required. Such relief may be granted in  
323 addition to other civil or criminal remedies.

324 (d) A temporary or final judgment on injunction for  
325 protection against stalking or cyberstalking entered pursuant to  
326 this section shall, on its face, indicate that:

327 1. The injunction is valid and enforceable in all counties  
328 of this state.

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

331 3. The court has jurisdiction over the parties and matter



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332 under the laws of this state and that reasonable notice and  
333 opportunity to be heard was given to the person against whom the  
334 order is sought sufficient to protect that person's right to due  
335 process.

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

338 (e) The fact that a separate order of protection is granted  
339 to each opposing party is not legally sufficient to deny any  
340 remedy to either party or to prove that the parties are equally  
341 at fault or equally endangered.

342 (f) A final judgment on an injunction for protection  
343 against stalking or cyberstalking entered pursuant to this  
344 section may, on its face, provide that it is a violation of s.  
345 790.233 and a misdemeanor of the first degree for the respondent  
346 to have in his or her care, custody, possession, or control any  
347 firearm or ammunition.

348 (g) All proceedings under this subsection shall be  
349 recorded. Recording may be by electronic means as provided by  
350 the Rules of Judicial Administration.

351 (7) The court shall allow an advocate from a state  
352 attorney's office, a law enforcement agency, or a certified  
353 violence center who is registered under s. 39.905 to be present  
354 with the petitioner or respondent during any court proceedings  
355 or hearings related to the injunction for protection if the  
356 petitioner or respondent has made such a request and the  
357 advocate is able to be present.

358 (8) (a) 1. The clerk of the court shall furnish a copy of the  
359 petition, notice of hearing, and temporary injunction, if any,  
360 to the sheriff or a law enforcement agency of the county where



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361 the respondent resides or can be found, who shall serve it upon  
362 the respondent as soon thereafter as possible on any day of the  
363 week and at any time of the day or night. When requested by the  
364 sheriff, the clerk of the court may transmit a facsimile copy of  
365 an injunction that has been certified by the clerk of the court,  
366 and this facsimile copy may be served in the same manner as a  
367 certified copy. Upon receiving a facsimile copy, the sheriff  
368 must verify receipt with the sender before attempting to serve  
369 it on the respondent. In addition, if the sheriff is in  
370 possession of an injunction for protection which has been  
371 certified by the clerk of the court, the sheriff may transmit a  
372 facsimile copy of that injunction to a law enforcement officer  
373 who shall serve it in the same manner as a certified copy. The  
374 clerk of the court shall furnish to the sheriff such information  
375 concerning the respondent's physical description and location as  
376 is required by the department to comply with the verification  
377 procedures set forth in this section. Notwithstanding any other  
378 law, the chief judge of each circuit, in consultation with the  
379 appropriate sheriff, may authorize a law enforcement agency  
380 within the jurisdiction to effect service. A law enforcement  
381 agency serving injunctions pursuant to this section shall use  
382 service and verification procedures consistent with those of the  
383 sheriff.

384 2. If an injunction is issued and the petitioner requests  
385 the assistance of a law enforcement agency, the court may order  
386 that an officer from the appropriate law enforcement agency  
387 accompany the petitioner to assist in the execution or service  
388 of the injunction. A law enforcement officer shall accept a copy  
389 of an injunction for protection against stalking, certified by



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390 the clerk of the court, from the petitioner and immediately  
391 serve it upon a respondent who has been located but not yet  
392 served.

393 3. An order issued, changed, continued, extended, or  
394 vacated subsequent to the original service of documents  
395 enumerated under subparagraph 1. shall be certified by the clerk  
396 of the court and delivered to the parties at the time of the  
397 entry of the order. The parties may acknowledge receipt of such  
398 order in writing on the face of the original order. If a party  
399 fails or refuses to acknowledge the receipt of a certified copy  
400 of an order, the clerk shall note on the original order that  
401 service was effected. If delivery at the hearing is not  
402 possible, the clerk shall mail certified copies of the order to  
403 the parties at the last known address of each party. Service by  
404 mail is complete upon mailing. When an order is served pursuant  
405 to this subsection, the clerk shall prepare a written  
406 certification to be placed in the court file specifying the  
407 time, date, and method of service and shall notify the sheriff.

408 4. If the respondent has been served previously with a  
409 temporary injunction and has failed to appear at the initial  
410 hearing on the temporary injunction, any subsequent petition for  
411 injunction seeking an extension of time may be served on the  
412 respondent by the clerk of the court by certified mail in lieu  
413 of personal service by a law enforcement officer.

414 (b)1. Within 24 hours after the court issues an injunction  
415 for protection against stalking or cyberstalking or changes,  
416 continues, extends, or vacates an injunction for protection  
417 against stalking or cyberstalking, the clerk of the court must  
418 forward a certified copy of the injunction for service to the



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419 sheriff having jurisdiction over the residence of the  
420 petitioner. The injunction must be served in accordance with  
421 this subsection.

422 2. Within 24 hours after service of process of an  
423 injunction for protection against stalking or cyberstalking upon  
424 a respondent, the law enforcement officer must forward the  
425 written proof of service of process to the sheriff having  
426 jurisdiction over the residence of the petitioner.

427 3. Within 24 hours after the sheriff receives a certified  
428 copy of the injunction for protection against stalking or  
429 cyberstalking, the sheriff must make information relating to the  
430 injunction available to other law enforcement agencies by  
431 electronically transmitting such information to the Department  
432 of Law Enforcement.

433 4. Within 24 hours after the sheriff or other law  
434 enforcement officer has made service upon the respondent and the  
435 sheriff has been so notified, the sheriff must make information  
436 relating to the service available to other law enforcement  
437 agencies by electronically transmitting such information to the  
438 Department of Law Enforcement.

439 5. Within 24 hours after an injunction for protection  
440 against stalking or cyberstalking is vacated, terminated, or  
441 otherwise rendered no longer effective by ruling of the court,  
442 the clerk of the court must notify the sheriff receiving  
443 original notification of the injunction as provided in  
444 subparagraph 2. That agency shall, within 24 hours after  
445 receiving such notification from the clerk of the court, notify  
446 the Department of Law Enforcement of such action of the court.

447 (9) (a) The court may enforce a violation of an injunction





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448 for protection against stalking or cyberstalking through a civil  
449 or criminal contempt proceeding, or the state attorney may  
450 prosecute it as a criminal violation under s. 784.0487. The  
451 court may enforce the respondent's compliance with the  
452 injunction through any appropriate civil and criminal remedies,  
453 including, but not limited to, a monetary assessment or a fine.  
454 The clerk of the court shall collect and receive such  
455 assessments or fines. On a monthly basis, the clerk shall  
456 transfer the moneys collected pursuant to this paragraph to the  
457 State Treasury for deposit into the Domestic Violence Trust  
458 Fund.

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

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

468 Section 3. Section 784.0487, Florida Statutes, is created  
469 to read:

470 784.0487 Violation of an injunction for protection against  
471 stalking or cyberstalking.-

472 (1) If the injunction for protection against stalking or  
473 cyberstalking has been violated and the respondent has not been  
474 arrested, the petitioner may contact the clerk of the circuit  
475 court of the county in which the violation is alleged to have  
476 occurred. The clerk shall assist the petitioner in preparing an



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477 affidavit in support of reporting the violation or directing the  
478 petitioner to the office operated by the court that has been  
479 designated by the chief judge of that circuit as the central  
480 intake point for violations of injunctions for protection where  
481 the petitioner can receive assistance in the preparation of the  
482 affidavit in support of the violation.

483 (2) The affidavit shall be immediately forwarded by the  
484 office assisting the petitioner to the state attorney of that  
485 circuit and to such judge as the chief judge determines to be  
486 the recipient of affidavits of violations of an injunction. If  
487 the affidavit alleges that a crime has been committed, the  
488 office assisting the petitioner shall also forward a copy of the  
489 petitioner's affidavit to the appropriate law enforcement agency  
490 for investigation. No later than 20 days after receiving the  
491 initial report, the local law enforcement agency shall complete  
492 its investigation and forward a report to the state attorney.  
493 The policy adopted by the state attorney in each circuit under  
494 s. 741.2901(2) shall include a policy regarding intake of  
495 alleged violations of injunctions for protection against  
496 stalking or cyberstalking under this section. The intake shall  
497 be supervised by a state attorney who has been designated and  
498 assigned to handle stalking or cyberstalking cases. The state  
499 attorney shall determine within 30 working days whether his or  
500 her office will file criminal charges or prepare a motion for an  
501 order to show cause as to why the respondent should not be held  
502 in criminal contempt, or prepare both as alternative findings,  
503 or file notice that the case remains under investigation or is  
504 pending subject to some other action.

505 (3) If the court has knowledge that the petitioner or



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

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

518 (a) Going to, or being within 500 feet of, the petitioner's  
519 residence, school, place of employment, or a specified place  
520 frequented regularly by the petitioner and any named family or  
521 household member;

522 (b) Committing an act of stalking or cyberstalking against  
523 the petitioner;

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

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

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

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



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535 property, including the petitioner's motor vehicle; or  
536 (g) Refusing to surrender firearms or ammunition if ordered  
537 to do so by the court,  
538  
539 commits a misdemeanor of the first degree, punishable as  
540 provided in s. 775.082 or s. 775.083.

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

546 Section 4. This act shall take effect October 1, 2012.

547  
548 ===== T I T L E A M E N D M E N T =====

549 And the title is amended as follows:

550 Delete everything before the enacting clause  
551 and insert:

552 A bill to be entitled  
553 An act relating to stalking and aggravated stalking;  
554 amending s. 784.048, F.S.; redefining the terms  
555 "course of conduct" and "credible threat" and defining  
556 the term "immediate family"; providing that a person  
557 who makes a threat which places another person in  
558 reasonable fear for his or her safety or the safety of  
559 his or her immediate family commits the offense of  
560 aggravated stalking under certain circumstances;  
561 requiring that the sentencing court consider issuing  
562 an injunction that restrains a defendant from any  
563 contact with the victim for up to 10 years; providing



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564 legislative intent regarding the length of any such  
565 restraining order; creating s. 784.0485, F.S.;

566 creating a civil cause of action for an injunction for  
567 protection against stalking or cyberstalking;

568 providing that the victim of stalking or  
569 cyberstalking, has standing in the circuit court to  
570 file a sworn petition for an injunction for protection  
571 against stalking or cyberstalking; prohibiting a court  
572 from issuing mutual orders of protection, but  
573 authorizing the court to issue a separate injunction  
574 for protection against stalking or cyberstalking if  
575 each party has complied with the provisions of law;

576 providing for venue of the cause of action; providing  
577 that a petitioner is not required to post a bond;

578 requiring the clerks of court to assist petitioners in  
579 filing petitions with the court; requiring the clerk  
580 of the court in each county to make available  
581 informational brochures; providing a sample petition  
582 for an injunction for protection against stalking or  
583 cyberstalking; authorizing the court to grant a  
584 temporary injunction ex parte, pending a full hearing,  
585 under certain circumstances; authorizing the court to  
586 grant such relief as the court deems necessary and  
587 proper; providing procedures for an ex parte  
588 injunction hearing; setting forth the relief the court  
589 may grant if it finds that the petitioner is in  
590 imminent danger of becoming a victim of stalking or  
591 cyberstalking; setting forth the criteria the court  
592 must consider at the hearing; requiring the court to



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593 allow an advocate from a state attorney's office, law  
594 enforcement agency, or certified violence center to be  
595 present with the petitioner or respondent during any  
596 court proceeding; requiring the clerk of the court to  
597 furnish a copy of the petition, notice of hearing, and  
598 temporary injunction, if any, to the sheriff or a law  
599 enforcement agency of the county where the respondent  
600 resides or can be found, who shall serve it upon the  
601 respondent as soon thereafter as possible on any day  
602 of the week and at any time of the day or night;  
603 authorizing the court to order a law enforcement  
604 officer to accompany the petitioner; authorizing the  
605 court to enforce a violation of an injunction for  
606 protection against stalking or cyberstalking through a  
607 civil or criminal contempt proceeding; authorizing a  
608 state attorney to use criminal procedures for a  
609 violation of an injunction for protection; creating s.  
610 784.0487, F.S.; providing procedures to follow when  
611 the respondent has violated the injunction for  
612 protection; providing legislative intent; providing  
613 criminal penalties; providing that a court may award a  
614 person who suffers an injury or loss as a result of a  
615 violation of an injunction for protection against  
616 stalking or cyberstalking economic damages for that  
617 injury or loss, including costs and attorney fees for  
618 enforcement of the injunction; providing an effective  
619 date.