

1 A bill to be entitled
2 An act relating to domestic violence; amending
3 s. 741.29, F.S.; prescribing preferred arrest
4 policy for a law enforcement officer
5 investigating alleged domestic violence;
6 requiring certain reports by law enforcement
7 officers; defining the offense of violating
8 pretrial release condition when original arrest
9 was for act of domestic violence; providing
10 penalties; amending s. 901.15, F.S.;
11 prescribing public policy for arrest in
12 domestic violence cases; providing for arrest
13 of a person without warrant when there is
14 probable cause to believe a person originally
15 arrested for an act of domestic violence has
16 violated a pretrial release condition; amending
17 s. 921.0014, F.S.; providing for a sentencing
18 multiplier in certain cases of domestic
19 violence; amending s. 943.171, F.S.; requiring
20 certain training for law enforcement officers;
21 providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsections (2) and (4) of section 741.29,
26 Florida Statutes, are amended, and subsection (6) is added to
27 that section, to read:

28 741.29 Domestic violence; investigation of incidents;
29 notice to victims of legal rights and remedies; reporting.--

30 (2) When a law enforcement officer investigates an
31 allegation that an incident of domestic violence has occurred,

1 the officer shall handle the incident pursuant to the arrest
2 policy provided in s. 901.15(7)(a), and as developed in
3 accordance with subsections (3), (4), and (5). Whether or not
4 an arrest is made, the officer shall make a written police
5 report that is complete and clearly indicates the alleged
6 offense was an incident of domestic violence. Such report
7 shall be given to the officer's supervisor and filed with the
8 law enforcement agency in a manner that will permit data on
9 domestic violence cases to be compiled ~~as part of the field~~
10 ~~arrest and incident reporting form and as prescribed by the~~
11 ~~department of the alleged incident which clearly indicates~~
12 ~~that the alleged offense was an incident of domestic violence.~~

13 Such report must include:

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

16 (b) If a law enforcement officer decides not to make
17 an arrest or decides to arrest two or more parties, the
18 officer shall include in the report the grounds for not
19 arresting anyone or for arresting two or more parties.~~If an~~
20 ~~arrest was not made, an indication by the law enforcement~~
21 ~~officer, in writing, of the reasons why an arrest was not~~
22 ~~made.~~

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

25
26 Whenever possible, the law enforcement officer shall obtain a
27 written statement from the victim and witnesses concerning the
28 alleged domestic violence. The officer shall submit the report
29 to the supervisor or other person to whom the employer's rules
30 or policies require reports of similar allegations of criminal
31 activity to be made. The law enforcement agency shall, without

1 charge, send a copy of the initial police report, as well as
2 any subsequent, supplemental, or related report, which
3 excludes victim/witness statements or other materials that are
4 part of an active criminal investigation and are exempt from
5 disclosure under chapter 119, to the nearest locally certified
6 domestic violence center within 24 hours after the agency's
7 receipt of the report. The report furnished to the domestic
8 violence center must include a narrative description of the
9 domestic violence incident.

10 (4)(a) When complaints are received from two or more
11 parties, the officers shall evaluate each complaint separately
12 to determine whether there is probable cause for arrest.

13 (b) If a law enforcement officer has probable cause to
14 believe that two or more persons have committed a misdemeanor
15 or felony, or if two or more persons make complaints to the
16 officer, the officer shall try to determine who was the
17 primary aggressor. Arrest is the preferred response only with
18 respect to the primary aggressor and not the preferred
19 response with respect to a person who acts in a reasonable
20 manner to protect or defend oneself or another family or
21 household member from domestic violence.

22 (6) A person who willfully violates a condition of
23 pretrial release provided in s. 903.047, when the original
24 arrest was for an act of domestic violence as defined in s.
25 741.28, commits a misdemeanor of the first degree, punishable
26 as provided in s. 775.082 or s. 775.083, and shall be held in
27 custody until his or her first appearance.

28 Section 2. Subsection (7) of section 901.15, Florida
29 Statutes, 1996 Supplement, is amended, and subsection (12) is
30 added to that section, to read:

31

1 901.15 When arrest by officer without warrant is
2 lawful.--A law enforcement officer may arrest a person without
3 a warrant when:

4 (7) There is probable cause to believe that the person
5 has committed:

6 (a) An act of domestic violence, as defined in s.
7 741.28;

8 (b) Child abuse, as defined in s. 827.04(2) and (3);
9 or

10 (c) Any battery upon another person, as defined in s.
11 784.03.

12
13 With respect to an arrest for an act of domestic violence, the
14 decision to arrest shall not require consent of the victim or
15 consideration of the relationship of the parties. It is the
16 public policy of this state to strongly discourage arrest and
17 charges of both parties for domestic violence on each other
18 and to encourage training of law enforcement and prosecutors
19 in this area.A law enforcement officer who acts in good faith
20 and exercises due care in making an arrest under this
21 subsection is immune from civil liability that otherwise might
22 result by reason of his action.

23 (12) There is probable cause to believe that the
24 person has committed an act that violates a condition of
25 pretrial release provided in s. 903.047 when the original
26 arrest was for an act of domestic violence as defined in s.
27 741.28.

28 Section 3. Paragraph (b) of subsection (1) of section
29 921.0014, Florida Statutes, 1996 Supplement is amended to
30 read:

31

1 921.0014 Sentencing guidelines; worksheet
2 computations; scoresheets.--

3 (1)

4
5 (b) WORKSHEET KEY:

6
7 Legal status points are assessed when any form of legal status
8 existed at the time the offender committed an offense before
9 the court for sentencing. Four (4) sentence points are
10 assessed for an offender's legal status.

11
12 Community sanction violation points are assessed when a
13 community sanction violation is before the court for
14 sentencing. Six (6) sentence points are assessed for each
15 community sanction violation, and each successive community
16 sanction violation; however, if the community sanction
17 violation includes a new felony conviction before the
18 sentencing court, twelve (12) community sanction violation
19 points are assessed for such violation, and for each
20 successive community sanction violation involving a new felony
21 conviction. Multiple counts of community sanction violations
22 before the sentencing court shall not be a basis for
23 multiplying the assessment of community sanction violation
24 points.

25
26 Prior serious felony points: If the offender has a primary
27 offense or any additional offense ranked in level 8, level 9,
28 or level 10, and one or more prior serious felonies, a single
29 assessment of 30 points shall be added. For purposes of this
30 section, a prior serious felony is an offense in the
31 offender's prior record that is ranked in level 8, level 9, or

1 level 10 under s. 921.0012 or s. 921.0013 and for which the
2 offender is serving a sentence of confinement, supervision, or
3 other sanction or for which the offender's date of release
4 from confinement, supervision, or other sanction, whichever is
5 later, is within 3 years before the date the primary offense
6 or any additional offense was committed.

7
8 Prior capital felony points: If the offender has one or more
9 prior capital felonies, points shall be added to the subtotal
10 sentence points of the offender equal to twice the number of
11 points the offender receives for the primary offense and any
12 additional offense. A prior capital felony is a capital
13 felony offense for which the offender has been found guilty;
14 or a felony in another jurisdiction which is a capital felony
15 in that jurisdiction, or would be a capital felony if the
16 offense were committed in this state.

17
18 Possession of a firearm, semiautomatic firearm, or machine
19 gun: If the offender is convicted of committing or attempting
20 to commit any felony other than those enumerated in s.
21 775.087(2) while having in his possession: a firearm as
22 defined in s. 790.001(6), an additional 18 sentence points are
23 assessed; or if the offender is convicted of committing or
24 attempting to commit any felony other than those enumerated in
25 s. 775.087(3) while having in his possession a semiautomatic
26 firearm as defined in s. 775.087(3) or a machine gun as
27 defined in s. 790.001(9), an additional 25 sentence points are
28 assessed.

29
30 Sentencing multipliers:
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1 Drug trafficking: If the primary offense is drug trafficking
2 under s. 893.135, the subtotal sentence points are multiplied,
3 at the discretion of the court, for a level 7 or level 8
4 offense, by 1.5. The state attorney may move the sentencing
5 court to reduce or suspend the sentence of a person convicted
6 of a level 7 or level 8 offense, if the offender provides
7 substantial assistance as described in s. 893.135(4).

8
9 Law enforcement protection: If the primary offense is a
10 violation of the Law Enforcement Protection Act under s.
11 775.0823(2), the subtotal sentence points are multiplied by
12 2.5. If the primary offense is a violation of s. 775.0823(3),
13 (4), (5), (6), (7), or (8), the subtotal sentence points are
14 multiplied by 2.0. If the primary offense is a violation of s.
15 784.07(3) or s. 775.0875(1), or of the Law Enforcement
16 Protection Act under s. 775.0823(9) or (10), the subtotal
17 sentence points are multiplied by 1.5.

18
19 Grand theft of a motor vehicle: If the primary offense is
20 grand theft of the third degree involving a motor vehicle and
21 in the offender's prior record, there are three or more grand
22 thefts of the third degree involving a motor vehicle, the
23 subtotal sentence points are multiplied by 1.5.

24
25 Domestic violence in the presence of a child: If the offender
26 is convicted of the primary offense and that offense is
27 determined to be a crime of domestic violence as defined in s.
28 741.28 and to have been committed in the presence of a child
29 who is related by blood or marriage to the victim or
30 perpetrator and who is under the age of 16, the subtotal

1 sentence points are multiplied, at the discretion of the
2 court, by 1.5.

3
4 Criminal street gang member: If the offender is convicted of
5 the primary offense and is found to have been a member of a
6 criminal street gang at the time of the commission of the
7 primary offense pursuant to s. 874.04, the subtotal sentence
8 points are multiplied by 1.5.

9 Section 4. Subsection (1) of section 943.171, Florida
10 Statutes, is amended to read:

11 943.171 Basic skills training in handling domestic
12 violence cases.--

13 (1) The commission shall establish standards for
14 instruction of law enforcement officers in the subject of
15 domestic violence. Every basic skills course required in
16 order for law enforcement officers to obtain initial
17 certification shall, after January 1, 1986, include a minimum
18 of 6 hours of training in handling domestic violence cases.
19 Such training must include training in the recognition and
20 determination of the primary aggressor in domestic violence
21 cases.

22 Section 5. This act shall take effect October 1, 1997.
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