

By the Committee on Criminal Justice

307-903-98

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 providing an exception under certain
10 circumstances; amending s. 775.084, F.S.;
11 authorizing the chief judge of each judicial
12 circuit to establish a court to hear cases
13 against violent career criminals, habitual
14 felony offenders, habitual violent felony
15 offenders, and prison releasee reoffenders;
16 providing an effective date.

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

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

22 741.28 Domestic violence; definitions.--As used in ss.
23 741.28-741.31, the term:

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

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1 (2) "Family or household member" means spouses, former
2 spouses, persons related by blood or marriage, persons who are
3 presently residing together as if a family or who have resided
4 together in the past as if a family, and persons who have a
5 child in common regardless of whether they have been married
6 or have resided together at any time.

7 (3) "Department" means the Florida Department of Law
8 Enforcement.

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

14 Section 2. Section 741.281, Florida Statutes, is
15 amended to read:

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

1 condition if it states on the record why a batterers'
2 intervention program might be inappropriate. ~~It is preferred,~~
3 ~~but not mandatory, that such programs be certified under s.~~
4 ~~741.32.~~If there are no certified batterers' intervention
5 programs in the circuit, the court shall order that the
6 defendant attend a noncertified program.The imposition of
7 probation under this section does ~~shall~~ not preclude the court
8 from imposing any sentence of imprisonment authorized by s.
9 775.082.

10 Section 3. Paragraph (h) of subsection (2) of section
11 741.2902, Florida Statutes, is amended to read:

12 741.2902 Domestic violence; legislative intent with
13 respect to judiciary's role.--

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

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

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

24 775.084 Violent career criminals; habitual felony
25 offenders and habitual violent felony offenders; definitions;
26 procedure; enhanced penalties.--

27 (6) The chief judge of each judicial circuit may, by
28 administrative order, establish a specialized court for the
29 purpose of hearing cases prosecuted under this section or s.
30 775.082(8).

31 Section 5. This act shall take effect October 1, 1998.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 428

* Adds requirement that the court order the defendant attend a noncertified batterers' intervention program when there are no certified programs in the circuit.