

By the Committee on Criminal Justice; and Senators Simmons and Storms

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1 A bill to be entitled
2 An act relating to stalking and aggravated stalking;
3 amending s. 784.048, F.S.; redefining the terms
4 "course of conduct" and "credible threat" and defining
5 the term "immediate family"; providing that a person
6 who makes a threat which places another person in
7 reasonable fear for his or her safety or the safety of
8 his or her immediate family commits the offense of
9 aggravated stalking under certain circumstances;
10 requiring that the sentencing court consider issuing
11 an injunction that restrains a defendant from any
12 contact with the victim for up to 10 years; providing
13 legislative intent regarding the length of any such
14 restraining order; creating s. 784.0485, F.S.;
15 creating a civil cause of action for an injunction for
16 protection against stalking or cyberstalking;
17 providing that the victim of stalking or cyberstalking
18 has standing in the circuit court to file a sworn
19 petition for an injunction for protection against
20 stalking or cyberstalking; prohibiting a court from
21 issuing mutual orders of protection, but authorizing
22 the court to issue a separate injunction for
23 protection against stalking or cyberstalking if each
24 party has complied with the provisions of law;
25 providing for venue of the cause of action;
26 prohibiting the clerk of the court from assessing a
27 filing fee; providing an exception; providing that a
28 petitioner is not required to post a bond; requiring
29 the clerks of court to assist petitioners in filing

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petitions with the court; requiring the clerk of the court in each county to make available informational brochures; providing a sample petition for an injunction for protection against stalking or cyberstalking; authorizing the court to grant a temporary injunction ex parte, pending a full hearing, under certain circumstances; authorizing the court to grant such relief as the court deems necessary and proper; providing procedures for an ex parte injunction hearing; setting forth the relief the court may grant if it finds that the petitioner is in imminent danger of becoming a victim of stalking or cyberstalking; setting forth the criteria the court must consider at the hearing; requiring the court to allow an advocate from a state attorney's office, law enforcement agency, or certified domestic violence center to be present with the petitioner or respondent during any court proceeding; requiring the clerk of the court to furnish a copy of the petition, notice of hearing, and temporary injunction, if any, to the sheriff or a law enforcement agency of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night; authorizing the court to order a law enforcement officer to accompany the petitioner; authorizing the court to enforce a violation of an injunction for protection against stalking or cyberstalking through a civil or criminal contempt

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59 proceeding; authorizing a state attorney to use
60 criminal procedures for a violation of an injunction
61 for protection; creating s. 784.0487, F.S.; providing
62 procedures to follow when the respondent has violated
63 the injunction for protection; providing legislative
64 intent; providing criminal penalties; providing that a
65 court may award a person who suffers an injury or loss
66 as a result of a violation of an injunction for
67 protection against stalking or cyberstalking economic
68 damages for that injury or loss, including costs and
69 attorney fees for enforcement of the injunction;
70 providing an effective date.

71
72 Be It Enacted by the Legislature of the State of Florida:

73
74 Section 1. Section 784.048, Florida Statutes, is amended to
75 read:

76 784.048 Stalking; definitions; penalties.—

77 (1) As used in this section, the term:

78 (a) "Harass" means to engage in a course of conduct
79 directed at a specific person which ~~that~~ causes substantial
80 emotional distress to that ~~in such~~ person and serves no
81 legitimate purpose.

82 (b) "Course of conduct" means a pattern of conduct composed
83 of a series of acts over a period of time, however short, which
84 evidence evidencing a continuity of purpose. The term does not
85 include constitutionally protected activity such as ~~is not~~
86 ~~included within the meaning of "course of conduct."~~ Such
87 ~~constitutionally protected activity includes~~ picketing or other

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88 organized protests.

89 (c) "Credible threat" means a verbal or nonverbal threat,
90 including a threat delivered by electronic communication or a
91 threat implied by a pattern of conduct, or a combination of the
92 two, which places the person who is the target of the threat in
93 reasonable fear for his or her safety or the safety of his or
94 her immediate family or household member, as defined in s.
95 741.28, and which is made with the apparent ability to carry out
96 the threat to cause such harm. It is not necessary to prove that
97 the person making the threat had the intent to actually carry
98 out the threat. The present incarceration of the person making
99 the threat is not a bar to prosecution under this section ~~made~~
100 ~~with the intent to cause the person who is the target of the~~
101 ~~threat to reasonably fear for his or her safety. The threat must~~
102 ~~be against the life of, or a threat to cause bodily injury to, a~~
103 ~~person.~~

104 (d) "Cyberstalk" means to engage in a course of conduct to
105 communicate, or to cause to be communicated, words, images, or
106 language by or through the use of electronic mail or electronic
107 communication, directed at a specific person, causing
108 substantial emotional distress to that person and serving no
109 legitimate purpose.

110 (e) "Immediate family" means a person's spouse, parent,
111 child, grandparent, or sibling.

112 (2) ~~A~~ Any person who willfully, maliciously, and repeatedly
113 follows, harasses, or cyberstalks another person commits the
114 offense of stalking, a misdemeanor of the first degree,
115 punishable as provided in s. 775.082 or s. 775.083.

116 (3) ~~A~~ Any person who willfully, maliciously, and repeatedly

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117 follows, harasses, or cyberstalks another person, and makes a
118 credible threat to that person ~~with the intent to place that~~
119 ~~person in reasonable fear of death or bodily injury of the~~
120 ~~person, or the person's child, sibling, spouse, parent, or~~
121 ~~dependent,~~ commits the offense of aggravated stalking, a felony
122 of the third degree, punishable as provided in s. 775.082, s.
123 775.083, or s. 775.084.

124 (4) A ~~Any~~ person who, after an injunction for protection
125 against repeat violence, sexual violence, or dating violence
126 pursuant to s. 784.046, or an injunction for protection against
127 domestic violence pursuant to s. 741.30, or after any other
128 court-imposed prohibition of conduct toward the subject person
129 or that person's property, knowingly, willfully, maliciously,
130 and repeatedly follows, harasses, or cyberstalks another person
131 commits the offense of aggravated stalking, a felony of the
132 third degree, punishable as provided in s. 775.082, s. 775.083,
133 or s. 775.084.

134 (5) A ~~Any~~ person who willfully, maliciously, and repeatedly
135 follows, harasses, or cyberstalks a child ~~minor~~ under 16 years
136 of age commits the offense of aggravated stalking, a felony of
137 the third degree, punishable as provided in s. 775.082, s.
138 775.083, or s. 775.084.

139 (6) A ~~Any~~ law enforcement officer may arrest, without a
140 warrant, any person that he or she has probable cause to believe
141 has violated ~~the provisions of~~ this section.

142 (7) A ~~Any~~ person who, after having been sentenced for a
143 violation of s. 794.011, s. 800.04, or s. 847.0135(5) and
144 prohibited from contacting the victim of the offense under s.
145 921.244, willfully, maliciously, and repeatedly follows,

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146 harasses, or cyberstalks the victim commits the offense of
147 aggravated stalking, a felony of the third degree, punishable as
148 provided in s. 775.082, s. 775.083, or s. 775.084.

149 (8) The punishment imposed under this section shall run
150 consecutive to any former sentence imposed for a conviction for
151 any offense under s. 794.011, s. 800.04, or s. 847.0135(5).

152 (9)(a) The sentencing court shall consider, as a part of
153 any sentence, issuing an injunction restraining the defendant
154 from any contact with the victim, which may be valid for up to
155 10 years, as determined by the court. It is the intent of the
156 Legislature that the length of any such restraining order be
157 based upon the seriousness of the facts before the court, the
158 probability of future violations by the perpetrator, and the
159 safety of the victim and his or her immediate family.

160 (b) The injunction may be issued by the court even if the
161 defendant is sentenced to a state prison or a county jail or
162 even if the imposition of the sentence is suspended and the
163 defendant is placed on probation.

164 Section 2. Section 784.0485, Florida Statutes, is created
165 to read:

166 784.0485 Stalking or cyberstalking; injunction; powers and
167 duties of court and clerk; petition; notice and hearing;
168 temporary injunction; issuance of injunction; statewide
169 verification system; enforcement.—

170 (1) There is created a cause of action for an injunction
171 for protection against stalking or cyberstalking.

172 (a) A person who is the victim of stalking or cyberstalking
173 has standing in the circuit court to file a sworn petition for
174 an injunction for protection against stalking or cyberstalking.

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175 (b) The cause of action for an injunction for protection
176 may be sought regardless of whether any other cause of action is
177 currently pending between the parties. However, the pendency of
178 any such cause of action shall be alleged in the petition.

179 (c) The cause of action for an injunction may be sought by
180 any affected person.

181 (d) The cause of action for an injunction does not require
182 either party to be represented by an attorney.

183 (e) The court may not issue mutual orders of protection;
184 however, the court is not precluded from issuing separate
185 injunctions for protection against stalking or cyberstalking if
186 each party has complied with this section. Compliance with this
187 section may not be waived.

188 (f) Notwithstanding chapter 47, a petition for an
189 injunction for protection against stalking or cyberstalking may
190 be filed in the circuit where the petitioner currently or
191 temporarily resides, where the respondent resides, or where the
192 stalking or cyberstalking occurred. There is no minimum
193 requirement of residency to petition for an injunction for
194 protection.

195 (2) (a) Notwithstanding any other law, the clerk of court
196 may not assess a filing fee to file a petition for protection
197 against stalking or cyberstalking. However, subject to
198 legislative appropriation, the clerk of the circuit court may,
199 on a quarterly basis, submit to the Office of the State Courts
200 Administrator a certified request for reimbursement for
201 petitions for protection against stalking or cyberstalking
202 issued by the court, at the rate of \$40 per petition. The
203 request for reimbursement shall be submitted in the form and

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204 manner prescribed by the Office of the State Courts
205 Administrator. From this reimbursement, the clerk shall pay any
206 law enforcement agency serving the injunction the fee requested
207 by the law enforcement agency; however, this fee may not exceed
208 \$20.

209 (b) A bond is not required by the court for the entry of an
210 injunction.

211 (c)1. The clerk of the court shall assist petitioners in
212 seeking both injunctions for protection against stalking and
213 enforcement of a violation thereof as specified in this section.

214 2. All offices of the clerk of the court shall provide
215 simplified petition forms for the injunction and any
216 modifications to and the enforcement thereof, including
217 instructions for completion.

218 3. The clerk of the court shall ensure the petitioner's
219 privacy to the extent practicable while completing the forms for
220 an injunction for protection against stalking or cyberstalking.

221 4. The clerk of the court shall provide a petitioner with a
222 minimum of two certified copies of the order of injunction, one
223 of which is serviceable and will inform the petitioner of the
224 process for service and enforcement.

225 5. The clerk of the court and appropriate staff in each
226 county shall receive training in the effective assistance of
227 petitioners as provided or approved by the Florida Association
228 of Court Clerks.

229 6. The clerk of the court in each county shall make
230 available informational brochures on stalking when such a
231 brochure is provided by the local certified domestic violence
232 center.

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233 7. The clerk of the court in each county shall distribute a
234 statewide uniform informational brochure to petitioners at the
235 time of filing for an injunction for protection against stalking
236 or cyberstalking when such brochures become available. The
237 brochure must include information about the effect of giving the
238 court false information.

239 (3) (a) The sworn petition shall allege the existence of
240 such stalking or cyberstalking and shall include the specific
241 facts and circumstances for which relief is sought.

242 (b) The sworn petition shall be in substantially the
243 following form:

244
245 PETITION FOR INJUNCTION FOR PROTECTION AGAINST STALKING

246
247 Before me, the undersigned authority, personally appeared
248 Petitioner....(Name)...., who has been sworn and says that
249 the following statements are true:

250
251 1. Petitioner resides at:....(address)....

252 (Petitioner may furnish the address to the court in a
253 separate confidential filing if, for safety reasons,
254 the petitioner requires the location of the current
255 residence to be confidential.)

256 2. Respondent resides at:....(last known address)....

257 3. Respondent's last known place of employment:....(name
258 of business and address)....

259 4. Physical description of respondent:....

260 5. Race....

261 6. Sex....

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7. Date of birth....

8. Height....

9. Weight....

10. Eye color....

11. Hair color....

12. Distinguishing marks or scars....

13. Aliases of respondent:....

(c) The petitioner shall describe any other cause of action currently pending between the petitioner and respondent. The petitioner shall also describe any previous attempt by the petitioner to obtain an injunction for protection against stalking or cyberstalking in this or any other circuit, and the result of that attempt. (Case numbers should be included, if available.)

(d) The petition must provide space for the petitioner to specifically allege that he or she is a victim of stalking or cyberstalking because respondent has:

(Mark all sections that apply and describe in the spaces below the incidents of stalking or cyberstalking specifying when and where they occurred, including, but not limited to, locations such as a home, school, or place of employment.)

.... Committed or threatened to commit stalking.

.... Previously threatened, harassed, stalked, cyberstalked, or physically abused the petitioner.

.... Threatened to harm the petitioner or family members or individuals closely associated with the petitioner.

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291 Intentionally injured or killed a family pet.

292 Used, or has threatened to use, against the petitioner
293 any weapons such as guns or knives.

294 A criminal history involving violence or the threat of
295 violence (if known).

296 Another order of protection issued against him or her
297 previously or from another jurisdiction, if known.

298 Destroyed personal property, including, but not
299 limited to, telephones or other communication equipment,
300 clothing, or other items belonging to the petitioner.

301 (e) The petitioner seeks an injunction: (Mark appropriate
302 section or sections.)

303 Immediately restraining the respondent from committing
304 any acts of stalking or cyberstalking.

305 Restraining the respondent from committing any acts of
306 stalking or cyberstalking.

307 Providing any terms the court deems necessary for the
308 protection of a victim of stalking or cyberstalking, including
309 any injunctions or directives to law enforcement agencies.

310 (f) Every petition for an injunction against stalking or
311 cyberstalking must contain, directly above the signature line, a
312 statement in all capital letters and bold type not smaller than
313 the surrounding text, as follows:

314
315 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
316 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT
317 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE
318 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN
319 SECTION 837.02, FLORIDA STATUTES.

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....(initials)....

(4) Upon the filing of the petition, the court shall set a hearing to be held at the earliest possible time. The respondent shall be personally served with a copy of the petition, notice of hearing, and temporary injunction, if any, before the hearing.

(5) (a) If it appears to the court that an immediate and present danger of stalking or cyberstalking exists, the court may grant a temporary injunction ex parte, pending a full hearing, and may grant such relief as the court deems proper, including an injunction restraining the respondent from committing any act of stalking or cyberstalking.

(b) In a hearing ex parte for the purpose of obtaining such ex parte temporary injunction, evidence other than verified pleadings or affidavits may not be used as evidence, unless the respondent appears at the hearing or has received reasonable notice of the hearing. A denial of a petition for an ex parte injunction shall be by written order noting the legal grounds for denial. If the only ground for denial is no appearance of an immediate and present danger of stalking or cyberstalking, the court shall set a full hearing on the petition for injunction with notice at the earliest possible time. This paragraph does not affect a petitioner's right to promptly amend any petition, or otherwise be heard in person on any petition consistent with the Florida Rules of Civil Procedure.

(c) Any such ex parte temporary injunction is effective for a fixed period not to exceed 15 days. A full hearing, as

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349 provided in this section, shall be set for a date no later than
350 the date when the temporary injunction ceases to be effective.
351 The court may grant a continuance of the hearing before or
352 during a hearing for good cause shown by any party, which shall
353 include a continuance to obtain service of process. An
354 injunction shall be extended if necessary to remain in full
355 force and effect during any period of continuance.

356 (6) (a) Upon notice and hearing, when it appears to the
357 court that the petitioner is the victim of stalking or
358 cyberstalking, the court may grant such relief as the court
359 deems proper, including an injunction:

360 1. Restraining the respondent from committing any act of
361 stalking or cyberstalking.

362 2. Ordering the respondent to participate in treatment,
363 intervention, or counseling services to be paid for by the
364 respondent.

365 3. Referring a petitioner to a certified domestic violence
366 center. The court must provide the petitioner with a list of
367 certified domestic violence centers in the circuit which the
368 petitioner may contact.

369 4. Ordering such other relief as the court deems necessary
370 for the protection of a victim of stalking or cyberstalking,
371 including injunctions or directives to law enforcement agencies,
372 as provided in this section.

373 (b) When determining whether a petitioner has reasonable
374 cause to believe that there is a credible threat that he or she
375 is in imminent danger of becoming a victim of stalking or
376 cyberstalking, the court shall consider and evaluate all
377 relevant factors alleged in the petition, including, but not

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limited to:

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

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

3. Whether the respondent has intentionally injured or killed a family pet.

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

5. Whether the respondent has a criminal history involving violence or the threat of violence.

6. The existence of a verifiable order of protection issued previously or from another jurisdiction.

7. Whether the respondent has destroyed personal property, including, but not limited to, telephones or other communications equipment, clothing, or other items belonging to the petitioner.

In making its determination under this paragraph, the court is not limited to those factors enumerated in subparagraphs 1.-7.

(c) The terms of an injunction restraining the respondent under subparagraph (a)1. or ordering other relief for the protection of the victim under subparagraph (a)4. shall remain in effect until modified or dissolved. Either party may move at any time to modify or dissolve the injunction. Specific allegations are not required. Such relief may be granted in addition to other civil or criminal remedies.

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407 (d) A temporary or final judgment on injunction for
408 protection against stalking or cyberstalking entered pursuant to
409 this section shall, on its face, indicate that:

410 1. The injunction is valid and enforceable in all counties
411 of this state.

412 2. Law enforcement officers may use their arrest powers
413 pursuant to s. 901.15(6) to enforce the terms of the injunction.

414 3. The court has jurisdiction over the parties and matter
415 under the laws of this state and that reasonable notice and
416 opportunity to be heard was given to the person against whom the
417 order is sought sufficient to protect that person's right to due
418 process.

419 4. The date that the respondent was served with the
420 temporary or final order, if obtainable.

421 (e) The fact that a separate order of protection is granted
422 to each opposing party is not legally sufficient to deny any
423 remedy to either party or to prove that the parties are equally
424 at fault or equally endangered.

425 (f) A final judgment on an injunction for protection
426 against stalking or cyberstalking entered pursuant to this
427 section may, on its face, provide that it is a violation of s.
428 790.233 and a misdemeanor of the first degree for the respondent
429 to have in his or her care, custody, possession, or control any
430 firearm or ammunition.

431 (g) All proceedings under this subsection shall be
432 recorded. Recording may be by electronic means as provided by
433 the Rules of Judicial Administration.

434 (7) The court shall allow an advocate from a state
435 attorney's office, a law enforcement agency, or a certified

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436 domestic violence center who is registered under s. 39.905 to be
437 present with the petitioner or respondent during any court
438 proceedings or hearings related to the injunction for protection
439 if the petitioner or respondent has made such a request and the
440 advocate is able to be present.

441 (8)(a)1. The clerk of the court shall furnish a copy of the
442 petition, notice of hearing, and temporary injunction, if any,
443 to the sheriff or a law enforcement agency of the county where
444 the respondent resides or can be found, who shall serve it upon
445 the respondent as soon thereafter as possible on any day of the
446 week and at any time of the day or night. When requested by the
447 sheriff, the clerk of the court may transmit a facsimile copy of
448 an injunction that has been certified by the clerk of the court,
449 and this facsimile copy may be served in the same manner as a
450 certified copy. Upon receiving a facsimile copy, the sheriff
451 must verify receipt with the sender before attempting to serve
452 it on the respondent. In addition, if the sheriff is in
453 possession of an injunction for protection which has been
454 certified by the clerk of the court, the sheriff may transmit a
455 facsimile copy of that injunction to a law enforcement officer
456 who shall serve it in the same manner as a certified copy. The
457 clerk of the court shall furnish to the sheriff such information
458 concerning the respondent's physical description and location as
459 is required by the department to comply with the verification
460 procedures set forth in this section. Notwithstanding any other
461 law, the chief judge of each circuit, in consultation with the
462 appropriate sheriff, may authorize a law enforcement agency
463 within the jurisdiction to effect service. A law enforcement
464 agency serving injunctions pursuant to this section shall use

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465 service and verification procedures consistent with those of the
466 sheriff.

467 2. If an injunction is issued and the petitioner requests
468 the assistance of a law enforcement agency, the court may order
469 that an officer from the appropriate law enforcement agency
470 accompany the petitioner to assist in the execution or service
471 of the injunction. A law enforcement officer shall accept a copy
472 of an injunction for protection against stalking, certified by
473 the clerk of the court, from the petitioner and immediately
474 serve it upon a respondent who has been located but not yet
475 served.

476 3. An order issued, changed, continued, extended, or
477 vacated subsequent to the original service of documents
478 enumerated under subparagraph 1. shall be certified by the clerk
479 of the court and delivered to the parties at the time of the
480 entry of the order. The parties may acknowledge receipt of such
481 order in writing on the face of the original order. If a party
482 fails or refuses to acknowledge the receipt of a certified copy
483 of an order, the clerk shall note on the original order that
484 service was effected. If delivery at the hearing is not
485 possible, the clerk shall mail certified copies of the order to
486 the parties at the last known address of each party. Service by
487 mail is complete upon mailing. When an order is served pursuant
488 to this subsection, the clerk shall prepare a written
489 certification to be placed in the court file specifying the
490 time, date, and method of service and shall notify the sheriff.

491 4. If the respondent has been served previously with a
492 temporary injunction and has failed to appear at the initial
493 hearing on the temporary injunction, any subsequent petition for

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injunction seeking an extension of time may be served on the respondent by the clerk of the court by certified mail in lieu of personal service by a law enforcement officer.

(b)1. Within 24 hours after the court issues an injunction for protection against stalking or cyberstalking or changes, continues, extends, or vacates an injunction for protection against stalking or cyberstalking, the clerk of the court must forward a certified copy of the injunction for service to the sheriff having jurisdiction over the residence of the petitioner. The injunction must be served in accordance with this subsection.

2. Within 24 hours after service of process of an injunction for protection against stalking or cyberstalking upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff having jurisdiction over the residence of the petitioner.

3. Within 24 hours after the sheriff receives a certified copy of the injunction for protection against stalking or cyberstalking, the sheriff must make information relating to the injunction available to other law enforcement agencies by electronically transmitting such information to the Department of Law Enforcement.

4. Within 24 hours after the sheriff or other law enforcement officer has made service upon the respondent and the sheriff has been so notified, the sheriff must make information relating to the service available to other law enforcement agencies by electronically transmitting such information to the Department of Law Enforcement.

5. Within 24 hours after an injunction for protection

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523 against stalking or cyberstalking is vacated, terminated, or
524 otherwise rendered no longer effective by ruling of the court,
525 the clerk of the court must notify the sheriff receiving
526 original notification of the injunction as provided in
527 subparagraph 2. That agency shall, within 24 hours after
528 receiving such notification from the clerk of the court, notify
529 the Department of Law Enforcement of such action of the court.

530 (9) (a) The court may enforce a violation of an injunction
531 for protection against stalking or cyberstalking through a civil
532 or criminal contempt proceeding, or the state attorney may
533 prosecute it as a criminal violation under s. 784.0487. The
534 court may enforce the respondent's compliance with the
535 injunction through any appropriate civil and criminal remedies,
536 including, but not limited to, a monetary assessment or a fine.
537 The clerk of the court shall collect and receive such
538 assessments or fines. On a monthly basis, the clerk shall
539 transfer the moneys collected pursuant to this paragraph to the
540 State Treasury for deposit into the Domestic Violence Trust
541 Fund.

542 (b) If the respondent is arrested by a law enforcement
543 officer under s. 901.15(6) or for a violation of s. 784.0487,
544 the respondent shall be held in custody until brought before the
545 court as expeditiously as possible for the purpose of enforcing
546 the injunction and for admittance to bail in accordance with
547 chapter 903 and the applicable rules of criminal procedure,
548 pending a hearing.

549 (10) The petitioner or the respondent may move the court to
550 modify or dissolve an injunction at any time.

551 Section 3. Section 784.0487, Florida Statutes, is created

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to read:

784.0487 Violation of an injunction for protection against stalking or cyberstalking.—

(1) If the injunction for protection against stalking or cyberstalking has been violated and the respondent has not been arrested, the petitioner may contact the clerk of the circuit court of the county in which the violation is alleged to have occurred. The clerk shall assist the petitioner in preparing an affidavit in support of reporting the violation or directing the petitioner to the office operated by the court that has been designated by the chief judge of that circuit as the central intake point for violations of injunctions for protection where the petitioner can receive assistance in the preparation of the affidavit in support of the violation.

(2) The affidavit shall be immediately forwarded by the office assisting the petitioner to the state attorney of that circuit and to such judge as the chief judge determines to be the recipient of affidavits of violations of an injunction. If the affidavit alleges that a crime has been committed, the office assisting the petitioner shall also forward a copy of the petitioner's affidavit to the appropriate law enforcement agency for investigation. No later than 20 days after receiving the initial report, the local law enforcement agency shall complete its investigation and forward a report to the state attorney. The policy adopted by the state attorney in each circuit under s. 741.2901(2) shall include a policy regarding intake of alleged violations of injunctions for protection against stalking or cyberstalking under this section. The intake shall be supervised by a state attorney who has been designated and

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581 assigned to handle stalking or cyberstalking cases. The state
582 attorney shall determine within 30 working days whether his or
583 her office will file criminal charges or prepare a motion for an
584 order to show cause as to why the respondent should not be held
585 in criminal contempt, or prepare both as alternative findings,
586 or file notice that the case remains under investigation or is
587 pending subject to some other action.

588 (3) If the court has knowledge that the petitioner or
589 another person is in immediate danger if the court does not act
590 before the decision of the state attorney to proceed, the court
591 shall immediately issue an order of appointment of the state
592 attorney to file a motion for an order to show cause as to why
593 the respondent should not be held in contempt. If the court does
594 not issue an order of appointment of the state attorney, it
595 shall immediately notify the state attorney that the court is
596 proceeding to enforce the violation through criminal contempt.

597 (4) A person who willfully violates an injunction for
598 protection against stalking or cyberstalking issued pursuant to
599 s. 784.0485, or a foreign protection order accorded full faith
600 and credit pursuant to s. 741.315, by:

601 (a) Going to, or being within 500 feet of, the petitioner's
602 residence, school, place of employment, or a specified place
603 frequented regularly by the petitioner and any named family or
604 household member;

605 (b) Committing an act of stalking or cyberstalking against
606 the petitioner;

607 (c) Committing any other violation of the injunction
608 through an intentional unlawful threat, word, or act to do
609 violence to the petitioner;

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610 (d) Telephoning, contacting, or otherwise communicating
611 with the petitioner, directly or indirectly, unless the
612 injunction specifically allows indirect contact through a third
613 party;

614 (e) Knowingly and intentionally coming within 100 feet of
615 the petitioner's motor vehicle, whether or not that vehicle is
616 occupied;

617 (f) Defacing or destroying the petitioner's personal
618 property, including the petitioner's motor vehicle; or

619 (g) Refusing to surrender firearms or ammunition if ordered
620 to do so by the court,

621
622 commits a misdemeanor of the first degree, punishable as
623 provided in s. 775.082 or s. 775.083.

624 (5) A person who suffers an injury or loss as a result of a
625 violation of an injunction for protection against stalking or
626 cyberstalking may be awarded economic damages for that injury or
627 loss by the court issuing the injunction. Damages includes costs
628 and attorney fees for enforcement of the injunction.

629 Section 4. This act shall take effect October 1, 2012.