

**STORAGE NAME:** h347.lecp  
**DATE:** January 21, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
LAW ENFORCEMENT AND CRIME PREVENTION  
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 347 (PCB LECP 99-01)  
**RELATING TO:** Enforcement of Injunctions for Protection Against Domestic Violence  
**SPONSOR(S):** Committee on Law Enforcement and Crime Prevention  
**COMPANION BILL(S):** None

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) Law Enforcement and Crime Prevention YEAS 9 NAYS 0
  - (2)
  - (3)
  - (4)
  - (5)
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I. SUMMARY:

The bill amends s. 741.31, F.S. to provide that it is a first degree misdemeanor for a person subject to a final injunction for protection against domestic violence to fail to or refuse to surrender any firearms and or ammunition in his or her custody, or to obstruct a law enforcement officer from enforcing these provisions.

The bill also amends s. 787.01, F.S. to provide that it is a third degree felony for any non-custodial parent or respondent subject to a final injunction for protection against domestic violence to lead, take, entice or remove a minor from the custodial parent or any child care provider or other person entrusted by the custodial parent with the care of the minor, or to conceal the location of a minor.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

On June 25, 1998 the Florida Supreme Court amended the official form used for injunctions for protection against domestic violence. A review of these forms revealed some areas of potential difficulty for law enforcement officers in carrying out the provisions set forth in these injunctions. One area of concern centers around the respondent's possession of firearms. Section 790.233, F.S., currently makes it a first degree felony for any person subject to such an injunction to have in his or her care, custody, possession, or control any firearm or ammunition. The Supreme Court's injunction form requires that "Respondent shall surrender any firearms and ammunition in the respondents possession to the County Sheriff's Department." Law enforcement officers contend that the current statute requires some clarification in order to properly enforce the requirements of such an injunction.

Under current law a respondent to an injunction could take the petitioner's children from a school or other entity. Section 787.04, F.S. already makes it a third degree for any person, in violation of a court order, "to remove a minor child beyond the limits of the state, or to conceal the location of a minor." The provisions of this bill would clarify that removal of a minor by a non-custodial respondent subject to the provisions of an injunction for protection against domestic violence would constitute a third degree felony.

B. EFFECT OF PROPOSED CHANGES:

The amendment to s. 741.31 F.S. would allow law enforcement officials to charge an individual with a first degree misdemeanor for the refusal of a person subject to an injunction for protection against domestic violence to turn over all firearms in his or her possession or to obstruct a law enforcement from carrying out his duty to enforce the requirements of such an injunction.

The amendment to s. 787.01 F.S. would clarify that it is a third degree felony for a person subject to an injunction for protection against domestic violence (who has actual knowledge of the injunction) to remove a minor beyond the limits of the state, or to otherwise conceal the location of the minor. The provisions of the amendment state that a non-custodial respondent will not, lead, take, entice, or remove a minor from the custodial parent or person the parent entrusted by the custodial parent.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No

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(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

Not Applicable

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

No

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

N/A

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

- b. Does the bill directly affect the legal rights and obligations between family members?

No. This bill only clarifies the penalties for violation of an injunction for protection against domestic violence.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

N/A

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

**D. STATUTE(S) AFFECTED:**

Amends s.741.31 F.S.

Amends s.787.01 F.S.

**E. SECTION-BY-SECTION ANALYSIS:**

Section 1- Adds paragraph (c) to s. 741.31 F.S., prohibiting any person subject to a final injunction for protection against domestic violence to refuse to surrender any firearm or ammunition in his or her care or custody, or to obstruct a law enforcement officer enforcing these provisions, making it a first degree misdemeanor for violation of s.741.31 (b) F.S.

Section 2- Creates paragraph (4) to s 787.01 F.S. prohibiting a non-custodial parent or respondent from removing a child from the custodial parent or other child care provider deemed appropriate by the custodial parent.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

No significant increase in arrests and convictions is expected as a result of this bill.

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

The impact to local governments is expected to be very minimal.

3. Long Run Effects Other Than Normal Growth:

The impact to local governments is expected to be very minimal.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON Law Enforcement and Crime Prevention:

Prepared by:

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