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LEGISLATIVE ACTION

Senate

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House

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Floor: NC/2R

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03/03/2018 06:07 PM

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Senator Gibson moved the following:

Senate Amendment (with title amendment)

Between lines 409 and 410

insert:

Section 9. Section 790.233, Florida Statutes, is amended to read:

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

(1) A person may not have in his or her care, custody,



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12 possession, or control any firearm or ammunition if the person
13 has been issued an a-final injunction, whether temporary or
14 final, which ~~that~~ is currently in force and effect, restraining
15 that person from committing acts of domestic violence, as issued
16 under s. 741.30; ~~or~~ from committing acts of stalking or
17 cyberstalking, as issued under s. 784.0485; or from committing
18 acts of repeat violence, dating violence, or sexual violence, as
19 issued under s. 784.046.

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

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

31 Section 10. Section 790.234, Florida Statutes, is created
32 to read:

33 790.234 Domestic violence, stalking, etc.; temporary
34 custody of firearms.-

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

40 (a) The law enforcement officer has probable cause to



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41 believe that an act of domestic violence, stalking or
42 cyberstalking, or repeat violence, dating violence, or sexual
43 violence has occurred; and

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

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

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

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

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

59 Section 11. Paragraph (a) of subsection (4) of section
60 741.31, Florida Statutes, is amended to read:

61 741.31 Violation of an injunction for protection against
62 domestic violence.—

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

- 67 1. Refusing to vacate the dwelling that the parties share;
68 2. Going to, or being within 500 feet of, the petitioner's
69 residence, school, place of employment, or a specified place



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70 frequented regularly by the petitioner and any named family or
71 household member;

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

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

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

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

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

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

88
89 commits a misdemeanor of the first degree, punishable as
90 provided in s. 775.082 or s. 775.083, except as provided in
91 paragraph (c).

92
93 ===== T I T L E A M E N D M E N T =====

94 And the title is amended as follows:

95 Between lines 58 and 59

96 insert:

97 amending s. 790.233, F.S.; prohibiting persons subject
98 to temporary or final injunctions against domestic



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