

By Senator Gibson

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1 A bill to be entitled
2 An act relating to domestic violence; amending s.
3 790.233, F.S.; prohibiting persons subject to
4 temporary or final injunctions against domestic
5 violence from possessing firearms or ammunition;
6 prohibiting persons subject to injunctions against
7 acts of repeat violence, dating violence, or sexual
8 violence from possessing firearms or ammunition;
9 deleting a provision relating to legislative intent;
10 creating s. 790.234, F.S.; requiring a law enforcement
11 officer to take temporary custody of firearms at the
12 scene of a domestic violence, stalking or
13 cyberstalking, or repeat violence, dating violence, or
14 sexual violence incident under certain circumstances;
15 specifying required steps a law enforcement officer
16 must take if a firearm is removed from the scene;
17 providing for the return of such firearms after a
18 specified period; amending s. 741.31, F.S.; specifying
19 that texting is a violation of an injunction for
20 protection against domestic violence or a foreign
21 protection order; conforming a provision to changes
22 made by the act; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 790.233, Florida Statutes, is amended to
27 read:

28 790.233 Possession of firearm or ammunition prohibited when
29 person is subject to certain injunctions ~~an injunction against~~

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30 ~~committing acts of domestic violence, stalking, or~~
31 ~~cyberstalking; penalties.-~~

32 (1) A person may not have in his or her care, custody,
33 possession, or control any firearm or ammunition if the person
34 has been issued an a final injunction, whether temporary or
35 final, which ~~that~~ is currently in force and effect, ~~restraining~~
36 that person from committing acts of domestic violence, as issued
37 under s. 741.30; ~~or~~ from committing acts of stalking or
38 cyberstalking, as issued under s. 784.0485; or from committing
39 acts of repeat violence, dating violence, or sexual violence, as
40 issued under s. 784.046.

41 (2) A person who violates subsection (1) commits a
42 misdemeanor of the first degree, punishable as provided in s.
43 775.082 or s. 775.083.

44 ~~It is the intent of the Legislature that the~~
45 ~~disabilities regarding possession of firearms and ammunition are~~
46 ~~consistent with federal law. Accordingly,~~ This section does not
47 apply to a state or local officer as defined in s. 943.10(14),
48 holding an active certification, who receives or possesses a
49 firearm or ammunition for use in performing official duties on
50 behalf of the officer's employing agency, unless otherwise
51 prohibited by the employing agency.

52 Section 2. Section 790.234, Florida Statutes, is created to
53 read:

54 790.234 Domestic violence, stalking, etc.; temporary
55 custody of firearms.-

56 (1) When at the scene of an alleged act of domestic
57 violence, as defined in s. 741.28; stalking or cyberstalking, as
58 defined in s. 784.0485; or repeat violence, dating violence, or

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59 sexual violence, as defined in s. 784.046, a law enforcement
60 officer shall remove a firearm from the scene if:

61 (a) The law enforcement officer has probable cause to
62 believe that an act of domestic violence, stalking or
63 cyberstalking, or repeat violence, dating violence, or sexual
64 violence has occurred; and

65 (b) The firearm is in plain view or is discovered during a
66 consensual or other lawful search.

67 (2) If a firearm is removed from the scene under subsection
68 (1), the law enforcement officer shall:

69 (a) Provide to the owner of the firearm information on the
70 process for retaking possession of the firearm.

71 (b) Provide for the safe storage of the firearm during the
72 pendency of any proceeding related to the alleged act of
73 domestic violence, stalking or cyberstalking, or repeat
74 violence, dating violence, or sexual violence.

75 (3) Within 14 days after the conclusion of a proceeding on
76 the alleged act of domestic violence, stalking or cyberstalking,
77 or repeat violence, dating violence, or sexual violence, the
78 owner of the firearm may retake possession of the firearm unless
79 ordered to surrender the firearm pursuant to s. 790.233.

80 Section 3. Paragraph (a) of subsection (4) of section
81 741.31, Florida Statutes, is amended to read:

82 741.31 Violation of an injunction for protection against
83 domestic violence.—

84 (4) (a) A person who willfully violates an injunction for
85 protection against domestic violence issued pursuant to s.
86 741.30, or a foreign protection order accorded full faith and
87 credit pursuant to s. 741.315, by:

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- 88 1. Refusing to vacate the dwelling that the parties share;
89 2. Going to, or being within 500 feet of, the petitioner's
90 residence, school, place of employment, or a specified place
91 frequented regularly by the petitioner and any named family or
92 household member;
93 3. Committing an act of domestic violence against the
94 petitioner;
95 4. Committing any other violation of the injunction through
96 an intentional unlawful threat, word, or act to do violence to
97 the petitioner;
98 5. Telephoning, contacting, texting, or otherwise
99 communicating with the petitioner directly or indirectly, unless
100 the injunction specifically allows indirect contact through a
101 third party;
102 6. Knowingly and intentionally coming within 100 feet of
103 the petitioner's motor vehicle, whether or not that vehicle is
104 occupied;
105 7. Defacing or destroying the petitioner's personal
106 property, including the petitioner's motor vehicle; or
107 8. Refusing to surrender firearms or ammunition ~~if ordered~~
108 ~~to do so by the court~~
109
110 commits a misdemeanor of the first degree, punishable as
111 provided in s. 775.082 or s. 775.083, except as provided in
112 paragraph (c).
113 Section 4. This act shall take effect July 1, 2017.