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## The 2012 Florida Statutes

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[Title XLVI](#)

[Chapter 784](#)

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CRIMES

ASSAULT; BATTERY; CULPABLE NEGLIGENCE

**784.0485 Stalking; 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 stalking. For the purposes of injunctions for protection against stalking under this section, the offense of stalking shall include the offense of cyberstalking.

(a) A person who is the victim of stalking or the parent or legal guardian of a minor child who is living at home who seeks an injunction for protection against stalking on behalf of the minor child has standing in the circuit court to file a sworn petition for an injunction for protection against stalking.

(b) The cause of action for an injunction for protection may be sought regardless of whether 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) The cause of action for an injunction may be sought by any affected person.

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

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

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

(2)(a) Notwithstanding any other law, the clerk of court may not assess a filing fee to file a petition for protection against stalking. 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 stalking 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 may not exceed \$20.

(b) A bond is not 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 stalking and enforcement of a violation thereof as specified in this section.

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

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

4. The clerk of the court shall provide a petitioner 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.

5. The clerk of the 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 and Comptrollers.

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

7. 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 stalking when such brochures become available. The brochure must include information about the effect of giving the court false information.

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

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

PETITION FOR INJUNCTION  
FOR PROTECTION AGAINST STALKING

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

1. Petitioner resides at: (address)

(Petitioner may furnish the 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.)

2. Respondent resides at: (last known address)

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

4. Physical description of respondent:

5. Race:

6. Sex:

7. Date of birth:

8. Height:

9. Weight:

10. Eye color:

11. Hair color:

12. Distinguishing marks or scars:

13. Aliases of respondent:

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

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

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

Committed stalking.

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

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

Intentionally injured or killed a family pet.

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

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.

(e) The petitioner seeks an injunction:

(Mark appropriate section or sections.)

Immediately restraining the respondent from committing any acts of stalking.

Restraining the respondent from committing any acts of stalking.

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

(f) Every petition for an injunction against stalking must 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)

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

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

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

(c) Any such ex parte temporary injunction is effective for a fixed period not to exceed 15 days. A full hearing, as provided in 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. An 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 the victim of stalking, the court may grant such relief as the court deems proper, including an injunction:

1. Restraining the respondent from committing any act of stalking.
2. Ordering the respondent to participate in treatment, intervention, or counseling services to be paid for by the respondent.
3. Referring a petitioner to appropriate services. The court may provide the petitioner with a list of certified domestic violence centers, certified rape crisis centers, and other appropriate referrals in the circuit which the petitioner may contact.
4. Ordering such other relief as the court deems necessary for the protection of a victim of stalking, including injunctions or directives to law enforcement agencies, as provided in this section.

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

(c) A temporary or final judgment on injunction for protection against stalking entered pursuant to this section shall, on its face, indicate:

1. That the injunction is valid and enforceable in all counties of this state.
2. That law enforcement officers may use their arrest powers pursuant to s. 901.15(6) to enforce the terms of the injunction.

3. That the court has jurisdiction over the parties and matter under the laws of this state 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 that the respondent was served with the temporary or final order, if obtainable.

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

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

(f) 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, a law enforcement agency, a certified rape crisis center, or 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 if 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, 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. When requested by the sheriff, the clerk of the court may transmit a facsimile copy of an injunction that has been certified by the clerk of the court, and this facsimile copy may be served in the same manner as a certified copy. Upon receiving a facsimile copy, the sheriff must verify receipt with the sender before attempting to serve it on the respondent. In addition, if the sheriff is in possession of an injunction for protection that has been certified by the clerk of the court, the sheriff may transmit a facsimile copy of that injunction to a law enforcement officer who shall serve it in the same manner as a certified copy. The clerk of the court shall furnish to the sheriff such information concerning the respondent's physical description and location as is required by the Department of Law Enforcement to comply with the verification procedures set forth in this section. Notwithstanding any other law, 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. If an injunction is issued and 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 to assist in the execution or service of the injunction. A law enforcement officer shall accept a copy of an injunction for protection against stalking, 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. An order 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. If 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.

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

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

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

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

5. Within 24 hours after an injunction for protection against stalking 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 Law Enforcement of such action of the court.

(9)(a) The court may enforce a violation of an injunction for protection against stalking through a civil or criminal contempt proceeding, or the state attorney may prosecute it as a criminal violation under s. [784.0487](#). Any assessments or fines ordered by the court enforcing such an injunction shall be collected by the clerk of the court and transferred on a monthly basis to the State Treasury for deposit into the Domestic Violence Trust Fund.

(b) If the respondent is arrested by a law enforcement officer under s. [901.15\(6\)](#) or for a violation of s. [784.0487](#), 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. 3, ch. 2012-153.