

By the Committee on Children and Families; and Senator Cowin

300-1732-01

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

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

19 784.03 Battery; felony battery.--

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

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

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

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

1 subsection, "conviction" means a determination of guilt that
2 is the result of a plea or a trial, regardless of whether
3 adjudication is withheld or a plea of nolo contendere is
4 entered.

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

7 938.08 Additional cost to fund programs in domestic
8 violence.--In addition to any sanction imposed for a violation
9 of s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045,
10 s. 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s.
11 784.083, or s. 784.085 or for any offense of domestic violence
12 described in s. 741.28, the court shall impose a surcharge of
13 \$201. Payment of the surcharge shall be a condition of
14 probation, community control, or any other court-ordered
15 supervision. The sum of \$85 of the surcharge shall be
16 deposited into the Domestic Violence Trust Fund established in
17 s. 741.01. The clerk of the court shall retain \$1 of each
18 surcharge that the clerk of the court collects as a service
19 charge of the clerk's office. The remainder of the surcharge
20 shall be provided to the county sheriff to be used to defray
21 the costs of incarcerating persons sentenced under s. 741.283
22 and to provide additional training to law enforcement
23 personnel in combating 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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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1778

4 Requires child protective investigative staff to receive
5 training on the use of injunction processes to remove a
6 domestic violence perpetrator from the home.

7 Removes the requirement that persons who have had adjudication
8 withheld for a crime of domestic violence receive the mandated
9 5 day jail sentence.

10 Replaces the requirement that physical injury be involved in
11 the commission of the crime of domestic violence for which a
12 mandatory 5 day jail sentence is imposed with the requirement
13 that there was intentionally caused bodily harm.

14 Expands the list of battery and assault related offenses for
15 which a \$200 surcharge is applied.

16 Increases the surcharge by \$1 to be retained by the clerk of
17 the court for processing the payments and removes reference to
18 the clerk of the court depositing collected funds into the
19 Domestic Violence Trust Fund.

20 In two sections of law, modifies the requirement that courts
21 impose the condition of participating in the batterer's
22 intervention program on probationers who have committed a
23 crime of domestic violence to exclude those persons whom the
24 court determines do not qualify for the program.

25 Delays the requirement that batterer's intervention programs
26 be certified until July 1, 2002.