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## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 30, 1998 Revised: \_\_\_\_\_

Subject: Protection of Victims of Domestic Violence Who Apply for or Receive Public Assistance

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Crosby</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

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### I. Summary:

The Committee Substitute for Senate Bill 1984 amends several sections of chapter 414, F.S., the Work and Gain Economic Self-sufficiency Act (WAGES), to provide various exceptions from provisions in WAGES.

The Committee Substitute for Senate Bill 1984 defines “family or household member” and “domestic violence” for purposes related to WAGES. This bill requires that local WAGES coalitions, in conjunction with their planning, coordination, and oversight functions specified in the statewide implementation plan, include in the local plan provisions for providing services to victims of domestic violence. The development of such a plan is described. Further, this bill provides that:

- Certain persons at risk of domestic violence will receive an exception from the WAGES work requirements.
- An exception will be available for noncompliance related to treatment or remediation of the past effects of domestic violence.
- A person who has been battered or subject to extreme cruelty in the United States by a spouse or parent is a “qualified noncitizen” under specific circumstances.
- Program applicants or participants will receive information regarding services available from domestic violence centers or organizations.
- The risk of domestic violence will constitute good cause for a parent or caretaker relative’s failure to cooperate with the establishment of paternity or the establishment, modification, or enforcement of certain child support orders.
- Victims of domestic violence are excepted from the limitation on cash assistance for children born to families receiving temporary cash assistance.

This act will take effect October 1, 1998.

This bill substantially amends the following sections of the Florida Statutes: 414.0252, 414.028, 414.065, 414.20, 414.095, 414.105, and 414.115.

## **II. Present Situation:**

### **Federal Law**

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 contains a family violence option to allow each state, at its option, to certify that the State has established and is enforcing standards and procedures to:

- Screen and identify individuals receiving assistance who have a history of domestic violence while maintaining the confidentiality of such individuals.
- Refer such individuals to counseling and supportive services.
- Waive, pursuant to a determination of good cause, other program requirements such as time limitations, residency requirements, child support cooperation requirements, and family cap provisions.

This waiver applies in cases where compliance with such a requirement would make it more difficult for individuals receiving assistance under this part to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence. It is also applicable to individuals who are at risk of further domestic violence.

### **Florida's WAGES Act**

Under the current WAGES Act, the following individuals are exempt from work activity requirements: a minor child under the age of 16; an individual who receives benefits under the Supplemental Security Income program or the Social Security Disability Insurance program; adults who are not included in the calculation of temporary cash assistance in child-only cases; and one custodial parent with a child less than three months of age. s. 414.065(3), F.S. All others who do not participate in work requirements face increasingly severe sanctions for noncompliance. See, e.g., s. 414.065(4), F.S.

Time limitations on temporary cash assistance are stated at s. 414.105, F.S. Generally, a participant may receive no more than 24 months of cash assistance in a 60 month period. For families which include longer-term welfare recipients and individuals under the age of 24 who lack high school completion or significant work history, the time limit is not more than 36 months of cash assistance in a 72 month period. s. 414.105(1), F.S. The Department of Children and Family Services has established a procedure for reviewing and approving hardship exemptions; the local WAGES coalitions assist in these efforts. s. 414.105(3), F.S. Both the 24 month time limit and the 36 month time limit, plus any hardship extension, remain within a 48 month total lifetime limit. At this time, child-only cases, such as grandparents caring for grandchildren, and individuals

receiving benefits under the Supplemental Security Income or the Social Security Disability Insurance program are not subject to any time limit under WAGES. ss. 414.105(8) and (9), F.S.

### **Domestic Violence**

In 1996, more than 130,000 incidences of domestic violence were reported to the Florida Department of Law Enforcement. In that year, Florida's domestic violence centers reportedly answered 179,550 crisis calls and provided 243,870 days of shelter to 14,833 women and children. Numbers vary but sample studies show a range of 14.6 percent to 32 percent of public assistance recipients who are also current victims of domestic violence. Under current Florida law, welfare recipients who are also victims of domestic violence are expected to work and are also subject to the state's time limitations. They may, however, request an exception to noncompliance penalties under the "good cause" exception available at s. 414.065(7)(c), F.S. This exception does not apply to the time limitations for receipt of cash assistance stated at s. 414.105, F.S. Provisions are also made in the WAGES law for counseling participants who have a personal or family problem or problems related to substance abuse that present a barrier to compliance with the work activity. s. 414.20(4), F.S.

### **Child Support**

Federal law allows domestic violence victims and others with good cause the opportunity to request a waiver from cooperating with child support enforcement requirements if the health or safety of a parent or child will be at risk by the disclosure of such paternal information. See, e.g., 42 U.S.C. 602(a)(26)(B). As a condition for eligibility for WAGES under Florida law, on the other hand, strict compliance with child support enforcement efforts is required. s. 414.095(7), F.S.

## **III. Effect of Proposed Changes:**

Section 1 defines the terms "family or household member" and "domestic violence" for purposes of the WAGES Act. "Domestic violence" is defined as any assault, aggravated assault, battery, aggravated battery, sexual assault or battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in injury or death by a family or household member. For purposes of the WAGES Act, "family or household member" is defined as spouses and former spouses, noncohabitating partners, persons related by blood or marriage, persons presently residing together or having resided together in the past, and persons who have a common child.

Section 2 amends s. 414.028, F.S., relevant to the local WAGES coalitions, to provide that the local WAGES coalitions, in conjunction with their planning, coordination, and oversight functions specified in the statewide implementation plan, will include in the local plan a provision for providing services to victims of domestic violence.

Criteria for developing a plan for services of victims of domestic violence, as specified by the State WAGES Board, are described as follows:

- Determining the eligibility for exceptions to the work requirements;
- Programs and services to be provided to victims of domestic violence;
- Time limits for exceptions to program requirements which may not exceed federal or state lifetime limits; and,
- An annual report on domestic violence to report on issues such as progress made in reducing domestic violence as a barrier to self-sufficiency and local policies and procedures, as well as the number of such cases in which exceptions and exemptions are granted.

Each local plan must specify provisions for the coordination and delivery of services, including provisions regarding coordination with local law enforcement agencies, participants' access to domestic violence services, the designation of the agency responsible for determining eligibility for exceptions to the program requirements, program requirements to prepare the individual for self-sufficiency and safety, and (where possible and necessary) transportation arrangements and job assignments that take maximum advantage of preserving the safety of the victim and his or her dependents.

Section 3 amends s. 414.065, F.S., relating to work requirements, to provide that certain persons at risk of domestic violence will receive an exception from the work requirements. These individuals include those for whom compliance would make it more probable that they would be unable to escape the domestic violence. This individual must comply, however, with a plan that specifies alternative requirements to prepare him or her for self-sufficiency while providing for the safety of the individual and his or her dependents.

This section is also amended to provide an exception for noncompliance related to the treatment or remediation of past effects of domestic violence. This individual is the person who is unable to comply with work requirements due to mental or physical impairment related to past incidences of violence. This individual will be required to cooperate with a plan that specifies alternative requirements to prepare him or her for self-sufficiency while providing for the safety of the individual and his or her dependents. The plan will include counseling or a course of treatment designed to enable him or her to resume participation. The need for treatment must be verified by a physician, therapist, or professional in the area of domestic violence; qualifications the listed professionals must possess are specified.

Neither group of individuals is accepted from the time limitations described at s. 414.105, F.S.

Section 4 republishes s. 414.20, F.S., other support services, for the purpose of incorporating the amendments described in section 3 of this bill.

Section 5 amends s. 414.095, F.S., regarding eligibility determination for the WAGES program, to add those persons who have been battered or subject to extreme cruelty in the United States by a spouse or parent as a "qualified noncitizen," under specific circumstances. These persons must

have applied for or received protection under the federal Violence Against Women Act of 1994 if the need for benefits is related to the abuse. The inclusion of this group of women is proposed because of recent federal legislation which allows battered women to self-petition for lawful permanent residency. Historically, these women were required to rely on their spouses for lawful permanent residency and so were reluctant to report abuse. The estimated number of women who will take advantage of this option is very low due to lack of knowledge of the program. For example, about 200 women per month take advantage of this law nationally.

Section 414.095, F.S., is also amended to provide that an applicant or participant in the WAGES program has the opportunity and obligation to receive information regarding services available from domestic violence centers or organizations providing counseling and supportive services to past or present victims or those at risk of domestic violence. Upon request, these persons may be referred to such organizations in a manner that will protect their confidentiality. Finally, to the extent permissible under federal law, a parent or caretaker relative will not be penalized for the failure to cooperate with the establishment of paternity or with the establishment, modification, or enforcement of certain child support orders when such cooperation could subject the individual to a risk of domestic violence. This risk constitutes good cause to the extent permitted by Title IV-D of the Social Security Act.

Section 6 amends s. 414.105, F.S., relevant to time limitations, to provide that a victim of domestic violence may be granted a hardship exemption from time limitations if the effects of such domestic violence delay, interrupt, or otherwise adversely affect the individual's participation in WAGES. This group shall not be subject to the percentage hardship exemptions listed in s. 414.105(2), F.S., (providing that hardship exemptions to the time limitations are limited to 10 percent of participants the first year, 15 percent the second year, and 20 percent each year thereafter).

Section 7 amends s. 414.115, F.S., limiting temporary cash assistance for children born to families receiving temporary cash assistance, to provide an exception to a participant who is confirmed by the Title IV-D child support agency as having been granted an exemption from participating in the requirements for the enforcement of child support due to circumstances consistent with a child conceived due to rape, incest, or sexual exploitation.

Section 8 provides an effective date of October 1, 1998.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Children and Family Services reports that total dollar expenditures may increase due to this bill, but program staff believe the increase will not be substantial.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.