

Bill No. CS/HB 1381, 1st Eng.

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Silver moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 5, between lines 18 and 19,

15

16 insert:

17 Section 5. Section 25.385, Florida Statutes, is
18 amended to read:

19 25.385 Instruction for circuit and county court judges
20 in domestic violence Standards for instruction of circuit and
21 county court judges in handling domestic violence cases.--

22 (1) It is crucial to the fair and efficient
23 administration of justice in this state that all members of
24 the judiciary be educated on domestic violence. Therefore, the
25 Florida Court Educational Council shall establish standards
26 for domestic violence instruction and a comprehensive
27 education plan to ensure that each circuit and county court
28 judge who has responsibility for cases of domestic violence
29 has the opportunity to attend educational programs on a
30 periodic, regular, and timely basis of circuit and county
31 court judges who have responsibility for domestic violence

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1 ~~cases, and the council shall provide such instruction on a~~
2 ~~periodic and timely basis.~~

3 (2) As used in this section:

4 (a) The term "domestic violence" is defined as in s.
5 741.28 means any assault, battery, sexual assault, sexual
6 battery, or any criminal offense resulting in physical injury
7 or death of one family or household member by another, who is
8 or was residing in the same single dwelling unit.

9 (b) A "judge who has responsibility for cases of
10 domestic violence," includes, but is not limited to, a circuit
11 or county judge who hears domestic violence-related cases, or
12 cases where domestic violence may be present, on a temporary,
13 part-time, or emergency basis, in any division of the court,
14 including, but not limited to, family, civil, criminal,
15 probate, or juvenile divisions ~~Family or household member"~~
16 ~~means spouse, former spouse, persons related by blood or~~
17 ~~marriage, persons who are presently residing together, as if a~~
18 ~~family, or who have resided together in the past, as if a~~
19 ~~family, and persons who have a child in common regardless of~~
20 ~~whether they have been married or have resided together at any~~
21 ~~time.~~

22 (3)(a) The Florida Court Education Council shall
23 develop and make available educational tools for instruction
24 in domestic violence, which may include, but are not limited
25 to, bench guides, video training tapes, and any other packaged
26 or presented materials the council deems appropriate, so that
27 judges can obtain information timely and efficiently before
28 hearing cases where domestic violence may be involved.

29 (b) The Florida Court Education Council shall develop
30 educational programs on domestic violence, which must include
31 training in: laws governing domestic violence; prevalence of

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1 domestic violence; characteristics and impacts of domestic
2 violence on children or other dependents; custody and
3 visitation issues; issues of whether, and under what
4 conditions, mediation is appropriate; information on community
5 resources and referral services; and any other information
6 that the council deems appropriate. The educational programs
7 may be a part of other programs provided by the Office of the
8 State Courts Administrator.

9 (4) The Office of State Courts Administrator shall
10 maintain records, including the date and curriculum of the
11 programs, of all judges who attend educational programs on
12 domestic violence, and of the current assignment of each
13 attendee, and on request shall make such records available for
14 public inspection.

15 (5) The Florida Court Education Council shall provide,
16 as part of its annual report to the Governor, the President of
17 the Senate, and the Speaker of the House of Representatives, a
18 description of the types of educational programs on domestic
19 violence offered, course materials, learning objectives, the
20 references and the names and credentials of instructors, the
21 number of judges listed by circuit and county who attend the
22 educational programs, and any other information that is
23 relevant to a full description of the educational programs on
24 domestic violence.

25 Section 6. Paragraph (b) of subsection (2) of section
26 44.102, Florida Statutes, is amended to read:

27 44.102 Court-ordered mediation.--

28 (2) A court, under rules adopted by the Supreme Court:

29 (b) In circuits in which a family mediation program
30 has been established and upon a court finding of a dispute,
31 shall refer to mediation all or part of custody, visitation,

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1 or other parental responsibility issues as defined in s.
2 61.13. Upon motion or request of a party, or upon the court's
3 own motion, a court shall not refer any case to mediation if
4 it finds there has been a history of domestic violence that
5 would compromise the mediation process.

6 Section 7. Paragraph (b) of subsection (2) of section
7 61.13, Florida Statutes, is amended to read:

8 61.13 Custody and support of children; visitation
9 rights; power of court in making orders.--

10 (2)

11 (b)1. The court shall determine all matters relating
12 to custody of each minor child of the parties in accordance
13 with the best interests of the child and in accordance with
14 the Uniform Child Custody Jurisdiction Act. It is the public
15 policy of this state to assure that each minor child has
16 frequent and continuing contact with both parents after the
17 parents separate or the marriage of the parties is dissolved
18 and to encourage parents to share the rights and
19 responsibilities, and joys, of childrearing. After considering
20 all relevant facts, the father of the child shall be given the
21 same consideration as the mother in determining the primary
22 residence of a child irrespective of the age or sex of the
23 child.

24 2. The court shall order that the parental
25 responsibility for a minor child be shared by both parents
26 unless the court finds that shared parental responsibility
27 would be detrimental to the child. Evidence that a parent has
28 been convicted of a felony of the third degree or higher
29 involving domestic violence, as defined in s. 741.28 and
30 chapter 775, or meets the criteria of s. 39.464(1)(d), creates
31 a rebuttable presumption of detriment to the child. If the

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1 presumption is not rebutted, shared parental responsibility,
2 including visitation, residence of the child, and decisions
3 made regarding the child, may not be granted to the convicted
4 parent. However, the convicted parent is not relieved of any
5 obligation to provide financial support. If the court
6 determines that shared parental responsibility would be
7 detrimental to the child, it may order sole parental
8 responsibility and make such arrangements for visitation as
9 will best protect the child or abused spouse from further
10 harm. Whether or not there is a conviction of any offense of
11 domestic violence or child abuse or the existence of an
12 injunction for protection against domestic violence, the court
13 shall consider evidence of domestic violence or child abuse as
14 evidence of detriment to the child. If the parent of the child
15 is convicted of a capital felony or a felony of the first
16 degree which involved domestic violence against another parent
17 of the child, the court may not award visitation rights to the
18 convicted parent unless the child is over 16 years of age and
19 agrees to the order of visitation; or unless the convicted
20 parent acted in self-defense and is granted executive clemency
21 or a petition for such clemency is pending on the parent's
22 behalf; or unless the court finds extraordinary circumstances
23 to warrant that visitation is in the manifest best interests
24 of the child. A parent shall not be deemed convicted under
25 this subparagraph until the conviction has been affirmed on
26 appeal or the time for filing an appeal has passed and no
27 appeal has been filed.

28 a. In ordering shared parental responsibility, the
29 court may consider the expressed desires of the parents and
30 may grant to one party the ultimate responsibility over
31 specific aspects of the child's welfare or may divide those

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1 responsibilities between the parties based on the best
2 interests of the child. Areas of responsibility may include
3 primary residence, education, medical and dental care, and any
4 other responsibilities that the court finds unique to a
5 particular family.

6 b. The court shall order "sole parental
7 responsibility, with or without visitation rights, to the
8 other parent when it is in the best interests of" the minor
9 child.

10 c. The court may award the grandparents visitation
11 rights with a minor child if it is in the child's best
12 interest. Grandparents have legal standing to seek judicial
13 enforcement of such an award. This section does not require
14 that grandparents be made parties or given notice of
15 dissolution pleadings or proceedings, nor do grandparents have
16 legal standing as "contestants" as defined in s. 61.1306. A
17 court may not order that a child be kept within the state or
18 jurisdiction of the court solely for the purpose of permitting
19 visitation by the grandparents.

20 3. Access to records and information pertaining to a
21 minor child, including, but not limited to, medical, dental,
22 and school records, may not be denied to a parent because the
23 parent is not the child's primary residential parent.

24 Section 8. The Supreme Court, through The Florida Bar,
25 shall report to the Governor, the President of the Senate, and
26 the Speaker of the House of Representatives on the courses
27 which in their brochure outline contain reference to domestic
28 violence and which The Florida Bar approves for continuing
29 legal education credits for members of The Florida Bar. The
30 report must be submitted annually, beginning September 1,
31 1998. For courses offered or sponsored by The Florida Bar, the

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1 report must include course materials; references and names of
2 instructors; a description of courses offered; the section or
3 committee of The Florida Bar which sponsors the course; the
4 number of attorneys who attend such courses, if available; and
5 any other information that describes or assesses the
6 continuing legal education courses on domestic violence which
7 are offered by The Florida Bar.

8 Section 9. Section 741.28, Florida Statutes, is
9 amended to read:

10 741.28 Domestic violence; definitions.--As used in ss.
11 741.28-741.31, the term:

12 (1) "Domestic violence" means any assault, aggravated
13 assault, battery, aggravated battery, sexual assault, sexual
14 battery, stalking, aggravated stalking, kidnapping, false
15 imprisonment, or any criminal offense resulting in physical
16 injury or death of one family or household member by another
17 family or household member who is or was residing in the same
18 single dwelling unit.

19 (2) "Family or household member" means spouses, former
20 spouses, persons related by blood or marriage, persons who are
21 presently residing together as if a family or who have resided
22 together in the past as if a family, and persons who have a
23 child in common regardless of whether they have been married
24 or have resided together at any time.

25 (3) "Department" means the Florida Department of Law
26 Enforcement.

27 (4) "Law enforcement officer" means any person who is
28 elected, appointed, or employed by any municipality or the
29 state or any political subdivision thereof who meets the
30 minimum qualifications established in s. 943.13 and is
31 certified as a law enforcement officer under s. 943.1395.

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(Redesignate subsequent sections.)

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

On page 2, line 3, after the semicolon

insert:

amending s. 25.385, F.S.; providing for instruction for circuit and county judges in domestic violence; redefining the term "domestic violence" for purposes of training provided by the Florida Court Educational Council; defining "judge who has responsibility for cases of domestic violence"; revising duties of the council; providing for a comprehensive domestic violence education plan and tools; requiring the council to develop educational programs on domestic violence; providing the programs may be a part of other programs offered by the Office of State Courts Administrator; providing for maintenance by the office of certain records of judicial attendance of such programs; providing for public inspection of the records; providing for inclusion of certain information with respect to the programs in the annual report by the council to the Governor and Legislature; amending s. 44.102, F.S.; providing for nonreferral of a case to court-ordered family

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1 mediation upon the court's own motion, under
2 specified circumstances; amending s. 61.13,
3 F.S.; prohibiting the court from awarding
4 visitation rights to a parent who has been
5 convicted of a capital felony or a first-degree
6 felony that involved domestic violence;
7 providing certain exceptions; requiring that
8 the Supreme Court through The Florida Bar
9 annually report to the Governor and Legislature
10 on its courses of continuing legal education on
11 domestic violence; amending s. 741.28; deleting
12 requirement that victim and alleged perpetrator
13 currently or formerly have resided in the same
14 single dwelling unit;

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