

**314.4 INJUNCTIONS FOR PROTECTION AGAINST DOMESTIC VIOLENCE, REPEAT VIOLENCE, SEXUAL VIOLENCE, AND DATING VIOLENCE**

I. DISCUSSION: The purpose of this directive is to establish guidelines for providing information to law enforcement officers, who are often the first contacts between the victim of domestic violence and the criminal justice system.

II. DEFINITIONS:

A. Domestic Violence, Repeat Violence, Sexual Violence or Dating Violence Injunctions Generally: A court order requiring a family or household member to do, or refrain from doing, a specific act. A temporary injunction may be issued by the court without a hearing and is in effect for a maximum of fifteen days unless extended by the court; however, once the final hearing takes place and a permanent injunction is granted, the temporary injunction will stay in full force until the permanent injunction can be served. A permanent injunction may be issued following a properly noticed hearing and is effective for the time period specified in the injunction.

1. Injunction for Protection Against Domestic Violence: Is an injunction issued by the court to any person who has suffered or has reasonable cause to believe he/she will suffer an act of domestic violence.

2. Injunction for Protection Against Repeat Violence: Is an injunction issued by the court to any person who has been the victim of at least two incidents of violence or stalking by the respondent. One of the incidents must have occurred within the last six months.

3. Injunction for Protection Against Sexual Violence: Is an injunction to protect a victim against a perpetrator of one of the sexual offenses specified in F.S. §784.046(1)(c).

4. Injunction for Protection Against Dating Violence: Is an injunction to protect a victim against violence perpetrated by someone with whom the victim had a dating relationship within the past 6 months as defined in F.S. §784.046(1)(d).

B. Petitioner: The victim of a domestic violence, repeat violence, sexual violence or dating violence incident who has filed for and received a domestic violence injunction, repeat violence injunction, sexual violence injunction or dating violence injunction.

C. Respondent: The person against whom the domestic violence, repeat violence, sexual violence or dating violence injunction is to be served.

- D. Section 901.15(6), F.S.: (not a chargeable statute): Grants authority to make a full custodial arrest on probable cause (without a warrant) for criminal violations of injunctions entered pursuant to §§741.30 and 784.046, F.S.
- E. Section 741.30, F.S.: Statutorily allows a victim of domestic violence to seek an injunction for protection through the courts.
- F. Section 741.31, F.S. (Criminal): Charging statute utilized for violation of the provisions set forth in a domestic violence injunction, issued pursuant to §§ 741.30, F.S., by:
1. Refusing to vacate the dwelling shared by the parties;
  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. (Note: The petitioner's place of residence is any place he/she resides, not necessarily a shared dwelling with the respondent);
  3. Committing an act of domestic violence against a 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 the 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.
  9. It is a violation of 790.233, F.S., for a person under a final injunction for protection against Domestic Violence to have in his/her care, custody, possession, or control, any firearm or ammunition. A limited exception is made for police officers performing official duties.
- G. Section 784.046, F.S.: Statutorily allows the victim of repeated acts of violence to seek an injunction for protection against repeat violence, sexual violence, or dating violence through the courts.

H. Section 784.047, F.S.: Charging statute utilized for willful violation of the provisions of an injunction against repeat violence, sexual violence or dating violence relating to:

1. Refusing to vacate the dwelling shared by the parties;
2. Going to the petitioner's residence, school, place of employment, or any specified place frequented regularly by the petitioner and any named family or household member;
3. Committing an act of repeat violence, sexual violence or dating 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. It is a violation of 790.233, for a person under a final injunction for protection against them, to have in their care, custody, possession, or control any firearm or contraband.

I. Violation of Condition of Bond, Section 741.29(6), F.S.: A person who willfully violates a condition of pretrial release provided in 903.047 F.S., when the original arrest was for an act of domestic violence commits a first degree misdemeanor. E.g.: Defendant is on bond for domestic battery against a victim, and a condition of the bond is no contact with that victim. If the officer observes the subjects together, the defendant can be arrested.

A violation of any of these provisions is a misdemeanor of the first degree for which officers may arrest based on probable cause.

### III. PROCEDURES:

A. Service of Domestic Violence, Repeat Violence, Sexual Violence or Dating Violence Injunctions: Law enforcement officers responding to a domestic violence, repeat violence, sexual violence or dating violence situation finding a person who has an original or certified copy of an injunction for protection should take the following steps:

1. Determine if the injunction has been served by telephoning the Hillsborough County Sheriff's Office Communications Center at (813) 247-8249. If it has been served, the officer should enforce the violation as outline in section III.B.

2. If the injunction has not been served, the officer should take one of the petitioner's certified copies and **read** it to the respondent **before** he/she is given a copy. Officer should verify the respondent's identity and document in the street check how he/she was identified.
3. The officer will then notify the Tampa Police Department Communications Pick-up desk and request that they notify the Hillsborough County Sheriff's Office Communication Center via teletype. The teletype should include:
  - a. The injunction case number;
  - b. The petitioner and respondent;
  - c. The address where the respondent was served;
  - d. The serving officer's name, and badge number; and
  - e. The date and time of the service.

NOTE: Officers will only serve injunctions, in person, to the respondent.

4. The completed signed instruction form will be placed in an envelope and marked "HCSO Court Process Bureau – Served Injunction" and placed in the SAO basket located in each district office for pick-up by the SAO Liaison who will transport the forms to the HCSO Court Process Bureau at 700 Twiggs Street, 3<sup>rd</sup> Floor.
5. In all cases where an officer has served an injunction:
  - a. A street check will be completed documenting the event.
  - b. The street check will be labeled as a warning issued for type and reason.
  - c. In the remarks section should appear the type of injunction served (i.e. domestic violence, repeat violence, etc.).
  - d. The petitioner will be entered as the complainant and the respondent as the subject.

e. All information should be completed as thoroughly as possible to include a current address for the respondent.

6. If an officer was presented with a Domestic Violence, Repeat Violence, Sexual Violence or Dating Violence Injunction for service but was unable to serve the respondent, the officer will document call notes with the reason the respondent was unable to be served (i.e.: respondent left the scene prior to being served) and the paperwork will be returned to the petitioner.

B. Enforcement of Domestic Violence, Repeat Violence, Sexual Violence or Dating Violence Injunctions:

1. Injunctions Issued by Florida Courts:

a. Law enforcement officers, who are requested to enforce a domestic violence, repeat violence, sexual violence or dating violence injunction shall first ascertain whether the injunction is valid. This can be done by reviewing a copy of the injunction that the petitioner possesses; however, the officer must run a check on the respondent through the FCIC computer. Valid injunctions are logged into the FCIC computer and its validity should be noted by using the operator number. If there is a reason to believe that the injunction was recently served (not in FCIC), the officer should call the HCSO Communication Center, to check on its validity, again using the operator's number for confirmation.

b. All domestic violence, repeat violence, sexual violence or dating violence injunctions served in the State of Florida are enforceable throughout the state, and should be validated through the FCIC computer.

2. Injunctions Issued by Other Courts:

a. Injunctions issued by courts of other states, the District of Columbia, U.S. territories, or reservations are valid and enforceable in Florida pursuant to F.S. §741.315. No court proceeding in Florida is necessary; however, in order to be enforced the following conditions must be met:

- 1) The injunction must be valid on its face and not expired;
- 2) The injunction must have been issued following a hearing at which the respondent attended or had notice and the opportunity to attend; and
- 3) The injunction must have been served on the respondent.

- b. Whenever possible, contact the issuing court to confirm the validity of the injunction prior to making an arrest.
  - c. Foreign injunctions once verified are enforced in the same manner as injunctions issued by Florida Courts.
  - d. Foreign injunctions can be verified by swearing-in any party, i.e., petitioner, respondent, family member, friend, etc. and then their swearing by affidavit to the injunction's validity. See F.S. §741.315.
3. If the respondent commits another act of domestic, repeat, sexual or dating violence against the petitioner, the appropriate charges should reflect *Violation of Domestic Violence, Repeat Violence, Sexual Violence or Dating Violence Injunction* (F.S. §741.31., §784.047., or §784.046) along with any other criminal acts committed (e.g., battery, assault, etc.). Both charges should be placed on the same affidavit.
4. If the officer has probable cause to believe that a criminal violation of an injunction has occurred, but the respondent is not present upon the officer's arrival, the officer shall complete a report and a Criminal Report Affidavit. The probable cause portion of the CRA will reflect specifically which section of the injunction was violated. The affidavit will be used to place a misdemeanor probable cause pick-up for the respondent. The case will be referred.
5. It should be realized that some conditions of the petition are civil in nature. Officers should not arrest the respondent for a violation unless it is listed above. For civil violations, the petitioner should be referred to the Clerk of the Court for filing a motion for an Order to Hold the Respondent in Contempt.
6. The petitioner CAN NOT be arrested or charged for violating their own injunction under any circumstances. The injunction remains in full force against the respondent under any and all circumstances unless removed by the courts.

Supersedes SOP 314.4, dated 12/23.