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LEGISLATIVE ACTION

Senate

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House

Senator Gibson moved the following:

1 **Senate Amendment to Amendment (318628) (with title**
2 **amendment)**

3
4 Between lines 436 and 437
5 insert:

6 Section 13. Section 790.233, Florida Statutes, is amended
7 to read:

8 790.233 Possession of firearm or ammunition prohibited when
9 person is subject to certain injunctions ~~an injunction against~~
10 ~~committing acts of domestic violence, stalking, or~~
11 ~~cyberstalking; penalties.-~~



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12 (1) A person may not have in his or her care, custody,
13 possession, or control any firearm or ammunition if the person
14 has been issued an a-final injunction, whether temporary or
15 final, which ~~that~~ is currently in force and effect, restraining
16 that person from committing acts of domestic violence, as issued
17 under s. 741.30; ~~or~~ from committing acts of stalking or
18 cyberstalking, as issued under s. 784.0485; or from committing
19 acts of repeat violence, dating violence, or sexual violence, as
20 issued under s. 784.046.

21 (2) A person who violates subsection (1) commits a
22 misdemeanor of the first degree, punishable as provided in s.
23 775.082 or s. 775.083.

24 ~~(3) It is the intent of the Legislature that the~~
25 ~~disabilities regarding possession of firearms and ammunition are~~
26 ~~consistent with federal law. Accordingly,~~ This section does not
27 apply to a state or local officer as defined in s. 943.10(14),
28 holding an active certification, who receives or possesses a
29 firearm or ammunition for use in performing official duties on
30 behalf of the officer's employing agency, unless otherwise
31 prohibited by the employing agency.

32 Section 13. Section 790.234, Florida Statutes, is created
33 to read:

34 790.234 Domestic violence, stalking, etc.; temporary
35 custody of firearms.-

36 (1) When at the scene of an alleged act of domestic
37 violence, as defined in s. 741.28; stalking or cyberstalking, as
38 defined in s. 784.0485; or repeat violence, dating violence, or
39 sexual violence, as defined in s. 784.046, a law enforcement
40 officer shall remove a firearm from the scene if:



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41 (a) The law enforcement officer has probable cause to
42 believe that an act of domestic violence, stalking or
43 cyberstalking, or repeat violence, dating violence, or sexual
44 violence has occurred; and

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

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

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

51 (b) Provide for the safe storage of the firearm during the
52 pendency of any proceeding related to the alleged act of
53 domestic violence, stalking or cyberstalking, or repeat
54 violence, dating violence, or sexual violence.

55 (3) Within 14 days after the conclusion of a proceeding on
56 the alleged act of domestic violence, stalking or cyberstalking,
57 or repeat violence, dating violence, or sexual violence, the
58 owner of the firearm may retake possession of the firearm unless
59 ordered to surrender the firearm pursuant to s. 790.233.

60 Section 14. Paragraph (a) of subsection (4) of section
61 741.31, Florida Statutes, is amended to read:

62 741.31 Violation of an injunction for protection against
63 domestic violence.—

64 (4) (a) A person who willfully violates an injunction for
65 protection against domestic violence issued pursuant to s.
66 741.30, or a foreign protection order accorded full faith and
67 credit pursuant to s. 741.315, by:

- 68 1. Refusing to vacate the dwelling that the parties share;
69 2. Going to, or being within 500 feet of, the petitioner's



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70 residence, school, place of employment, or a specified place
71 frequented regularly by the petitioner and any named family or
72 household member;

73 3. Committing an act of domestic violence against the
74 petitioner;

75 4. Committing any other violation of the injunction through
76 an intentional unlawful threat, word, or act to do violence to
77 the petitioner;

78 5. Telephoning, contacting, texting, or otherwise
79 communicating with the petitioner directly or indirectly, unless
80 the injunction specifically allows indirect contact through a
81 third party;

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

85 7. Defacing or destroying the petitioner's personal
86 property, including the petitioner's motor vehicle; or

87 8. Refusing to surrender firearms or ammunition ~~if ordered~~
88 ~~to do so by the court~~

89
90 commits a misdemeanor of the first degree, punishable as
91 provided in s. 775.082 or s. 775.083, except as provided in
92 paragraph (c).

93
94 ===== T I T L E A M E N D M E N T =====

95 And the title is amended as follows:

96 Delete line 2515

97 and insert:

98 criminal penalties; amending s. 790.233, F.S.;



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99 prohibiting persons subject to temporary or final
100 injunctions against domestic violence repeat violence,
101 dating violence, or sexual violence, or from
102 possessing firearms or ammunition; deleting a
103 provision relating to legislative intent; creating s.
104 790.234, F.S.; requiring a law enforcement officer to
105 take temporary custody of firearms at the scene of a
106 domestic violence, stalking or cyberstalking, or
107 repeat violence, dating violence, or sexual violence
108 incident under certain circumstances; specifying
109 required steps a law enforcement officer must take if
110 a firearm is removed from the scene; providing for the
111 return of such firearms after a specified period;
112 amending s. 741.31, F.S.; specifying that texting is a
113 violation of an injunction for protection against
114 domestic violence and certain foreign protection
115 orders; conforming a provision to changes made by the
116 act; providing legislative intent;