



---

# **Safety & Security Council**

**Wednesday, February 20, 2008  
4:00 p.m. – 5:45 p.m.  
102 House Office Building, Reed Hall**

**Marco Rubio  
Speaker**

**Dick Kravitz  
Chair**



# **The Florida House of Representatives**

## **Safety & Security Council**

**Marco Rubio**  
Speaker

**Dick Kravitz**  
Chair

**February 20, 2008**

### **AGENDA**

**4:00 p.m. – 5:45 p.m.**

**102 House Office Building, Reed Hall**

- I. Call Meeting to Order**
- II. Roll Call**
- III. Opening Comments**
- IV. Consideration of the following bills**
  - HB 233 Elderly Persons and Disabled Adults by Rep. Anderson**
  - HB 313 Dating Violence by Rep. Kellyr**
- V. Budget Presentation**
- VI. Closing Remarks**
- VII. Adjournment**



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 233 Elderly Persons and Disabled Adults

SPONSOR(S): Anderson and others

TIED BILLS: IDEN./SIM. BILLS: SB 366

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security &amp; Public Safety</u>	<u>7 Y, 0 N</u>	<u>Kramer</u>	<u>Kramer</u>
2) <u>Safety &amp; Security Council</u>	<u></u>	<u>Kramer TK</u>	<u>Havlicak RH</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

---

SUMMARY ANALYSIS

The bill reclassifies the offense of aggravated abuse of an elderly or disabled person from a second degree felony to a first degree felony. The bill requires certified law enforcement personnel to receive training in the identification and investigation of elder abuse and neglect.

On January 17, 2008, the Criminal Justice Impact Conference determined that this bill would have an insignificant prison bed impact on the Department of Corrections. The required law enforcement training has already being implemented; therefore no additional fiscal impact to state government is expected.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Promote Personal Responsibility** - This bill increases the severity of the sanction for potentially injurious behavior.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Abuse of an elderly person or disabled adult:**

Chapter 825, F.S., provides criminal penalties for offenses committed against elderly persons<sup>1</sup> and disabled adults<sup>2</sup>. Section 825.102(2), F.S., specifies that a person who commits aggravated abuse of an elderly person or disabled adult commits a felony of the second degree. According to this provision, aggravated abuse of an elderly person or disabled adult occurs when a person:

1. Commits aggravated battery on an elderly person or disabled adult;
2. Willfully tortures, maliciously punishes, or willfully and unlawfully cages, an elderly person or disabled adult; or
3. Knowingly or willfully abuses an elderly person or disabled adult and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult.

This bill reclassifies the offense of aggravated abuse of an elderly person or disabled adult from a second degree to a first degree felony. Aggravated child abuse is currently a first degree felony.<sup>3</sup> This will have the effect of increasing the maximum sentence for the offense from fifteen years in prison to thirty years in prison. The bill does not change the ranking of the offense within the offense severity ranking chart of the Criminal Punishment Code. The offense of aggravated abuse of an elderly person or disabled adult is currently ranked in level eight of the chart. As under current law, the lowest permissible sentence for a first time offender who commits this offense and has no additional sentencing factors will be 36 months in prison.

##### **Law enforcement training:**

Sections 943.171 through 943.17295, F.S., contain a number of specific requirements relevant to law enforcement officer training including training in subjects such as victims assistance, juvenile sexual offender investigations, and domestic violence. Although special training relating to elder abuse is not currently required by statute, the Department of Law Enforcement states that the law enforcement officer Basic Recruit Curriculum already includes a six-hour unit entitled, Responding to the Elderly, which addresses the aging process including age-related medical conditions such as dementia, crimes

---

<sup>1</sup> "Elderly person" means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired. s. 825.101(5), F.S.

<sup>2</sup> "Disabled adult" means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living, s. 825.101(4), F.S.

<sup>3</sup> s. 827.03(3), F.S.

against the elderly, response, and resources.<sup>4</sup> This training unit was developed with the assistance of the Adult Services Program of the Department of Children and Families and the Department of Elderly Affairs. The six-hour unit included in the Basic Recruit Curriculum can be extracted and delivered by law enforcement training schools as a separate specialized course to fulfill the continuing education requirement under s. 943.135, F.S.

This bill creates s. 943.17296, F.S., which requires certified law enforcement officers to receive training in identification and investigation of abuse and neglect either as a part of basic recruit training or continuing education before June 30, 2011. The training is to be developed in consultation with the Department of Elderly Affairs and the Department of Children and Family Services and must incorporate instruction on identification of and appropriate responses for persons suffering from dementia and on identifying and investigating elder abuse and neglect. If an officer fails to meet the required training, the officer's certification becomes inactive until the employing agency notifies the Criminal Justice Standards and Training Commission that the officer has completed the training.

As noted above, the curriculum provided for law enforcement officer Basic Recruit Training and the advanced training that is currently available to law enforcement officers for continuing education appear to satisfy the training requirements of the bill.<sup>5</sup>

**C. SECTION DIRECTORY:**

**Section 1.** Amends section 825.102, F.S., to reclassify aggravated abuse of an elderly or disabled person from a felony of the 2nd degree to a felony of the 1st degree.

**Section 2.** Amends section 921.0022, F.S., the Offense Severity Ranking Chart, to conform to the change made in section 1 of the bill.

**Section 3.** Creates section 943.17296, F.S., related to training for certified law enforcement officers.

**Section 4.** Proves an effective date of July 1, 2008.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

See fiscal comments.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

---

<sup>4</sup> The Criminal Justice Professionalism Program (CJPP) is responsible for developing and maintaining the law enforcement officer Basic Recruit Training Curriculum.

<sup>5</sup> According to FDLE, the CJPP is responsible for maintaining documentation on the required continuing education for criminal justice officers and, therefore, would be responsible for maintaining records of successful completion of the continuing education requirement stipulated in this bill.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

On January 17, 2008, the Criminal Justice Impact Conference determined that this bill would have an insignificant prison bed impact on the Department of Corrections. According to the Department of Corrections, during the 2006-2007 fiscal year there were four offenders sentenced to prison and seven offenders sentenced to probation for this offense.

According to the FDLE, the training required by the bill is included in the Basic Recruit Training approved by the Criminal Justice Standards and Training Commission. The department indicates that the bill would have no fiscal impact.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

The sponsor submitted the following statement:

Frail elders and disabled adults are preyed upon by strangers, health care workers and even family members. This bill will make sure law enforcement is trained to recognize these crimes and that the abuse perpetrator gets punished with a first degree felony.

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

A bill to be entitled

An act relating to elderly persons and disabled adults; amending s. 825.102, F.S.; reclassifying the offense of aggravated abuse of an elderly person or disabled adult from a second-degree felony to a first-degree felony; amending s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code, to conform; creating s. 943.17296, F.S., relating to training on identifying and investigating elder abuse for certified law enforcement officers; requiring that the training be completed by a time certain; providing that an officer's certification becomes inactive in certain circumstances related to the failure to complete the training; providing an effective date.

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

Section 1. Subsection (2) of section 825.102, Florida Statutes, is amended to read:

825.102 Abuse, aggravated abuse, and neglect of an elderly person or disabled adult; penalties.--

(2) "Aggravated abuse of an elderly person or disabled adult" occurs when a person:

(a) Commits aggravated battery on an elderly person or disabled adult;

(b) Willfully tortures, maliciously punishes, or willfully and unlawfully cages, an elderly person or disabled adult; or

(c) Knowingly or willfully abuses an elderly person or



29 disabled adult and in so doing causes great bodily harm,  
 30 permanent disability, or permanent disfigurement to the elderly  
 31 person or disabled adult.

32  
 33 A person who commits aggravated abuse of an elderly person or  
 34 disabled adult commits a felony of the first ~~second~~ degree,  
 35 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

36 Section 2. Paragraph (h) of subsection (3) of section  
 37 921.0022, Florida Statutes, is amended to read:

38 921.0022 Criminal Punishment Code; offense severity  
 39 ranking chart.--

40 (3) OFFENSE SEVERITY RANKING CHART

41 (h) LEVEL 8

Florida Statute	Felony Degree	Description
42 316.193 (3)(c)3.a.	2nd	DUI manslaughter.
43 316.1935(4)(b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
44 327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
45 499.0051(7)	1st	Forgery of prescription or legend drug labels.
46 499.0052	1st	Trafficking in contraband legend

HB 233

2008

			drugs.
47	560.123 (8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
48	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
49	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
50	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
51	782.04 (4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.

HB 233

2008

52	782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
53	782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.
54	782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
55	790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
56	794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
57	794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
58	800.04(4)	2nd	Lewd or lascivious battery.
59	806.01(1)	1st	Maliciously damage dwelling or

HB 233

2008

			structure by fire or explosive, believing person in structure.
60	810.02 (2) (a)	1st, PBL	Burglary with assault or battery.
61	810.02 (2) (b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
62	810.02 (2) (c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
63	812.014 (2) (a) 2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
64	812.13 (2) (b)	1st	Robbery with a weapon.
65	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
66	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
67	825.102 (2)	<u>1st</u> <del>2nd</del>	Aggravated abuse of an elderly person or disabled adult.

HB 233

2008

68	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
69	825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
70	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
71	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
72	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
73	860.16	1st	Aircraft piracy.
74	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
75	893.13(2)(b)	1st	Purchase in excess of 10 grams

			of any substance specified in s. 893.03(1)(a) or (b).
76	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
77	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
78	893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
79	893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
80	893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
81	893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
82	893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.

HB 233

2008

83	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
84	893.135 (1) (h) 1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
85	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
86	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
87	895.03 (1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
88	895.03 (2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
89	895.03 (3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.

90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107

896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.

Section 3. Section 943.17296, Florida Statutes, is created to read:

943.17296 Training in identifying and investigating elder abuse and neglect.--Each certified law enforcement officer must successfully complete training on identifying and investigating elder abuse and neglect as a part of the basic recruit training of the officer required in s. 943.13(9) or continuing education under s. 943.135(1) before June 30, 2011. The training shall be developed in consultation with the Department of Elderly Affairs and the Department of Children and Family Services and must incorporate instruction on the identification of and appropriate responses for persons suffering from dementia and on identifying and investigating elder abuse and neglect. If an officer fails to complete the required training, his or her certification is inactive until the employing agency notifies the commission that



HB 233

2008

108 | the officer has completed the training.

109 | Section 4. This act shall take effect July 1, 2008.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 313 Dating Violence

SPONSOR(S): Kelly and others

TIED BILLS: IDEN./SIM. BILLS: SB 1188

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security &amp; Public Safety</u>	<u>9 Y, 0 N</u>	<u>Cunningham</u>	<u>Kramer</u>
2) <u>Safety &amp; Security Council</u>	<u></u>	<u>Cunningham <i>SV</i></u>	<u>Havlicak <i>RH</i></u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

---

SUMMARY ANALYSIS

Section 741.29, F.S., provides a variety of requirements for law enforcement officers who are investigating alleged incidents of domestic violence. Such requirements include providing victims notice of their legal rights and remedies, providing the victim information about local domestic violence centers, and including certain information in police reports. However, these requirements only pertain to incidents of *domestic violence*, and do not pertain to incidents of dating violence.

HB 313 adds the requirements of s. 741.29, F.S., to the dating violence statute so that they apply to incidents of dating violence as well as domestic violence.

This bill has an insignificant fiscal impact and takes effect on October 1, 2008.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – HB 313 provides a variety of requirements for law enforcement officers who are investigating alleged incidents of dating violence.

#### B. EFFECT OF PROPOSED CHANGES:

In September, 2007, Tiffany Barwick and Michael Ruschak, both students at the University of Central Florida, were shot and killed. Andrew Allred, Barwick's ex-boyfriend, is charged with the killings. The afternoon before they were killed, Barwick and Ruschak went to Seminole County Sheriff's officials to report an escalating pattern of threats from Barwick's ex-boyfriend. At the time, the law relating to domestic violence required that victims be given notice of their legal rights and remedies. In contrast, the law relating to dating violence contained no such requirements.

#### Definitions

"Domestic violence" is defined as "any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member."<sup>1</sup>

"Dating violence" is defined as "violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

- A dating relationship must have existed within the past 6 months;
- The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
- The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context."<sup>2</sup>

#### Requirements Regarding Domestic Violence Investigations

Section 741.29, F.S., provides requirements for law enforcement officers who are investigating alleged incidents of *domestic violence*. Specifically, the statute requires law enforcement officers who are investigating alleged incidents of domestic violence to:

- Assist the victim to obtain medical treatment if required.
- Advise the victim that there is a domestic violence center that may provide services to the victim.
- Give the victim a "Legal Rights and Remedies Notice to Victims" form<sup>3</sup> that describes available legal rights and remedies.
- Handle the incident pursuant to the arrest policy provided in s. 901.15(7), F.S.<sup>4</sup>

---

<sup>1</sup> s. 741.28, F.S.

<sup>2</sup> s. 784.046, F.S.

<sup>3</sup> This form is developed and distributed by the Florida Department of Law Enforcement and serves as a model form to be used by all law enforcement agencies throughout the state. See s. 741.29, F.S.

- Obtain, where possible, a written statement from the victim and witness concerning the alleged domestic violence incident.
- Make a written police report that:
  - o Clearly indicates that the alleged offense was an incident of domestic violence;
  - o Includes a description of the physical injuries observed;
  - o Includes, if applicable, the grounds for not arresting anyone or arresting two or more parties;
  - o Includes a statement indicating that the Legal Rights and Remedies Notice to Victims form was given to the victim.
- Give the police report to the officer's supervisor, file such report in a manner that will permit data on domestic violence cases to be compiled, and send a copy of such report to the nearest certified domestic violence center.

Section 741.29, F.S., also provides that when complaints are received from two or more parties, a law enforcement officer must:

- Evaluate each complaint separately to determine whether there is probably cause for arrest.
- Try to determine who the primary aggressor was.

The statute further specifies that if a law enforcement officer determines upon probable cause that an act of domestic violence has been committed, the officer may arrest the person suspected of its commission and charge such person with the appropriate crime.

Section 741.29, F.S., also provides that:

- The decision to arrest and charge does not require the consent of the victim.
- Arrest is the preferred response only with respect to the primary aggressor and not the preferred response with respect to a person who acts reasonably to protect or defend oneself.

Additionally, persons who willfully violate a condition of pretrial release, when the original arrest was for an act of domestic violence, commit a first degree misdemeanor and must be held in custody until his or her first appearance.

The above provisions of s. 741.29, F.S., only pertain to incidents of *domestic violence* and do not currently pertain to incidents of *dating violence*.

#### *Effect of the Bill*

HB 313 adds the above provisions to s. 784.046, F.S., the *dating violence* statute, so that they apply to incidents of dating violence as well as domestic violence. HB 313 also makes conforming changes to s. 901.15(7), F.S., which will permit a law enforcement officer to make a warrantless arrest when there is probable cause to believe that the person has committed an act of dating violence.

### C. SECTION DIRECTORY:

**Section 1.** Entitles the bill the "Barwick-Ruschak Act."

**Section 2.** Amends s. 784.046, F.S., relating to action by victim of repeat violence, sexual violence, or dating violence for protective injunction; powers and duties of court and clerk of courts; filing and form of petition; notice and hearing; temporary injunction; issuance; statewide verification system; enforcement.

---

<sup>4</sup> Section 901.15(7), F.S., provides that a law enforcement officer may arrest a person without a warrant when there is probable cause to believe that the person has committed an act of domestic violence. The statute further specifies that the decision to arrest shall not require the consent of the victim.

**Section 3.** Amends s. 901.15, F.S., relating to when arrest by officer without warrant is lawful.

**Section 4.** This bill takes effect October 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate. See "Fiscal Comments."

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

In their fiscal analysis of this bill, FDLE stated that modifying the existing "Legal Rights and Remedies" brochure will have minimal fiscal impact, which FDLE will absorb.

This bill may have a fiscal impact in that it imposes additional requirements on local law enforcement.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to dating violence; providing a short  
 3           title; amending s. 784.046, F.S.; revising provisions  
 4           relating to dating violence incidents to provide  
 5           requirements for investigations, notice to victims, and  
 6           reporting similar to those for incidents of domestic  
 7           violence and to apply certain immunity provisions thereto;  
 8           prohibiting certain willful violations of conditions of  
 9           pretrial release; providing penalties; amending s. 901.15,  
 10          F.S.; providing for warrantless arrests of persons for  
 11          dating violence; conforming provisions; providing an  
 12          effective date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

15  
 16           Section 1. This act may be cited as the "Barwick-Ruschak  
 17           Act."

18           Section 2. Subsection (11) of section 784.046, Florida  
 19           Statutes, is renumbered as subsection (16), and a new subsection  
 20           (11) and subsections (12), (13), (14), and (15) are added to  
 21           that section, to read:

22           784.046 Action by victim of repeat violence, sexual  
 23           violence, or dating violence for protective injunction; dating  
 24           violence investigations, notice to victims, and reporting;  
 25           pretrial release violations ~~powers and duties of court and clerk~~  
 26           ~~of court, filing and form of petition, notice and hearing,~~  
 27           ~~temporary injunction, issuance, statewide verification system,~~  
 28           enforcement.--



29        (11) Any law enforcement officer who investigates an  
30 alleged incident of dating violence shall assist the victim to  
31 obtain medical treatment if such is required as a result of the  
32 alleged incident to which the officer responds. Any law  
33 enforcement officer who investigates an alleged incident of  
34 dating violence shall advise the victim of such violence that  
35 there is a domestic violence center from which the victim may  
36 receive services. The law enforcement officer shall give the  
37 victim immediate notice of the legal rights and remedies  
38 available on a standard form developed and distributed by the  
39 Department of Law Enforcement. As necessary, the Department of  
40 Law Enforcement shall revise the Legal Rights and Remedies  
41 Notice to Victims to include a general summary of this section,  
42 using simple English as well as Spanish, and shall distribute  
43 the notice as a model form to be used by all law enforcement  
44 agencies throughout the state. The notice shall include:

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

48        (b) A copy of the following statement: "IF YOU ARE THE  
49 VICTIM OF DATING VIOLENCE, you may ask the state attorney to  
50 file a criminal complaint. You also have the right to go to  
51 court and file a petition requesting an injunction for  
52 protection from dating violence which may include, but need not  
53 be limited to, provisions that restrain the abuser from further  
54 acts of abuse; direct the abuser to leave your household; and  
55 prevent the abuser from entering your residence, school,  
56 business, or place of employment."

57 (12) When a law enforcement officer investigates an  
58 allegation that an incident of dating violence has occurred, the  
59 officer shall handle the incident pursuant to the arrest policy  
60 provided in s. 901.15(7), and as developed in accordance with  
61 subsections (13), (14), and (16). Whether or not an arrest is  
62 made, the officer shall make a written police report that is  
63 complete and clearly indicates that the alleged offense was an  
64 incident of dating violence. Such report shall be given to the  
65 officer's supervisor and filed with the law enforcement agency  
66 in a manner that will permit data on dating violence cases to be  
67 compiled. Such report must include:

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

69 (b) If a law enforcement officer decides not to make an  
70 arrest or decides to arrest two or more parties, the grounds for  
71 not arresting anyone or for arresting two or more parties.

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

74  
75 Whenever possible, the law enforcement officer shall obtain a  
76 written statement from the victim and witnesses concerning the  
77 alleged dating violence. The officer shall submit the report to  
78 the supervisor or other person to whom the employer's rules or  
79 policies require reports of similar allegations of criminal  
80 activity to be made. The law enforcement agency shall, without  
81 charge, send a copy of the initial police report, as well as any  
82 subsequent, supplemental, or related report, which excludes  
83 victim or witness statements or other materials that are part of  
84 an active criminal investigation and are exempt from disclosure

85 under chapter 119, to the nearest locally certified domestic  
86 violence center within 24 hours after the agency's receipt of  
87 the report. The report furnished to the domestic violence center  
88 must include a narrative description of the dating violence  
89 incident.

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

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

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

109 (15) A person who willfully violates a condition of  
110 pretrial release provided in s. 903.047, when the original  
111 arrest was for an act of dating violence as defined in this  
112 section, commits a misdemeanor of the first degree, punishable

113 as provided in s. 775.082 or s. 775.083, and shall be held in  
 114 custody until his or her first appearance.

115 (16)~~(11)~~ A law enforcement officer acting in good faith  
 116 under this section and the officer's employing agency shall be  
 117 immune from all liability, civil or criminal, that might  
 118 otherwise be incurred or imposed by reason of the officer's or  
 119 agency's actions in carrying out the provisions of this section.

120 Section 3. Subsection (7) of section 901.15, Florida  
 121 Statutes, is amended to read:

122 901.15 When arrest by officer without warrant is  
 123 lawful.--A law enforcement officer may arrest a person without a  
 124 warrant when:

125 (7) There is probable cause to believe that the person has  
 126 committed an act of domestic violence, as defined in s. 741.28,  
 127 or dating violence, as provided in s. 784.046. The decision to  
 128 arrest shall not require consent of the victim or consideration  
 129 of the relationship of the parties. It is the public policy of  
 130 this state to strongly discourage arrest and charges of both  
 131 parties for domestic violence or dating violence on each other  
 132 and to encourage training of law enforcement and prosecutors in  
 133 these areas ~~this area~~. A law enforcement officer who acts in  
 134 good faith and exercises due care in making an arrest under this  
 135 subsection, under s. 741.31(4) or s. 784.047, or pursuant to a  
 136 foreign order of protection accorded full faith and credit  
 137 pursuant to s. 741.315, is immune from civil liability that  
 138 otherwise might result by reason of his or her action.

139 Section 4. This act shall take effect October 1, 2008.