

By Senator Fasano

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1 A bill to be entitled
2 An act relating to domestic violence against family
3 pets; amending s. 741.28, F.S.; redefining the term
4 "domestic violence" to include inflicting, or
5 attempting to inflict, physical injury against an
6 animal owned, possessed, leased, kept, or held by one
7 family or household member by another family or
8 household member, or placing a family or household
9 member in fear of physical harm to an animal owned,
10 possessed, leased, kept, or held by that family or
11 household member; amending s. 741.30, F.S.; providing
12 that a court may issue an injunction for protection
13 against domestic violence granting the petitioner the
14 exclusive care, custody, or control of any animal
15 owned, possessed, leased, kept, or held by the
16 petitioner, the respondent, or a minor child residing
17 in the residence or household of the petitioner or
18 respondent; amending s. 741.31, F.S.; providing that
19 it is a first-degree misdemeanor for a person to
20 willfully violate an injunction for protection against
21 domestic violence by knowingly and intentionally
22 injuring or threatening to injure any animal owned,
23 possessed, leased, kept, or held by the petitioner,
24 the respondent, or a minor child of the petitioner or
25 respondent; providing criminal penalties; reenacting
26 s. 901.15(7), F.S., relating to an arrest without
27 warrant by a law enforcement officer, to incorporate
28 the amendment made to s. 741.31, F.S., in a reference
29 thereto; providing an effective date.

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

Section 1. Subsection (2) of section 741.28, Florida Statutes, is amended to read:

741.28 Domestic violence; definitions.—As used in ss. 741.28-741.31:

(2) "Domestic violence" means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. The term also includes inflicting, or attempting to inflict, physical injury against an animal owned, possessed, leased, kept, or held by one family or household member by another family or household member, or placing a family or household member in fear of physical harm to an animal owned, possessed, leased, kept, or held by that family or household member.

Section 2. Paragraph (a) of subsection (6) of section 741.30, Florida Statutes, is amended to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(6) (a) Upon notice and hearing, when it appears to the court that the petitioner is either the victim of domestic violence as defined by s. 741.28 or has reasonable cause to believe he or she is in imminent danger of becoming a victim of

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domestic violence, the court may grant such relief as the court deems proper, including an injunction:

1. Restraining the respondent from committing any acts of domestic violence.

2. Awarding to the petitioner the exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

3. On the same basis as provided in chapter 61, providing the petitioner with 100 percent of the time-sharing in a temporary parenting plan that shall remain in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the minor child.

4. On the same basis as provided in chapter 61, establishing temporary support for a minor child or children or the petitioner. An order of temporary support remains in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting child support.

5. Ordering the respondent to participate in treatment, intervention, or counseling services to be paid for by the respondent. When the court orders the respondent to participate in a batterers' intervention program, the court, or any entity designated by the court, must provide the respondent with a list of all certified batterers' intervention programs and all programs which have submitted an application to the Department of Children and Family Services to become certified under s.

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741.32, from which the respondent must choose a program in which to participate. If there are no certified batterers' intervention programs in the circuit, the court shall provide a list of acceptable programs from which the respondent must choose a program in which to participate.

6. Referring a petitioner to a certified domestic violence center. The court must provide the petitioner with a list of certified domestic violence centers in the circuit which the petitioner may contact.

7. Granting to the petitioner the exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by the petitioner, the respondent, or a minor child residing in the residence or household of the petitioner or the respondent; ordering the respondent to stay away from the animal; or forbidding the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal.

~~8.7.~~ Ordering such other relief as the court deems necessary for the protection of a victim of domestic violence, including injunctions or directives to law enforcement agencies, as provided in this section.

Section 3. Paragraph (a) of subsection (4) of section 741.31, Florida Statutes, is amended to read:

741.31 Violation of an injunction for protection against domestic violence.—

(4) (a) A person who willfully violates an injunction for protection against domestic violence issued pursuant to s. 741.30, or a foreign protection order accorded full faith and credit pursuant to s. 741.315, by:

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117 1. Refusing to vacate the dwelling that the parties share;

118 2. Going to, or being within 500 feet of, the petitioner's
119 residence, school, place of employment, or a specified place
120 frequented regularly by the petitioner and any named family or
121 household member;

122 3. Committing an act of domestic violence against the
123 petitioner;

124 4. Committing any other violation of the injunction through
125 an intentional unlawful threat, word, or act to do violence to
126 the petitioner;

127 5. Telephoning, contacting, or otherwise communicating with
128 the petitioner directly or indirectly, unless the injunction
129 specifically allows indirect contact through a third party;

130 6. Knowingly and intentionally coming within 100 feet of
131 the petitioner's motor vehicle, whether or not that vehicle is
132 occupied;

133 7. Defacing or destroying the petitioner's personal
134 property, including the petitioner's motor vehicle; ~~or~~

135 8. Refusing to surrender firearms or ammunition if ordered
136 to do so by the court; or

137 9. Knowingly and intentionally injuring or threatening to
138 injure any animal owned, possessed, leased, kept, or held by the
139 petitioner, the respondent, or a minor child of the petitioner
140 or respondent,

141
142 commits a misdemeanor of the first degree, punishable as
143 provided in s. 775.082 or s. 775.083.

144 Section 4. For the purpose of incorporating the amendment
145 made by this act to section 741.31, Florida Statutes, in a

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reference thereto, subsection (7) of section 901.15, Florida Statutes, is reenacted to read:

901.15 When arrest by officer without warrant is lawful.—A law enforcement officer may arrest a person without a warrant when:

(7) There is probable cause to believe that the person has committed an act of domestic violence, as defined in s. 741.28, or dating violence, as provided in s. 784.046. The decision to arrest shall not require consent of the victim or consideration of the relationship of the parties. It is the public policy of this state to strongly discourage arrest and charges of both parties for domestic violence or dating violence on each other and to encourage training of law enforcement and prosecutors in these areas. A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection, under s. 741.31(4) or s. 784.047, or pursuant to a foreign order of protection accorded full faith and credit pursuant to s. 741.315, is immune from civil liability that otherwise might result by reason of his or her action.

Section 5. This act shall take effect July 1, 2011.