

CHAPTER 2017-156

House Bill No. 1385

An act relating to domestic violence; amending s. 741.281, F.S.; specifying that a person must complete a batterers' intervention program ordered as a condition of probation in certain circumstances; amending s. 741.283, F.S.; increasing the minimum terms of imprisonment for domestic violence; providing enhanced minimum terms in certain circumstances; amending s. 741.30, F.S.; prohibiting the award of attorney fees in specified domestic violence proceedings; amending s. 775.08435, F.S.; prohibiting the withholding of adjudication for specified domestic violence offenses; providing exceptions; providing an effective date.

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

Section 1. 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 adjudication withheld on, or pleads 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 and complete a batterers' intervention program as a condition of probation. The court must impose the condition of the batterers' intervention program for a defendant 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. The imposition of probation under this section does not preclude the court from imposing any sentence of imprisonment authorized by s. 775.082.

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

741.283 Minimum term of imprisonment for domestic violence.—

(1)(a) Except as provided in paragraph (b), 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 10 5 days in the county jail for a first offense, 15 days for a second offense, and 20 days for a third or subsequent offense as part of the sentence imposed, unless the court sentences the person to a nonsuspended period of incarceration in a state correctional facility.

(b) 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, and the crime of domestic violence takes place in the presence of a child under 16 years of age who is a family or household member, as defined in s. 741.28, of the victim or the perpetrator, the court shall order the person to serve a minimum of 15 days in the county jail for a first offense, 20 days for a second offense, and 30 days for a third or subsequent offense as part of the sentence imposed, unless the court sentences the person to a nonsuspended period of incarceration in a state correctional facility.

(2) This section does not preclude the court from sentencing the person to probation, community control, or an additional period of incarceration.

Section 3. Paragraphs (g), (h), (i), and (j) of subsection (1) of section 741.30, Florida Statutes, are redesignated as paragraphs (h), (i), (j), and (k), respectively, and paragraph (g) is added to that subsection, to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement; public records exemption.—

(1) There is created a cause of action for an injunction for protection against domestic violence.

(g) Notwithstanding any other law, attorney fees may not be awarded in any proceeding under this section.

Section 4. Paragraph (c) of subsection (1) of section 775.08435, Florida Statutes, is redesignated as paragraph (d), and a new paragraph (c) is added to that subsection, to read:

775.08435 Prohibition on withholding adjudication in felony cases.—

(1) Notwithstanding the provisions of s. 948.01, the court may not withhold adjudication of guilt upon the defendant for:

(c) A third degree felony that is a crime of domestic violence as defined in s. 741.28, unless:

1. The state attorney requests in writing that adjudication be withheld;
or

2. The court makes written findings that the withholding of adjudication is reasonably justified based on circumstances or factors in accordance with s. 921.0026.

Section 5. This act shall take effect October 1, 2017.

Approved by the Governor June 23, 2017.

Filed in Office Secretary of State June 23, 2017.