

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.

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

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 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 respondent to temporarily have no contact with the animal
41 and enjoin the respondent from taking, transferring,
42 encumbering, concealing, harming, or otherwise disposing of the
43 animal. This subparagraph does not apply to animals owned
44 primarily for a bona fide agricultural purpose, as defined under
45 s. 193.461, or to a service animal, as defined under s. 413.08,
46 if the respondent is the service animal's handler.

47 (6) (a) Upon notice and hearing, when it appears to the
48 court that the petitioner is either the victim of domestic
49 violence as defined by s. 741.28 or has reasonable cause to
50 believe he or she is in imminent danger of becoming a victim of

51 domestic violence, the court may grant such relief as the court
52 deems proper, including an injunction:

53 1. Restraining the respondent from committing any acts of
54 domestic violence.

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

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

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

72 5. Ordering the respondent to participate in treatment,
73 intervention, or counseling services to be paid for by the
74 respondent. When the court orders the respondent to participate
75 in a batterers' intervention program, the court, or any entity

76 designated by the court, must provide the respondent with a list
77 of batterers' intervention programs from which the respondent
78 must choose a program in which to participate.

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

83 7. Awarding to the petitioner the exclusive care,
84 possession, or control of an animal that is owned, possessed,
85 harbored, kept, or held by the petitioner, the respondent, or a
86 minor child residing in the residence or household of the
87 petitioner or respondent. The court may order the respondent to
88 have no contact with the animal and enjoin the respondent from
89 taking, transferring, encumbering, concealing, harming, or
90 otherwise disposing of the animal. This subparagraph does not
91 apply to animals owned primarily for a bona fide agricultural
92 purpose, as defined under s. 193.461, or to a service animal, as
93 defined under s. 413.08, if the respondent is the service
94 animal's handler.

95 ~~8.7.~~ Ordering such other relief as the court deems
96 necessary for the protection of a victim of domestic violence,
97 including injunctions or directives to law enforcement agencies,
98 as provided in this section.

99 (b) In determining whether a petitioner has reasonable
100 cause to believe he or she is in imminent danger of becoming a

101 victim of domestic violence, the court shall consider and
102 evaluate all relevant factors alleged in the petition,
103 including, but not limited to:

104 1. The history between the petitioner and the respondent,
105 including threats, harassment, stalking, and physical abuse.

106 2. Whether the respondent has attempted to harm the
107 petitioner or family members or individuals closely associated
108 with the petitioner.

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

111 4. Whether the respondent has intentionally injured or
112 killed a family pet.

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

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

117 7. Whether the respondent has a criminal history involving
118 violence or the threat of violence.

119 8. The existence of a verifiable order of protection
120 issued previously or from another jurisdiction.

121 9. Whether the respondent has destroyed personal property,
122 including, but not limited to, telephones or other
123 communications equipment, clothing, or other items belonging to
124 the petitioner.

125 10. Whether the respondent engaged in any other behavior

126 or conduct that leads the petitioner to have reasonable cause to
127 believe that he or she is in imminent danger of becoming a
128 victim of domestic violence.

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

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

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

142 1. The injunction is valid and enforceable in all counties
143 of the State of Florida.

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

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

151 process.

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

154 (e) An injunction for protection against domestic violence
155 entered under ~~pursuant to~~ this section, on its face, may order
156 that the respondent attend a batterers' intervention program as
157 a condition of the injunction. Unless the court makes written
158 factual findings in its judgment or order which are based on
159 substantial evidence, stating why batterers' intervention
160 programs would be inappropriate, the court shall order the
161 respondent to attend a batterers' intervention program if:

162 1. It finds that the respondent willfully violated the ex
163 parte injunction;

164 2. The respondent, in this state or any other state, has
165 been convicted of, had adjudication withheld on, or pled nolo
166 contendere to a crime involving violence or a threat of
167 violence; or

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

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

175 (g) A final judgment on injunction for protection against

176 domestic violence entered under ~~pursuant to~~ this section must,
177 on its face, indicate that it is a violation of s. 790.233, and
178 a first degree misdemeanor, for the respondent to have in his or
179 her care, custody, possession, or control any firearm or
180 ammunition.

181 (h) All proceedings under this subsection shall be
182 recorded. Recording may be by electronic means as provided by
183 the Rules of Judicial Administration.

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