

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

(1) “Department” means the Florida Department of Law Enforcement.

(2) “Domestic violence” means any 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.

(3) “Family or household member” means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

(4) “Law enforcement officer” means any person who is elected, appointed, or employed by any municipality or the state or any political subdivision thereof who meets the minimum qualifications established in s. 943.13 and is certified as a law enforcement officer under s. 943.1395.

History.—s. 1, ch. 94-134; s. 1, ch. 94-135; s. 1, ch. 95-195; s. 4, ch. 97-155; s. 9, ch. 2002-55.

741.281 Court to order batterers' intervention program attendance.—If a person is found guilty of, has had adjudication withheld on, or has pled nolo contendere to a crime of domestic violence, as defined in s. 741.28, that person shall be ordered by the court to a minimum term of 1 year's probation and the court shall order that the defendant attend a batterers' intervention program as a condition of probation. The court must impose the condition of the batterers' intervention program for a defendant under this section, but the court, in its discretion, may determine not to impose the condition if it states on the record why a batterers' intervention program might be inappropriate. The court must impose the condition of the batterers' intervention program for a defendant placed on probation unless the court determines that the person does not qualify for the batterers' intervention program pursuant to s. 741.325. Effective July 1, 2002, the batterers' intervention program must be a certified program under s. 741.32. The imposition of probation under this section shall not preclude the court from imposing any sentence of imprisonment authorized by s. 775.082.

History.—s. 19, ch. 95-195; s. 2, ch. 96-392; s. 8, ch. 2001-50; s. 10, ch. 2002-55.

741.283 Minimum term of imprisonment for domestic violence.—If a person is adjudicated guilty of a crime of domestic violence, as defined in s. 741.28, and the person has intentionally caused bodily harm to another person, the court shall order the person to serve a minimum of 5 days in the county jail as part of the sentence imposed, unless the court sentences the person to a nonsuspended period of incarceration in a state correctional facility. This section does not preclude the court from sentencing the person to probation, community control, or an additional period of incarceration.

History.—s. 3, ch. 2001-50.

741.29 Domestic violence; investigation of incidents; notice to victims of legal rights and remedies; reporting.—

(1) Any law enforcement officer who investigates an alleged incident of domestic violence shall assist the victim to obtain medical treatment if such is required as a result of the alleged incident to which the officer responds. Any law enforcement officer who investigates an alleged incident of domestic violence shall advise the victim of such violence that there is a domestic violence center from which the victim may receive services. The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available on a standard form developed and distributed by the department. As necessary, the department shall revise the Legal Rights and Remedies Notice to Victims to include a general summary of s. 741.30 using simple English as well as Spanish, and shall distribute the notice as a model form to be used by all law enforcement agencies throughout the state. The notice shall include:

(a) The resource listing, including telephone number, for the area domestic violence center designated by the Department of Children and Family Services; and

(b) A copy of the following statement: "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection from domestic violence which may include, but need not be limited to, provisions which restrain the abuser from further acts of abuse; direct the abuser to leave your household; prevent the abuser from entering your residence, school, business, or place of employment; award you custody of your minor child or children; and

direct the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.”

(2) When a law enforcement officer investigates an allegation that an incident of domestic violence has occurred, the officer shall handle the incident pursuant to the arrest policy provided in s. 901.15(7), and as developed in accordance with subsections (3), (4), and (5). Whether or not an arrest is made, the officer shall make a written police report that is complete and clearly indicates the alleged offense was an incident of domestic violence. Such report shall be given to the officer’s supervisor and filed with the law enforcement agency in a manner that will permit data on domestic violence cases to be compiled. Such report must include:

(a) A description of physical injuries observed, if any.

(b) If a law enforcement officer decides not to make an arrest or decides to arrest two or more parties, the officer shall include in the report the grounds for not arresting anyone or for arresting two or more parties.

(c) A statement which indicates that a copy of the legal rights and remedies notice was given to the victim.

Whenever possible, the law enforcement officer shall obtain a written statement from the victim and witnesses concerning the alleged domestic violence. The officer shall submit the report to the supervisor or other person to whom the employer’s rules or policies require reports of similar allegations of criminal activity to be made. The law enforcement agency shall, without charge, send a copy of the initial police report, as well as any subsequent, supplemental, or related report, which excludes victim/witness statements or other materials that are part of an active criminal investigation and are exempt from disclosure under chapter 119, to the nearest locally certified domestic violence center within 24 hours after the agency’s receipt of the report. The report furnished to the domestic violence center must include a narrative description of the domestic violence incident.

(3) Whenever a law enforcement officer determines upon probable cause that an act of domestic violence has been committed within the jurisdiction the officer may arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime. The decision to arrest and charge shall not require consent of the victim or consideration of the relationship of the parties.

(4)(a) When complaints are received from two or more parties, the officers shall evaluate each complaint separately to determine whether there is probable cause for arrest.

(b) If a law enforcement officer has probable cause to believe that two or more persons have committed a misdemeanor or felony, or if two or more persons make complaints to the officer, the officer shall try to determine who was the primary aggressor. Arrest is the preferred response only with respect to the primary aggressor and not the preferred response with respect to a person who acts in a reasonable manner to protect or defend oneself or another family or household member from domestic violence.

(5) No law enforcement officer shall be held liable, in any civil action, for an arrest based on probable cause, enforcement in good faith of a court order, or service of process in good faith under this chapter arising from an alleged incident of domestic violence brought by any party to the incident.

(6) A person who willfully violates a condition of pretrial release provided in s. 903.047, when the original arrest was for an act of domestic violence as defined in s. 741.28, commits a

misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and shall be held in custody until his or her first appearance.

History.—s. 12, ch. 84-343; s. 3, ch. 91-210; s. 5, ch. 94-90; s. 2, ch. 94-134; s. 2, ch. 94-135; s. 2, ch. 95-195; s. 1, ch. 97-298; s. 279, ch. 99-8; s. 7, ch. 2000-155.

741.2901 Domestic violence cases; prosecutors; legislative intent; investigation; duty of circuits; first appearance.—

(1) Each state attorney shall develop special units or assign prosecutors to specialize in the prosecution of domestic violence cases, but such specialization need not be an exclusive area of duty assignment. These prosecutors, specializing in domestic violence cases, and their support staff shall receive training in domestic violence issues.

(2) It is the intent of the Legislature that domestic violence be treated as a criminal act rather than a private matter. For that reason, criminal prosecution shall be the favored method of enforcing compliance with injunctions for protection against domestic violence as both length and severity of sentence for those found to have committed the crime of domestic violence can be greater, thus providing greater protection to victims and better accountability of perpetrators. This provision shall not preclude such enforcement by the court through the use of indirect criminal contempt. The state attorney in each circuit shall adopt a pro-prosecution policy for acts of domestic violence, as defined in s. 741.28, and an intake policy and procedures coordinated with the clerk of court for violations of injunctions for protection against domestic violence. The filing, nonfiling, or diversion of criminal charges, and the prosecution of violations of injunctions for protection against domestic violence by the state attorney, shall be determined by these specialized prosecutors over the objection of the victim, if necessary.

(3) Prior to a defendant's first appearance in any charge of domestic violence as defined in s. 741.28, the State Attorney's Office shall perform a thorough investigation of the defendant's history, including, but not limited to: prior arrests for domestic violence, prior arrests for nondomestic charges, prior injunctions for protection against domestic and repeat violence filed listing the defendant as respondent and noting history of other victims, and prior walk-in domestic complaints filed against the defendant. This information shall be presented at first appearance, when setting bond, and when passing sentence, for consideration by the court. When a defendant is arrested for an act of domestic violence, the defendant shall be held in custody until brought before the court for admittance to bail in accordance with chapter 903. In determining bail, the court shall consider the safety of the victim, the victim's children, and any other person who may be in danger if the defendant is released.

History.—s. 4, ch. 91-210; s. 3, ch. 94-134; s. 3, ch. 94-135; s. 3, ch. 95-195.

741.2902 Domestic violence; legislative intent with respect to judiciary's role.—

(1) It is the intent of the Legislature, with respect to domestic violence cases, that at the first appearance the court shall consider the safety of the victim, the victim's children, and any other person who may be in danger if the defendant is released, and exercise caution in releasing defendants.

(2) It is the intent of the Legislature, with respect to injunctions for protection against domestic violence, issued pursuant to s. 741.30, that the court shall:

(a) Recognize that the petitioner's safety may require immediate removal of the respondent from their joint residence and that there can be inherent danger in permitting the respondent partial or periodic access to the residence.

(b) Ensure that the parties have a clear understanding of the terms of the injunction, the penalties for failure to comply, and that the parties cannot amend the injunction verbally, in writing, or by invitation to the residence.

(c) Ensure that the parties have knowledge of legal rights and remedies including, but not limited to, visitation, child support, retrieving property, counseling, and enforcement or modification of the injunction.

(d) Consider temporary child support when the pleadings raise the issue and in the absence of other support orders.

(e) Consider supervised visitation, withholding visitation, or other arrangements for visitation that will best protect the child and petitioner from harm.

(f) Enforce, through a civil or criminal contempt proceeding, a violation of an injunction for protection against domestic violence.

(g) Consider requiring the perpetrator to complete a batterers' intervention program. It is preferred that such program be certified under s. 741.32.

History.—s. 5, ch. 91-210; s. 4, ch. 94-134; s. 4, ch. 94-135; s. 13, ch. 94-170; s. 4, ch. 95-195; s. 11, ch. 2002-55.

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(1) There is created a cause of action for an injunction for protection against domestic violence.

(a) Any person described in paragraph (e), who is either the victim of domestic violence as defined in s. 741.28 or has reasonable cause to believe he or she is in imminent danger of becoming the victim of any act of domestic violence, has standing in the circuit court to file a sworn petition for an injunction for protection against domestic violence.

(b) This cause of action for an injunction may be sought whether or not any other cause of action is currently pending between the parties. However, the pendency of any such cause of action shall be alleged in the petition.

(c) In the event a subsequent cause of action is filed under chapter 61, any orders entered therein shall take precedence over any inconsistent provisions of an injunction issued under this section which addresses matters governed by chapter 61.

(d) A person's right to petition for an injunction shall not be affected by such person having left a residence or household to avoid domestic violence.

(e) This cause of action for an injunction may be sought by family or household members. No person shall be precluded from seeking injunctive relief pursuant to this chapter solely on the basis that such person is not a spouse.

(f) This cause of action for an injunction shall not require that either party be represented by an attorney.

(g) Any person, including an officer of the court, who offers evidence or recommendations relating to the cause of action must either present the evidence or recommendations in writing to the court with copies to each party and their attorney, or must present the evidence under oath at a hearing at which all parties are present.

(h) Nothing in this section shall affect the title to any real estate.

(i) The court is prohibited from issuing mutual orders of protection. This does not preclude the court from issuing separate injunctions for protection against domestic violence where each

party has complied with the provisions of this section. Compliance with the provisions of this section cannot be waived.

(j) Notwithstanding any provision of chapter 47, a petition for an injunction for protection against domestic violence may be filed in the circuit where the petitioner currently or temporarily resides, where the respondent resides, or where the domestic violence occurred. There is no minimum requirement of residency to petition for an injunction for protection.

(2)(a) Notwithstanding any other provision of law, the assessment of a filing fee for a petition for protection against domestic violence is prohibited effective October 1, 2002. However, subject to legislative appropriation, the clerk of the circuit court may, on a quarterly basis, submit to the Office of the State Courts Administrator a certified request for reimbursement for petitions for protection against domestic violence issued by the court, at the rate of \$40 per petition. The request for reimbursement shall be submitted in the form and manner prescribed by the Office of the State Courts Administrator. From this reimbursement, the clerk shall pay any law enforcement agency serving the injunction the fee requested by the law enforcement agency; however, this fee shall not exceed \$20.

(b) No bond shall be required by the court for the entry of an injunction.

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

2. All clerks' offices shall provide simplified petition forms for the injunction, any modifications, and the enforcement thereof, including instructions for completion.

3. The clerk of the court shall advise petitioners of the availability of affidavits of insolvency or indigence in lieu of payment for the cost of the filing fee, as provided in paragraph (a).

4. The clerk of the court shall ensure the petitioner's privacy to the extent practical while completing the forms for injunctions for protection against domestic violence.

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

6. Clerks of court and appropriate staff in each county shall receive training in the effective assistance of petitioners as provided or approved by the Florida Association of Court Clerks.

7. The clerk of the court in each county shall make available informational brochures on domestic violence when such brochures are provided by local certified domestic violence centers.

8. The clerk of the court in each county shall distribute a statewide uniform informational brochure to petitioners at the time of filing for an injunction for protection against domestic or repeat violence when such brochures become available. The brochure must include information about the effect of giving the court false information about domestic violence.

(3)(a) The sworn petition shall allege the existence of such domestic violence and shall include the specific facts and circumstances upon the basis of which relief is sought.

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

PETITION FOR
INJUNCTION FOR PROTECTION
AGAINST DOMESTIC VIOLENCE

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

(a) Petitioner resides at: (address)

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

(b) Respondent resides at: (last known address)

(c) Respondent's last known place of employment: (name of business and address)

(d) Physical description of respondent: _____

Race _____

Sex _____

Date of birth _____

Height _____

Weight _____

Eye color _____

Hair color _____

Distinguishing marks or scars _____

(e) Aliases of respondent: _____

(f) Respondent is the spouse or former spouse of the petitioner or is any other person related by blood or marriage to the petitioner or is any other person who is or was residing within a single dwelling unit with the petitioner, as if a family, or is a person with whom the petitioner has a child in common, regardless of whether the petitioner and respondent are or were married or residing together, as if a family.

(g) The following describes any other cause of action currently pending between the petitioner and respondent: _____

_____ The petitioner should also describe any previous or pending attempts by the petitioner to obtain an injunction for protection against domestic violence in this or any other circuit, and the results of that attempt _____

_____ Case numbers should be included if available.

(h) Petitioner is either a victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence because respondent has _____ (mark all sections that apply and describe in the spaces below the incidents of violence or threats of violence, specifying when and where they occurred, including, but not limited to, locations such as a home, school, place of employment, or visitation exchange) _____:

_____ committed or threatened to commit domestic violence defined in s. 741.28, Florida Statutes, as any 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. With the exception of persons who are parents of a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

_____ previously threatened, harassed, stalked, or physically abused the petitioner.

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

_____ threatened to conceal, kidnap, or harm the petitioner's child or children.

_____ intentionally injured or killed a family pet.

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

_____ physically restrained the petitioner from leaving the home or calling law enforcement.

_____ a criminal history involving violence or the threat of violence (if known).
_____ another order of protection issued against him or her previously or from another jurisdiction (if known).

_____ destroyed personal property, including, but not limited to, telephones or other communication equipment, clothing, or other items belonging to the petitioner.

_____ engaged in any other behavior or conduct that leads the petitioner to have reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence.

(i) Petitioner alleges the following additional specific facts: (mark appropriate sections)

_____ Petitioner is the custodian of a minor child or children whose names and ages are as follows: _____

_____ Petitioner needs the exclusive use and possession of the dwelling that the parties share.

_____ Petitioner is unable to obtain safe alternative housing because: _____

_____ Petitioner genuinely fears that respondent imminently will abuse, remove, or hide the minor child or children from petitioner because: _____

_____ (j) Petitioner genuinely fears imminent domestic violence by respondent.

(k) Petitioner seeks an injunction: (mark appropriate section or sections)

_____ Immediately restraining the respondent from committing any acts of domestic violence.

_____ Restraining the respondent from committing any acts of domestic violence.

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

_____ Awarding temporary custody of, or temporary visitation rights with regard to, the minor child or children of the parties, or prohibiting or limiting visitation to that which is supervised by a third party.

_____ Establishing temporary support for the minor child or children or the petitioner.

_____ Directing the respondent to participate in a batterers' intervention program or other treatment pursuant to s. 39.901, Florida Statutes.

_____ Providing any terms the court deems necessary for the protection of a victim of domestic violence, or any minor children of the victim, including any injunctions or directives to law enforcement agencies.

(c) Every petition for an injunction against domestic violence shall contain, directly above the signature line, a statement in all capital letters and bold type not smaller than the surrounding text, as follows:

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

(initials)

(d) If the sworn petition seeks to determine issues of custody or visitation with regard to the minor child or children of the parties, the sworn petition shall be accompanied by or shall incorporate the allegations required by s. 61.522 of the Uniform Child Custody Jurisdiction and Enforcement Act.

(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, financial

affidavit, uniform child custody jurisdiction and enforcement act affidavit, if any, notice of hearing, and temporary injunction, if any, prior to the hearing.

(5)(a) When it appears to the court that an immediate and present danger of domestic violence 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:

1. Restraining the respondent from committing any acts of domestic violence.
2. Awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.
3. On the same basis as provided in s. 61.13(2), (3), (4), and (5), granting to the petitioner temporary custody of a minor child or children.

(b) In a hearing ex parte for the purpose of obtaining such ex parte temporary injunction, no evidence other than verified pleadings or affidavits shall 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. When the only ground for denial is no appearance of an immediate and present danger of domestic violence, the court shall set a full hearing on the petition for injunction with notice at the earliest possible time. Nothing herein affects 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 shall be effective for a fixed period not to exceed 15 days. A full hearing, as provided by this section, shall be set for a date no later than the date when the temporary injunction ceases to be effective. The court may grant a continuance of the hearing before or during a hearing for good cause shown by any party, which shall include a continuance to obtain service of process. Any injunction shall be extended if necessary to remain in full force and effect during any period of continuance.

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

1. Restraining the respondent from committing any acts of domestic violence.
2. Awarding to the petitioner the exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.
3. On the same basis as provided in chapter 61, awarding temporary custody of, or temporary visitation rights with regard to, a minor child or children of the parties.
4. On the same basis as provided in chapter 61, establishing temporary support for a minor child or children or the petitioner.
5. Ordering the respondent to participate in treatment, intervention, or counseling services to be paid for by the respondent. When the court orders the respondent to participate in a batterers' intervention program, the court, or any entity designated by the court, must provide the respondent with a list of all certified batterers' intervention programs and all programs which have submitted an application to the Department of Corrections to become certified under s. 741.325, from which the respondent must choose a program in which to participate. If there are no certified batterers' intervention programs in the circuit, the court shall provide a list of acceptable programs from which the respondent must choose a program in which to participate.

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

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

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

1. The history between the petitioner and the respondent, including threats, harassment, stalking, 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 threatened to conceal, kidnap, or harm the petitioner's child or children.

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

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

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

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

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

9. 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.

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

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

(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)7. shall remain in effect until modified or dissolved. Either party may move at any time to modify or dissolve the injunction. No specific allegations are required. Such relief may be granted in addition to other civil or criminal remedies.

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

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

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

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

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

(e) An injunction for protection against domestic violence entered pursuant to this section, on its face, may order that the respondent attend a batterers' intervention program as a condition of the injunction. Unless the court makes written factual findings in its judgment or order which are based

on substantial evidence, stating why batterers' intervention programs would be inappropriate, the court shall order the respondent to attend a batterers' intervention program if:

1. It finds that the respondent willfully violated the ex parte injunction;
2. The respondent, in this state or any other state, has been convicted of, had adjudication withheld on, or pled nolo contendere to a crime involving violence or a threat of violence; or
3. The respondent, in this state or any other state, has had at any time a prior injunction for protection entered against the respondent after a hearing with notice.

It is mandatory that such programs be certified under s. 741.32.

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

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

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

(7) The court shall allow an advocate from a state attorney's office, an advocate from a law enforcement agency, or an advocate from a certified domestic violence center who is registered under s. 39.905 to be present with the petitioner or respondent during any court proceedings or hearings related to the injunction for protection, provided the petitioner or respondent has made such a request and the advocate is able to be present.

(8)(a)1. The clerk of the court shall furnish a copy of the petition, financial affidavit, uniform child custody jurisdiction and enforcement act affidavit, if any, 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. The clerk of the court shall be responsible for furnishing to the sheriff such information on the respondent's physical description and location as is required by the department to comply with the verification procedures set forth in this section. Notwithstanding any other provision of law to the contrary, the chief judge of each circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the jurisdiction to effect service. A law enforcement agency serving injunctions pursuant to this section shall use service and verification procedures consistent with those of the sheriff.

2. When an injunction is issued, if the petitioner requests the assistance of a law enforcement agency, the court may order that an officer from the appropriate law enforcement agency accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution or service of the injunction. A law enforcement officer shall accept a copy of an injunction for protection against domestic violence, certified by the clerk of the court, from the petitioner and immediately serve it upon a respondent who has been located but not yet served.

3. All orders issued, changed, continued, extended, or vacated subsequent to the original service of documents enumerated under subparagraph 1., shall be certified by the clerk of the court and delivered to the parties at the time of the entry of the order. The parties may acknowledge receipt of such order in writing on the face of the original order. In the event a party fails or refuses to acknowledge the receipt of a certified copy of an order, the clerk shall note on the original order

that service was effected. If delivery at the hearing is not possible, the clerk shall mail certified copies of the order to the parties at the last known address of each party. Service by mail is complete upon mailing. When an order is served pursuant to this subsection, the clerk shall prepare a written certification to be placed in the court file specifying the time, date, and method of service and shall notify the sheriff.

If the respondent has been served previously with the temporary injunction and has failed to appear at the initial hearing on the temporary injunction, any subsequent petition for 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) There shall be created a Domestic and Repeat Violence Injunction Statewide Verification System within the Department of Law Enforcement. The department shall establish, implement, and maintain a statewide communication system capable of electronically transmitting information to and between criminal justice agencies relating to domestic violence injunctions and repeat violence injunctions issued by the courts throughout the state. Such information must include, but is not limited to, information as to the existence and status of any injunction for verification purposes.

(c)1. Within 24 hours after the court issues an injunction for protection against domestic violence or changes, continues, extends, or vacates an injunction for protection against domestic violence, the clerk of the court must forward a certified copy of the injunction for service to the sheriff with 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 domestic violence upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff with jurisdiction over the residence of the petitioner.

3. Within 24 hours after the sheriff receives a certified copy of the injunction for protection against domestic violence, the sheriff must make information relating to the injunction available to other law enforcement agencies by electronically transmitting such information to the department.

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.

5. Within 24 hours after an injunction for protection against domestic violence is vacated, terminated, or otherwise rendered no longer effective by ruling of the court, the clerk of the court must notify the sheriff receiving original notification of the injunction as provided in subparagraph 2. That agency shall, within 24 hours after receiving such notification from the clerk of the court, notify the department of such action of the court.

(9)(a) The court may enforce a violation of an injunction for protection against domestic violence through a civil or criminal contempt proceeding, or the state attorney may prosecute it as a criminal violation under s. 741.31. The court may enforce the respondent's compliance with the injunction through any appropriate civil and criminal remedies, including, but not limited to, a monetary assessment or a fine. The clerk of the court shall collect and receive such assessments or fines. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Domestic Violence Trust Fund established in s. 741.01.

(b) If the respondent is arrested by a law enforcement officer under s. 901.15(6) or for a violation of s. 741.31, the respondent shall be held in custody until brought before the court as

expeditiously as possible for the purpose of enforcing the injunction and for admittance to bail in accordance with chapter 903 and the applicable rules of criminal procedure, pending a hearing.

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

History.—s. 1, ch. 79-402; s. 481, ch. 81-259; s. 4, ch. 82-135; s. 10, ch. 84-343; s. 1, ch. 85-216; s. 1, ch. 86-264; s. 21, ch. 87-95; s. 1, ch. 87-395; s. 6, ch. 91-210; s. 3, ch. 91-306; s. 1, ch. 92-42; s. 5, ch. 94-134; s. 5, ch. 94-135; s. 5, ch. 95-195; s. 3, ch. 96-392; s. 56, ch. 96-418; s. 5, ch. 97-155; s. 2, ch. 98-284; s. 158, ch. 98-403; ss. 12, 13, ch. 2002-55; s. 6, ch. 2002-65.

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

(1) In the event of a violation of the injunction for protection against domestic violence when there has not been an arrest, 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 either assist the petitioner in the preparation of an affidavit in support of the violation or direct the petitioner to the office operated by the court within the circuit that has been designated by the chief judge of that circuit as the central intake point for injunction violations and 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 court or judge as the chief judge of that circuit determines to be the recipient of affidavits of violation. If the affidavit alleges 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 their investigation and forward the 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 domestic violence under this section. The intake shall be supervised by a prosecutor who, pursuant to s. 741.2901(1), has been designated and assigned to handle domestic violence cases. The state attorney shall determine within 30 working days whether its office will proceed to file criminal charges, or prepare a motion for an order to show cause as to why the respondent should not be held in criminal contempt, or prepare both as alternative findings, or file notice that the case remains under investigation or is pending subject to some other action.

(3) If the court has knowledge, based on its familiarity with the case, that the petitioner, the children of the petitioner, or another person is in immediate danger if the court fails to act prior to the decision of the state attorney to prosecute, it should immediately issue an order of appointment of the state attorney to file a motion for an order to show cause as to why the respondent should not be held in contempt. If the court does not issue an order of appointment of the state attorney, it shall immediately notify the state attorney that the court is proceeding to enforce the violation through criminal contempt.

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

1. Refusing to vacate the dwelling that the parties share;
2. Going to, or being within 500 feet of, the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;
3. Committing an act of domestic violence against the petitioner;

4. Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner;
5. Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party;
6. Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle, whether or not that vehicle is occupied;
7. Defacing or destroying the petitioner's personal property, including the petitioner's motor vehicle; or
8. Refusing to surrender firearms or ammunition if ordered to do so by the court

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

(b)1. It is a violation of s. 790.233, and a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for a person to violate a final injunction for protection against domestic violence by having in his or her care, custody, possession, or control any firearm or ammunition.

2. It is the intent of the Legislature that the disabilities regarding possession of firearms and ammunition are consistent with federal law. Accordingly, this paragraph shall not apply to a state or local officer as defined in s. 943.10(14), holding an active certification, who receives or possesses a firearm or ammunition for use in performing official duties on behalf of the officer's employing agency, unless otherwise prohibited by the employing agency.

(5) Whether or not there is a criminal prosecution under subsection (4), the court shall order the respondent to attend a batterers' intervention program if it finds a willful violation of a domestic violence injunction, unless the court makes written factual findings in its judgment or order which are based on substantial evidence, stating why a batterers' intervention program would be inappropriate.

(6) Any person who suffers an injury and/or loss as a result of a violation of an injunction for protection against domestic violence may be awarded economic damages for that injury and/or loss by the court issuing the injunction. Damages includes costs and attorneys' fees for enforcement of the injunction.

History.—s. 2, ch. 86-264; s. 169, ch. 91-224; s. 6, ch. 94-134; s. 6, ch. 94-135; s. 8, ch. 95-182; s. 36, ch. 95-184; s. 6, ch. 95-195; s. 4, ch. 96-392; s. 19, ch. 96-402; s. 6, ch. 97-155; s. 3, ch. 98-284; s. 73, ch. 99-5; s. 14, ch. 2002-55.

741.315 Recognition of foreign protection orders.—

(1) As used in this section, the term "court of a foreign state" means a court of competent jurisdiction of a state of the United States, other than Florida; the District of Columbia; an Indian tribe; or a commonwealth, territory, or possession of the United States.

(2) Pursuant to 18 U.S.C. s. 2265, an injunction for protection against domestic violence issued by a court of a foreign state must be accorded full faith and credit by the courts of this state and enforced by a law enforcement agency as if it were the order of a Florida court issued under s. 741.30, s. 741.31, s. 784.046, or s. 784.047 and provided that the court had jurisdiction over the parties and the matter and that reasonable notice and opportunity to be heard was given to the person against whom the order is sought sufficient to protect that person's right to due process. Ex parte foreign injunctions for protection are not eligible for enforcement under this section unless notice and opportunity to be heard have been provided within the time required by the foreign state or tribal law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

(3) Notwithstanding s. 55.505 or any other provision to the contrary, neither residence in this state nor registration of foreign injunctions for protection shall be required for enforcement of this order by this state and failure to register the foreign order shall not be an impediment to its enforcement. The following registration procedure shall be available to protected persons who hold orders from a court of a foreign state.

(a) A protected person shall present a certified copy of a foreign order of protection to any sheriff in this state and request that the same be registered in the injunction registry. However, nothing in this section shall operate to preclude the enforcement of any order of protection determined by the law enforcement officer to be valid even if the protected person does not have a certified copy of the foreign protection order. It is not necessary that the protected person register the foreign order in the protected person's county of residence. Venue is proper throughout the state. The protected person must swear by affidavit, that to the best of the protected person's knowledge and belief, the attached certified copy of the foreign order, docket number _____, issued in the state of _____ on _____ is currently in effect as written and has not been superseded by any other order and that the respondent has been given a copy of it.

(b) The sheriff shall examine the certified copy of the foreign order and register the order in the injunction registry, noting that it is a foreign order of protection. If not apparent from the face of the certified copy of the foreign order, the sheriff shall use best efforts to ascertain whether the order was served on the respondent. The Florida Department of Law Enforcement shall develop a special notation for foreign orders of protection. The sheriff shall assign a case number and give the protected person a receipt showing registration of the foreign order in this state. There shall be no fee for registration of a foreign order.

(c) The foreign order may also be registered by local law enforcement agencies upon receipt of the foreign order and any accompanying affidavits in the same manner described in paragraphs (a) and (b).

(4)(a) Law enforcement officers shall enforce foreign orders of protection as if they were entered by a court of this state. Upon presentation of a foreign protection order by a protected person, a law enforcement officer shall assist in enforcement of all of its terms, pursuant to federal law, except matters related to child custody, visitation, and support. As to those provisions only, enforcement may be obtained upon domestication of the foreign order pursuant to ss. 55.501-55.509 unless the foreign order is a "pickup order" or "order of bodily attachment" requiring the immediate return of a child.

(b) Before enforcing a foreign protection order, a law enforcement officer should confirm the identity of the parties present and review the order to determine that, on its face, it has not expired. Presentation of a certified or true copy of the protection order shall not be required as a condition of enforcement, provided that a conflicting certified copy is not presented by the respondent or the individual against whom enforcement is sought.

(c) A law enforcement officer shall use reasonable efforts to verify service of process.

(d) Service may be verified as follows:

1. By petitioner: Petitioner may state under oath that to the best of petitioner's knowledge, respondent was served with the order of protection because petitioner was present at time of service; respondent told petitioner he or she was served; another named person told petitioner respondent was served; or respondent told petitioner he or she knows of the content of the order and date of the return hearing.

2. By respondent: Respondent states under oath that he or she was or was not served with the order.

(e) Enforcement and arrest for violation of a foreign protection order shall be consistent with the enforcement of orders issued in this state.

(f) A law enforcement officer acting in good faith under this section and the officer's employing agency shall be immune from all liability, civil or criminal, that might otherwise be incurred or imposed by reason of the officer's or agency's actions in carrying out the provisions of this section.

(g) Law enforcement shall not require petitioner to sign a registration affidavit as a condition of enforcement.

(h) A foreign order of protection shall remain in effect until the date of expiration on its face; or, if there is no expiration date on its face, a foreign order of protection shall remain in effect until expiration. If the order of protection states on its face that it is a permanent order, then there is no date of expiration.

(5) Any person who acts under this section and intentionally provides a law enforcement officer with a copy of an order of protection known by that person to be false or invalid, or who denies having been served with an order of protection when that person has been served with such order, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6) In the event 18 U.S.C. s. 2265 is held to be unconstitutional, this section shall be null and void.

History.—s. 7, ch. 97-155.

741.316 Domestic violence fatality review teams; definition; membership; duties; report by the Department of Law Enforcement.—

(1) As used in this section, the term “domestic violence fatality review team” means an organization that includes, but is not limited to, representatives from the following agencies or organizations:

- (a) Law enforcement agencies.
- (b) The state attorney.
- (c) The medical examiner.
- (d) Certified domestic violence centers.
- (e) Child protection service providers.
- (f) The office of court administration.
- (g) The clerk of the court.
- (h) Victim services programs.
- (i) Child death review teams.
- (j) Members of the business community.
- (k) County probation or corrections agencies.

(l) Any other persons who have knowledge regarding domestic violence fatalities, nonlethal incidents of domestic violence, or suicide, including research, policy, law, and other matters connected with fatal incidents.

(m) Other representatives as determined by the review team.

(2) A domestic violence fatality review team may be established at a local, regional, or state level in order to review fatal and near-fatal incidents of domestic violence, related domestic violence matters, and suicides. The review may include a review of events leading up to the

domestic violence incident, available community resources, current laws and policies, actions taken by systems and individuals related to the incident and the parties, and any information or action deemed relevant by the team, including a review of public records and records for which public records exemptions are granted. The purpose of the teams is to learn how to prevent domestic violence by intervening early and improving the response of an individual and the system to domestic violence. The structure and activities of a team shall be determined at the local level. The team may determine the number and type of incidents it wishes to review and shall make policy and other recommendations as to how incidents of domestic violence may be prevented.

(3) Each local domestic violence fatality review team shall collect data regarding incidents of domestic violence. The data must be collected in a manner that is consistent statewide and in a form determined by the Department of Law Enforcement. Each team may collect such additional data beyond that which is prescribed in the statewide data collection form as will assist in the team's review. The Department of Law Enforcement shall use the data to prepare an annual report concerning domestic violence fatalities. The report must be submitted by July 1 of each year to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.

(4) The Governor's Task Force on Domestic Violence shall provide information and technical assistance to local domestic violence fatality review teams.

(5)(a) There may not be any monetary liability on the part of, and a cause of action for damages may not arise against, any member of a domestic violence fatality review team or any person acting as a witness to, incident reporter to, or investigator for a domestic violence fatality review team for any act or proceeding undertaken or performed within the scope of the functions of the team, unless such person acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(b) This subsection does not affect the provisions of s. 768.28.

(6) All information and records acquired by a domestic violence fatality review team are not subject to discovery or introduction into evidence in any civil action or disciplinary proceeding by any department or employing agency if the information or records arose out of matters that are the subject of evaluation and review by the domestic violence fatality review team. However, information, documents, and records otherwise available from other sources are not immune from discovery or introduction into evidence solely because the information, documents, or records were presented to or reviewed by such a team. A person who has attended a meeting of a domestic violence fatality review team may not testify in any civil or disciplinary proceedings as to any records or information produced or presented to the team during meetings or other activities authorized by this section. This subsection does not preclude any person who testifies before a team or who is a member of a team from testifying as to matters otherwise within his or her knowledge.

(7) The domestic violence fatality review teams are assigned to the Department of Children and Family Services for administrative purposes.

History.—s. 1, ch. 2000-220.

741.3165 Certain information exempt from disclosure.—

(1) Any information or records otherwise confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution which are obtained by or provided to a domestic violence fatality review team conducting activities as described in s. 741.316 shall remain confidential or exempt as otherwise provided by law. Any portion of the reports produced by the domestic violence fatality review team which contains any information that is otherwise confidential or

exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution shall remain confidential or exempt as otherwise provided by law. The proceedings and meetings of any domestic violence fatality review team regarding domestic violence fatalities and their prevention, during which the identity of the victim or of the children of the victim is discussed, are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(2) The exemptions in this section apply only to records held by a domestic violence fatality review team. The exemptions contained in this section are subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and this section is repealed October 2, 2005, unless reviewed and saved from repeal through reenactment by the Legislature before that date.

History.—s. 1, ch. 2000-219.

741.32 Certification of batterers' intervention programs.—

(1) The Legislature finds that the incidence of domestic violence in Florida is disturbingly high, and despite efforts of many to curb this violence, that one person dies at the hands of a spouse, ex-spouse, or cohabitant approximately every 3 days. Further, a child who witnesses the perpetration of this violence becomes a victim as he or she hears or sees it occurring. This child is at high risk of also being the victim of physical abuse by the parent who is perpetrating the violence and, to a lesser extent, by the parent who is the victim. These children are also at a high risk of perpetrating violent crimes as juveniles and, later, becoming perpetrators of the same violence that they witnessed as children. The Legislature finds that there should be standardized programming available to the justice system to protect victims and their children and to hold the perpetrators of domestic violence accountable for their acts. Finally, the Legislature recognizes that in order for batterers' intervention programs to be successful in protecting victims and their children, all participants in the justice system as well as social service agencies and local and state governments must coordinate their efforts at the community level.

(2) There is hereby established in the Department of Children and Family Services an Office for Certification and Monitoring of Batterers' Intervention Programs. The department may certify and monitor both programs and personnel providing direct services to those persons who are adjudged to have committed an act of domestic violence as defined in s. 741.28, those against whom an injunction for protection against domestic violence is entered, those referred by the department, and those who volunteer to attend such programs. The purpose of certification of programs is to uniformly and systematically standardize programs to hold those who perpetrate acts of domestic violence responsible for those acts and to ensure safety for victims of domestic violence. The certification and monitoring shall be funded by user fees as provided in s. 741.327.

History.—s. 16, ch. 95-195; s. 37, ch. 96-312; s. 280, ch. 99-8; s. 2, ch. 2001-183.

741.325 Guideline authority.—The Department of Children and Family Services shall promulgate guidelines to govern purpose, policies, standards of care, appropriate intervention approaches, inappropriate intervention approaches during the batterers' program intervention phase (to include couples counseling and mediation), conflicts of interest, assessment, program content and specifics, qualifications of providers, and credentials for facilitators, supervisors, and trainees. The department shall, in addition, establish specific procedures governing all aspects of program operation, including administration, personnel, fiscal matters, victim and batterer records, education, evaluation, referral to treatment and other matters as needed. In addition, the rules shall establish:

(1) That the primary purpose of the programs shall be victim safety and the safety of the children, if present.

(2) That the batterer shall be held accountable for acts of domestic violence.

(3) That the programs shall be at least 29 weeks in length and shall include 24 weekly sessions, plus appropriate intake, assessment, and orientation programming.

(4) That the program be a psychoeducational model that employs a program content based on tactics of power and control by one person over another.

(5) That the programs and those who are facilitators, supervisors, and trainees be certified to provide these programs through initial certification and that the programs and personnel be annually monitored to ensure that they are meeting specified standards.

(6) The intent that the programs be user-fee funded with fees from the batterers who attend the program as payment for programs is important to the batterer taking responsibility for the act of violence, and from those seeking certification. Exception shall be made for those local, state, or federal programs that fund batterers' intervention programs in whole or in part.

(7) Standards for rejection and suspension for failure to meet certification standards.

(8) That these standards shall apply only to programs that address the perpetration of violence between intimate partners, spouses, ex-spouses, or those who share a child in common or who are cohabitants in intimate relationships for the purpose of exercising power and control by one over the other. It will endanger victims if courts and other referral agencies refer family and household members who are not perpetrators of the type of domestic violence encompassed by these standards. Accordingly, the court and others who make referrals should refer perpetrators only to programming that appropriately addresses the violence committed.

History.—s. 17, ch. 95-195; s. 3, ch. 2001-183.

741.327 Certification and monitoring of batterers' intervention programs; fees.—

(1) Pursuant to s. 741.32, the Department of Children and Family Services is authorized to assess and collect:

(a) An annual certification fee not to exceed \$300 for the certification and monitoring of batterers' intervention programs.

(b) An annual certification fee not to exceed \$200 for the certification and monitoring of assessment personnel providing direct services to persons who:

1. Are ordered by the court to participate in a domestic violence prevention program;

2. Are adjudged to have committed an act of domestic violence as defined in s. 741.28;

3. Have an injunction entered for protection against domestic violence; or

4. Agree to attend a program as part of a diversion or pretrial intervention agreement by the offender with the state attorney.

(2) All persons required by the court to attend domestic violence programs certified by the Department of Children and Family Services' Office for Certification and Monitoring of Batterers' Intervention Programs shall pay an additional \$30 fee for each 29-week program to the Department of Children and Family Services.

(3) The fees assessed and collected under this section shall be deposited in the Executive Office of the Governor's Domestic Violence Trust Fund established in s. 741.01 and directed to the Department of Children and Family Services to fund the cost of certifying and monitoring batterers' intervention programs.

History.—s. 38, ch. 96-312; s. 6, ch. 98-388; s. 5, ch. 2001-183.

Note.—Former s. 945.76.

741.401 Legislative findings; purpose.—The Legislature finds that persons attempting to escape from actual or threatened domestic violence frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of ss. 741.401-741.409 is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, to enable interagency cooperation with the Attorney General in providing address confidentiality for victims of domestic violence, and to enable state and local agencies to accept a program participant’s use of an address designated by the Attorney General as a substitute mailing address.

History.—s. 1, ch. 98-404.

741.402 Definitions; ss. 741.401-741.409.—Unless the context clearly requires otherwise, as used in ss. 741.401-741.409, the term:

(1) “Address” means a residential street address, school address, or work address of an individual, as specified on the individual’s application to be a program participant under ss. 741.401-741.409.

(2) “Program participant” means a person certified as a program participant under s. 741.403.

(3) “Domestic violence” means an act as defined in s. 741.28 and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

History.—s. 2, ch. 98-404.

741.403 Address confidentiality program; application; certification.—

(1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of a person adjudicated incapacitated under chapter 744 may apply to the Attorney General to have an address designated by the Attorney General serve as the person’s address or the address of the minor or incapacitated person. To the extent possible within funds appropriated for this purpose, the Attorney General shall approve an application if it is filed in the manner and on the form prescribed by the Attorney General and if it contains all of the following:

(a) A sworn statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, and that the applicant fears for his or her safety or his or her children’s safety or the safety of the minor or incapacitated person on whose behalf the application is made.

(b) A designation of the Attorney General as agent for purposes of service of process and for the purpose of receipt of mail.

(c) The mailing address where the applicant can be contacted by the Attorney General, and the phone number or numbers where the applicant can be called by the Attorney General.

(d) A statement that the new address or addresses that the applicant requests must not be disclosed for the reason that disclosure will increase the risk of domestic violence.

(e) The signature of the applicant and of any individual or representative of any office designated in writing under s. 741.408 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications must be filed with the Office of the Attorney General. An application fee may not be charged.

(3) Upon filing a properly completed application, the Attorney General shall certify the applicant as a program participant. Applicants shall be certified for 4 years following the date of

filing unless the certification is withdrawn or invalidated before that date. The Attorney General shall by rule establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Any person who attempts to gain access to a program participant's actual address through fraud commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Any person who knowingly enters the address confidentiality program to evade prosecution of criminal laws or civil liability commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 3, ch. 98-404.

741.404 Certification cancellation.—

(1) If the program participant obtains a name change, he or she loses certification as a program participant.

(2) The Attorney General may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the Attorney General with 14 days' prior notice of the change of address.

(3) The Attorney General may cancel certification of a program participant if mail forwarded by the Attorney General to the program participant's address is returned and is undeliverable or if service of process documents are returned to the Attorney General.

(4) The Attorney General shall cancel certification of a program participant who applies using false information.

History.—s. 4, ch. 98-404.

741.405 Agency use of designated address.—

(1) A program participant may request that state and local agencies or other governmental entities use the address designated by the Attorney General as his or her address. When creating a new public record, state and local agencies or other governmental entities shall accept the address designated by the Attorney General as a program participant's substitute address, unless the Attorney General has determined that:

(a) The agency or entity has a bona fide statutory or administrative requirement for the use of the address that would otherwise be confidential under ss. 741.401-741.409;

(b) This address will be used only for those statutory and administrative purposes;

(c) The agency or entity has identified the specific program participant's record for which the waiver is requested;

(d) The agency or entity has identified the individuals who will have access to the record; and

(e) The agency or entity has explained how its acceptance of a substitute address will prevent the agency from meeting its obligations under the law and why it cannot meet its statutory or administrative obligation by a change in its internal procedures.

(2) During the review, evaluation, and appeal of an agency's request, the agency shall accept the use of a program participant's substitute address.

(3) The Attorney General's determination to grant or withhold a requested waiver must be based on, but not limited to, an evaluation of information provided under subsection (1).

(4) If the Attorney General determines that an agency or entity has a bona fide statutory or administrative need for the actual address and that the information will be used only for that purpose, the Attorney General may issue the actual address to the agency or entity. When granting a waiver, the Attorney General shall notify and require the agency or entity to:

(a) Maintain the confidentiality of a program participant's address information;

(b) Limit the use of and access to that address;

(c) Designate an address disposition date after which the agency or entity may no longer maintain the record of the address; and

(d) Comply with any other provisions and qualifications determined appropriate by the Attorney General.

(5) The Attorney General's denial of an agency's or entity's waiver request must be made in writing and include a statement of specific reasons for denial. Acceptance or denial of an agency's or entity's waiver request shall constitute final agency action.

(6) Pursuant to chapter 120, an agency or entity may appeal the denial of its request.

(7) A program participant may use the address designated by the Attorney General as his or her work address.

(8) The Office of the Attorney General shall forward all first class mail to the appropriate program participants at no charge.

History.—s. 5, ch. 98-404.

741.406 Voting by program participant; use of designated address by supervisor of elections.—

(1) A program participant who is otherwise qualified to vote may request an absentee ballot pursuant to s. 101.62. The program participant shall automatically receive absentee ballots for all elections in the jurisdictions in which that individual resides in the same manner as absentee voters. The supervisor of elections shall transmit the absentee ballot to the program participant at the address designated by the participant in his or her application as an absentee voter. The name, address, and telephone number of a program participant may not be included in any list of registered voters available to the public.

(2) The supervisor of elections may not make the participant's name, address, or telephone number contained in voter registration records available for public inspection or copying except:

(a) To a law enforcement agency for purposes of assisting in the execution of an arrest warrant.

(b) If directed by a court order, to a person identified in the order.

History.—s. 6, ch. 98-404.

741.407 Disclosure of address prohibited; exceptions.—The Attorney General may not make a program participant's name, address, other than the address designated by the Attorney General, or telephone number available for inspection or copying, except under the following circumstances:

(1) To a law enforcement agency for purposes of assisting in the execution of an arrest warrant.

(2) If directed by a court order, to a person identified in the order.

(3) If certification has been canceled.

The Attorney General shall provide immediate written notification of disclosure to a program participant when a disclosure takes place in one of the instances described in subsection (2) or subsection (3).

History.—s. 7, ch. 98-404.

741.408 Assistance for program applicants.—The Attorney General shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence to assist persons applying to be program participants. Assistance and counseling rendered by the Office of the Attorney General or its designees to applicants does not constitute legal advice.

History.—s. 8, ch. 98-404.

741.409 Adoption of rules.—The Attorney General may adopt rules to facilitate the administration of this chapter by state and local agencies and other governmental entities.

History.—s. 9, ch. 98-404.

741.465 Address Confidentiality Program for Victims of Domestic Violence; certain information exempt from disclosure.—The addresses, corresponding telephone numbers, and social security numbers of program participants in the Address Confidentiality Program for Victims of Domestic Violence are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except the information may be disclosed under the following circumstances: to a law enforcement agency for purposes of assisting in the execution of a valid arrest warrant; if directed by a court order, to a person identified in the order; or if the certification has been canceled. For purposes of this section, the term “address” means a residential street address, school address, or work address, as specified on the individual’s application to be a program participant in the Address Confidentiality Program for Victims of Domestic Violence. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 98-405.