

By Senator Passidomo

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1 A bill to be entitled
2 An act relating to elder abuse; amending s. 825.101,
3 F.S.; defining terms; creating s. 825.1035, F.S.;
4 creating a cause of action for an injunction for
5 protection against the exploitation of a vulnerable
6 adult; providing for standing to bring a cause of
7 action for an injunction; providing that an injunction
8 may be sought regardless of any other action that may
9 be pending between specified parties; specifying that
10 the right to petition for an injunction is not
11 affected by a person temporarily or permanently
12 vacating a residence or household to avoid
13 exploitation; providing a list of persons who may seek
14 an injunction; providing that parties to an injunction
15 may not be required to be represented by an attorney;
16 specifying that the petitioner is liable for actual
17 damages under certain circumstances; providing for the
18 submission of evidence to the court; providing for
19 venue; providing that exploitation already having
20 occurred is not required as a prerequisite for filing
21 for or issuance of an injunction; requiring that a
22 petition be filed in certain proceedings under ch.
23 744, F.S.; prohibiting the clerk of the circuit court
24 from assessing a filing fee under certain
25 circumstances; authorizing the clerk of the circuit
26 court to request a reimbursement for such petitions,
27 subject to the appropriation of funds for that
28 purpose; requiring the clerk of the circuit court to
29 pay from such reimbursement any fee not exceeding \$20

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30 that a law enforcement agency requests; prohibiting
31 the court from requiring a bond for the entry of the
32 injunction; requiring a sworn petition to contain
33 certain allegations and statements; requiring the
34 court to set a hearing at a certain time; requiring
35 the respondent to be personally served with certain
36 documents prior to the hearing; requiring the clerk of
37 the circuit court to assist the petitioner in filing
38 an injunction or petition by providing certain forms
39 and instructions; requiring the clerk of the court to
40 ensure the petitioner's privacy; requiring the clerk
41 of the court to provide the petitioners with certified
42 copies of the injunction order; requiring that the
43 clerks of the court and appropriate staff receive
44 certain training; requiring that the clerk of the
45 circuit court make available certain informational
46 brochures and create and distribute a specified
47 brochure containing specified information to the
48 petitioner at the time of filing for an injunction;
49 authorizing the court to grant a temporary injunction
50 ex parte under certain circumstances; prohibiting the
51 use of evidence other than verified pleadings or
52 affidavits in an ex parte hearing; providing an
53 exception; requiring the court to follow certain
54 procedures when issuing an order denying a petition
55 for an ex parte injunction; prohibiting an ex parte
56 temporary injunction from having a duration longer
57 than a specified number of days; requiring that a full
58 hearing be set for a date no later than the date the

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59 temporary injunction expires; authorizing the court to
60 grant a continuance of the hearing for good cause;
61 authorizing the court to grant specified relief under
62 certain circumstances; providing factors that a court
63 must consider when determining whether petitioners
64 have reasonable cause; requiring that the court allow
65 certain advocates to be present under certain
66 circumstances; requiring that the terms of certain
67 injunctions remain in effect until modified or
68 dissolved; authorizing either party to move at any
69 time to modify or dissolve an injunction; requiring
70 that a temporary or final judgment on an injunction
71 meet certain requirements; specifying that granting
72 separate orders of protection to opposing parties is
73 not legally sufficient for certain purposes; requiring
74 that certain proceedings be recorded; providing
75 requirements and options for service of process;
76 authorizing the court to waive the service of process
77 requirement for a financial institution; requiring
78 that the clerk of the circuit court deliver a
79 certified copy of certain orders meeting certain
80 criteria to the parties under certain circumstances;
81 providing options for noting the service was
82 effective; requiring that the clerk of the circuit
83 court place a written certification in the court file
84 and notify the sheriff under certain circumstances;
85 authorizing the clerk of the circuit court to serve
86 certain respondents by certified mail; requiring that
87 the clerk of the circuit court, law enforcement

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88 officers, and sheriffs follow certain procedures
89 within a certain timeframe after an injunction has
90 been issued or an injunction becomes ineffective;
91 requiring the clerk of the circuit court to provide
92 copies of certain petitions and orders to the adult
93 protective services program; requiring the adult
94 protective services program to treat petitions in a
95 certain manner; requiring the adult protective
96 services program to submit to the court the results of
97 any previous investigations relating to the vulnerable
98 adult within a specified timeframe; providing options
99 for enforcing and prosecuting a violation of an
100 injunction; requiring that the clerk of the circuit
101 collect any assessment or fine ordered by the court
102 and transfer it to the Department of Revenue for
103 deposit into the General Revenue fund on a monthly
104 basis; requiring that a respondent held in custody
105 after an arrest for violating an injunction be brought
106 before the court as expeditiously as possible;
107 providing construction; creating s. 825.1036, F.S.;
108 requiring that a clerk of the circuit court assist the
109 petitioner in preparing an affidavit or direct the
110 petitioner to a certain office, under certain
111 circumstances; requiring the clerk of the circuit
112 court or the office assisting the petitioner to
113 immediately forward the affidavit to certain people
114 and places depending on certain circumstances;
115 requiring a law enforcement agency to complete its
116 investigation and forward the affidavit along with a

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117 report of any information obtained through its
118 investigation to the state attorney within a specified
119 timeframe; requiring the state attorney to determine
120 how it will proceed within a specified timeframe;
121 authorizing the court to immediately issue an order of
122 appointment of the state attorney in certain
123 circumstances; requiring the court to immediately
124 notify the state attorney that the court is proceeding
125 to enforce the violation through a ruling of criminal
126 contempt if the court does not issue an order of
127 appointment; providing a penalty for a willful
128 violation of an injunction; providing an exception;
129 providing for how an injunction may be violated;
130 providing that a person with two or more prior
131 convictions for violation of an injunction or foreign
132 protection order against the same victim who commits a
133 subsequent violation against the same victim commits a
134 third degree felony; defining conviction; authorizing
135 the court to award economic damages to a person who
136 suffers an injury or loss as a result of a violation
137 of an injunction; amending s. 901.15, F.S.; conforming
138 provisions to changes made by the act; providing an
139 effective date.

140
141 Be It Enacted by the Legislature of the State of Florida:

142
143 Section 1. Present subsections (6) through (12) of section
144 825.101, Florida Statutes, are redesignated as subsections (7)
145 through (13), respectively, and a new subsection (6) and

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146 subsection (14) are added to that section, to read:

147 825.101 Definitions.—As used in this chapter:

148 (6) "Exploitation" has the same meaning as the term
149 "exploitation of an elderly person or disabled adult" as defined
150 in s. 825.103(1).

151 (14) "Vulnerable adult" has the same meaning as in s.
152 415.102.

153 Section 2. Section 825.1035, Florida Statutes, is created
154 to read:

155 825.1035 Injunction for protection against exploitation of
156 vulnerable adults.—

157 (1) There is created a cause of action for an injunction
158 for protection against the exploitation of a vulnerable adult.

159 (a) Any person described in paragraph (d) has standing in
160 the circuit court to file a sworn petition for an injunction for
161 protection against the exploitation of a vulnerable adult.

162 (b) A sworn petition for an injunction for protection
163 against the exploitation of a vulnerable adult may be filed
164 regardless of whether any other cause of action is currently
165 pending between either the petitioner and the respondent or the
166 vulnerable adult and the respondent. However, the pendency of
167 any such cause of action shall be noted in the petition.

168 (c) A person temporarily or permanently vacating a
169 residence or household in an attempt to avoid exploitation does
170 not affect his or her right to petition for an injunction.

171 (d) This cause of action for an injunction may be sought
172 by:

173 1. A vulnerable adult in imminent danger of being
174 exploited;

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175 2. The guardian of a vulnerable adult in imminent danger of
176 being exploited;

177 3. A person or organization acting on behalf of the
178 vulnerable adult with the consent of the vulnerable adult or his
179 or her guardian; or

180 4. A person who simultaneously files a petition for
181 determination of incapacity and appointment of an emergency
182 temporary guardian with respect to the vulnerable adult.

183 (e) Parties to an injunction for protection against the
184 exploitation of a vulnerable adult may not be required to be
185 represented by an attorney.

186 (f) Notwithstanding any other law, the petitioner is liable
187 for actual damages if it is found that the petition was without
188 substantial fact or legal support.

189 (g) Any person who offers evidence relating to the
190 exploitation of a vulnerable adult must present the evidence
191 under oath at a hearing for which all parties have been given
192 reasonable notice.

193 (h) Notwithstanding chapter 47, a petition for an
194 injunction for protection against the exploitation of a
195 vulnerable adult may be filed in the circuit where the
196 petitioner currently resides, where the respondent resides,
197 where the vulnerable adult resides, or where the exploitation
198 occurred. There is no minimum requirement of residency to
199 petition for an injunction for protection against the
200 exploitation of a vulnerable adult. It is not required as a
201 prerequisite of filing a petition for or issuance of an
202 injunction under this section for exploitation to have already
203 occurred. If a proceeding concerning the vulnerable adult under

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204 chapter 744 is pending at the time of the filing, the petition
205 must be filed in that proceeding.

206 (i) Notwithstanding any other provision of law, the clerk
207 of the circuit court may not assess a filing fee for petitions
208 filed under this section. However, subject to legislative
209 appropriation for such purpose, the clerk of the circuit court
210 may, on a quarterly basis, submit a certified request for
211 reimbursement to the Office of the State Courts Administrator
212 for the processing of such petitions, at the rate of \$40 per
213 petition. The request for reimbursement must be submitted in the
214 form and manner prescribed by the Office of the State Courts
215 Administrator. From each reimbursement received, the clerk of
216 the circuit court shall pay any law enforcement agency serving
217 the injunction for protection against the exploitation of a
218 vulnerable adult the fee requested by the law enforcement
219 agency. However, the fee may not exceed \$20.

220 (j) The court may require a bond for the entry of an
221 injunction for protection against the exploitation of a
222 vulnerable adult.

223 (2) (a) A sworn petition filed under this section must
224 allege the existence of exploitation, or the imminent
225 exploitation, of the vulnerable adult and must include the
226 specific facts and circumstances for which relief is sought.

227 (b) The sworn petition must be in substantially the
228 following form:

230 PETITION FOR INJUNCTION

231 FOR Protection against the exploitation of a vulnerable adult
232

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233 Before me, the undersigned authority, personally appeared
 234 Petitioner ...(Name)..., who has been sworn and says that the
 235 following statements are true:

236 1. The vulnerable adult resides at: ...(address)...
 237 (The petitioner may furnish the address to the court in a
 238 separate confidential filing if, for safety reasons, the
 239 vulnerable adult requests that the location of his or her
 240 current residence be kept confidential.)

241 2. The respondent resides at: ...(last known address)....

242 3. The respondent's last known place of employment is:
 243 ...(name of business and address)....

244 4. Physical description of the respondent:

245 Race....

246 Sex....

247 Date of birth....

248 Height....

249 Weight....

250 Eye color....

251 Hair color....

252 Distinguishing marks or scars....

253 5. Aliases of the respondent:

254 6. The respondent is associated with the vulnerable adult
 255 as follows:

256 7. The following describes any other cause of action
 257 currently pending between the petitioner and the respondent, any
 258 proceeding under chapter 744 concerning the vulnerable adult,
 259 and any previous or pending attempts by the petitioner to obtain
 260 an injunction for protection against exploitation of the
 261 vulnerable adult in this or any other circuit; related case

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262 numbers, if available; and the results of any such attempts:.....
263

264 8. The following describes the petitioner's knowledge of
265 any reports made to a government agency, including, but not
266 limited to, the Department of Elderly Affairs, the Department of
267 Children and Families, and the adult protective services program
268 relating to the abuse, neglect, or exploitation of the
269 vulnerable adult; any investigations performed by a government
270 agency relating to abuse, neglect, or exploitation of the
271 vulnerable adult; and the results of any such reports or
272 investigations:.....
273

274 9. The petitioner knows the vulnerable adult is either a
275 victim of exploitation or the petitioner has reasonable cause to
276 believe the vulnerable adult is, or is in imminent danger of
277 becoming, a victim of exploitation because the respondent has:
278(describe in the spaces below the incidents of exploitation)
279

280 10. The petitioner genuinely fears imminent exploitation of
281 the vulnerable adult by the respondent.

282 11. The petitioner seeks an injunction for the protection
283 of the vulnerable adult, including: ...(mark appropriate section
284 or sections)....

285Prohibiting the respondent from having any direct or
286 indirect contact with the vulnerable adult.

287Immediately restraining the respondent from committing
288 any acts of exploitation against the vulnerable adult.

289Freezing the assets of the vulnerable adult held at
290 ...(name and address of depository or financial institution)...

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291 even if titled jointly with the respondent, or in the
292 respondent's name only, in the court's discretion.

293 ...Providing any terms the court deems necessary for the
294 protection of the vulnerable adult or his or her assets,
295 including any injunctions or directives to law enforcement
296 agencies.

297
298 (c) Each petition for an injunction for protection against
299 the exploitation of a vulnerable adult must contain, directly
300 above the signature line, a statement in all capital letters and
301 bold type not smaller than the surrounding text, as follows:

302
303 I HAVE READ EACH STATEMENT MADE IN THIS PETITION AND
304 EACH SUCH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND
305 THAT THE STATEMENTS MADE IN THIS PETITION ARE BEING
306 MADE UNDER PENALTY OF PERJURY PUNISHABLE AS PROVIDED
307 IN SECTION 837.02, FLORIDA STATUTES.

308
309 (d) Upon the filing of the petition, the court shall
310 schedule a hearing on the petition on the earliest possible
311 date. The respondent shall be personally served, pursuant to
312 chapter 48, with a copy of the petition, financial affidavit,
313 notice of hearing, and temporary injunction, if any, prior to
314 the hearing.

315 (3) (a) The clerk of the circuit court shall assist the
316 petitioner in filing an injunction for protection against the
317 exploitation of a vulnerable adult and any petition alleging a
318 violation thereof.

319 (b) The clerk of the circuit court shall provide simplified

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320 petition forms for the injunction for protection against the
321 exploitation of a vulnerable adult, and any modifications
322 thereto, and for the enforcement thereof, and instructions for
323 completion of such forms.

324 (c) The clerk of the circuit court shall, to the extent
325 practicable, ensure the petitioner's privacy while completing
326 such forms.

327 (d) The clerk of the circuit court shall provide the
328 petitioner with at least two certified copies of the order of
329 injunction, one of which is serviceable, and shall inform the
330 petitioner of the process for service and enforcement.

331 (e) Clerks of the circuit court and appropriate staff in
332 each county shall receive training in the effective assistance
333 of petitioners as provided or approved by the Florida
334 Association of Court Clerks.

335 (f) The clerk of the circuit court in each county shall
336 make available informational brochures on the exploitation of
337 vulnerable adults when such brochures are provided by local
338 senior centers, local aging and disability resource centers, or
339 appropriate state or federal agencies.

340 (g) The clerk of the circuit court in each county shall
341 produce an informational brochure and provide it to the
342 petitioner at the time of filing for an injunction for
343 protection against the exploitation of a vulnerable adult. The
344 brochure must include information about the exploitation of
345 vulnerable adults and the effect of providing false information
346 to the court.

347 (4) (a) 1. The court may grant a temporary injunction ex
348 parte, pending a full hearing, and may grant such relief as the

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349 court deems proper if it appears to the court that:

350 a. An immediate and present danger of exploitation of the
351 vulnerable adult exists;

352 b. There is a likelihood of irreparable harm and
353 nonavailability of an adequate remedy at law;

354 c. There is a substantial likelihood of success on the
355 merits;

356 d. The threatened injury to the vulnerable adult outweighs
357 possible harm to the respondent; and

358 e. Granting a temporary injunction will not disserve the
359 public interest.

360 2. Such relief the court deems proper may include, but is
361 not limited to, injunctions doing any of the following:

362 a. Restraining the respondent from committing any acts of
363 exploitation against the vulnerable adult.

364 b. Awarding to the vulnerable adult the temporary exclusive
365 use and possession of the dwelling that the vulnerable adult and
366 the respondent share, or barring the respondent from the
367 residence of the vulnerable adult, if the court finds that the
368 vulnerable adult is able to reside safely without the
369 respondent.

370 c. Freezing any assets of the vulnerable adult in any
371 depository or financial institution whether titled solely in the
372 vulnerable adult's name, solely in the respondent's name,
373 jointly with the respondent, in guardianship, in trust, or in a
374 Totten trust.

375 (I) Assets held by a guardian for the vulnerable adult may
376 be frozen only by an order entered by the court overseeing the
377 guardianship proceeding.

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378 (II) Assets held by a trust may be frozen only by an order
379 of the court if all the trustees of the trust are served with
380 process in accordance with Rule 1.070, Florida Rules of Civil
381 Procedure, and are given reasonable notice prior to any hearing
382 on the petition.

383 d. Prohibiting the respondent from having any direct or
384 indirect contact with the vulnerable adult.

385 e. Providing any injunctions or directives to law
386 enforcement agencies.

387 (b) Except as provided in s. 90.204, in a hearing ex parte
388 for the purpose of obtaining an ex parte temporary injunction,
389 only verified pleadings or affidavits may be used as evidence
390 unless the respondent appears at the hearing or has received
391 reasonable notice of the hearing. A denial of a petition for an
392 ex parte injunction must be by written order and note the legal
393 grounds for denial. When the only ground for denial is failure
394 to demonstrate appearance of an immediate and present danger of
395 exploitation of a vulnerable adult, the court must set a full
396 hearing on the petition for injunction at the earliest possible
397 date. Nothing in this paragraph affects a petitioner's right to
398 promptly amend any petition consistent with the Florida Rules of
399 Civil Procedure.

400 (c) An ex parte temporary injunction may be effective for a
401 fixed period not to exceed 15 days. A full hearing, as provided
402 by this section, must be set for a date no later than the date
403 when the temporary injunction ceases to be effective. The court
404 may grant a continuance of the hearing before or during the
405 hearing for good cause shown by any party, which must include a
406 continuance to obtain service of process.

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407 (5) (a) 1. The court may grant such relief as the court deems
408 proper when, upon notice and hearing, it appears to the court
409 that:

410 a. The vulnerable adult is the victim of exploitation or
411 that the vulnerable adult is in imminent danger of becoming a
412 victim of exploitation;

413 b. There is a likelihood of irreparable harm and
414 nonavailability of an adequate remedy at law;

415 c. There is a substantial likelihood of success on the
416 merits;

417 d. The threatened injury to the vulnerable adult outweighs
418 possible harm to the respondent; and

419 e. Granting a temporary injunction will not disserve the
420 public interest.

421 2. Such relief may include, but need not be limited to,
422 injunctions doing any of the following:

423 a. Restraining the respondent from committing any acts of
424 exploitation.

425 b. Awarding to the vulnerable adult the exclusive use and
426 possession of the dwelling that the vulnerable adult and the
427 respondent share or excluding the respondent from the residence
428 of the vulnerable adult, if the court finds that the vulnerable
429 adult is able to reside safely without the respondent.

430 c. Ordering the respondent to participate in treatment,
431 intervention, or counseling services to be paid for by the
432 respondent.

433 d. Directing that assets under temporary freeze by
434 injunction be returned to the vulnerable adult, or directing
435 that those assets remain frozen until ownership can be

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436 determined.

437 e. Ordering such other relief as the court deems necessary
438 for the protection of a victim of exploitation, including
439 injunctions or directives to law enforcement agencies, as
440 provided in this section.

441 (b) In determining whether a petitioner has reasonable
442 cause to believe that the vulnerable adult is, or is in imminent
443 danger of becoming, a victim of exploitation, the court shall
444 consider and evaluate all relevant factors, including, but not
445 limited to, any of the following:

446 1. The existence of a verifiable order of protection issued
447 previously or from another jurisdiction.

448 2. Any history of exploitation by the respondent upon the
449 vulnerable adult in the petition or any other vulnerable adult.

450 3. Any history of the vulnerable adult being previously
451 exploited or unduly influenced.

452 4. The capacity of the vulnerable adult to make decisions
453 related to his or her finances and property.

454 5. Susceptibility of the vulnerable adult to undue
455 influence.

456 6. Any criminal history of the respondent or previous
457 probable cause findings by the adult protective services
458 program, if known.

459 (c) The court must allow an advocate from a state
460 attorney's office, a law enforcement agency, or the adult
461 protective services program to be present with the petitioner or
462 the respondent during any court proceedings or hearings related
463 to the injunction, provided the petitioner or the respondent has
464 made such a request and the advocate is able to be present.

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465 (d) The terms of an injunction restraining the respondent
466 as provided in paragraph (a) remain in effect until the
467 injunction is modified or dissolved. The petitioner, respondent,
468 or vulnerable adult may move at any time to modify or dissolve
469 the injunction. No specific allegations are required for
470 modification or dissolution of the injunction, which may be
471 granted in addition to other civil or criminal penalties.

472 (e) A temporary or final judgment on an injunction must, on
473 its face, indicate:

474 1. That the injunction is valid and enforceable in all
475 counties of this state.

476 2. That law enforcement officers may use their arrest
477 powers pursuant to s. 901.15(6) to enforce the terms of the
478 injunction.

479 3. That the court had jurisdiction over the parties and
480 subject matter under state law and that reasonable notice and
481 opportunity to be heard were given to the person against whom
482 the order was sought, in a manner that was sufficient to protect
483 that person's right to due process.

484 4. The date the respondent was served with the temporary or
485 final order, if obtainable.

486 (f) The fact that a separate order of protection is granted
487 to each opposing party is not legally sufficient to deny any
488 remedy to either party or to prove that the parties are equally
489 at fault or equally endangered.

490 (g) All proceedings conducted pursuant to this subsection
491 must be recorded. Recording may be by electronic means as
492 provided by the Rules of Judicial Administration.

493 (6) (a) 1.a. The clerk of the circuit court shall furnish a

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494 copy of the petition, the financial affidavit, the notice of
495 hearing, and any temporary injunction to the sheriff or a law
496 enforcement agency of the county in which the respondent resides
497 or can be found, who shall serve it upon the respondent as soon
498 thereafter as possible on any day of the week and at any time of
499 the day or night. At the request of the sheriff, the clerk of
500 the circuit court may transmit a facsimile copy of an injunction
501 that has been certified by the clerk of the circuit court
502 pursuant to subparagraph 4., and this facsimile copy may be
503 served in the same manner as a certified copy. The clerk of the
504 circuit court shall also furnish to the sheriff such information
505 on the respondent's physical description and location as is
506 required by the Florida Department of Law Enforcement to comply
507 with the verification procedures set forth in sub-subparagraph
508 b.

509 b. Upon receiving a facsimile copy, the sheriff must verify
510 receipt with the clerk of the circuit court before attempting to
511 serve it upon the respondent. If the sheriff is in possession of
512 an injunction that has been certified by the clerk of the
513 circuit court, the sheriff may transmit a facsimile copy of that
514 injunction to a law enforcement officer who shall serve it in
515 the same manner as a certified copy.

516 c. Notwithstanding any other provision of law, the chief
517 judge of each circuit, in consultation with the appropriate
518 sheriff, may authorize a law enforcement agency within the
519 jurisdiction to effect service. A law enforcement agency
520 performing service pursuant to this section shall use service
521 and verification procedures consistent with those of the
522 sheriff.

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523 2.a. The clerk of the circuit court shall furnish a copy of
524 the petition, the financial affidavit, the notice of hearing,
525 and any temporary injunction to the sheriff or a law enforcement
526 agency of the county in which the vulnerable adult resides or
527 can be found, who shall serve it upon the vulnerable adult as
528 soon thereafter as possible on any day of the week and at any
529 time of the day or night. At the request of the sheriff, the
530 clerk of the circuit court may transmit a facsimile copy of an
531 injunction that has been certified by the clerk of the circuit
532 court pursuant to subparagraph 4., and this facsimile copy may
533 be served in the same manner as a certified copy. The clerk of
534 the circuit court shall also furnish to the sheriff such
535 information on the vulnerable adult's physical description and
536 location as is required by the Florida Department of Law
537 Enforcement to comply with the verification procedures set forth
538 in sub-subparagraph b.

539 b. Upon receiving a facsimile copy, the sheriff must verify
540 receipt with the clerk of the circuit court before attempting to
541 serve it upon the vulnerable adult. If the sheriff is in
542 possession of an injunction that has been certified by the clerk
543 of the circuit court, the sheriff may transmit a facsimile copy
544 of that injunction to a law enforcement officer, who shall serve
545 it in the same manner as a certified copy.

546 c. Notwithstanding any other provision of law, the chief
547 judge of each circuit, in consultation with the appropriate
548 sheriff, may authorize a law enforcement agency within the
549 jurisdiction of the circuit to effect service. A law enforcement
550 agency performing service pursuant to this section shall use
551 service and verification procedures consistent with those of the

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552 sheriff.

553 3. When an injunction for protection against the
554 exploitation of a vulnerable adult is issued, if the petitioner
555 requests that a law enforcement agency assist the vulnerable
556 adult, the court may order that an officer from the appropriate
557 law enforcement agency accompany the vulnerable adult and assist
558 in the service or execution of the injunction, including
559 returning possession of a dwelling or residence to the
560 vulnerable adult. A law enforcement officer shall accept a copy
561 of an injunction, certified by the clerk of the circuit court
562 pursuant to subparagraph 4., from the petitioner and immediately
563 serve it upon a respondent who has been located but not yet
564 served. The law enforcement agency must also serve any
565 injunction freezing assets on the financial institution where
566 assets subject to dissipation are held; the court may waive such
567 service.

568 4. The clerk of the circuit court shall certify a copy of
569 all orders issued, changed, continued, extended, or vacated
570 subsequent to the original service of the original petition,
571 notice of hearing, or temporary injunction and deliver the
572 certified copy to the parties at the time of the entry of the
573 order. The parties may acknowledge receipt of a certified order
574 in writing on the face of the original order. If a party fails
575 or refuses to acknowledge the receipt of a certified copy of an
576 order, the clerk of the circuit court must note on the original
577 petition that service was effected. If delivery at the hearing
578 during which an order is issued is not possible, the clerk of
579 the circuit court shall mail certified copies of the order to
580 the parties at their respective last known mailing addresses.

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581 Service by mail is complete upon mailing. When an order is
582 served pursuant to this subparagraph the clerk of the circuit
583 court shall notify the sheriff of the service and prepare a
584 written certification to be placed in the court file specifying
585 the time, date, and method of service.

586 5. If the respondent has been previously served with the
587 temporary injunction and has failed to appear at the initial
588 hearing on the temporary injunction, any subsequent petition for
589 an injunction seeking an extension of time may be served on the
590 respondent by the clerk of the court by certified mail in lieu
591 of personal service by a law enforcement officer.

592 (b)1. Within 24 hours after the court issues an injunction
593 for protection against the exploitation of a vulnerable adult or
594 changes, continues, extends, or vacates such an injunction, the
595 clerk of the circuit court must forward a certified copy of the
596 order to the sheriff with jurisdiction over the residence of the
597 petitioner for service in accordance with this subsection.

598 2. Within 24 hours after service of an injunction for
599 protection against the exploitation of a vulnerable adult upon a
600 respondent, the law enforcement officer who served the
601 injunction must forward the written proof of service to the
602 sheriff with jurisdiction over the residence of the petitioner.

603 3. Within 24 hours after the sheriff receives a certified
604 copy of the injunction for protection against the exploitation
605 of a vulnerable adult, the sheriff must make information related
606 to the injunction available to this state's law enforcement
607 agencies by electronically transmitting such information to the
608 Florida Department of Law Enforcement.

609 4. Within 24 hours after the sheriff or other law

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610 enforcement officer has made service upon the respondent and the
611 sheriff has been so notified, the sheriff must make information
612 relating to the service available to other law enforcement
613 agencies by electronically transmitting such information to the
614 Florida Department of Law Enforcement.

615 5. Within 24 hours after an injunction for protection
616 against the exploitation of a vulnerable adult is terminated, or
617 otherwise rendered no longer effective by ruling of the court,
618 the clerk of the circuit court must notify the sheriff receiving
619 original notification of the injunction as provided in
620 subparagraph 1. The sheriff's agency shall, within 24 hours
621 after receiving such notification from the clerk of the circuit
622 court, notify the Florida Department of Law Enforcement of such
623 action of the court.

624 (c) The clerk of the court shall provide a copy of all
625 petitions filed pursuant to this section and all orders entered
626 on such petitions to the adult protective services program,
627 which shall treat such petitions in the same manner as a report
628 of abuse, neglect, or exploitation of a vulnerable adult. Within
629 24 hours after receipt of such orders or petitions, the adult
630 protective services program shall submit to the court overseeing
631 proceedings on the petition the results of any previous
632 investigations relating to the vulnerable adult.

633 (7) (a) The court may enforce a violation of an injunction
634 for protection against the exploitation of a vulnerable adult
635 through a civil or criminal contempt proceeding, or the state
636 attorney may prosecute it as a criminal violation under s.
637 825.1036. Any assessment or fine ordered by the court enforcing
638 such injunction shall be collected by the clerk of the circuit

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639 court and transferred on a monthly basis to the Department of
640 Revenue for deposit in the Domestic Violence Trust Fund.

641 (b) If the respondent is arrested by a law enforcement
642 officer under s. 901.15(6) or for a violation of s. 825.1036,
643 the respondent must be held in custody until he or she is
644 brought before the court, which must occur as expeditiously as
645 possible, for the purpose of enforcing the injunction for
646 protection against the exploitation of a vulnerable adult and
647 for admittance to bail in accordance with chapter 903 and the
648 applicable rules of criminal procedure, pending a hearing.

649 (8) Nothing in this section may affect the title to any
650 real estate.

651 Section 3. Section 825.1036, Florida Statutes, is created
652 to read:

653 825.1036 Violation of an injunction for protection against
654 the exploitation of a vulnerable adult.—

655 (1) In the event of a violation of an injunction for
656 protection against the exploitation of a vulnerable adult when
657 the person who violated such injunction has not been arrested,
658 the petitioner may contact the clerk of the circuit court of the
659 county in which the violation is alleged to have occurred. The
660 clerk of the circuit court shall assist the petitioner in the
661 preparation of an affidavit in support of the violation or
662 direct the petitioner to the office operated by the court within
663 the circuit which has been designated by the chief judge of that
664 circuit as the central intake point for injunction violations
665 and where the petitioner can receive assistance in the
666 preparation of the affidavit in support of the violation.

667 (2) The affidavit shall be immediately forwarded by the

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668 clerk of the circuit court or the office assisting the
669 petitioner to the state attorney of that circuit and to such
670 court or judge as the chief judge of that circuit determines to
671 be the recipient of affidavits of violation. If the affidavit
672 alleges that a crime has been committed, the clerk of the
673 circuit court or the office assisting the petitioner shall also
674 forward a copy of the petitioner's affidavit to the appropriate
675 law enforcement agency for investigation. Within 20 days after
676 receipt of the affidavit, the local law enforcement agency shall
677 complete its investigation and forward the affidavit and a
678 report containing the agency's findings to the state attorney.
679 The state attorney shall determine within 30 working days
680 whether its office will proceed to file criminal charges,
681 prepare a motion for an order to show cause as to why the
682 respondent should not be held in criminal contempt, prepare both
683 as alternative findings, or file notice that the case remains
684 under investigation or is pending subject to another action.

685 (3) If, based on its familiarity with the case, the court
686 has knowledge that the vulnerable adult is in immediate danger
687 if the court fails to act prior to the decision of the state
688 attorney to prosecute, it should immediately issue an order of
689 appointment of the state attorney to file a motion for an order
690 to show cause as to why the respondent should not be held in
691 contempt. If the court does not issue an order of appointment of
692 the state attorney, it shall immediately notify the state
693 attorney that the court is proceeding to enforce the violation
694 through a ruling of criminal contempt.

695 (4) (a) Except as provided in paragraph (b), a person who
696 willfully violates an injunction for protection against the

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697 exploitation of a vulnerable adult commits a misdemeanor of the
698 first degree, punishable as provided in s. 775.082 or s.
699 775.083. A person may violate such injunction by:

- 700 1. Refusing to vacate the dwelling shared with the
701 vulnerable adult;
- 702 2. Going to, or being within 500 feet of, the vulnerable
703 adult's residence;
- 704 3. Exploiting or unduly influencing the vulnerable adult;
- 705 4. Committing any other violation of the injunction through
706 an intentional unlawful threat, word, or act to do violence to
707 the vulnerable adult;
- 708 5. Telephoning, contacting, or otherwise communicating with
709 the vulnerable adult directly or indirectly, unless the
710 injunction specifically allows indirect contact through a third
711 party;
- 712 6. Knowingly and intentionally coming within 100 feet of
713 the vulnerable adult's motor vehicle, regardless of whether that
714 vehicle is occupied; or
- 715 7. Defacing or destroying the vulnerable adult's personal
716 property.

717 (b) A person who has two or more prior convictions for
718 violation of an injunction or foreign protection order against
719 the same victim, and who subsequently commits a violation of any
720 injunction or foreign protection order against the same victim,
721 commits a felony of the third degree, punishable as provided in
722 s. 775.082, s. 775.083, or s. 775.084. For purposes of this
723 paragraph, the term "conviction" means a determination of guilt
724 which is the result of a plea or a trial, regardless of whether
725 adjudication is withheld or a plea of nolo contendere is

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726 entered.

727 (5) Any person who suffers an injury or loss as a result of
728 a violation of an injunction for protection against the
729 exploitation of a vulnerable adult may be awarded economic
730 damages for that injury or loss by the court issuing the
731 injunction. Damages include costs and attorney fees for
732 enforcement of such injunction.

733 Section 4. Subsection (6) of section 901.15, Florida
734 Statutes, is amended to read:

735 901.15 When arrest by officer without warrant is lawful.—A
736 law enforcement officer may arrest a person without a warrant
737 when:

738 (6) There is probable cause to believe that the person has
739 committed a criminal act according to s. 790.233 or according to
740 s. 741.31, ~~or~~ s. 784.047, or s. 825.1036 which violates an
741 injunction for protection entered pursuant to s. 741.30, ~~or~~ s.
742 784.046, or s. 825.1035 or a foreign protection order accorded
743 full faith and credit pursuant to s. 741.315, over the objection
744 of the petitioner, if necessary.

745 Section 5. This act shall take effect July 1, 2018.