

By Senator Joyner

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1 A bill to be entitled
2 An act relating to domestic violence; amending ss.
3 741.28 and 784.046, F.S., relating to domestic
4 violence, repeat violence, sexual violence, and dating
5 violence; defining the term "global positioning
6 monitoring device"; creating ss. 741.301 and 784.0465,
7 F.S.; providing that a court may order a respondent to
8 wear a global positioning monitoring device if it
9 appears to the court that the petitioner is the victim
10 of domestic violence, repeat violence, sexual
11 violence, or dating violence or has reasonable cause
12 to believe that he or she is in imminent danger of
13 becoming a victim of domestic violence, repeat
14 violence, sexual violence, or dating violence;
15 providing conditions for which the court may order a
16 respondent to wear a global positioning monitoring
17 device; providing that the petitioner be provided a
18 telephone contact of a law enforcement agency;
19 permitting the petitioner to terminate the electronic
20 monitoring at any time; prohibiting the court from
21 imposing sanctions on the petitioner if he or she
22 refuses to participate in or terminates the global
23 position monitoring of the respondent; requiring the
24 respondent to pay the costs associated with operating
25 the monitoring device; amending ss. 741.31 and
26 784.047, F.S.; providing that a person commits a
27 misdemeanor of the first degree if he or she removes a
28 global positioning monitoring device without the
29 permission of the court; reenacting s. 901.15(7),

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30 F.S., relating to warrantless arrest by a law
31 enforcement officer, to incorporate the amendment to
32 s. 741.31, F.S., in a reference thereto; providing an
33 effective date.

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

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37 Section 1. Present subsection (4) of section 741.28,
38 Florida Statutes, is renumbered as subsection (5), and a new
39 subsection (4) is added to that section, to read:

40 741.28 Domestic violence; definitions.—As used in ss.
41 741.28-741.31:

42 (4) "Global positioning monitoring device" means a device
43 that electronically determines and reports the location of an
44 individual by means of an ankle bracelet transmitter or similar
45 device worn by the individual which transmits latitude and
46 longitude data to monitoring authorities through global
47 positioning satellite technology, but does not contain or
48 operate any global positioning system technology, radio
49 frequency identification technology, or similar technology that
50 is implanted in or otherwise invades or violates the corporeal
51 body of the individual.

52 Section 2. Section 741.301, Florida Statutes, is created to
53 read:

54 741.301 Domestic violence; global positioning monitoring
55 device; payment of costs.—If it appears to the court that a
56 petitioner is the victim of domestic violence, as defined in s.
57 741.28, or has reasonable cause to believe that he or she is in
58 imminent danger of becoming a victim of domestic violence, the

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59 court may, in addition to issuing an injunction for protection
60 against domestic violence, order the respondent to wear a global
61 positioning monitoring device.

62 (1) In determining whether to order a respondent to wear a
63 global positioning monitoring device, the court shall consider
64 the likelihood that the respondent's participation in wearing
65 the global positioning monitoring device will deter the
66 respondent from attempting to commit an act of domestic violence
67 against the petitioner prior to trial.

68 (2) The petitioner shall be furnished with a telephone
69 contact of the local law enforcement agency in order to request
70 immediate assistance if the respondent is located within a
71 determined proximity to the petitioner.

72 (3) (a) The petitioner may request the court to terminate
73 his or her participation in the global positioning monitoring of
74 the respondent at any time.

75 (b) The court may not impose sanctions against the
76 petitioner for refusing to participate in or terminating the
77 global positioning monitoring of the respondent.

78 (4) (a) If the court requires the respondent to wear a
79 global positioning monitoring device as a condition of the
80 issuance of an injunction for protection against domestic
81 violence, the respondent shall pay the costs associated with
82 operating the monitoring device to the law enforcement agency
83 monitoring the respondent.

84 (b) A respondent may not be released from the injunction
85 for protection against domestic violence until he or she pays
86 all costs associated with wearing the monitoring device and any
87 costs incurred by the law enforcement agency in monitoring the

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88 device. The court may order the respondent to perform community
89 service work in lieu of paying the costs of monitoring.

90 Section 3. Paragraph (a) of subsection (4) of section
91 741.31, Florida Statutes, is amended to read:

92 741.31 Violation of an injunction for protection against
93 domestic violence.—

94 (4) (a) A person who willfully violates an injunction for
95 protection against domestic violence issued pursuant to s.
96 741.30, or a foreign protection order accorded full faith and
97 credit pursuant to s. 741.315, by:

98 1. Refusing to vacate the dwelling that the parties share;

99 2. Going to, or being within 500 feet of, the petitioner's
100 residence, school, place of employment, or a specified place
101 frequented regularly by the petitioner and any named family or
102 household member;

103 3. Committing an act of domestic violence against the
104 petitioner;

105 4. Committing any other violation of the injunction through
106 an intentional unlawful threat, word, or act to do violence to
107 the petitioner;

108 5. Telephoning, contacting, or otherwise communicating with
109 the petitioner directly or indirectly, unless the injunction
110 specifically allows indirect contact through a third party;

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

114 7. Defacing or destroying the petitioner's personal
115 property, including the petitioner's motor vehicle; ~~or~~

116 8. Refusing to surrender firearms or ammunition if ordered

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117 to do so by the court; or

118 9. Removing a global positioning monitoring device without
119 the written permission of the court,

120
121 commits a misdemeanor of the first degree, punishable as
122 provided in s. 775.082 or s. 775.083.

123 Section 4. Subsection (1) of section 784.046, Florida
124 Statutes, is amended to read:

125 784.046 Action by victim of repeat violence, sexual
126 violence, or dating violence for protective injunction; dating
127 violence investigations, notice to victims, and reporting;
128 pretrial release violations.—

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

130 (a) "Violence" means any assault, aggravated assault,
131 battery, aggravated battery, sexual assault, sexual battery,
132 stalking, aggravated stalking, kidnapping, or false
133 imprisonment, or any criminal offense resulting in physical
134 injury or death, by a person against any other person.

135 (b) "Repeat violence" means two incidents of violence or
136 stalking committed by the respondent, one of which must have
137 been within 6 months of the filing of the petition, which are
138 directed against the petitioner or the petitioner's immediate
139 family member.

140 (c) "Sexual violence" means any one incident of:

141 1. Sexual battery, as defined in chapter 794;

142 2. A lewd or lascivious act, as defined in chapter 800,
143 committed upon or in the presence of a person younger than 16
144 years of age;

145 3. Luring or enticing a child, as described in chapter 787;

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146 4. Sexual performance by a child, as described in chapter
147 827; or

148 5. Any other forcible felony wherein a sexual act is
149 committed or attempted,

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151 regardless of whether criminal charges based on the incident
152 were filed, reduced, or dismissed by the state attorney.

153 (d) "Dating violence" means violence between individuals
154 who have or have had a continuing and significant relationship
155 of a romantic or intimate nature. The existence of such a
156 relationship shall be determined based on the consideration of
157 the following factors:

158 1. A dating relationship must have existed within the past
159 6 months;

160 2. The nature of the relationship must have been
161 characterized by the expectation of affection or sexual
162 involvement between the parties; and

163 3. The frequency and type of interaction between the
164 persons involved in the relationship must have included that the
165 persons have been involved over time and on a continuous basis
166 during the course of the relationship.

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168 The term does not include violence in a casual acquaintanceship
169 or violence between individuals who only have engaged in
170 ordinary fraternization in a business or social context.

171 (e) "Global positioning monitoring device" means a device
172 that electronically determines and reports the location of an
173 individual by means of an ankle bracelet transmitter or similar
174 device worn by the individual which transmits latitude and

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175 longitude data to monitoring authorities through global
176 positioning satellite technology, but does not contain or
177 operate any global positioning system technology, radio
178 frequency identification technology, or similar technology that
179 is implanted in or otherwise invades or violates the corporeal
180 body of the individual.

181 Section 5. Section 784.0465, Florida Statutes, is created
182 to read:

183 784.0465 Domestic violence; global positioning monitoring
184 device; payment of costs.—If it appears to the court that a
185 petitioner is the victim of repeat violence, sexual violence, or
186 dating violence, as defined by s. 784.046, or has reasonable
187 cause to believe that he or she is in imminent danger of
188 becoming a victim of repeat violence, sexual violence, or dating
189 violence, the court may, in addition to issuing an injunction
190 for protection against repeat violence, sexual violence, or
191 dating violence, order the respondent to wear a global
192 positioning monitoring device.

193 (1) In determining whether to order a respondent to wear a
194 global positioning monitoring device, the court shall consider
195 the likelihood that the respondent's participation in wearing
196 the global positioning monitoring device will deter the
197 respondent from attempting to commit an act of repeat violence,
198 sexual violence, or dating violence against the petitioner prior
199 to trial.

200 (2) The petitioner shall be furnished with a telephone
201 contact of the local law enforcement agency in order to request
202 immediate assistance if the respondent is located within a
203 determined proximity to the petitioner.

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204 (3) (a) The petitioner may request the court to terminate
205 his or her participation in the global positioning monitoring of
206 the respondent at any time.

207 (b) The court may not impose sanctions against the
208 petitioner for refusing to participate in or terminating the
209 global positioning monitoring of the respondent.

210 (4) (a) If the court requires the respondent to wear a
211 global positioning monitoring device as a condition of the
212 issuance of an injunction for protection against repeat
213 violence, sexual violence, or dating violence, the respondent
214 shall pay the costs associated with operating the monitoring
215 device to the law enforcement agency monitoring the respondent.

216 (b) A respondent may not be released from the injunction
217 for protection against repeat violence, sexual violence, or
218 dating violence until he or she pays all costs associated with
219 wearing the monitoring device and any costs incurred by the law
220 enforcement agency in monitoring the device. The court may order
221 the respondent to perform community service work in lieu of
222 paying the costs of monitoring.

223 Section 6. Section 784.047, Florida Statutes, is amended to
224 read:

225 784.047 Penalties for violating protective injunction
226 against violators.—A person who willfully violates an injunction
227 for protection against repeat violence, sexual violence, or
228 dating violence, issued pursuant to s. 784.046, or a foreign
229 protection order accorded full faith and credit pursuant to s.
230 741.315 by:

231 (1) Refusing to vacate the dwelling that the parties share;

232 (2) Going to the petitioner's residence, school, place of

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233 employment, or a specified place frequented regularly by the
234 petitioner and any named family or household member;

235 (3) Committing an act of repeat violence, sexual violence,
236 or dating violence against the petitioner;

237 (4) Committing any other violation of the injunction
238 through an intentional unlawful threat, word, or act to do
239 violence to the petitioner; ~~or~~

240 (5) Telephoning, contacting, or otherwise communicating
241 with the petitioner directly or indirectly, unless the
242 injunction specifically allows indirect contact through a third
243 party; or

244 (6) Removing a global positioning monitoring device without
245 the written permission of the court,

246
247 commits a misdemeanor of the first degree, punishable as
248 provided in s. 775.082 or s. 775.083.

249 Section 7. For the purpose of incorporating the amendment
250 made by this act to section 741.31, Florida Statutes, in a
251 reference thereto, subsection (7) of section 901.15, Florida
252 Statutes, is reenacted to read:

253 901.15 When arrest by officer without warrant is lawful.—A
254 law enforcement officer may arrest a person without a warrant
255 when:

256 (7) There is probable cause to believe that the person has
257 committed an act of domestic violence, as defined in s. 741.28,
258 or dating violence, as provided in s. 784.046. The decision to
259 arrest shall not require consent of the victim or consideration
260 of the relationship of the parties. It is the public policy of
261 this state to strongly discourage arrest and charges of both

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262 parties for domestic violence or dating violence on each other
263 and to encourage training of law enforcement and prosecutors in
264 these areas. A law enforcement officer who acts in good faith
265 and exercises due care in making an arrest under this
266 subsection, under s. 741.31(4) or s. 784.047, or pursuant to a
267 foreign order of protection accorded full faith and credit
268 pursuant to s. 741.315, is immune from civil liability that
269 otherwise might result by reason of his or her action.

270 Section 8. This act shall take effect July 1, 2010.