

By Senator Braynon

36-00985-16

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1 A bill to be entitled
2 An act relating to relinquishment of weapons by
3 persons subject to protective injunctions; amending
4 ss. 741.30 and 784.0485, F.S.; requiring injunction
5 respondents to relinquish firearms; providing for
6 relinquishment to law enforcement officers or licensed
7 firearms dealers; providing an exception; providing
8 for proof of transfer; providing requirements for
9 forms; amending s. 790.233, F.S.; conforming
10 provisions to changes made by the act; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Paragraph (g) of subsection (6) of section
16 741.30, Florida Statutes, is amended to read:

17 741.30 Domestic violence; injunction; powers and duties of
18 court and clerk; petition; notice and hearing; temporary
19 injunction; issuance of injunction; statewide verification
20 system; enforcement; public records exemption.—

21 (6)

22 (g)1. A final judgment on injunction for protection against
23 domestic violence entered pursuant to this section must, on its
24 face, indicate that it is a violation of s. 790.233, and a first
25 degree misdemeanor, for the respondent to have in his or her
26 care, custody, possession, or control any firearm or ammunition
27 and that all such firearms shall be relinquished immediately to
28 a law enforcement officer if requested by the officer upon
29 personal service of the protective order. If no request is made
30 by a law enforcement officer, the relinquishment shall occur
31 within 24 hours after personal service of the order at any
32 staffed law enforcement agency or a federally licensed firearms

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33 dealer located in this state, unless the person is incarcerated
34 at the time personal service is received, in which case the 24-
35 hour relinquishment period shall commence at the time of release
36 from incarceration.

37 2. The respondent shall file, within 48 hours after
38 personal service or, if the court will not be open within 48
39 hours after the time of personal service, within the first 3
40 hours the court is thereafter open, one of the following
41 documents:

42 a. A certification, under penalty of prosecution for making
43 a false written statement in violation of s. 837.06, that the
44 respondent did not own, possess, or control any firearms at the
45 time of the order and currently does not own, possess, or
46 control any firearms.

47 b. A copy of a proof of transfer showing, for each firearm
48 owned, possessed, or controlled by the respondent at the time of
49 the order, that the firearm was relinquished to a law
50 enforcement officer or a federally licensed firearms dealer
51 located in this state.

52 c. A certification, under penalty of prosecution for making
53 a false written statement in violation of s. 837.06, for each
54 firearm owned, possessed, or controlled by the respondent at the
55 time of the order, that the respondent is unable to obtain
56 access to the firearm and specifying the location of the firearm
57 and the reason why the respondent is unable to obtain access.

58 3. The court shall provide to the petitioner a copy of the
59 documents the respondent files with the court pursuant to
60 subparagraph 2. within 48 hours after filing or, if the court
61 will not be open within 48 hours after the filing, within the

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62 first 3 hours the court is thereafter open.

63 4. A law enforcement officer or a federally licensed
 64 firearms dealer located in this state taking possession of
 65 firearms relinquished by a respondent pursuant to a protective
 66 order under subparagraph 1. shall issue a proof of transfer to
 67 the respondent and to the court issuing the order of protection.
 68 The proof of transfer shall list the name of the respondent; the
 69 date of the transfer; and the make, model, and serial number of
 70 each firearm relinquished. The law enforcement agency or the
 71 federally licensed firearms dealer shall dispose of the firearm
 72 or return the firearm to the respondent only subsequent to the
 73 expiration or termination of the protective order.

74 5. The forms for protective orders shall allow the
 75 petitioner to describe, under penalty of prosecution for making
 76 a false written statement in violation of s. 837.06, the number,
 77 types, and locations of any firearms presently known by the
 78 petitioner to be owned, possessed, or controlled by the
 79 respondent.

80 Section 2. Paragraph (e) of subsection (6) of section
 81 784.0485, Florida Statutes, is amended to read:

82 784.0485 Stalking; injunction; powers and duties of court
 83 and clerk; petition; notice and hearing; temporary injunction;
 84 issuance of injunction; statewide verification system;
 85 enforcement.—

86 (6)

87 (e)1. A final judgment on an injunction for protection
 88 against stalking entered pursuant to this section must, on its
 89 face, provide that it is a violation of s. 790.233 and a
 90 misdemeanor of the first degree for the respondent to have in

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91 his or her care, custody, possession, or control any firearm or
92 ammunition and that all firearms shall be relinquished
93 immediately to a law enforcement officer if requested by the law
94 enforcement officer upon personal service of the protective
95 order. If no request is made by a law enforcement officer, the
96 relinquishment shall occur within 24 hours after personal
97 service of the order at any staffed law enforcement agency or a
98 federally licensed firearms dealer located in this state, unless
99 the person is incarcerated at the time personal service is
100 received, in which case the 24-hour relinquishment period shall
101 commence at the time of release from incarceration.

102 2. The respondent shall file, within 48 hours after
103 personal service or, if the court will not be open within 48
104 hours after the time of personal service, within the first 3
105 hours the court is thereafter open, one of the following
106 documents:

107 a. A certification, under penalty of prosecution for making
108 a false written statement in violation of s. 837.06, that the
109 respondent did not own, possess, or control any firearms at the
110 time of the order and currently does not own, possess, or
111 control any firearms.

112 b. A copy of a proof of transfer showing, for each firearm
113 owned, possessed, or controlled by the respondent at the time of
114 the order, that the firearm was relinquished to a law
115 enforcement officer or a federally licensed firearms dealer
116 located in this state.

117 c. A certification, under penalty of prosecution for making
118 a false written statement in violation of s. 837.06, for each
119 firearm owned, possessed, or controlled by the respondent at the

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120 time of the order, that the respondent is unable to obtain
121 access to the firearm, specifying the location of the firearm
122 and the reason why the respondent is unable to obtain access.

123 3. The court shall provide to the petitioner a copy of the
124 documents the respondent files with the court pursuant to
125 subparagraph 2. within 48 hours after filing or, if the court
126 will not be open within 48 hours after the filing, within the
127 first 3 hours the court is thereafter open.

128 4. A law enforcement officer or a federally licensed
129 firearms dealer located in this state taking possession of
130 firearms relinquished by a respondent pursuant to a protective
131 order under subparagraph 1. shall issue a proof of transfer to
132 the respondent and to the court issuing the order of protection.
133 The proof of transfer shall list the name of the respondent; the
134 date of the transfer; and the make, model, and serial number of
135 each firearm relinquished. The law enforcement agency or the
136 federally licensed firearms dealer shall dispose of the firearm
137 or return the firearm to the respondent only subsequent to the
138 expiration or termination of the protective order.

139 5. The forms for protective orders shall allow the
140 petitioner to describe, under penalty of prosecution for making
141 a false written statement in violation of s. 837.06, the number,
142 types, and locations of any firearms presently known by the
143 petitioner to be owned, possessed, or controlled by the
144 respondent.

145 Section 3. Section 790.233, Florida Statutes, is amended to
146 read:

147 790.233 Possession of firearm or ammunition prohibited when
148 person is subject to an injunction against committing acts of

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149 domestic violence, stalking, or cyberstalking; penalties.—

150 (1) A person may not have in his or her care, custody,
151 possession, or control any firearm or ammunition if the person
152 has been issued a final injunction that is currently in force
153 and effect, restraining that person from committing acts of
154 domestic violence and requiring the person to relinquish all
155 firearms, as issued under s. 741.30 or from committing acts of
156 stalking or cyberstalking and requiring the person to relinquish
157 all firearms, as issued under s. 784.0485.

158 (2) A person who violates subsection (1) commits a
159 misdemeanor of the first degree, punishable as provided in s.
160 775.082 or s. 775.083.

161 (3) It is the intent of the Legislature that the
162 disabilities regarding possession of firearms and ammunition are
163 consistent with federal law. Accordingly, this section does not
164 apply to a state or local officer as defined in s. 943.10(14),
165 holding an active certification, who receives or possesses a
166 firearm or ammunition for use in performing official duties on
167 behalf of the officer's employing agency, unless otherwise
168 prohibited by the employing agency.

169 Section 4. This act shall take effect October 1, 2016.