

By the Committee on Family Law & Children and  
Representatives Betancourt, Fasano, Lynn, Diaz de la Portilla,  
Crow and Cosgrove

1                                   A bill to be entitled  
2           An act relating to domestic violence; amending  
3           s. 25.385, F.S.; providing for instruction for  
4           circuit and county judges in domestic violence;  
5           redefining the term "domestic violence" for  
6           purposes of training provided by the Florida  
7           Court Educational Council; defining "judge who  
8           has responsibility for cases of domestic  
9           violence"; revising duties of the council;  
10          providing for a comprehensive domestic violence  
11          education plan and tools; requiring the council  
12          to develop educational programs on domestic  
13          violence; providing the programs may be a part  
14          of other programs offered by the Office of  
15          State Courts Administrator; providing for  
16          maintenance by the office of certain records of  
17          judicial attendance of such programs; providing  
18          for public inspection of the records; providing  
19          for inclusion of certain information with  
20          respect to the programs in the annual report by  
21          the council to the Governor and Legislature;  
22          amending s. 44.102, F.S.; providing for  
23          nonreferral of a case to court-ordered family  
24          mediation upon the court's own motion, under  
25          specified circumstances; amending s. 61.13,  
26          F.S.; prohibiting the court from awarding  
27          visitation rights to a parent who has been  
28          convicted of a capital felony or a first-degree  
29          felony that involved domestic violence;  
30          providing certain exceptions; requiring that  
31          the Supreme Court through The Florida Bar

1           annually report to the Governor and Legislature  
2           on its courses of continuing legal education on  
3           domestic violence; providing an effective date.  
4

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

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7           Section 1. Section 25.385, Florida Statutes, is  
8 amended to read:

9           25.385 Instruction for circuit and county court judges  
10 in domestic violence ~~Standards for instruction of circuit and~~  
11 ~~county court judges in handling domestic violence cases.--~~

12           (1) It is crucial to the fair and efficient  
13 administration of justice in this state that all members of  
14 the judiciary be educated on domestic violence. Therefore, the  
15 Florida Court Educational Council shall establish standards  
16 for domestic violence instruction and a comprehensive  
17 education plan to ensure that each circuit and county court  
18 judge who has responsibility for cases of domestic violence  
19 has the opportunity to attend educational programs on a  
20 periodic, regular, and timely basis ~~of circuit and county~~  
21 ~~court judges who have responsibility for domestic violence~~  
22 ~~cases, and the council shall provide such instruction on a~~  
23 ~~periodic and timely basis.~~

24           (2) As used in this section:

25           (a) The term "domestic violence" is defined as in s.  
26 741.28 ~~means any assault, battery, sexual assault, sexual~~  
27 ~~battery, or any criminal offense resulting in physical injury~~  
28 ~~or death of one family or household member by another, who is~~  
29 ~~or was residing in the same single dwelling unit.~~

30           (b) A "judge who has responsibility for cases of  
31 domestic violence," includes, but is not limited to, a circuit

1 or county judge who hears domestic violence-related cases, or  
2 cases where domestic violence may be present, on a temporary,  
3 part-time, or emergency basis, in any division of the court,  
4 including, but not limited to, family, civil, criminal,  
5 probate, or juvenile divisions ~~Family or household member"~~  
6 ~~means spouse, former spouse, persons related by blood or~~  
7 ~~marriage, persons who are presently residing together, as if a~~  
8 ~~family, or who have resided together in the past, as if a~~  
9 ~~family, and persons who have a child in common regardless of~~  
10 ~~whether they have been married or have resided together at any~~  
11 ~~time.~~

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

19 (b) The Florida Court Education Council shall develop  
20 educational programs on domestic violence, which must include  
21 training in: laws governing domestic violence; prevalence of  
22 domestic violence; characteristics and impacts of domestic  
23 violence on children or other dependents; custody and  
24 visitation issues; issues of whether, and under what  
25 conditions, mediation is appropriate; information on community  
26 resources and referral services; and any other information  
27 that the council deems appropriate. The educational programs  
28 may be a part of other programs provided by the Office of the  
29 State Courts Administrator.

30 (4) The Office of State Courts Administrator shall  
31 maintain records, including the date and curriculum of the

1 programs, of all judges who attend educational programs on  
2 domestic violence, and of the current assignment of each  
3 attendee, and on request shall make such records available for  
4 public inspection.

5 (5) The Florida Court Education Council shall provide,  
6 as part of its annual report to the Governor, the President of  
7 the Senate, and the Speaker of the House of Representatives, a  
8 description of the types of educational programs on domestic  
9 violence offered, course materials, learning objectives, the  
10 references and the names and credentials of instructors, the  
11 number of judges listed by circuit and county who attend the  
12 educational programs, and any other information that is  
13 relevant to a full description of the educational programs on  
14 domestic violence.

15 Section 2. Paragraph (b) of subsection (2) of section  
16 44.102, Florida Statutes, is amended to read:

17 44.102 Court-ordered mediation.--

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

19 (b) In circuits in which a family mediation program  
20 has been established and upon a court finding of a dispute,  
21 shall refer to mediation all or part of custody, visitation,  
22 or other parental responsibility issues as defined in s.  
23 61.13. Upon motion or request of a party, or upon the court's  
24 own motion, a court shall not refer any case to mediation if  
25 it finds there has been a history of domestic violence that  
26 would compromise the mediation process.

27 Section 3. Paragraph (b) of subsection (2) of section  
28 61.13, Florida Statutes, is amended to read:

29 61.13 Custody and support of children; visitation  
30 rights; power of court in making orders.--

31 (2)

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

14           2. The court shall order that the parental  
15 responsibility for a minor child be shared by both parents  
16 unless the court finds that shared parental responsibility  
17 would be detrimental to the child. Evidence that a parent has  
18 been convicted of a felony of the third degree or higher  
19 involving domestic violence, as defined in s. 741.28 and  
20 chapter 775, or meets the criteria of s. 39.464(1)(d), creates  
21 a rebuttable presumption of detriment to the child. If the  
22 presumption is not rebutted, shared parental responsibility,  
23 including visitation, residence of the child, and decisions  
24 made regarding the child, may not be granted to the convicted  
25 parent. However, the convicted parent is not relieved of any  
26 obligation to provide financial support. If the court  
27 determines that shared parental responsibility would be  
28 detrimental to the child, it may order sole parental  
29 responsibility and make such arrangements for visitation as  
30 will best protect the child or abused spouse from further  
31 harm. Whether or not there is a conviction of any offense of

1 domestic violence or child abuse or the existence of an  
2 injunction for protection against domestic violence, the court  
3 shall consider evidence of domestic violence or child abuse as  
4 evidence of detriment to the child. If the parent of the child  
5 is convicted of a capital felony or a felony of the first  
6 degree which involved domestic violence against another parent  
7 of the child, the court may not award visitation rights to the  
8 convicted parent unless the child is over 16 years of age and  
9 agrees to the order of visitation; or unless the convicted  
10 parent acted in self-defense and is granted executive clemency  
11 or a petition for such clemency is pending on the parent's  
12 behalf; or unless the court finds that visitation is in the  
13 manifest best interests of the child.

14 a. In ordering shared parental responsibility, the  
15 court may consider the expressed desires of the parents and  
16 may grant to one party the ultimate responsibility over  
17 specific aspects of the child's welfare or may divide those  
18 responsibilities between the parties based on the best  
19 interests of the child. Areas of responsibility may include  
20 primary residence, education, medical and dental care, and any  
21 other responsibilities that the court finds unique to a  
22 particular family.

23 b. The court shall order "sole parental  
24 responsibility, with or without visitation rights, to the  
25 other parent when it is in the best interests of" the minor  
26 child.

27 c. The court may award the grandparents visitation  
28 rights with a minor child if it is in the child's best  
29 interest. Grandparents have legal standing to seek judicial  
30 enforcement of such an award. This section does not require  
31 that grandparents be made parties or given notice of

1 dissolution pleadings or proceedings, nor do grandparents have  
2 legal standing as "contestants" as defined in s. 61.1306. A  
3 court may not order that a child be kept within the state or  
4 jurisdiction of the court solely for the purpose of permitting  
5 visitation by the grandparents.

6           3. Access to records and information pertaining to a  
7 minor child, including, but not limited to, medical, dental,  
8 and school records, may not be denied to a parent because the  
9 parent is not the child's primary residential parent.

10           Section 4. The Supreme Court, through The Florida Bar,  
11 shall report to the Governor, the President of the Senate, and  
12 the Speaker of the House of Representatives on the courses  
13 which in their brochure outline contain reference to domestic  
14 violence and which The Florida Bar approves for continuing  
15 legal education credits for members of The Florida Bar. The  
16 report must be submitted annually, beginning September 1,  
17 1998. For courses offered or sponsored by The Florida Bar, the  
18 report must include course materials; references and names of  
19 instructors; a description of courses offered; the section or  
20 committee of The Florida Bar which sponsors the course; the  
21 number of attorneys who attend such courses, if available; and  
22 any other information that describes or assesses the  
23 continuing legal education courses on domestic violence which  
24 are offered by The Florida Bar.

25           Section 5. This act shall take effect July 1 of the  
26 year in which enacted.

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