

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to domestic violence; amending s. 741.28,
7 F.S.; correcting a cross reference; amending s. 741.283,
8 F.S.; requiring a court to sentence a person to serve a
9 specified minimum number of days in the county jail if the
10 person is adjudicated guilty of the crime of domestic
11 violence and in the commission of the offense deprived a
12 family or household member of communication services;
13 creating s. 741.311, F.S.; defining the term
14 "communication services"; prohibiting a person from
15 depriving a family or household member of the use of
16 communication services in the course of committing
17 domestic violence; reclassifying the offense if a person
18 is adjudicated guilty of a crime in the course of
19 committing domestic violence, and during the time the
20 crime was committed, deprived a family or household member
21 of the use of communication services; providing
22 applicability; providing an effective date.

HB 1625

2005
CS

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

25

26 Section 1. Section 741.28, Florida Statutes, is amended to
27 read:

28 741.28 Domestic violence; definitions.--As used in ss.
29 741.28-741.311 ~~ss. 741.28-741.31~~:

30 (1) "Department" means the ~~Florida~~ Department of Law
31 Enforcement.

32 (2) "Domestic violence" means any assault, aggravated
33 assault, battery, aggravated battery, sexual assault, sexual
34 battery, stalking, aggravated stalking, kidnapping, false
35 imprisonment, or any criminal offense resulting in physical
36 injury or death of one family or household member by another
37 family or household member.

38 (3) "Family or household member" means spouses, former
39 spouses, persons related by blood or marriage, persons who are
40 presently residing together as if a family or who have resided
41 together in the past as if a family, and persons who are parents
42 of a child in common regardless of whether they have been
43 married. With the exception of persons who have a child in
44 common, the family or household members must be currently
45 residing or have in the past resided together in the same single
46 dwelling unit.

47 (4) "Law enforcement officer" means any person who is
48 elected, appointed, or employed by any municipality or the state
49 or any political subdivision thereof who meets the minimum
50 qualifications established in s. 943.13 and is certified as a
51 law enforcement officer under s. 943.1395.

HB 1625

2005
CS

52 Section 2. Section 741.283, Florida Statutes, is amended
53 to read:

54 741.283 Minimum term of imprisonment for domestic
55 violence.--If a person is adjudicated guilty of a crime of
56 domestic violence, ~~as defined in s. 741.28,~~ and in the
57 commission of the offense the person ~~has~~ intentionally caused
58 bodily harm to another person, or the person deprived a family
59 or household member of access to or use of communication
60 services as prohibited by s. 741.311, the court shall order the
61 person to serve a minimum of 5 days in the county jail as part
62 of the sentence imposed, unless the court sentences the person
63 to a nonsuspended period of incarceration in a state
64 correctional facility. This section does not preclude the court
65 from sentencing the person to probation, community control, or
66 an additional period of incarceration.

67 Section 3. Section 741.311, Florida Statutes, is created
68 to read:

69 741.311 Domestic violence; deprivation of communication
70 services.--

71 (1) For the purposes of this section, the term
72 "communication services" has the same meaning as in s. 812.15(1)
73 and includes, but is not limited to, telephones, cellular
74 telephones, and pagers.

75 (2) A person may not deprive a family or household member
76 of access to or the use of communication services in the course
77 of committing domestic violence. An act shall be deemed "in the
78 course of committing domestic violence" if the act of domestic
79 violence occurs prior to, contemporaneously with, or subsequent

80 to depriving the family or household member of access to or use
 81 of communication services and the deprivation is in furtherance
 82 of the commission or concealment of the act of domestic
 83 violence.

84 (3) If a person adjudicated guilty of a crime of domestic
 85 violence violated subsection (2), the court shall reclassify the
 86 felony or misdemeanor to the next higher degree as provided in
 87 this subsection. The reclassification shall be made in the
 88 following manner:

89 (a) In the case of a misdemeanor of the second degree, the
 90 offense is reclassified as a misdemeanor of the first degree.

91 (b) In the case of a misdemeanor of the first degree, the
 92 offense is reclassified as a felony of the third degree.

93 (c) In the case of a felony of the third degree, the
 94 offense is reclassified as a felony of the second degree.

95 (d) In the case of a felony of the second degree, the
 96 offense is reclassified as a felony of the first degree.

97 (e) In the case of a felony of the first degree or a
 98 felony of the first degree punishable by a term of imprisonment
 99 not exceeding life, the offense is reclassified as a life
 100 felony.

101 Section 4. This act shall take effect July 1, 2005, and
 102 shall apply to offenses committed on or after that date.