

By the Committee on Criminal Justice

307-537A-98

1 A bill to be entitled
 2 An act relating to criminal justice; amending
 3 s. 741.28, F.S.; redefining the term "domestic
 4 violence"; amending ss. 741.281, 741.2909,
 5 F.S.; requiring that if a person is ordered by
 6 the court to attend a batterers' intervention
 7 program, the program must be a program
 8 certified by the Department of Corrections;
 9 amending s. 775.084, F.S.; authorizing the
 10 chief judge of each judicial circuit to
 11 establish a court to hear cases against violent
 12 career criminals, habitual felony offenders,
 13 habitual violent felony offenders, and prison
 14 releasee reoffenders; providing an effective
 15 date.

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

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 19 Section 1. Section 741.28, Florida Statutes, is
 20 amended to read:

21 741.28 Domestic violence; definitions.--As used in ss.
 22 741.28-741.31, the term:

23 (1) "Domestic violence" means any assault, aggravated
 24 assault, battery, aggravated battery, sexual assault, sexual
 25 battery, stalking, aggravated stalking, kidnapping, false
 26 imprisonment, or any criminal offense resulting in physical
 27 injury or death of one family or household member by another
 28 family or household member ~~who is or was residing in the same~~
 29 ~~single dwelling unit.~~

30 (2) "Family or household member" means spouses, former
 31 spouses, persons related by blood or marriage, persons who are

1 presently residing together as if a family or who have resided
2 together in the past as if a family, and persons who have a
3 child in common regardless of whether they have been married
4 or have resided together at any time.

5 (3) "Department" means the Florida Department of Law
6 Enforcement.

7 (4) "Law enforcement officer" means any person who is
8 elected, appointed, or employed by any municipality or the
9 state or any political subdivision thereof who meets the
10 minimum qualifications established in s. 943.13 and is
11 certified as a law enforcement officer under s. 943.1395.

12 Section 2. Section 741.281, Florida Statutes, is
13 amended to read:

14 741.281 Court to order batterers' intervention program
15 attendance.--If a person is found guilty of, has had
16 adjudication withheld on, or has pled nolo contendere to a
17 crime of domestic violence, as defined in s. 741.28, that
18 person shall be ordered by the court to a minimum term of 1
19 year's probation and the court shall order that the defendant
20 attend a batterers' intervention program that is certified
21 under s. 741.32 as a condition of probation. If a person is
22 admitted to a pretrial diversion program and has been charged
23 with an act of domestic violence, as defined in s. 741.28, the
24 court shall order as a condition of the program that the
25 defendant attend a batterers' intervention program that is
26 certified under s. 741.32. The court must impose the condition
27 of the batterers' intervention program for a defendant placed
28 on probation or pretrial diversion under this section, but the
29 court, in its discretion, may determine not to impose the
30 condition if it states on the record why a batterers'
31 intervention program might be inappropriate. ~~It is preferred,~~

1 ~~but not mandatory, that such programs be certified under s.~~
2 ~~741.32.~~The imposition of probation under this section does
3 ~~shall~~ not preclude the court from imposing any sentence of
4 imprisonment authorized by s. 775.082.

5 Section 3. Paragraph (h) of subsection (2) of section
6 741.2902, Florida Statutes, is amended to read:

7 741.2902 Domestic violence; legislative intent with
8 respect to judiciary's role.--

9 (2) It is the intent of the Legislature, with respect
10 to injunctions for protection against domestic violence,
11 issued pursuant to s. 741.30, that the court shall:

12 (h) Consider requiring the perpetrator to complete a
13 batterers' intervention program that is. ~~It is preferred that~~
14 ~~such program be~~ certified under s. 741.32.

15 Section 4. Present subsection (6) of section 775.084,
16 Florida Statutes, as amended by section 12 of chapter 97-194,
17 Laws of Florida, is redesignated as subsection (7), and a new
18 subsection (6) is added to that section to read:

19 775.084 Violent career criminals; habitual felony
20 offenders and habitual violent felony offenders; definitions;
21 procedure; enhanced penalties.--

22 (6) The chief judge of each judicial circuit may, by
23 administrative order, establish a specialized court for the
24 purpose of hearing cases prosecuted under this section or s.
25 775.082(8).

26 Section 5. This act shall take effect October 1, 1998.
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SENATE SUMMARY

Redefines the offense of domestic violence to mean certain offenses committed against one family or household member by another family or household member. Requires that if the court orders a person to attend a batterers' intervention program following an alleged or adjudged crime of domestic violence, the program must be a program certified by the Department of Corrections. Authorizes the chief judge of the circuit to establish a court for the purpose of hearing cases against violent career criminals, habitual felony offenders, habitual violent felony offenders, and prison releasee reoffenders.