

## House Bill No. 1673

An act relating to acts of violence; providing a short title; amending s. 39.301, F.S.; requiring that staff who conduct child protective investigations receive training on removing a perpetrator of domestic violence from the home by use of injunction; creating s. 741.283, F.S.; requiring that the court order a person to serve a minimum term of imprisonment as part of any sentence imposed for an offense of domestic violence that intentionally caused bodily harm to another person; providing an exception if the person is incarcerated for such offense; amending s. 784.03, F.S.; providing that a person commits felony battery if the offense is a second or subsequent conviction of any type of battery offense; creating s. 938.08, F.S.; requiring that the court impose an additional surcharge for any offense of domestic violence and other assault, battery, and stalking offenses; providing for deposit of a portion of the surcharge into the Domestic Violence Trust Fund; providing for the clerk of the court to retain a service charge; requiring that a portion of the surcharge be used to train law enforcement personnel in combating domestic violence; amending s. 948.03, F.S.; requiring that a person convicted of an offense of domestic violence complete a batterers' intervention program; requiring that the offender pay the cost of attending the program; amending s. 741.01, F.S.; authorizing the Executive Office of the Governor to use a specified amount from the Domestic Violence Trust Fund to fund a public-awareness campaign on domestic violence; amending s. 741.281, F.S.; requiring the court to impose the batterers' intervention program as a condition of probation; providing for an exception; requiring that the batterers' intervention program be certified; providing an effective date.

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

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

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

39.301 Initiation of protective investigations.—

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

(f) Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's safety and well-being and development, and cause the delivery of those services through the early intervention of the department or its agent. The training provided to staff members who conduct child protective investigations must include instruction on how and when to use the injunction process under s. 39.504 or s. 741.30 to remove

a perpetrator of domestic violence from the home as an intervention to protect the child.

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

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

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

784.03 Battery; felony battery.—

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

1. Actually and intentionally touches or strikes another person against the will of the other; or

2. Intentionally causes bodily harm to another person.

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

(2) A person who has ~~one two~~ prior ~~conviction convictions~~ for battery, ~~aggravated battery, or felony battery~~ and who commits ~~any second a third~~ or subsequent battery commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, “conviction” means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

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

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

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

948.03 Terms and conditions of probation or community control.—

(12) As a condition of probation, community control, or any other court-ordered community supervision, the court shall order a person convicted of an offense of domestic violence, as defined in s. 741.28, to attend and successfully complete a batterers' intervention program unless the court determines that the person does not qualify for the batterers' intervention program pursuant to s. 741.325. Effective July 1, 2002, the batterers' intervention program must be a program certified under s. 741.32 and the offender must pay the cost of attending the program.

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

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

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

Section 8. Section 741.281, Florida Statutes, is amended to read:

741.281 Court to order batterers' intervention program attendance.—If a person is found guilty of, has had adjudication withheld on, or has pled nolo contendere to a crime of domestic violence, as defined in s. 741.28, that person shall be ordered by the court to a minimum term of 1 year's probation and the court shall order that the defendant attend a batterers' intervention program as a condition of probation. If a person is admitted to a pretrial diversion program and has been charged with an act of domestic violence, as defined in s. 741.28, the court shall order as a condition of the program that the defendant attend a batterers' intervention program. The court must impose the condition of the batterers' intervention program for a defendant admitted to placed on probation or pretrial diversion under this section, but the court, in its discretion, may determine not to impose the condition if it states on the record why a batterers' intervention program might be inappropriate. The court must impose the condition of the batterers' intervention program for a defendant placed on probation unless the court determines that the person does not qualify for the batterers' intervention program

pursuant to s. 741.325. Effective July 1, 2002, the batterers' intervention program must ~~It is preferred, but not mandatory, that such programs be a certified program~~ under s. 741.32. The imposition of probation under this section shall not preclude the court from imposing any sentence of imprisonment authorized by s. 775.082.

Section 9. This act shall take effect July 1, 2001.

Approved by the Governor May 21, 2001.

Filed in Office Secretary of State May 21, 2001.