

By Senator Cowin

11-1124-01

1 A bill to be entitled
2 An act relating to domestic violence; providing
3 a short title; creating s. 741.283, F.S.;
4 requiring that the court order a person to
5 serve a minimum term of imprisonment as part of
6 any sentence imposed for an offense of domestic
7 violence involving physical injury to another
8 person; providing an exception if the person is
9 incarcerated for such offense; amending s.
10 784.03, F.S.; providing that a person commits
11 felony battery if the offense is a second or
12 subsequent conviction of any type of battery
13 offense; creating s. 938.08, F.S.; requiring
14 that the court impose an additional surcharge
15 for any offense of domestic battery; providing
16 for deposit of a portion of the surcharge into
17 the Domestic Violence Trust Fund; requiring
18 that a portion of the surcharge be used to
19 train law enforcement personnel in combating
20 domestic violence; amending s. 948.03, F.S.;
21 requiring that a person convicted of an offense
22 of domestic violence complete a batterers'
23 intervention program; requiring that the
24 offender pay the cost of attending the program;
25 amending s. 741.01, F.S.; authorizing the
26 Executive Office of the Governor to use a
27 specified amount from the Domestic Violence
28 Trust Fund to fund a public-awareness campaign
29 on domestic violence; providing an effective
30 date.
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1 Be It Enacted by the Legislature of the State of Florida:

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

5 Section 2. Section 741.283, Florida Statutes, is
6 created to read:

7 741.283 Minimum term of imprisonment for domestic
8 violence.--If a person is found guilty of, has had
9 adjudication withheld on, or has pled nolo contendere to a
10 crime of domestic violence, as defined in s. 741.28, which
11 involved any physical injury to another individual, 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 3. 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

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 4. 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. 784.03, s. 784.041, or s. 784.045 or for any
11 offense of domestic violence described in s. 741.28, the court
12 shall impose a surcharge of \$200. Payment of the surcharge
13 shall be a condition of probation, community control, or any
14 other court-ordered supervision. The clerk of the court shall
15 deposit \$85 of the surcharge into the Domestic Violence Trust
16 Fund established in s. 741.01. The remainder of the surcharge
17 shall be provided to the county sheriff to be used to defray
18 the costs of incarcerating persons sentenced under s. 741.283
19 and to provide additional training to law enforcement
20 personnel in combating domestic violence.

21 Section 5. Subsection (12) is added to section 948.03,
22 Florida Statutes, to read:

23 948.03 Terms and conditions of probation or community
24 control.--

25 (12) As a condition of probation, community control,
26 or any other court-ordered community supervision, the court
27 shall order a person convicted of an offense of domestic
28 violence, as defined in s. 741.28, to attend and successfully
29 complete a batterers' intervention program. The batterers'
30 intervention program must be a program certified under s.

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1 741.32 and the offender must pay the cost of attending the
2 program.

3 Section 6. Subsection (2) of section 741.01, Florida
4 Statutes, is amended to read:

5 741.01 County court judge or clerk of the circuit
6 court to issue marriage license; fee.--

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

25 Section 7. This act shall take effect July 1, 2001.
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SENATE SUMMARY

Requires the court to sentence a person to 5 days in the county jail for an offense of domestic violence which involved physical injury to another person, unless the person is imprisoned in a state correctional facility for the offense. Provides that a second or subsequent conviction of any type of battery offense is felony battery. Requires the court to impose a surcharge of \$200 against a person who commits domestic battery. Requires that a person who is convicted of an offense of domestic violence complete a batterers' intervention program. (See bill for details.)