

Supreme Court of Florida

No. SC13-305

IN RE: AMENDMENTS TO FLORIDA SUPREME COURT APPROVED FAMILY LAW FORMS.

[July 3, 2014]

PER CURIAM.

This matter is before the Court for consideration of proposed amendments to the Florida Supreme Court Approved Family Law Forms. We have jurisdiction.

See art. V, § 2(a), Fla. Const.

Previously, in this case, the Court adopted three new forms relating to a new cause of action for protection against stalking and revisions to ten existing forms regarding domestic, repeat, dating, and sexual violence. The new and revised forms were necessitated by then recent legislation. See ch. 2012-153, §§ 3, 4, Laws of Fla. (amending chapter 784, Florida Statutes, and creating cause of action for an injunction for protection against stalking) (effective October 1, 2012). The new and amended forms were published for comment.

After consideration of the comments filed and receiving input from the Advisory Workgroup on the Florida Supreme Court Approved Family Law Forms (Workgroup), we adopt additional amendments to forms 12.980(b)(1) and 12.980(u). The “Findings” section of Form 12.980(b)(1) (Order Setting Hearing on Petition for Injunction Without Issuance of an Interim Temporary Injunction), is amended to better reflect the findings that should be made by the trial court when it denies an ex parte temporary injunction and sets a hearing on the petition for an injunction. Form 12.980(u) (Temporary Injunction for Protection Against Stalking), is amended to delete a provision requiring the respondent “to participate in treatment, intervention, or counseling services to be paid for by the respondent.”

Accordingly, Florida Supreme Court Approved Family Law Forms 12.980(b)(1) and 12.980(u) are amended, as set forth in the appendix to this opinion. The amended forms are fully engrossed and ready for use. The forms may also be accessed and downloaded from the Florida State Courts’ website at www.flcourts.org/resources-and-services/family-courts/family-law-self-help-information/family-law-forms.shtml. By adoption of the amended forms, we express no opinion as to their correctness or applicability. The forms shall become effective immediately upon release of this opinion.

It is so ordered.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON, PERRY, JJ., CONCUR.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceeding – Florida Supreme Court Approved Family Law Forms

APPENDIX

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____

Division: _____

Petitioner,

and

Respondent.

**ORDER SETTING HEARING ON PETITION FOR INJUNCTION
FOR PROTECTION AGAINST
() DOMESTIC VIOLENCE () REPEAT VIOLENCE
() DATING VIOLENCE () SEXUAL VIOLENCE () STALKING
WITHOUT ISSUANCE OF AN INTERIM TEMPORARY INJUNCTION**

A Petition for Injunction for Protection Against: Domestic Violence filed under section 741.30, Florida Statutes; Repeat, Dating, or Sexual Violence filed under section 784.046, Florida Statutes; or Stalking filed under section 784.0485, Florida Statutes, has been reviewed. This Court has jurisdiction of the parties and of the subject matter. Upon review of the Petition, this Court concludes that a **Temporary** Injunction for Protection Against Domestic Violence; Repeat, Dating, or Sexual Violence; or Stalking, pending the hearing scheduled below, **NOT** be entered at this time but that an injunction may be entered after the hearing, depending on the findings made by the Court at that time.

FINDINGS

The Court finds that based upon the facts, as stated in the Petition alone and without a hearing on the matter, there is no appearance of an immediate and present danger of domestic violence; repeat, dating, or sexual violence; or stalking, or that stalking exists. Therefore, there is not a sufficient factual basis upon which the court can enter a Temporary Injunction for Protection Against Domestic, Repeat, Dating, or Sexual Violence, or Stalking, prior to a hearing. A hearing is scheduled on the Petition for Injunction for Protection Against Domestic, Repeat, Dating, or Sexual Violence, or Stalking, in Section II of this Order. Petitioner may amend or supplement the Petition at any time to state further reasons why a Temporary Injunction should be ordered which would be in effect until the hearing scheduled below.

NOTICE OF HEARING

Petitioner and Respondent are ordered to appear and testify at a hearing on the Petition for Injunction

Florida Supreme Court Approved Family Law Form 12.980(b)(1), Order Setting Hearing on Petition for Injunction for Protection Against Domestic Violence, Repeat Violence, Dating Violence, Sexual Violence, or Stalking, without Issuance of an Interim Temporary Injunction (07/14)

for Protection Against Domestic, Repeat, Dating, or Sexual Violence, or Stalking on:
{date} _____, at ____ a.m./p.m. at {location} _____
at which time the Court will consider whether a Final Judgment of Injunction for Protection Against Domestic, Repeat, Dating, or Sexual Violence, or Stalking should be entered. If entered, the injunction will remain in effect until a fixed date set by the Court or until modified or dissolved by the Court. At the hearing, the Court will determine whether other things should be ordered, including, for example, such matters as time-sharing and support.

If Petitioner and/or Respondent do not appear, orders may be entered, including entry of a permanent injunction and the imposition of court costs. Petitioner and Respondent will be bound by the terms of any injunction or order issued at the final hearing.

IF EITHER PETITIONER OR RESPONDENT DO NOT APPEAR AT THE FINAL HEARING, HE OR SHE WILL BE BOUND BY THE TERMS OF ANY INJUNCTION OR ORDER ISSUED IN THIS MATTER.

All witnesses and evidence, if any, must be presented at this time. In cases where temporary support issues have been alleged in the pleadings, each party is ordered to bring his or her financial affidavit (Florida Family Law Rules of Procedure Form 12.902(b) or (c)), tax return, pay stubs, and other evidence of financial income to the hearing.

NOTICE: Because this is a civil case, there is no requirement that these proceedings be transcribed at public expense.

YOU ARE ADVISED THAT IN THIS COURT:

- a. ____ a court reporter is provided by the court.
- b. ____ electronic recording only is provided by the court. A party may arrange in advance for the services of and provide for a court reporter to prepare a written transcript of the proceedings at that party's expense.
- c. ____ in repeat, dating, and sexual violence cases, no electronic recording or court reporting services are provided by the court. A party may arrange in advance for the services of and provide for a court reporter to prepare a written transcript of the proceedings at that party's expense.

A RECORD, WHICH INCLUDES A TRANSCRIPT, MAY BE REQUIRED TO SUPPORT AN APPEAL. THE PARTY SEEKING THE APPEAL IS RESPONSIBLE FOR HAVING THE TRANSCRIPT PREPARED BY A COURT REPORTER. THE TRANSCRIPT MUST BE FILED WITH THE REVIEWING COURT OR THE APPEAL MAY BE DENIED

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provisions of certain assistance. Please contact:

***{identify applicable court personnel by name, address, and telephone number}* at least 7 days before your scheduled court appearance , or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.**

Nothing in this order limits Petitioner's rights to dismiss the petition.

DONE AND ORDERED in _____, Florida, on _____.

CIRCUIT JUDGE

COPIES TO:

Petitioner: _____ by hand delivery in open Court
_____ by U.S. mail

Respondent: _____ forwarded to sheriff for service

Other: _____

I CERTIFY the foregoing is a true copy of the original **Order Setting Hearing on Petition for Injunction** as it appears on file in the office of the Clerk of the Circuit Court of _____ County, Florida, and that I have furnished copies of this order as indicated above.

CLERK OF THE CIRCUIT COURT

(SEAL)

By: _____
Deputy Clerk

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

Petitioner,

and

Respondent.

TEMPORARY INJUNCTION FOR PROTECTION AGAINST STALKING

The Petition for Injunction for Protection Against Stalking under Section 784.0485, Florida Statutes, and other papers filed in this Court have been reviewed. Under the laws of Florida, the Court has jurisdiction of the Petitioner and the subject matter, and has jurisdiction of the Respondent upon service of the temporary injunction. The term Petitioner as used in this injunction includes the person on whose behalf this injunction is entered.

It is intended that this protection order meet the requirements of 18 U.S.C. Section 2265 and therefore intended that it be accorded full faith and credit by the court of another state or Indian tribe and enforced as if it were the order of the enforcing state or of the Indian tribe.

SECTION I. NOTICE OF HEARING

Because this Temporary Injunction for Protection Against Stalking has been issued without notice to Respondent, Petitioner and Respondent are instructed that they are scheduled to appear and testify at a hearing regarding this matter on {date} _____, at _____ a.m./p.m., when the Court will consider whether it should issue a Final Judgment of Injunction for Protection Against Stalking, which shall remain in effect until modified or dissolved by the Court, and whether other things should be ordered. The hearing will be before The Honorable {name} _____, at the following address:

_____, Florida.

If Petitioner and/or Respondent do not appear, this temporary injunction may be continued in force, extended, or dismissed, and/or additional orders may be granted, including entry of a permanent injunction and the imposition of court costs. All witnesses and evidence, if any, must be presented at this time. **Petitioner and Respondent will be bound by the terms of any injunction or order issued at the final hearing.**

IF EITHER PETITIONER OR RESPONDENT DO NOT APPEAR AT THE FINAL HEARING, HE OR SHE WILL BE BOUND BY THE TERMS OF ANY INJUNCTION OR ORDER ISSUED IN THIS MATTER.

NOTICE: Because this is a civil case, there is no requirement that these proceedings be transcribed at public expense.

YOU ARE ADVISED THAT IN THIS COURT:

a. ____ a court reporter is provided by the court.

b. ____ electronic recording only is provided by the court. A party may arrange in advance for the services of and provide for a court reporter to prepare a written transcript of the proceedings at that party's expense.

A RECORD, WHICH INCLUDES A TRANSCRIPT, MAY BE REQUIRED TO SUPPORT AN APPEAL. THE PARTY SEEKING THE APPEAL IS RESPONSIBLE FOR HAVING THE TRANSCRIPT PREPARED BY A COURT REPORTER. THE TRANSCRIPT MUST BE FILED WITH THE REVIEWING COURT OR THE APPEAL MAY BE DENIED.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact _____

***{identify applicable court personnel by name, address, and telephone number}* at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.**

SECTION II. FINDINGS

The statements made under oath by Petitioner make it appear that Section 784.0485, Florida Statutes, applies to the parties, and that stalking exists.

SECTION III. TEMPORARY INJUNCTION AND TERMS

This injunction shall be in effect until the hearing set above and in no event for longer than 15 days, unless extended by court order. If a final order of injunction is issued, the terms of this temporary injunction will be extended until service of the final injunction is effected upon Respondent. This injunction is valid and enforceable in all counties of the State of Florida. The terms of this injunction may not be changed by either party alone or by both parties together. Only the Court may modify the terms of this injunction. Either party may ask the Court to change or end this injunction.

Willful violation of the terms of this injunction, such as: committing an act of stalking against Petitioner; going to or being within 500 feet of Petitioner's residence, place of employment, school, or other place prohibited in this injunction; knowingly and intentionally coming within 100 feet of Petitioner's motor vehicle, whether or not that vehicle is occupied; committing any other violation of this injunction through an intentional unlawful threat, word or act to do violence to Petitioner; telephoning, contacting or communicating with Petitioner, unless indirect contact through a third party is specifically allowed by this injunction; defacing or destroying Petitioner's personal property, including Petitioner's motor vehicle; or refusing to surrender firearms or ammunition if ordered to so by the Court, constitutes a misdemeanor of the first degree punishable as provided by Sections 775.082 and 775.083, Florida Statutes.

Any party violating this injunction may be subject to civil or indirect criminal contempt proceedings, including the imposition of a fine or imprisonment, and also may be charged with a crime punishable by a fine, jail, or both, as provided by Florida Statutes.

ORDERED and ADJUDGED:

1. **Prohibited Actions.** Respondent shall not commit, or cause any other person to commit, any acts of stalking against Petitioner, including stalking, cyberstalking, aggravated stalking, or any criminal offense resulting in physical injury or death. Respondent shall not commit any other violation of this injunction through an intentional unlawful threat, word, or act to do violence to Petitioner.

2. **No Contact.** Respondent shall have no contact with the Petitioner unless otherwise provided in this section.

a. Unless otherwise provided herein, Respondent shall have **no** contact with Petitioner. Respondent shall not directly or indirectly contact Petitioner in person, by mail, e-mail, fax, telephone, through another person, or in any other manner, including any electronic means or use of social media. Further, Respondent shall not contact or have any third party contact anyone connected with Petitioner's employment or school to inquire about Petitioner or to send any messages to Petitioner. Unless otherwise provided herein, **Respondent shall not go to, in, or within 500 feet of:**

b. Petitioner's current residence *{list address}* _____

or any residence to which Petitioner may move;

c. Petitioner's current or any subsequent place of employment *{list address of current employment}* _____

d. where Petitioner attends school *{list address of school}* _____
_____ ; or

e. the following other places (if requested by Petitioner) where Petitioner, specific members of Petitioner's family, or individuals closely associated with Petitioner, regularly frequent: _____

_____.

f. Respondent **shall not** knowingly and intentionally come within 100 feet of Petitioner's motor vehicle at any time, whether or not that vehicle is occupied;

g. Other provisions regarding contact: _____

_____.

3. **Firearms.**

*{Initial **all** that apply; write N/A if not applicable}*

a. ___ Respondent is a state or local officer, as defined in section 943.10(14), Florida Statutes, who holds 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, and is not prohibited by the court from having in his or her care, possession, or control any firearm or ammunition.

b. ___ Respondent shall not use or possess a firearm or ammunition.

c. ___ Respondent shall surrender any firearms and ammunition in the Respondent's possession to the _____ County Sheriff's Department.

d. ___ Other directives relating to firearms and ammunition: _____

_____.

4. **Mailing Address.** Respondent shall notify the Clerk of the Court of any change in his or her mailing address within 10 days of the change. All further papers (excluding pleadings requiring personal service) shall be served by mail to Respondent's last known address of record. Such service by mail shall be complete upon mailing. Rule 12.080, Florida Family Law Rules of Procedure; Section 784.0485, Florida Statutes.

5. **Additional order(s) necessary to protect Petitioner from stalking:**

_____.

6. **Referral to Appropriate Services for Petitioner:**

Petitioner may contact the following services as needed:

_____.

SECTION IV. OTHER SPECIAL PROVISIONS

(This section to be used for inclusion of local provisions approved by the chief judge as provided in Florida Family Law Rule 12.610.)

SECTION V. DIRECTIONS TO LAW ENFORCEMENT OFFICER IN ENFORCING THIS INJUNCTION

(Unless ordered otherwise by the judge, all provisions in this injunction are considered mandatory provisions and should be interpreted as part of this injunction.)

1. The Sheriff of _____ County, or any other authorized law enforcement officer, is ordered to serve this temporary injunction upon Respondent as soon as possible after its issuance.
2. **This injunction is valid and enforceable in all counties of the State of Florida.** Violation of this injunction should be reported to the appropriate law enforcement agency. Law enforcement officers of the jurisdiction in which a violation of this injunction occurs shall enforce the provisions of this injunction and are authorized to arrest without a warrant pursuant to Section 901.15, Florida Statutes, for any violation of its provisions, which constitutes a criminal act under Section 784.0487, Florida Statutes.
3. **THIS INJUNCTION IS ENFORCEABLE IN ALL COUNTIES OF FLORIDA AND LAW ENFORCEMENT OFFICERS MAY EFFECT ARRESTS PURSUANT TO SECTION 901.15(6), FLORIDA STATUTES.** The arresting agent shall notify the State Attorney’s Office immediately after arrest.
4. **Reporting alleged violations.** If Respondent violates the terms of this injunction and has not been arrested, Petitioner may contact the clerk of the circuit court of the county in which the violation is alleged to have occurred. The clerk shall assist Petitioner in preparing an affidavit in support of reporting the violation or direct Petitioner to the office operated by the court that has been designated by the chief judge of that circuit as the central intake point for violations of injunctions for protection where Petitioner can receive assistance in the preparation of the affidavit in support of the violation. The affidavit shall be immediately forwarded by the office assisting Petitioner to the state attorney of that circuit and to the judge designated by the chief judge as the recipient of affidavits of violations of an injunction. Procedures relating to reporting alleged violations are governed by section 784.0487, Florida Statutes.

DONE AND ORDERED in _____, Florida, on _____.

CIRCUIT JUDGE

COPIES TO:
Sheriff of _____ County

Petitioner:
_____ by U. S. Mail
_____ by hand delivery in open court

Respondent:
_____ forwarded to sheriff for service
_____ State Attorney's Office
_____ Other:

I CERTIFY the foregoing is a true copy of the original Temporary Injunction for Protection Against Stalking as it appears on file in the office of the Clerk of the Circuit Court of _____ County, Florida, and that I have furnished copies of this order as indicated above.

CLERK OF THE CIRCUIT COURT

(SEAL)

By: _____
Deputy Clerk