

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1115 Injunctions for Protection against Domestic Violence, Repeat Violence, Sexual Violence, or Dating Violence

SPONSOR(S): Jones

TIED BILLS: **IDEN./SIM. BILLS:** SB 796

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee	12 Y, 0 N	Krol	Cunningham
2)	Criminal & Civil Justice Appropriations Committee			
3)	Criminal & Civil Justice Policy Council			
4)				
5)				

SUMMARY ANALYSIS

This bill requires a sheriff to notify a petitioner, within 12 hours after the sheriff or other law enforcement officer has made service upon the respondent, that the respondent has been served with a protective injunction against domestic violence, repeat violence, dating violence, or sexual violence, if the petitioner has requested such notification and has registered a telephone number or e-mail address with the sheriff.

The sheriff must also enter information relating to the service of the injunction into the Victim Information and Notification Everyday (VINE) system.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Injunctions

Current law provides the following in relation to the service of injunctions for protection against domestic violence,¹ repeat violence, sexual violence, or dating violence²:

- Within 24 hours after service of process of a protective injunction upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff with jurisdiction over the petitioner's residence;
- Within 24 hours after the sheriff receives a certified copy of the protective injunction, the sheriff must make information relating to the injunction available to other law enforcement agencies by electronically transmitting such information to the Florida Department of Law Enforcement (FDLE); and
- Within 24 hours after the sheriff or other law enforcement officer makes service upon the respondent and the sheriff has been so notified, the sheriff must make such information relating to the service available to other law enforcement agencies by electronically transmitting such information to the FDLE.³

Victim Notification

Section 960.001, F.S., provides guidelines for the fair treatment of victims and witnesses involved in the criminal and juvenile justice systems, including the right to information about victim notification. Victims have the right to be informed, to be present, and to be heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent that this right does not interfere with constitutional rights of the accused.

Victims⁴ of specific offenses⁵ must be notified within 4 hours by the chief administrator, or a person designated by the chief administrator, of a county jail, municipal jail, juvenile detention facility, or residential commitment facility concerning:

¹ The term "domestic violence" is defined in s. 741.30(8), F.S.

² The terms "repeat violence," "sexual violence," and "dating violence" are defined in s. 784.046, F.S.

³ See ss. 741.30 and 784.046, F.S.

⁴ Section 960.001, F.S., provides that notification can requested by the victim or the appropriate next of kin of a victim or a designated contact of the victim.

⁵ In the case of a homicide, pursuant to chapter 782; or a sexual offense, pursuant to chapter 794; or an attempted murder or sexual offense, pursuant to chapter 777; or stalking, pursuant to s. 784.048, F.S.; or domestic violence, pursuant to s. 25.385, F.S.

- The release of an offender from incarceration in a county jail, municipal jail, juvenile detention facility, or residential commitment facility;⁶
- The release of an offender following sentencing, disposition, or furlough;⁷
- Escapes by the offender from a state correctional institution, county jail, juvenile detention facility, or residential commitment facility.⁸

The Department of Corrections (department) is also required by law to notify within 30 days, and upon request, the state attorney, the victim, and the personal representative of the victim when an inmate has been approved for community work release.⁹ The department is also required to notify the victim six months before the release of an inmate from the department.¹⁰ If an inmate is a sexual offender¹¹ the department is required, if requested, to notify the victim of the offense, the victim's parent, legal guardian, or lawful representative if the victim is a minor, or the next of kin if the victim is a homicide victim, within 6 months prior to the anticipated release of a sexual offender, or as soon as possible if the sexual offender is released earlier than anticipated.¹²

The department provides victim notification services using the Victim Information and Notification Everyday (VINE) system.¹³ The VINE service is a toll-free automated inmate information and notification service that is available 24 hours a day, seven days a week.¹⁴ Anyone, not only victims, may call the toll-free number¹⁵ and receive an inmate's current location and tentative release date. Automated notification is also sent when an inmate is:

- Released,
- Transferred,
- Out to court,
- Placed in a work release facility,
- Transferred to another jurisdiction, or
- Returned to the department's custody.¹⁶

VINE will also provide notification if the inmate has escaped or if they have died while in custody. The department has been the contract manager of the VINE service since 1999. In 2001, the Legislature authorized funding to expand this service to all of Florida's county jails.

Florida VINELink is an online resource which can be used to search for information regarding offenders in the custody of the department and in 62 participating county jails. This free, confidential service allows a victim to register and be notified, by phone, e-mail, or TTY, about changes in the custody status of inmates.¹⁷

⁶ Section 960.001(1)(f), F.S.

⁷ *Id.*

⁸ Section 960.001(1)(p), F.S.

⁹ Section 944.605(6), F.S.

¹⁰ Section 944.605(1), F.S.

¹¹ Section 944.606, F.S., "sexual offender" is defined as "a person who has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subsection."

¹² Section 944.606(3)(b), F.S.

¹³ This service is provided to the citizens of the state of Florida by the Florida Legislature, the Department of Corrections, and through the cooperation of the participating Sheriffs and County Commissions.

¹⁴ Florida VINELink <https://www.vinelink.com/vinelink/siteInfoAction.do?siteId=10000> (Last visited on March 4, 2010.)

¹⁵ 1-877-VINE-4-FL (1-877-846-3435)

¹⁶ Department of Corrections, VINE Services, <http://www.dc.state.fl.us/oth/victasst/#vine> (Last visited on March 4, 2010.)

¹⁷ Florida VINELink <https://www.vinelink.com/vinelink/siteInfoAction.do?siteId=10000> (Last visited on March 4, 2010.)

Effect of Proposed Changes

HB 1115 requires a sheriff to notify a petitioner, within 12 hours after the sheriff or other law enforcement officer has made service upon the respondent (and the sheriff has been so notified), that the respondent has been served with a protective injunction against domestic violence, repeat violence, dating violence, or sexual violence, if the petitioner has requested such notification and has registered a telephone number or e-mail address with the sheriff. The notification is required to include the date, time, and location in which the protective injunction was served.

The sheriff must also enter information relating to the service of the injunction into the Victim Information and Notification Everyday (VINE) system. Currently the contract the department has for the VINE system does not allow information on injunctions to be submitted. The department reports that the department's contract would need to be renegotiated in order to allow this type of data to be received by the VINE system.

B. SECTION DIRECTORY:

Section 1. Amends s. 741.30, F.S., relating to domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.

Section 2. Amends s. 784.046, F.S., relating to action by victim of repeat violence, sexual violence, or dating violence for protective injunction; dating violence investigations, notice to victims, and reporting; pretrial release violations.

Section 3. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See "Fiscal Comments."

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See "Fiscal Comments."

2. Expenditures:

See "Fiscal Comments."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See "Fiscal Comments."

D. FISCAL COMMENTS:

In 2009, HB 829 was filed, which had identical language regarding the requirement that the sheriff's office notify the petitioner within 12 hours that an injunction was served (HB 829 did not contain any language requiring the sheriff to enter information into the VINE system). According to the Florida Sheriff's Association's analysis, HB 829 would have resulted in an increased workload of sheriffs offices. This bill will also likely result in an increased workload on sheriffs offices.

The department reported that the contract it has with Appriss for the VINE system is for approximately \$1 million. Appriss reported that HB 1115 would impact their contract with the department and it would need to be renegotiated at a higher rate. Appriss has not yet determined what the new contract cost would be.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

To the extent that political subdivisions (through the sheriff's department), are obligated to expend funds in order to provide the notification services required by the bill, the bill could constitute a mandate as defined in Article VII, Section 18(a) of the Florida Constitution for which no funding source is provided.

For purposes of legislative application of Article VII, Section 18 of the Florida Constitution, the term "insignificant" has been defined as a matter of legislative policy as an amount not greater than the average statewide population for the applicable fiscal year times ten cents. Based on Florida's estimated population on April 1, 2009,¹⁸ a bill that would have a statewide fiscal impact on counties and municipalities in aggregate or in excess of \$1.8 million would be characterized as a mandate. It is unknown at this time how much counties and cities would be required to spend to provide the notification services required by the bill. If the fiscal impact is insignificant, an exemption to the mandates provision exists.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It is unclear what, if anything, VINE is required to do with the information regarding the service of injunctions by a sheriff or law enforcement officer.

The bill specifies that the sheriff must notify a petitioner that the respondent has been served with an injunction. The bill does not specify how such notification must be made.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

¹⁸ <http://edr.state.fl.us/population.htm>