

1 A bill to be entitled
 2 An act relating to domestic violence injunctions;
 3 amending s. 741.30, F.S.; authorizing a court to take
 4 certain actions regarding the care, possession, or
 5 control of an animal in domestic violence actions;
 6 providing applicability; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Paragraph (a) of subsection (5) and subsection
 11 (6) of section 741.30, Florida Statutes, are amended to read:

12 741.30 Domestic violence; injunction; powers and duties of
 13 court and clerk; petition; notice and hearing; temporary
 14 injunction; issuance of injunction; statewide verification
 15 system; enforcement; public records exemption.—

16 (5) (a) If it appears to the court that an immediate and
 17 present danger of domestic violence exists, the court may grant
 18 a temporary injunction ex parte, pending a full hearing, and may
 19 grant such relief as the court deems proper, including an
 20 injunction:

21 1. Restraining the respondent from committing any acts of
 22 domestic violence.

23 2. Awarding to the petitioner the temporary exclusive use
 24 and possession of the dwelling that the parties share or
 25 excluding the respondent from the residence of the petitioner.

26 | 3. On the same basis as provided in s. 61.13, providing
27 | the petitioner a temporary parenting plan, including a time-
28 | sharing schedule, which may award the petitioner up to 100
29 | percent of the time-sharing. The temporary parenting plan
30 | remains in effect until the order expires or an order is entered
31 | by a court of competent jurisdiction in a pending or subsequent
32 | civil action or proceeding affecting the placement of, access
33 | to, parental time with, adoption of, or parental rights and
34 | responsibilities for the minor child.

35 | 4. Awarding to the petitioner the temporary exclusive
36 | care, possession, or control of an animal that is owned,
37 | possessed, harbored, kept, or held by the petitioner, the
38 | respondent, or a minor child residing in the residence or
39 | household of the petitioner or respondent. The court may order
40 | the defendant to temporarily have no contact with the animal and
41 | enjoin the defendant from taking, transferring, encumbering,
42 | concealing, harming, or otherwise disposing of the animal. This
43 | subparagraph does not apply to animals owned primarily for a
44 | bona fide agricultural purpose, as defined under s. 193.461.

45 | (6) (a) Upon notice and hearing, when it appears to the
46 | court that the petitioner is either the victim of domestic
47 | violence as defined by s. 741.28 or has reasonable cause to
48 | believe he or she is in imminent danger of becoming a victim of
49 | domestic violence, the court may grant such relief as the court
50 | deems proper, including an injunction:

51 1. Restraining the respondent from committing any acts of
52 domestic violence.

53 2. Awarding to the petitioner the exclusive use and
54 possession of the dwelling that the parties share or excluding
55 the respondent from the residence of the petitioner.

56 3. On the same basis as provided in chapter 61, providing
57 the petitioner with 100 percent of the time-sharing in a
58 temporary parenting plan that remains in effect until the order
59 expires or an order is entered by a court of competent
60 jurisdiction in a pending or subsequent civil action or
61 proceeding affecting the placement of, access to, parental time
62 with, adoption of, or parental rights and responsibilities for
63 the minor child.

64 4. On the same basis as provided in chapter 61,
65 establishing temporary support for a minor child or children or
66 the petitioner. An order of temporary support remains in effect
67 until the order expires or an order is entered by a court of
68 competent jurisdiction in a pending or subsequent civil action
69 or proceeding affecting child support.

70 5. Ordering the respondent to participate in treatment,
71 intervention, or counseling services to be paid for by the
72 respondent. When the court orders the respondent to participate
73 in a batterers' intervention program, the court, or any entity
74 designated by the court, must provide the respondent with a list
75 of batterers' intervention programs from which the respondent

76 | must choose a program in which to participate.

77 | 6. Referring a petitioner to a certified domestic violence
78 | center. The court must provide the petitioner with a list of
79 | certified domestic violence centers in the circuit which the
80 | petitioner may contact.

81 | 7. Awarding to the petitioner the exclusive care,
82 | possession, or control of an animal that is owned, possessed,
83 | harbored, kept, or held by the petitioner, the respondent, or a
84 | minor child residing in the residence or household of the
85 | petitioner or respondent. The court may order the defendant to
86 | have no contact with the animal and enjoin the defendant from
87 | taking, transferring, encumbering, concealing, harming, or
88 | otherwise disposing of the animal. This subparagraph does not
89 | apply to animals owned primarily for a bona fide agricultural
90 | purpose, as defined under s. 193.461.

91 | ~~8.7.~~ Ordering such other relief as the court deems
92 | necessary for the protection of a victim of domestic violence,
93 | including injunctions or directives to law enforcement agencies,
94 | as provided in this section.

95 | (b) In determining whether a petitioner has reasonable
96 | cause to believe he or she is in imminent danger of becoming a
97 | victim of domestic violence, the court shall consider and
98 | evaluate all relevant factors alleged in the petition,
99 | including, but not limited to:

100 | 1. The history between the petitioner and the respondent,

101 including threats, harassment, stalking, and physical abuse.

102 2. Whether the respondent has attempted to harm the
103 petitioner or family members or individuals closely associated
104 with the petitioner.

105 3. Whether the respondent has threatened to conceal,
106 kidnap, or harm the petitioner's child or children.

107 4. Whether the respondent has intentionally injured or
108 killed a family pet.

109 5. Whether the respondent has used, or has threatened to
110 use, against the petitioner any weapons such as guns or knives.

111 6. Whether the respondent has physically restrained the
112 petitioner from leaving the home or calling law enforcement.

113 7. Whether the respondent has a criminal history involving
114 violence or the threat of violence.

115 8. The existence of a verifiable order of protection
116 issued previously or from another jurisdiction.

117 9. Whether the respondent has destroyed personal property,
118 including, but not limited to, telephones or other
119 communications equipment, clothing, or other items belonging to
120 the petitioner.

121 10. Whether the respondent engaged in any other behavior
122 or conduct that leads the petitioner to have reasonable cause to
123 believe that he or she is in imminent danger of becoming a
124 victim of domestic violence.

125

126 In making its determination under this paragraph, the court is
 127 not limited to those factors enumerated in subparagraphs 1.-10.

128 (c) The terms of an injunction restraining the respondent
 129 under subparagraph (a)1. or ordering other relief for the
 130 protection of the victim under subparagraph (a)8. ~~(a)7.~~ shall
 131 remain in effect until modified or dissolved. Either party may
 132 move at any time to modify or dissolve the injunction. No
 133 specific allegations are required. Such relief may be granted in
 134 addition to other civil or criminal remedies.

135 (d) A temporary or final judgment on injunction for
 136 protection against domestic violence entered under ~~pursuant to~~
 137 this section shall, on its face, indicate that:

138 1. The injunction is valid and enforceable in all counties
 139 of the State of Florida.

140 2. Law enforcement officers may use their arrest powers
 141 under ~~pursuant to~~ s. 901.15(6) to enforce the terms of the
 142 injunction.

143 3. The court had jurisdiction over the parties and matter
 144 under the laws of Florida and that reasonable notice and
 145 opportunity to be heard was given to the person against whom the
 146 order is sought sufficient to protect that person's right to due
 147 process.

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

150 (e) An injunction for protection against domestic violence

151 entered under ~~pursuant to~~ this section, on its face, may order
152 that the respondent attend a batterers' intervention program as
153 a condition of the injunction. Unless the court makes written
154 factual findings in its judgment or order which are based on
155 substantial evidence, stating why batterers' intervention
156 programs would be inappropriate, the court shall order the
157 respondent to attend a batterers' intervention program if:

158 1. It finds that the respondent willfully violated the ex
159 parte injunction;

160 2. The respondent, in this state or any other state, has
161 been convicted of, had adjudication withheld on, or pled nolo
162 contendere to a crime involving violence or a threat of
163 violence; or

164 3. The respondent, in this state or any other state, has
165 had at any time a prior injunction for protection entered
166 against the respondent after a hearing with notice.

167 (f) The fact that a separate order of protection is
168 granted to each opposing party is ~~shall~~ not ~~be~~ legally
169 sufficient to deny any remedy to either party or to prove that
170 the parties are equally at fault or equally endangered.

171 (g) A final judgment on injunction for protection against
172 domestic violence entered under ~~pursuant to~~ this section must,
173 on its face, indicate that it is a violation of s. 790.233, and
174 a first degree misdemeanor, for the respondent to have in his or
175 her care, custody, possession, or control any firearm or

176 | ammunition.

177 | (h) All proceedings under this subsection shall be
178 | recorded. Recording may be by electronic means as provided by
179 | the Rules of Judicial Administration.

180 | Section 2. This act shall take effect July 1, 2020.