

By Senator Garcia

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1 A bill to be entitled
2 An act relating to domestic violence; amending s.
3 741.281, F.S.; specifying that a person must complete
4 a batterers' intervention program ordered as a
5 condition of probation in certain circumstances;
6 amending s. 741.283, F.S.; increasing the minimum
7 terms of imprisonment for domestic violence; providing
8 enhanced minimum terms in certain circumstances;
9 amending s. 741.30, F.S.; prohibiting the award of
10 attorney fees in specified domestic violence
11 proceedings; amending s. 775.08435, F.S.; prohibiting
12 the withholding of adjudication for specified domestic
13 violence offenses; providing exceptions; providing an
14 effective date.

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

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18 Section 1. Section 741.281, Florida Statutes, is amended to
19 read:

20 741.281 Court to order batterers' intervention program
21 attendance.—If a person is found guilty of, has adjudication
22 withheld on, or pleads nolo contendere to a crime of domestic
23 violence, as defined in s. 741.28, that person shall be ordered
24 by the court to a minimum term of 1 year's probation and the
25 court shall order that the defendant attend and complete a
26 batterers' intervention program as a condition of probation. The
27 court must impose the condition of the batterers' intervention
28 program for a defendant under this section, but the court, in
29 its discretion, may determine not to impose the condition if it

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30 states on the record why a batterers' intervention program might
31 be inappropriate. The court must impose the condition of the
32 batterers' intervention program for a defendant placed on
33 probation unless the court determines that the person does not
34 qualify for the batterers' intervention program pursuant to s.
35 741.325. The imposition of probation under this section does not
36 preclude the court from imposing any sentence of imprisonment
37 authorized by s. 775.082.

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

40 741.283 Minimum term of imprisonment for domestic
41 violence.—

42 (1) (a) Except as provided in paragraph (b), if a person is
43 adjudicated guilty of a crime of domestic violence, as defined
44 in s. 741.28, and the person has intentionally caused bodily
45 harm to another person, the court shall order the person to
46 serve a minimum of 10 ~~5~~ days in the county jail for a first
47 offense, 15 days for a second offense, and 20 days for a third
48 or subsequent offense as part of the sentence imposed, unless
49 the court sentences the person to a nonsuspended period of
50 incarceration in a state correctional facility.

51 (b) If a person is adjudicated guilty of a crime of
52 domestic violence, as defined in s. 741.28, and the person has
53 intentionally caused bodily harm to another person, and the
54 crime of domestic violence takes place in the presence of a
55 child under 16 years of age who is a family or household member,
56 as defined in s. 741.28, of the victim or the perpetrator, the
57 court shall order the person to serve a minimum of 15 days in
58 the county jail for a first offense, 20 days for a second

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59 offense, and 30 days for a third or subsequent offense as part
60 of the sentence imposed, unless the court sentences the person
61 to a nonsuspended period of incarceration in a state
62 correctional facility.

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

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

70 741.30 Domestic violence; injunction; powers and duties of
71 court and clerk; petition; notice and hearing; temporary
72 injunction; issuance of injunction; statewide verification
73 system; enforcement; public records exemption.—

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

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

78 Section 4. Paragraph (c) of subsection (1) of section
79 775.08435, Florida Statutes, is redesignated as paragraph (d),
80 and a new paragraph (c) is added to that subsection, to read:

81 775.08435 Prohibition on withholding adjudication in felony
82 cases.—

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

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

87 1. The state attorney requests in writing that adjudication

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88 be withheld; or

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

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