

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/SB 796

INTRODUCER: Criminal Justice Committee and Senator Hill

SUBJECT: Protective Injunctions/Domestic, Repeat, Sexual, or Dating Violence

DATE: March 26, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.			JU	
3.			JA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill requires the Florida Association of Clerks of Courts, subject to available funding, to develop an automated process by which a petitioner may request notification that a respondent has been served with a protective injunction against domestic violence, repeat violence, dating violence, or sexual violence and other court actions related to the injunction. Such notification must be made within 12 hours after the sheriff or other law enforcement officer has served the protective injunction.

This bill amends sections 741.30 and 784.046 of the Florida Statutes.

II. Present Situation:

Protective Injunctions

Section 741.30(8), F.S., requires notice of service of injunctions for protection against domestic violence¹ as follows:

¹ "Domestic violence" is defined as follows: [A]ny assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

- within 24 hours after service of process of a domestic violence protective injunction upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff with jurisdiction over the petitioner's residence;
- within 24 hours after the sheriff receives a certified copy of the protective injunction, the sheriff must make information relating to the injunction available to other law enforcement agencies by electronically transmitting such information to the FDLE; and
- within 24 hours after the sheriff or other law enforcement officer makes service upon the respondent and the sheriff has been so notified, the sheriff must make such information relating to the service available to other law enforcement agencies by electronically transmitting such information to the FDLE.

Section 784.046, F.S., requires the same notice of service as above, except it applies to injunctions for protection against repeat violence,² sexual violence,³ or dating violence.⁴

Victim Notification

Section 960.001, F.S., provides guidelines for the fair treatment of victims and witnesses involved in the criminal and juvenile justice systems, including the right to information about victim notification. Victims have the right to be informed, to be present, and to be heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent that this right does not interfere with constitutional rights of the accused.

Victims (or their appropriate next of kin or designated contact) of specified offenses⁵ must be notified within 4 hours by the chief administrator (or his or her designee) of a county jail, municipal jail, juvenile detention facility, or residential commitment facility about any of the following events:

- The release of an offender from incarceration in any of the above facilities;⁶
- The release of an offender following sentencing, disposition, or furlough;⁷
- Escapes by the offender from a state correctional institution or any of the above facilities.⁸

The Department of Corrections (DOC) is required by law to notify within 30 days, and upon request, the state attorney, the victim, and the personal representative of the victim when an

² "Repeat violence" is defined as follows: two violent or stalking incidents directed at the petitioner or petitioner's immediate family by the respondent, one of which must have been within six months of the petition being filed.

³ "Sexual violence" is defined as follows: sexual battery; lewd or lascivious act upon or in the presence of a person under 16 years of age; luring or enticing a child; sexual performance by a child, or any other forcible felony involving a sexual act, regardless of whether criminal charges were filed, reduced, or dismissed.

⁴ "Dating violence" is defined as follows: violence between persons who have or had a continuing and significant romantic or intimate relationship based on specified factors, but it does not include casual acquaintance violence or ordinary business or social fraternization violence.

⁵ These offenses include homicide, sexual offense, an attempted murder or sexual offense, stalking, or domestic violence.

⁶ Section 960.001(1)(f), F.S.

⁷ *Id.*

⁸ Section 960.001(1)(p), F.S.

inmate has been approved for community work release.⁹ The DOC is also required to notify the victim six months before the release of an inmate from the DOC.¹⁰ In addition, if an inmate is a sexual offender¹¹ the DOC is required, if requested, to notify the victim of the offense, the victim's parent, legal guardian, or lawful representative if the victim is a minor, or the next of kin if the victim is a homicide victim, within 6 months prior to the anticipated release of a sexual offender, or as soon as possible if the sexual offender is released earlier than anticipated.¹²

III. Effect of Proposed Changes:

The bill requires the Florida Association of Clerks of Courts, subject to available funding, to develop an automated process by which a petitioner may request notification that a respondent has been served with a protective injunction against domestic violence, repeat violence, dating violence, or sexual violence and other court actions related to the injunction. Such notification must be made within 12 hours after the sheriff or other law enforcement officer has served the protective injunction. The notification must at least include the location, date, and time that the protective injunction was served.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁹ Section 944.605(6), F.S.

¹⁰ Section 944.605(1), F.S.

¹¹ Section 944.606, F.S., defines "sexual offender" as "a person who has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subsection."

¹² Section 944.606(3)(b), F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Since the bill's requirement for an automated notification process is subject to available funding, there should be no fiscal impact on the Florida Association of Clerks of Courts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 26, 2010:

Deletes the requirement that the sheriffs provide notification to petitioners of protective injunctions and instead, requires the Florida Association of Clerks of Courts, within available funding, to provide such notification to petitioners of domestic violence, dating violence, repeat violence, or sexual violence and other court actions related to the injunction.

B. Amendments:

None.