

By Senator Aronberg

27-1471A-05

1 A bill to be entitled

2 An act relating to domestic violence; amending

3 s. 741.28, F.S.; correcting a cross-reference;

4 amending s. 741.283, F.S.; requiring a court to

5 sentence a person to serve a minimum of 5 days

6 in the county jail if the person is adjudicated

7 guilty of the crime of domestic violence and

8 deprives a family or household member of

9 communications services; creating s. 741.311,

10 F.S.; defining the term "communication

11 services"; prohibiting a person from depriving

12 a family or household member of the use of

13 communication services in the course of

14 committing domestic violence; providing an

15 enhanced penalty if a person is adjudicated

16 guilty of a crime in the course of committing

17 domestic violence, and during the time the

18 crime was committed, deprived a family or

19 household member of the use of communication

20 services; providing an effective date.

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

24 Section 1. Section 741.28, Florida Statutes, is
25 amended to read:

26 741.28 Domestic violence; definitions.--As used in ss.
27 741.28-741.311 ~~ss. 741.28-741.31~~:

28 (1) "Department" means the ~~Florida~~ Department of Law
29 Enforcement.

30 (2) "Domestic violence" means any assault, aggravated
31 assault, battery, aggravated battery, sexual assault, sexual

1 battery, stalking, aggravated stalking, kidnapping, false
2 imprisonment, or any criminal offense resulting in physical
3 injury or death of one family or household member by another
4 family or household member.

5 (3) "Family or household member" means spouses, former
6 spouses, persons related by blood or marriage, persons who are
7 presently residing together as if a family or who have resided
8 together in the past as if a family, and persons who are
9 parents of a child in common regardless of whether they have
10 been married. With the exception of persons who have a child
11 in common, the family or household members must be currently
12 residing or have in the past resided together in the same
13 single dwelling unit.

14 (4) "Law enforcement officer" means any person who is
15 elected, appointed, or employed by any municipality or the
16 state or any political subdivision thereof who meets the
17 minimum qualifications established in s. 943.13 and is
18 certified as a law enforcement officer under s. 943.1395.

19 Section 2. Section 741.283, Florida Statutes, is
20 amended to read:

21 741.283 Minimum term of imprisonment for domestic
22 violence.--If a person is adjudicated guilty of a crime of
23 domestic violence, ~~as defined in s. 741.28,~~ and the person has
24 intentionally caused bodily harm to another person, or a
25 person is adjudicated guilty of a violation of s. 741.311, the
26 court shall order the person to serve a minimum of 5 days in
27 the county jail as part of the sentence imposed, unless the
28 court sentences the person to a nonsuspended period of
29 incarceration in a state correctional facility. This section
30 does not preclude the court from sentencing the person to
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1 | probation, community control, or an additional period of
2 | incarceration.

3 | Section 3. Section 741.311, Florida Statutes, is
4 | created to read:

5 | 741.311 Domestic violence; deprivation of
6 | communications systems.--

7 | (1) For the purposes of this section, the term
8 | "communication services" has the same meaning as in s.
9 | 812.15(1) and includes, but is not limited to, telephones,
10 | cellular telephones, and pagers.

11 | (2) A person may not deprive a family or household
12 | member of access to or the use of communication services in
13 | the course of committing domestic violence.

14 | (3) If a person is adjudicated guilty of a crime in
15 | the course of committing domestic violence and, during the
16 | time the crime was committed violated subsection (2), the
17 | penalty imposed shall be enhanced as follows:

18 | (a) A misdemeanor of the second degree shall be
19 | punished as if it were a misdemeanor of the first degree.

20 | (b) A misdemeanor of the first degree shall be
21 | punished as if it were a felony of the third degree.

22 | (c) A felony of the third degree shall be punished as
23 | if it were a felony of the second degree.

24 | (d) A felony of the second degree shall be punished as
25 | if it were a felony of the first degree.

26 | (e) A felony of the first degree shall be punished as
27 | if it were a life felony.

28 | Section 4. This act shall take effect July 1, 2005.
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SENATE SUMMARY

Requires a court to sentence a person to serve a minimum of 5 days in the county jail if the person is adjudicated guilty of the crime of domestic violence and deprives a family or household member of communications services. Prohibits a person from depriving a family or household member of the use of communication services in the course of committing domestic violence. Provides for an enhanced penalty to be imposed against a person who is adjudicated guilty of a crime in the course of committing domestic violence and who, during the time the crime was committed, deprived a family or household member of the use of communication services.

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