

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Committee on Judicial Oversight offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. This act may be cited as the "Family Protection Act."

Section 2. Paragraph (f) of subsection (9) of section 39.301, Florida Statutes, is amended to read:

39.301 Initiation of protective investigations.--

(9) For each report it receives, the department shall perform an onsite child protective investigation that includes a face-to-face interview with the child, other siblings, parents, and other adults in the household and an onsite assessment of the child's residence in order to:

(f) Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's safety and well-being and development, and cause the delivery of those services through the early intervention of the department or its agent. The training provided to staff

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1 members who conduct child protective investigations must
2 include instruction on how and when to use the injunction
3 process under s. 39.504 or s. 741.30 to remove a perpetrator
4 of domestic violence from the home as an intervention to
5 protect the child.

6 Section 3. Section 741.283, Florida Statutes, is
7 created to read:

8 741.283 Minimum term of imprisonment for domestic
9 violence.--If a person is adjudicated guilty of a crime of
10 domestic violence, as defined in s. 741.28, and the person has
11 intentionally caused bodily harm to another person, the court
12 shall order the person to serve a minimum of 5 days in the
13 county jail as part of the sentence imposed, unless the court
14 sentences the person to a nonsuspended period of incarceration
15 in a state correctional facility. This section does not
16 preclude the court from sentencing the person to probation,
17 community control, or an additional period of incarceration.

18 Section 4. Section 784.03, Florida Statutes, is
19 amended to read:

20 784.03 Battery; felony battery.--

21 (1)(a) The offense of battery occurs when a person:

- 22 1. Actually and intentionally touches or strikes
23 another person against the will of the other; or
24 2. Intentionally causes bodily harm to another person.

25 (b) Except as provided in subsection (2), a person who
26 commits battery commits a misdemeanor of the first degree,
27 punishable as provided in s. 775.082 or s. 775.083.

28 (2) A person who has one ~~two~~ prior conviction
29 ~~convictions~~ for battery, aggravated battery, or felony battery
30 and who commits any second ~~a third~~ or subsequent battery
31 commits a felony of the third degree, punishable as provided

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1 in s. 775.082, s. 775.083, or s. 775.084. For purposes of this
2 subsection, "conviction" means a determination of guilt that
3 is the result of a plea or a trial, regardless of whether
4 adjudication is withheld or a plea of nolo contendere is
5 entered.

6 Section 5. Section 938.08, Florida Statutes, is
7 created to read:

8 938.08 Additional cost to fund programs in domestic
9 violence.--In addition to any sanction imposed for a violation
10 of s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045,
11 s. 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s.
12 784.083, s. 784.085, 794.011, or for any offense of domestic
13 violence described in s. 741.28, the court shall impose a
14 surcharge of \$201. Payment of the surcharge shall be a
15 condition of probation, community control, or any other
16 court-ordered supervision. The sum of \$85 of the surcharge
17 shall be deposited into the Domestic Violence Trust Fund
18 established in s. 741.01. The clerk of the court shall retain
19 \$1 of each surcharge that the clerk of the court collects as a
20 service charge of the clerk's office. The remainder of the
21 surcharge shall be provided to the governing board of the
22 county to be used to defray the costs of incarcerating persons
23 sentenced under s. 741.283 and to provide additional training
24 to law enforcement personnel in combating domestic violence.

25 Section 6. Subsection (12) is added to section 948.03,
26 Florida Statutes, to read:

27 948.03 Terms and conditions of probation or community
28 control.--

29 (12) As a condition of probation, community control,
30 or any other court-ordered community supervision, the court
31 shall order a person convicted of an offense of domestic

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1 violence, as defined in s. 741.28, to attend and successfully
2 complete a batterers' intervention program unless the court
3 determines that the person does not qualify for the batterers'
4 intervention program pursuant to s. 741.325. Effective July 1,
5 2002, the batterers' intervention program must be a program
6 certified under s. 741.32 and the offender must pay the cost
7 of attending the program.

8 Section 7. Subsection (2) of section 741.01, Florida
9 Statutes, is amended to read:

10 741.01 County court judge or clerk of the circuit
11 court to issue marriage license; fee.--

12 (2) The fee charged for each marriage license issued
13 in the state shall be increased by the sum of \$30. This fee
14 shall be collected upon receipt of the application for the
15 issuance of a marriage license. The Executive Office of the
16 Governor shall establish a Domestic Violence Trust Fund for
17 the purpose of collecting and disbursing funds generated from
18 the increase in the marriage license fee. Such funds which
19 are generated shall be directed to the Department of Children
20 and Family Services for the specific purpose of funding
21 domestic violence centers, and the funds shall be appropriated
22 in a "grants-in-aid" category to the Department of Children
23 and Family Services for the purpose of funding domestic
24 violence centers. From the proceeds of the surcharge deposited
25 into the Domestic Violence Trust Fund as required under s.
26 938.08, the Executive Office of the Governor may spend up to
27 \$500,000 each year for the purpose of administering a
28 statewide public-awareness campaign regarding domestic
29 violence.

30 Section 8. Section 741.281, Florida Statutes, is
31 amended to read:

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1 741.281 Court to order batterers' intervention program
2 attendance.--If a person is found guilty of, has had
3 adjudication withheld on, or has pled nolo contendere to a
4 crime of domestic violence, as defined in s. 741.28, that
5 person shall be ordered by the court to a minimum term of 1
6 year's probation and the court shall order that the defendant
7 attend a batterers' intervention program as a condition of
8 probation. If a person is admitted to a pretrial diversion
9 program and has been charged with an act of domestic violence,
10 as defined in s. 741.28, the court shall order as a condition
11 of the program that the defendant attend a batterers'
12 intervention program. The court must impose the condition of
13 the batterers' intervention program for a defendant admitted
14 to placed on probation or pretrial diversion under this
15 section, but the court, in its discretion, may determine not
16 to impose the condition if it states on the record why a
17 batterers' intervention program might be inappropriate. The
18 court must impose the condition of the batterers' intervention
19 program for a defendant placed on probation unless the court
20 determines that the person does not qualify for the batterers'
21 intervention program pursuant to s. 741.325. Effective July 1,
22 2002, the batterers' intervention program must ~~it is~~
23 ~~preferred, but not mandatory, that such programs be a~~
24 ~~certified program~~ under s. 741.32. The imposition of probation
25 under this section shall not preclude the court from imposing
26 any sentence of imprisonment authorized by s. 775.082.

27 Section 9. This act shall take effect July 1, 2001.

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29
30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

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1 remove from the title of the bill: the entire title
2
3 and insert in lieu thereof:
4 A bill to be entitled
5 An act relating to acts of violence; providing
6 a short title; amending s. 39.301, F.S.;
7 requiring that staff who conduct child
8 protective investigations receive training on
9 removing a perpetrator of domestic violence
10 from the home by use of injunction; creating s.
11 741.283, F.S.; requiring that the court order a
12 person to serve a minimum term of imprisonment
13 as part of any sentence imposed for an offense
14 of domestic violence that intentionally caused
15 bodily harm to another person; providing an
16 exception if the person is incarcerated for
17 such offense; amending s. 784.03, F.S.;
18 providing that a person commits felony battery
19 if the offense is a second or subsequent
20 conviction of any type of battery offense;
21 creating s. 938.08, F.S.; requiring that the
22 court impose an additional surcharge for any
23 offense of domestic violence and other assault,
24 battery, and stalking offenses; providing for
25 deposit of a portion of the surcharge into the
26 Domestic Violence Trust Fund; providing for the
27 clerk of the court to retain a service charge;
28 requiring that a portion of the surcharge be
29 used to train law enforcement personnel in
30 combating domestic violence; amending s.
31 948.03, F.S.; requiring that a person convicted

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1 of an offense of domestic violence complete a
2 batterers' intervention program; requiring that
3 the offender pay the cost of attending the
4 program; amending s. 741.01, F.S.; authorizing
5 the Executive Office of the Governor to use a
6 specified amount from the Domestic Violence
7 Trust Fund to fund a public-awareness campaign
8 on domestic violence; amending s. 741.281,
9 F.S.; requiring the court to impose the
10 batterers' intervention program as a condition
11 of probation; providing for an exception;
12 requiring that the batterers' intervention
13 program be certified; providing an effective
14 date.

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