

CHAPTER 2018-100

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 1059

An act relating to exploitation of a vulnerable adult; amending s. 825.101, F.S.; defining terms; creating s. 825.1035, F.S.; creating a cause of action for an injunction for protection against the exploitation of a vulnerable adult; providing for standing to bring a cause of action for an injunction; providing that an injunction may be sought regardless of any other action that may be pending between specified parties; specifying that the right to petition for an injunction is not affected by a person temporarily or permanently vacating a residence or household to avoid exploitation; providing that parties to an injunction may not be required to be represented by an attorney; providing for venue; providing that exploitation already having occurred is not required as a prerequisite for filing for or issuance of an injunction; requiring that a petition be filed in certain proceedings under ch. 744, F.S.; requiring that certain proceedings be recorded; requiring a sworn petition to contain certain allegations and statements; requiring the court to set a hearing within a certain time; requiring the clerk of the circuit court to assist the petitioner in filing an injunction or petition by providing certain forms and instructions; requiring the clerk of the court to ensure the petitioner's privacy; requiring the clerk of the court to provide the petitioner with certified copies of the injunction order; requiring that the clerks of the court and appropriate staff receive certain training; requiring that the clerk of the circuit court make available certain informational brochures and create and distribute a specified brochure containing specified information to the petitioner at the time of filing for an injunction; prohibiting the clerk of the circuit court from assessing an initial filing fee; authorizing the clerk of the circuit court to request a reimbursement for such petitions, subject to the appropriation of funds for that purpose; requiring the clerk of the circuit court to pay from such reimbursement certain fees to a law enforcement agency; authorizing the court to grant a temporary injunction ex parte under certain circumstances; prohibiting the use of evidence other than verified pleadings or affidavits in an ex parte hearing; providing an exception; authorizing the court to grant specified relief under certain circumstances; requiring the court to follow certain procedures when issuing an order denying a petition for an ex parte injunction; prohibiting an ex parte temporary injunction from having a duration longer than a specified number of days; requiring that a full hearing be set for a date no later than the date the temporary injunction expires; authorizing the court to grant a continuance of the hearing for good cause; providing factors that a court must consider when determining whether petitioners have reasonable cause; requiring the respondent to be personally served with certain documents before the hearing; providing for the relief a court may grant after a final hearing on a petition; requiring that the court allow certain advocates to be present under certain circumstances; requiring

that the terms of certain injunctions remain in effect until modified or dissolved; requiring that a temporary or final judgment on an injunction meet certain requirements; providing requirements and options for service of process; authorizing the court to waive the service of process requirement for a financial institution; requiring that the clerk of the circuit court deliver a certified copy of certain orders meeting certain criteria to the parties under certain circumstances; providing options for noting the service was effective; requiring form of process upon a financial institution; requiring that the clerk of the circuit court place a written certification in the court file and notify the sheriff under certain circumstances; authorizing the clerk of the circuit court to serve certain respondents by certified mail; requiring that the clerk of the circuit court, law enforcement officers, and sheriffs follow certain procedures within a certain timeframe after an injunction has been issued or an injunction becomes ineffective; requiring the clerk of the circuit court to provide copies of certain petitions and orders to the adult protective services program; requiring the adult protective services program to treat petitions in a certain manner; requiring the adult protective services program to submit to the court the results of any previous investigations relating to the vulnerable adult within a specified timeframe; providing options for enforcing and prosecuting a violation of an injunction; requiring that the clerk of the circuit court collect any assessment or fine; providing for deposit of funds; requiring that a respondent held in custody after an arrest for violating an injunction be brought before the court as expeditiously as possible; specifying that the petitioner is liable for actual damages under certain circumstances; authorizing either party to move at any time to modify or dissolve an injunction; providing construction; creating s. 825.1036, F.S.; requiring that a clerk of the circuit court assist the petitioner in preparing an affidavit or direct the petitioner to a certain office, under certain circumstances; requiring the clerk of the circuit court or the office assisting the petitioner to immediately forward the affidavit to certain people and places depending on certain circumstances; requiring a law enforcement agency to complete its investigation and forward the affidavit along with a report of any information obtained through its investigation to the state attorney within a specified timeframe; requiring the state attorney to determine how it will proceed within a specified timeframe; authorizing the court to immediately issue an order of appointment of the state attorney in certain circumstances; requiring the court to immediately notify the state attorney that the court is proceeding to enforce the violation through a ruling of criminal contempt if the court does not issue an order of appointment; providing a penalty for a willful violation of an injunction; providing an exception; providing for how an injunction may be violated; providing that a person with two or more prior convictions for violation of an injunction or foreign protection order against the same victim who commits a subsequent violation against the same victim commits a third degree felony; defining the term “conviction”; authorizing the court to award economic damages to a person who suffers an injury or loss as a result of a violation of an injunction; limiting liability of a financial institution related to an injunction freezing assets or a credit

line; amending s. 901.15, F.S.; conforming provisions to changes made by the act; amending s. 415.107, F.S.; granting the court access to records in protective injunction proceedings; providing an effective date.

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

Section 1. Present subsections (6) through (12) of section 825.101, Florida Statutes, are renumbered as subsections (7) through (13), respectively, and a new subsection (6) and subsection (14) are added to that section, to read:

825.101 Definitions.—As used in this chapter:

(6) “Exploitation” has the same meaning as the term “exploitation of an elderly person or disabled adult” as defined in s. 825.103(1).

(14) “Vulnerable adult” has the same meaning as in s. 415.102(28).

Section 2. Section 825.1035, Florida Statutes, is created to read:

825.1035 Injunction for protection against exploitation of a vulnerable adult.—

(1) INJUNCTION CREATED.—There is created a cause of action for an injunction for protection against exploitation of a vulnerable adult.

(2) WHO MAY FILE; VENUE; RECORDING.—

(a) The cause of action may be sought in an adversary proceeding by:

1. A vulnerable adult in imminent danger of being exploited;

2. The guardian of a vulnerable adult in imminent danger of being exploited;

3. A person or organization acting on behalf of the vulnerable adult with the consent of the vulnerable adult or his or her guardian; or

4. A person who simultaneously files a petition for determination of incapacity and appointment of an emergency temporary guardian with respect to the vulnerable adult.

(b) A sworn petition for an injunction for protection against exploitation of a vulnerable adult may be filed regardless of whether any other cause of action is currently pending between either the petitioner and the respondent or the vulnerable adult and the respondent. However, the pendency of any such cause of action must be noted in the petition.

(c) A person temporarily or permanently vacating a residence or household in an attempt to avoid exploitation does not affect his or her right to petition for an injunction.

(d) Parties to an injunction for protection against exploitation of a vulnerable adult may not be required to be represented by an attorney.

(e) There is no minimum requirement of residency to petition for an injunction for protection against exploitation of a vulnerable adult. It is not required as a prerequisite of filing a petition for or issuance of an injunction under this section for exploitation to have already occurred.

(f) If a proceeding concerning the vulnerable adult under chapter 744 is pending at the time of the filing, the petition must be filed in that proceeding. Otherwise, a petition for an injunction for protection against exploitation of a vulnerable adult may only be filed in the circuit where the vulnerable adult resides.

(g) All proceedings conducted pursuant to this subsection must be recorded. Recording may be by electronic means as provided by court rule.

(3) FORM OF PETITION.—

(a) A sworn petition filed under this section must allege the existence of exploitation, or the imminent exploitation, of the vulnerable adult and must include the specific facts and circumstances for which relief is sought. The sworn petition must be in substantially the following form:

PETITION FOR INJUNCTION FOR PROTECTION
AGAINST EXPLOITATION OF A VULNERABLE ADULT

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

- 1. The vulnerable adult resides at: ...(address)...
 - 2. The respondent resides at: ...(last known address)...
 - 3. The respondent’s last known place of employment is: ...(name of business and address)....
 - 4. Physical description of the respondent:
- Race.....
- Sex.....
- Date of birth.....
- Height.....
- Weight.....
- Eye color.....

Hair color.....

Distinguishing marks or scars.....

5. Aliases of the respondent:

6. The respondent is associated with the vulnerable adult as follows:

7. The following describes any other cause of action currently pending between the petitioner and the respondent, any proceeding under chapter 744 concerning the vulnerable adult, and any previous or pending attempts by the petitioner to obtain an injunction for protection against exploitation of the vulnerable adult in this or any other circuit; related case numbers, if available; and the results of any such attempts:
.....

8. The following describes the petitioner’s knowledge of any reports made to a government agency, including, but not limited to, the Department of Elderly Affairs, the Department of Children and Families, and the adult protective services program relating to the abuse, neglect, or exploitation of the vulnerable adult; any investigations performed by a government agency relating to abuse, neglect, or exploitation of the vulnerable adult; and the results of any such reports or investigations:

9. The petitioner knows the vulnerable adult is either a victim of exploitation or the petitioner has reasonable cause to believe the vulnerable adult is, or is in imminent danger of becoming, a victim of exploitation because the respondent has: ...(describe in the spaces below the incidents or threats of exploitation)....

10. The following describes the petitioner’s knowledge of the vulnerable adult’s dependence on the respondent for care; alternative provisions for the vulnerable adult’s care in the absence of the respondent, if necessary; available resources the vulnerable adult has to access such alternative provisions; and the vulnerable adult’s willingness to use such alternative provisions:

11. The petitioner knows the vulnerable adult maintains assets, account, or lines of credit at the following financial institution(s): ...(list name, address, and account number of each)....

12. The petitioner believes that the vulnerable adult’s assets to be frozen are: ...(mark one)....

.....Worth less than \$1500;

.....Worth between \$1500 and \$5000; or

.....Worth more than \$5000;

13. The petitioner genuinely fears imminent exploitation of the vulnerable adult by the respondent.

14. The petitioner seeks an injunction for the protection of the vulnerable adult, including: ...(mark appropriate section or sections)....

.....Prohibiting the respondent from having any direct or indirect contact with the vulnerable adult.

.....Immediately restraining the respondent from committing any acts of exploitation against the vulnerable adult.

.....Freezing the assets of the vulnerable adult held at ...(name and address of depository or financial institution)... even if titled jointly with the respondent, or in the respondent's name only, in the court's discretion.

.....Freezing the credit lines of the vulnerable adult at ...(name and address of financial institution)... even if jointly with the respondent, in the court's discretion.

.....Providing any terms the court deems necessary for the protection of the vulnerable adult or his or her assets, including any injunctions or directives to law enforcement agencies.

15. Should the court enter an injunction freezing assets and credit lines, the petitioner believes that the critical expenses of the vulnerable adult will be paid for or provided by the following persons or entities, or the petitioner requests that the following expenses be paid notwithstanding the freeze: ... (for each expense, list the name of the payee, address, account number if known, amount, and a brief explanation of why payment is critical)....

(b) Each petition for an injunction for protection against exploitation of a vulnerable adult 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 ACKNOWLEDGE THAT PURSUANT TO SECTION 415.1034, FLORIDA STATUTES, ANY PERSON WHO KNOWS, OR HAS REASONABLE CAUSE TO SUSPECT, THAT A VULNERABLE ADULT HAS BEEN OR IS BEING ABUSED, NEGLECTED, OR EXPLOITED HAS A DUTY TO IMMEDIATELY REPORT SUCH KNOWLEDGE OR SUSPICION TO THE CENTRAL ABUSE HOTLINE. I HAVE REPORTED THE ALLEGATIONS IN THIS PETITION TO THE CENTRAL ABUSE HOTLINE.

I HAVE READ EACH STATEMENT MADE IN THIS PETITION AND EACH SUCH 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.

(c) Upon the filing of the petition, the court shall schedule a hearing on the petition on the earliest possible date.

(4) CLERK'S DUTIES, RESPONSIBILITIES, AND CHARGES.—

(a) The clerk of the circuit court shall assist the petitioner in filing an injunction for protection against exploitation of a vulnerable adult and any petition alleging a violation thereof.

(b) The clerk of the circuit court shall provide simplified petition forms for the injunction for protection against exploitation of a vulnerable adult, and any modifications thereto, and for the enforcement thereof, and instructions for completion of such forms.

(c) The clerk of the circuit court shall, to the extent practicable, ensure the petitioner's privacy while completing such forms.

(d) The clerk of the circuit court shall provide the petitioner with two certified copies of the petition for an injunction without charge, and shall inform the petitioner of the steps necessary for service of process and enforcement.

(e) If an injunction is entered, the clerk of the circuit court shall provide, without charge, the petitioner with certified copies of an order of injunction that may be served upon any person holding property, upon any financial institution holding property or accounts, or upon any financial institution with an open line of credit that is subject to the freeze, and shall inform the petitioner of the service of process and enforcement.

(f) The clerk of the circuit 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.

(g) The clerk of the circuit court in each county shall produce an informational brochure and provide it to the petitioner at the time of filing for an injunction for protection against exploitation of a vulnerable adult. The brochure must include information about the exploitation of vulnerable adults and the effect of providing false information to the court. The clerk of the circuit court in each county shall also make available informational brochures on the exploitation of vulnerable adults to local senior centers, local aging and disability resource centers, or appropriate state or federal agencies.

(h) The clerk of the circuit court shall provide a copy of all petitions filed pursuant to this section and all orders entered on such petitions to the adult protective services program. Within 72 hours after receipt of such orders or petitions, the adult protective services program shall submit to the court overseeing proceedings on the petition the results of any relevant investigations relating to the vulnerable adult.

(i) Notwithstanding any other provision of law, the clerk of the circuit court may not assess an initial filing fee or service charge for petitions filed under this section. However, subject to legislative appropriation, the clerk of the circuit court may, on a quarterly basis, submit a certified request for reimbursement to the Office of the State Courts Administrator for the processing of such petitions, at the rate of \$40 per petition. The request for reimbursement must be submitted in the form and manner prescribed by the office. From each reimbursement received, the clerk of the circuit court shall pay any law enforcement agency serving the injunction for protection against exploitation of a vulnerable adult the fee requested by the law enforcement agency, to not exceed \$20.

(5) TEMPORARY INJUNCTION; SERVICE; HEARING.—

(a)1. The court may grant a temporary injunction ex parte, pending a full hearing, and may grant such relief as the court deems proper if the court finds that:

a. An immediate and present danger of exploitation of the vulnerable adult exists.

b. There is a likelihood of irreparable harm and nonavailability of an adequate remedy at law.

c. There is a substantial likelihood of success on the merits.

d. The threatened injury to the vulnerable adult outweighs possible harm to the respondent.

e. Granting a temporary injunction will not disserve the public interest.

f. Such injunction provides for the vulnerable adult's physical or financial safety.

2. Such relief the court deems proper may include, but is not limited to, injunctions doing any of the following:

a. Restraining the respondent from committing any acts of exploitation against the vulnerable adult.

b. Awarding to the vulnerable adult the temporary exclusive use and possession of the dwelling that the vulnerable adult and the respondent share, or barring the respondent from the residence of the vulnerable adult. The court shall confirm the availability of any required services or alternative caregivers that may be necessary to ensure the vulnerable adult's safety.

c. Freezing any assets of the vulnerable adult in any depository or financial institution whether titled solely in the vulnerable adult's name, solely in the respondent's name, jointly with the respondent, in guardianship, in trust, or in a Totten trust, provided that:

(I) Assets held by a guardian for the vulnerable adult may be frozen only by an order entered by the court overseeing the guardianship proceeding.

(II) Assets held by a trust may be frozen only by an order of the court if all the trustees of the trust are served with process and are given reasonable notice before any hearing on the petition.

(III) Assets held solely in the name of the respondent may only be frozen on an ex parte basis if the petition and affidavit demonstrate to the court probable cause that such assets are traceable to the unlawful exploitation of the vulnerable adult, that such assets are likely to be returned to the vulnerable adult after a final evidentiary hearing, and that no other adequate remedy at law is reasonably available.

d. Freezing any line of credit of the vulnerable adult at any depository or financial institution whether listed solely in the vulnerable adult's name or jointly with the respondent.

(I) Lines of credit held by a guardian for the vulnerable adult may be frozen only by an order entered by the court overseeing the guardianship proceeding.

(II) Lines of credit held by a trust may be frozen only by an order of the court if all the trustees of the trust are served with process and are given reasonable notice before any hearing on the petition.

e. Prohibiting the respondent from having direct or indirect contact with the vulnerable adult.

f. Providing directives to law enforcement agencies.

g. If the court has ordered an asset and credit freeze, ordering that specified living expenses of the vulnerable adult continue to be paid.

h. Ordering any financial institution holding assets of the vulnerable adult to pay the clerk of the circuit court from unencumbered assets of the vulnerable adult, if any, a fee of \$75 if the assets of the petitioner are between \$1,500 and \$5,000 or a fee of \$200 if the assets are in excess of \$5,000. The court may rely on the estimate of the value of the assets in the petition when assessing the fee. The fee shall be taxed as costs against the respondent if the court enters an injunction.

(b) Except as provided in s. 90.204, in a hearing ex parte for the purpose of obtaining an ex parte temporary injunction, only verified pleadings or affidavits may be used as evidence unless the respondent appears at the hearing or has received reasonable notice of the hearing. A petition under this section shall be considered a family case for purposes of s. 90.204(4).

(c) A denial of a petition for an ex parte injunction must be by written order and must note the legal grounds for denial. When the only ground for denial is failure to demonstrate appearance of an immediate and present

danger of exploitation of a vulnerable adult, the court must set a full hearing on the petition for injunction at the earliest possible date. Nothing in this paragraph affects a petitioner's right to promptly amend any petition consistent with court rules.

(d) An ex parte temporary injunction may be effective for a fixed period not to exceed 15 days. A full hearing, as provided by this section, must 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 the hearing, for good cause shown by any party, which good cause may include a continuance to obtain service of process. An ex parte injunction is not extended beyond the initial 15 days as a result of a continuance.

(6) REASONABLE CAUSE.—In determining whether a petitioner has reasonable cause to believe that the vulnerable adult is, or is in imminent danger of becoming, a victim of exploitation, the court shall consider and evaluate all relevant factors, including, but not limited to, any of the following:

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

(b) Any history of exploitation by the respondent upon the vulnerable adult in the petition or any other vulnerable adult.

(c) Any history of the vulnerable adult being previously exploited or unduly influenced.

(d) The capacity of the vulnerable adult to make decisions related to his or her finances and property.

(e) Susceptibility of the vulnerable adult to undue influence.

(f) Any criminal history of the respondent or previous probable cause findings by the adult protective services program, if known.

(7) NOTICE OF PETITION AND INJUNCTION.—

(a) The respondent shall be personally served, pursuant to chapter 48, with a copy of the petition, notice of hearing, and temporary injunction, if any, before the final hearing.

(b) If the petitioner is acting in a representative capacity, the vulnerable adult shall also be served with a copy of the petition, notice of hearing, and temporary injunction, if any, before the final hearing.

(c) If any assets or lines of credit are ordered to be frozen, the depository or financial institution must be served as provided in s. 655.0201.

(8) FINAL HEARING ON PETITION.—

(a)1. The court may grant such relief as the court deems proper when, upon notice and hearing, it appears to the court that:

a. The vulnerable adult is the victim of exploitation or that the vulnerable adult is in imminent danger of becoming a victim of exploitation.

b. There is a likelihood of irreparable harm and nonavailability of an adequate remedy at law.

c. The threatened injury to the vulnerable adult outweighs possible harm to the respondent.

d. Where the injunction freezes assets of the respondent, the court finds probable cause that exploitation has occurred, the freeze only affects the proceeds of such exploitation, and there is a substantial likelihood that such assets will be ordered to be returned to the vulnerable adult.

e. The relief provides for the vulnerable adult's physical or financial safety.

2. Such relief may include, but need not be limited to, injunctions doing any of the following:

a. Continuing the temporary injunction in part or in whole.

b. Restraining the respondent from committing any acts of exploitation.

c. Awarding to the vulnerable adult the exclusive use and possession of the dwelling that the vulnerable adult and the respondent share or excluding the respondent from the residence of the vulnerable adult. The court shall confirm the availability of any required services or alternative caregivers that may be necessary to ensure the vulnerable adult's safety.

d. Ordering the respondent to participate in treatment, intervention, or counseling services to be paid for by the respondent.

e. Directing that assets under temporary freeze by injunction be returned to the vulnerable adult, or directing that those assets remain frozen until ownership can be determined; and directing that the temporary freeze on any line of credit be lifted.

f. Where the court has found that the respondent has engaged in exploitation of the vulnerable adult, entering a final cost judgment against the respondent and in favor of the petitioner for all taxable costs, and entering a final cost judgment against the respondent and in favor of the clerk of the circuit court for all the clerk's filing fees and service charges that were waived by operation of this section.

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

(b) The court must allow an advocate from a state attorney's office, a law enforcement agency, or the adult protective services program to be present with the petitioner or the respondent during any court proceedings or hearings related to the injunction, provided the petitioner or the respondent has made such a request and the advocate is able to be present.

(c) The terms of an injunction restraining the respondent as provided in paragraph (a) remain in effect until the injunction is modified or dissolved.

(9) PROVISIONS REQUIRED IN ANY TEMPORARY OR PERMANENT INJUNCTION.—A temporary or final judgment on an injunction must, on its face, indicate:

(a) That the injunction is valid and enforceable in all counties of this state.

(b) That law enforcement officers may use their arrest powers under s. 901.15(6) to enforce the terms of the injunction.

(c) That the court had jurisdiction over the parties and subject matter under state law and that reasonable notice and opportunity to be heard were given to the person against whom the order was sought, in a manner that was sufficient to protect that person's right to due process.

(d) If any assets or lines of credit are ordered to be frozen, the date that the depository or financial institution was served with the injunction as provided in s. 655.0201.

(e) The date the respondent was served with the petition for injunction.

(10) TRANSMITTAL TO SHERIFF; SERVICE.—

(a)1.a. The clerk of the circuit court shall furnish a copy of the petition, the financial affidavit, the notice of hearing, and any temporary injunction to the sheriff or a law enforcement agency of the county in which 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. At the request of the sheriff, the clerk of the circuit court may transmit a facsimile copy of an injunction that has been certified by the clerk of the circuit court pursuant to subparagraph 4., and this facsimile copy may be served in the same manner as a certified copy. The clerk of the circuit court shall also furnish to the sheriff such information on 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 subparagraph b.

b. Upon receiving a facsimile copy, the sheriff must verify receipt with the clerk of the circuit court before attempting to serve it upon the respondent. If the sheriff is in possession of an injunction that has been certified by the clerk of the circuit 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.

c. Notwithstanding any other provision of law, the chief judge of each judicial circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the jurisdiction to effect service. A law enforcement agency performing service pursuant to this section shall use service and verification procedures consistent with those of the sheriff.

2.a. Except where the vulnerable adult is the petitioner, the clerk of the circuit court shall furnish a copy of the petition, the financial affidavit, the notice of hearing, and any temporary injunction to the sheriff or a law enforcement agency of the county in which the vulnerable adult resides or can be found, who shall serve it upon the vulnerable adult as soon thereafter as possible on any day of the week and at any time of the day or night. At the request of the sheriff, the clerk of the circuit court may transmit a facsimile copy of an injunction that has been certified by the clerk of the circuit court pursuant to subparagraph 4., and this facsimile copy may be served in the same manner as a certified copy. The clerk of the circuit court shall also furnish to the sheriff such information on the vulnerable adult's physical description and location as is required by the Department of Law Enforcement to comply with the verification procedures set forth in sub-subparagraph b.

b. Upon receiving a facsimile copy, the sheriff must verify receipt with the clerk of the circuit court before attempting to serve it upon the vulnerable adult. If the sheriff is in possession of an injunction that has been certified by the clerk of the circuit 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.

c. Notwithstanding any other provision of law, the chief judge of each judicial circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the jurisdiction of the circuit to effect service. A law enforcement agency performing service pursuant to this section shall use service and verification procedures consistent with those of the sheriff.

3. When an injunction for protection against exploitation of a vulnerable adult is issued, if the petitioner requests that a law enforcement agency assist the vulnerable adult, the court may order that an officer from the appropriate law enforcement agency accompany the vulnerable adult and assist in the service or execution of the injunction, including returning possession of a dwelling or residence to the vulnerable adult. A law enforcement officer shall accept a copy of an injunction, certified by the clerk of the circuit court pursuant to subparagraph 4., from the petitioner and immediately serve it upon a respondent who has been located but not yet served. The law enforcement agency must also serve any injunction freezing assets on a financial institution where assets subject to dissipation are held, or where a credit line may be exploited. Service upon the depository or financial institution must be served as provided in s. 655.0201.

4. The clerk of the circuit court shall certify a copy of all orders issued, changed, continued, extended, or vacated subsequent to the original service of the original petition, notice of hearing, or temporary injunction and deliver the certified copy to the parties at the time of the entry of the order. The parties may acknowledge receipt of a certified 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 of the circuit court must note on the original petition that service was effected. If delivery at the hearing during which an order is issued is not possible, the clerk of the circuit court shall mail certified copies of the order to the parties at their respective last known mailing addresses; except that service upon a depository or financial institution must be served as provided in s. 655.0201. Service by mail is complete upon mailing. When an order is served pursuant to this subparagraph the clerk of the circuit court shall notify the sheriff of the service and prepare a written certification to be placed in the court file specifying the time, date, and method of service.

5. If the respondent has been previously served with the temporary injunction and has failed to appear at the initial hearing on the temporary injunction, any subsequent petition for an 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 exploitation of a vulnerable adult or changes, continues, extends, or vacates such an injunction, the clerk of the circuit court must forward a certified copy of the order to the sheriff with jurisdiction over the residence of the petitioner for service in accordance with this subsection.

2. Within 24 hours after service of an injunction for protection against exploitation of a vulnerable adult upon a respondent, the law enforcement officer who served the injunction must forward the written proof of service 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 exploitation of a vulnerable adult, the sheriff must make information related to the injunction available to this state's 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 exploitation of a vulnerable adult is terminated or otherwise rendered no longer effective by ruling of the court, the clerk of the circuit court must notify the sheriff receiving original notification of the injunction as provided in subparagraph

1. The sheriff shall, within 24 hours after receiving such notification from the clerk of the circuit court, notify the Department of Law Enforcement of such court action.

(11) ENFORCEMENT.—

(a) As to the respondent, the court may enforce a violation of an injunction for protection against exploitation of a vulnerable adult through a civil or criminal contempt proceeding, and the state attorney may prosecute it as a criminal violation under s. 825.1036. Any assessment or fine ordered by the court enforcing such injunction shall be collected by the clerk of the circuit court and transferred on a monthly basis to the Department of Revenue for deposit in 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. 825.1036, the respondent must be held in custody until he or she is brought before the court, which must occur as expeditiously as possible, for the purpose of enforcing the injunction for protection against exploitation of a vulnerable adult and for admittance to bail in accordance with chapter 903 and the applicable rules of criminal procedure, pending a hearing.

(12) JUDGMENT FOR DAMAGES.—Actual damages may be assessed against the petitioner in a proceeding under this section if the court finds that the petition lacks substantial fact or legal support.

(13) MODIFICATION OR DISSOLUTION OF INJUNCTION.—The petitioner, respondent, or vulnerable adult may move at any time to modify or dissolve the injunction in part or in whole. No specific allegations are required for modification or dissolution of the injunction, which may be granted in addition to other civil or criminal penalties. The court shall promptly hear a motion to modify or dissolve an injunction.

(14) LIMITATION.—Nothing in this section may affect title to real property.

Section 3. Section 825.1036, Florida Statutes, is created to read:

825.1036 Violation of an injunction for protection against exploitation of a vulnerable adult.—

(1) In the event of a violation of an injunction for protection against exploitation of a vulnerable adult when the person who violated such injunction has not been arrested, the petitioner may contact the clerk of the circuit court of the county in which the violation is alleged to have occurred. The clerk of the circuit court shall 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 which has been designated by the chief judge of the judicial 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 clerk of the circuit court or the office assisting the petitioner to the state attorney of the circuit and to the court or judge as the chief judge of the circuit determines to be the recipient of affidavits of violation. If the affidavit alleges that a crime has been committed, the clerk of the circuit court or the office assisting the petitioner shall also forward a copy of the affidavit to the appropriate law enforcement agency for investigation. Within 20 days after receipt of the affidavit, the local law enforcement agency shall complete its investigation and forward the affidavit and a report containing the agency's findings to the state attorney. The state attorney shall determine within 30 business days whether its office will proceed to file criminal charges, prepare a motion for an order to show cause as to why the respondent should not be held in criminal contempt, prepare both as alternative findings, or file notice that the case remains under investigation or is pending subject to another action.

(3) If, based on its familiarity with the case, the court has knowledge that the vulnerable adult is in immediate danger if the court fails to act before 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 a ruling of criminal contempt.

(4)(a) Except as provided in paragraph (b), a person who willfully violates an injunction for protection against exploitation of a vulnerable adult commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person may violate such injunction by:

1. Refusing to vacate the dwelling shared with the vulnerable adult;
2. Going to or being within 500 feet of the vulnerable adult's residence;
3. Exploiting or unduly influencing the vulnerable adult;
4. Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the vulnerable adult;
5. Telephoning, contacting, or otherwise communicating with the vulnerable adult directly or indirectly, unless the injunction specifically allows indirect contact through a third party;
6. Knowingly and intentionally coming within 100 feet of the vulnerable adult's motor vehicle, regardless of whether that vehicle is occupied; or
7. Defacing or destroying the vulnerable adult's personal property.

(b) A person who has two or more prior convictions for violation of an injunction or foreign protection order against the same victim, and who subsequently commits a violation of any injunction or foreign protection order against the same victim, commits a felony of the third degree,

punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this paragraph, the term “conviction” means a determination of guilt which is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

(5) A vulnerable adult who suffers an injury or loss as a result of a violation of an injunction for protection against exploitation of a vulnerable adult may be awarded economic damages and attorney fees and costs for enforcement of such injunction.

(6) A financial institution holding assets or having issued a line of credit ordered to be frozen under s. 825.1035 is not considered a party to the action and is not liable for damages or penalty by reason of any action or inaction made in accordance with s. 825.1035. No private cause of action may be brought against a financial institution for any action or inaction made pursuant to an injunction or any other court order entered pursuant to s. 825.1035, unless such action was a knowing and intentional violation of the injunction.

Section 4. Subsection (6) of section 901.15, Florida Statutes, is amended to read:

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

(6) There is probable cause to believe that the person has committed a criminal act according to s. 790.233 or according to s. 741.31, ~~or s. 784.047, or s. 825.1036~~ which violates an injunction for protection entered pursuant to s. 741.30, ~~or s. 784.046, or s. 825.1035~~ or a foreign protection order accorded full faith and credit pursuant to s. 741.315, over the objection of the petitioner, if necessary.

Section 5. Paragraph (e) of subsection (3) of section 415.107, Florida Statutes, is amended to read:

415.107 Confidentiality of reports and records.—

(3) Access to all records, excluding the name of the reporter which shall be released only as provided in subsection (6), shall be granted only to the following persons, officials, and agencies:

(e) A court, pursuant to s. 825.1035(4)(h); or by subpoena, upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access must be limited to inspection in camera, unless the court determines that public disclosure of the information contained in such records is necessary for the resolution of an issue then pending before it.

Section 6. This act shall take effect July 1, 2018.

Approved by the Governor March 23, 2018.

Filed in Office Secretary of State March 23, 2018.