

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

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

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

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

17 Section 2. Paragraph (f) of subsection (9) of section  
18 39.301, Florida Statutes, is amended to read:

19 39.301 Initiation of protective investigations.--

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

25 (f) Determine the protective, treatment, and  
26 ameliorative services necessary to safeguard and ensure the  
27 child's safety and well-being and development, and cause the  
28 delivery of those services through the early intervention of  
29 the department or its agent. The training provided to staff  
30 members who conduct child protective investigations must  
31 include instruction on how and when to use the injunction

1 process under s. 39.504 or s. 741.30 to remove a perpetrator  
2 of domestic violence from the home as an intervention to  
3 protect the child.

4 Section 3. Section 741.283, Florida Statutes, is  
5 created to read:

6 741.283 Minimum term of imprisonment for domestic  
7 violence.--If a person is adjudicated guilty of a crime of  
8 domestic violence, as defined in s. 741.28, and the person has  
9 intentionally caused bodily harm to another person, the court  
10 shall order the person to serve a minimum of 5 days in the  
11 county jail as part of the sentence imposed, unless the court  
12 sentences the person to a nonsuspended period of incarceration  
13 in a state correctional facility. This section does not  
14 preclude the court from sentencing the person to probation,  
15 community control, or an additional period of incarceration.

16 Section 4. Section 784.03, Florida Statutes, is  
17 amended to read:

18 784.03 Battery; felony battery.--

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

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

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

26 (2) A person who has one ~~two~~ prior conviction  
27 ~~convictions~~ for battery, aggravated battery, or felony battery  
28 and who commits any second ~~a third~~ or subsequent battery  
29 commits a felony of the third degree, punishable as provided  
30 in s. 775.082, s. 775.083, or s. 775.084. For purposes of this  
31 subsection, "conviction" means a determination of guilt that

1 is the result of a plea or a trial, regardless of whether  
2 adjudication is withheld or a plea of nolo contendere is  
3 entered.

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

6 938.08 Additional cost to fund programs in domestic  
7 violence.--In addition to any sanction imposed for a violation  
8 of s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045,  
9 s. 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s.  
10 784.083, s. 784.085, 794.011, or for any offense of domestic  
11 violence described in s. 741.28, the court shall impose a  
12 surchage of \$201. Payment of the surcharge shall be a  
13 condition of probation, community control, or any other  
14 court-ordered supervision. The sum of \$85 of the surcharge  
15 shall be deposited into the Domestic Violence Trust Fund  
16 established in s. 741.01. The clerk of the court shall retain  
17 \$1 of each surcharge that the clerk of the court collects as a  
18 service charge of the clerk's office. The remainder of the  
19 surchage shall be provided to the governing board of the  
20 county and must be used only to defray the costs of  
21 incarcerating persons sentenced under s. 741.283 and provide  
22 additional training to law enforcement personnel in combating  
23 domestic violence.

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

26 948.03 Terms and conditions of probation or community  
27 control.--

28 (12) As a condition of probation, community control,  
29 or any other court-ordered community supervision, the court  
30 shall order a person convicted of an offense of domestic  
31 violence, as defined in s. 741.28, to attend and successfully

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

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

9 741.01 County court judge or clerk of the circuit  
10 court to issue marriage license; fee.--

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

29 Section 8. Section 741.281, Florida Statutes, is  
30 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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