

STORAGE NAME: h3391s1.cp

DATE: April 4, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
CRIME AND PUNISHMENT
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 3391

RELATING TO: Protection/Public Assistance Victims

SPONSOR(S): Representatives Turnbull, Merchant, Boyd, Tamargo, Bullard, Brennan, Dawson-White, Dennis, Chestnut, Heyman, Bloom, Frankel, Greene

COMPANION BILL(S): SB 1984 (Similar)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CHILDREN AND FAMILY EMPOWERMENT YEAS 8 NAYS 0
- (2) FAMILY LAW AND CHILDREN (WITHDRAWN)
- (3) CRIME & PUNISHMENT
- (4) HEALTH & HUMAN SERVICES APPROPRIATIONS
- (5)

I. SUMMARY:

This bill provides for the state to adopt components of the Family Violence Option of section 602(a)(7) of the Social Security Act to protect individuals who are past or present victims of domestic violence and are in need of assistance through the Work and Gain Economic Self-Sufficiency (WAGES) program.

This bill also provides for the adoption of the Battered Immigrant's Option by providing temporary cash assistance, Title XX social services and Medicaid to immigrants authorized under 8 U.S.C. 1612.

Program requirements that might be waived based on the bill include:

- work requirements, for a specific period of time;
- paternity establishment and Child Support Enforcement cooperation requirements;
- family cap provisions;
- limitations on Temporary Assistance to Needy Families (TANF) assistance to noncitizens;

The bill increases the opportunities for a hardship extension, allowing a three-year period (rather than the typical two years) in continuous episode of benefits by exempting victims of domestic violence from the current limit of third year eligibility to 20% of cases. There is no change to the four- year lifetime benefit limit.

The bill provides for responsibilities for the WAGES Program State Board of Directors and the local WAGES coalitions related to planning, coordination, assignment of agency responsibilities and special provisions for victims of domestic violence.

The fiscal impact of the bill is unknown because data on victims of domestic violence who are participants in WAGES are not available.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Federal Statutory Provisions for Exemptions from Welfare Requirements

Under the Family Violence Option (known as the Wellstone/Murray amendment) in Temporary Assistance to Needy Families [TANF], a state has the option of establishing and enforcing standards and procedures to screen and identify recipients who are victims or survivors of family violence, to refer such individuals to counseling and supportive services, and to waive program requirements where compliance with the requirements would unfairly penalize such individuals or make it more difficult for them to escape family violence.

Current policy (42 USC § 608) allows a state to waive other program requirements such as time limits, residency requirements, child support cooperation requirements, and family cap provisions, pursuant to determination of good cause, in cases where compliance with such requirements would make it more difficult for individuals receiving assistance to escape domestic violence or unfairly penalize current victims or individuals at risk of domestic violence.

State Adoption of Federal Provisions

The following chart presents family violence provisions that states included in their state plans as of February 20, 1998, according to NCSL. States are permitted to amend their plans after submission, and states may have covered these provisions through welfare waivers.

Issue	States
Exemptions	
Time limit	Arizona, Arkansas, Colorado, Delaware, Georgia, Kentucky, Maryland, Massachusetts, Minnesota, New Jersey, Tennessee, Utah, Washington, West Virginia
Child support cooperation	Alabama, Arizona, Colorado, Connecticut, Delaware, Georgia, Kentucky, Massachusetts, New Jersey, New York, Tennessee, Utah, West Virginia
Work requirements	Arizona, Arkansas, Colorado, Connecticut, Kentucky, Maine, Minnesota, Mississippi, New Jersey, New York, Tennessee, Utah, West Virginia
Family cap	Colorado, Georgia, Massachusetts, New Jersey, Tennessee
Residency	Colorado, Georgia, Kentucky, New Jersey, New York, Tennessee
Services	

Screening at application	Arizona, Delaware, Georgia, Illinois, Kentucky, Maryland, Minnesota, Montana, Nevada, New Jersey, New York, North Dakota, Tennessee, Utah, West Virginia
Referral to counseling/services	Arizona, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Minnesota, Nevada, New Jersey, New York, North Dakota, Tennessee, Utah, West Virginia
Special caseworker training	Arkansas, Connecticut (optional), Kentucky
Other	
Provisions under consideration	Iowa, Massachusetts (screening)
No known provision	Kansas, Louisiana, Michigan, Missouri, Nebraska, New Hampshire, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Vermont, Virginia, Wisconsin, Wyoming
Details on exemptions not known	Montana

National Research on Domestic Violence

The following chart documents research showing a strong relationship between domestic violence and the receipt of welfare. Women who attempted acts of independence such as seeking education, work, or separation from their partners were even more prone to abuse.

Study	Current Physical Abuse	Abuse ever in life as adults	Evidence of spousal opposition to independence
Passaic County (846 AFDC recipients in a welfare to work program)	14.6%	57.3%	12.9% of the entire sample and 39% of those current abuse victims, reported that their partner actively prevents their participation in education and training.
University of Massachusetts (734 women in the Mass. welfare caseload)	19.5%	64.9%	Abused women in the sample were 15 times more likely (15.5% as compared with 1.6%) than women who were never abused to have a partner who would not like them going to school or work.

Better Homes Fund (436 women - the majority of these women were receiving AFDC)	32.0%	61.0%	Women who reported more than one stay on AFDC were more likely to have worked in the past year and were more likely to have experienced violence than were continuous users. This finding underpins the argument that violence and its secondary effects may play a significant role in women's ability to remain off welfare.
Northwestern University (824 women in one low-income neighborhood of Chicago)	19.5%	33.8% (severe violence)	Of the 637 women who responded to items measuring abuse in past, 8% of the sample reported that their partner prevented them from going to school or work. Women whose partners prevented their working or threatened their children were significantly more likely to be unemployed.

Pearson and Griswold (1997) delineate further evidence supporting the argument that violence is often a result of acts of independence by the woman:

- The U.S. Department of Justice reports that up to three-quarters of the domestic assaults reported to law enforcement occurred after the woman separated from her partner.
- Over half of all male defendants in spousal abuse homicide cases were separated from their victims at the time of the murder.
- Furthermore, divorced and separated women report being physically abused 14 times as often as women living with their partners.

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The Florida Coalition Against Domestic Violence states "Abusers frequently interfere victims' efforts at self-improvement, and may use such tactics to sabotage participation in welfare to work requirements" and "Cooperation with paternity investigations may put a victim of domestic violence at greater risk from an abusive partner."

Prevalence of Domestic Violence in Florida

In 1996, more than 130,000 incidents of domestic violence were reported to the Florida Department of Law Enforcement and 14,833 women and children in Florida sought temporary shelter in certified domestic violence shelters. Shelters tend to be the option of last resort and probably serve those most likely to need temporary cash assistance.

Previous legislative activity regarding exemptions for victims of domestic violence

HB 739 was withdrawn from consideration by the 1997 Legislature at the request of the WAGES State Board of Directors so that the board would have an opportunity to determine what provisions should be implemented and which provisions require Legislative action. HB 3991 implements the recommendations of the board and of the Governor's Task Force on Domestic and Sexual Violence.

B. EFFECT OF PROPOSED CHANGES:

This bill provides for the state to adopt components of the Family Violence Option of section 602(a)(7) of the Social Security Act to protect individuals who are past or present victims of domestic violence and are in need of assistance through the Work and Gain Economic Self-Sufficiency (WAGES) program.

This bill also provides for the adoption of the Battered Immigrant's Option by providing temporary cash assistance, Title XX social services and Medicaid to immigrants authorized under Title 8, section 1612 of the United States Code.

Program requirements that might be waived based on the bill include:

- work requirements, for a specific period of time;
- paternity establishment and Child Support Enforcement cooperation requirements;
- family cap provisions;
- limitations on Temporary Assistance to Needy Families (TANF) assistance to noncitizens

The bill increases the opportunities for a hardship extension, allowing a three-year period (rather than the typical two years) in continuous episode of benefits by exempting victims of domestic violence from the current limit of third year eligibility to 20% of cases. There is no change to the four- year lifetime benefit limit.

The bill provides for responsibilities for the WAGES Program State Board of Directors and the local WAGES coalitions related to planning, coordination, assignment of agency responsibilities and special provisions for victims of domestic violence.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

- (3) any entitlement to a government service or benefit?

The bill allows an exemption to work requirements, reduction in benefits for additional children born to a family on welfare, and required participation in paternity determination, expands eligibility for certain noncitizens, and allows up to three years of continuous benefits for good cause related to domestic violence.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not Applicable

- (2) what is the cost of such responsibility at the new level/agency?

Not Applicable

- (3) how is the new agency accountable to the people governed?

Not Applicable

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No

- b. Does the bill require or authorize an increase in any fees?

No

- c. Does the bill reduce total taxes, both rates and revenues?

No

- d. Does the bill reduce total fees, both rates and revenues?

No

- e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Department of Children and Family Services.

- (2) Who makes the decisions?

Department of Children and Family Services.

- (3) Are private alternatives permitted?

Not Applicable

- (4) Are families required to participate in a program?

No

(5) Are families penalized for not participating in a program?

No

b. Does the bill directly affect the legal rights and obligations between family members?

The bill assists victims of domestic violence in escaping from domestic violence.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

No

(2) service providers?

No

(3) government employees/agencies?

No

D. STATUTE(S) AFFECTED:

Sections 414.0252, 414.065, 414.20, 414.095, 414.105, and 414.115 F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1 amends Section 414.0252, F.S., related to definitions for the WAGES program, to add definitions related to domestic violence by reference to s. 741.28, F.S.

Section 2 amends subsection (4) of section 414.028, F.S., related to local WAGES coalitions, to assign to the WAGES Program State Board of Directors responsibility for specifying the requirements for plans for services for victims of domestic violence by local WAGES coalitions, including:

- ◆ eligibility criteria for exceptions to work requirements,
- ◆ programs and service to be offered,
- ◆ rules specifying that the time limits of exceptions shall in no case result in an adult exceeding the federal time limit for exceptions or the state lifetime benefit limit that they would otherwise be entitled to receive, and
- ◆ annual reports describing local programs for victims of domestic violence and the exceptions and exemptions granted to recipients through the program.

The bill requires that local plans include:

- ◆ provisions for coordination with criminal justice and social service agencies,
- ◆ provisions for access to domestic violence services by victims,

- ◆ designation of the agency responsible for determining eligibility for domestic violence programs,
- ◆ provisions requiring each individual who receives an exception for domestic violence comply with a plan to develop self-sufficiency,
- ◆ provisions requiring victims to remove themselves from cohabitation with an abuser within 120 days after the first receipt of benefits, and
- ◆ where possible and necessary, provide for secure job assignment and transportation arrangements for victims of domestic violence.

Section 3 amends Section 414.065, F.S., related to work requirements for WAGES clients, to exempt from noncompliance penalties those who do not comply because of attempts to avoid domestic violence or as a result of past effects of domestic violence.

Section 4 reenacts Section 414.20, F.S., related to other support services for WAGES clients, to provide for incorporation of new provisions in Section 414.065, F.S., in order to provide services to victims of domestic violence.

Section 5 amends Section 414.095, F.S., relating to determining eligibility for the WAGES program, to provide benefits to non-citizen victims of domestic violence and to provide information regarding services available for victims of domestic violence,

Section 6 amends Section 414.105, F.S., related to time limitations on temporary cash assistance, to remove victims of domestic violence from the 20% cap on opportunities for a hardship extension which allows a three-year (rather than the typical two year) continuous episode of benefits.

Section 7 amends Section 414.115, F.S., related to limited cash assistance for children born to families already receiving temporary cash assistance, to exempt the family from reduced benefits when an incident of rape, incest, or sexual exploitation has not been reported in a timely manner due to risk of further domestic violence and when the child support enforcement exemption process confirms eligibility for this exemption.

Section 8 provides an effective date of October 1 of the year in which the bill is enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Unknown, see fiscal comments.

2. Recurring Effects:

Unknown, see fiscal comments.

3. Long Run Effects Other Than Normal Growth:

Unknown, see fiscal comments.

4. Total Revenues and Expenditures:

Unknown, see fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Unknown, see fiscal comments.

2. Recurring Effects:

Unknown, see fiscal comments.

3. Long Run Effects Other Than Normal Growth:

Unknown, see fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

The bill provides additional WAGES program options for victims of domestic violence. No entitlements are created and the options must be granted through policies and procedures specified by the WAGES Program State Board of Directors and the local WAGES Coalitions.

Funds available for WAGES at the local level are set by the Legislature so that the cost of approving the options provided for in the bill are derived from a local reallocation and do not result in an increase in state costs. WAGES was designed so that as the need for temporary cash assistance declines as recipients get jobs and move off welfare, funds can be shifted to support services and programs for recipients who need extra help to become self-sufficient. Some victims of domestic violence fall into this category.

The bill removes victims of domestic violence from the 20% cap on the number of recipients who are allowed more than 2 years of continuous benefits. This not only creates the possibility that all victims of domestic violence could be allowed to stay on assistance for three years, it expands the number of recipients who could be granted the third year of continuous benefits for other reasons, since domestic violence victims will no longer be counted within the 20% cap. **If the number and percentage of recipients who are allowed a third year increases, the fiscal impact will be to reduce funds available for support services and extra assistance for the hard to employ and for transition assistance for those who are employed and achieving success in moving to independence.**

A modest increase in expenditures on WAGES could be anticipated because of increased eligibility for a limited number of noncitizens. The increase is expected to be minimal because the Immigration and Naturalization Service estimates only 200 women per month apply for assistance under the Violence Against Women Act nationally. However, the bill would probably result in a modest reduction in costs in the criminal justice system related to domestic violence. The total number of WAGES recipients who would need to make use of the provisions of the bill is unknown.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

V. COMMENTS:

The WAGES Program State Board of Directors or the local WAGES coalition could require that a woman be in a shelter or file a police report for domestic violence, but it is not required by the bill. It may be difficult to require victims to file a report when they claim they are too afraid of being harmed by the abuser. If a police report is required, there would be an incentive to file false reports. A defense attorney on cross-examination could argue that a victim is lying in order to keep the welfare benefits for another year. Of course, only a small percent of these cases go to trial. However, victims dropping charges or recanting statements is a much bigger problem that could partially be rectified, if a report is required to be filed. The large majority of victims of domestic violence want the charges dropped, if the defendant does not plea at arraignment.

Another issue raised by this bill is the possibility of untruthful requests to have benefits extended. There are currently many hardship exceptions to the two year cap on continuous benefits such as "Significant barriers to employment, combined with a need for additional time." However, "hardship exemptions" are limited to 20% of the total caseload. The extensions for domestic violence are specifically excluded from this cap.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Children & Family Empowerment Committee adopted 6 amendments and replaced HB3391 with a committee substitute on March 24, 1998.

Amendment #1 links the definition of domestic violence and family or household member to existing Florida statutes. The amendment defines "domestic violence" to mean acts as defined in s.741.28(1) by one "family or household member," as defined in s. 741.28(2), upon another.

Amendment #2 adds a section that provides for the development of a plan for services for victims of domestic violence. The amendment delineates requirements for the local plan including annual reports on domestic violence, designation of the agency responsible for determining eligibility for exceptions due to domestic violence, and provisions requiring that each individual who receives an exception for domestic violence participates in a program which prepares for self-sufficiency, while requiring the victim and dependents to remove themselves from cohabitation with an abuser within a specified period. (For more details, see Section 2 comments in the Section-by-Section Research above.)

Amendment #3 established a more rigorous standard for the determination of individuals for which compliance with work requirements would make it probable that the individual would be unable to escape domestic violence. The amendment adds the requirement that the individual shall comply with the plan specified by s.414.028 (4)(g). The amendment delineates health practitioners who are authorized to verify the need for treatment for the effects of past domestic violence and provides statutory references for licensure of such health practitioners

Amendment #4 deletes unnecessary language stating that the application of "qualified noncitizens" for protection under the federal Violence Against Women Act of 1994 must be verified through the Immigration and Naturalization Services

Amendment #5 removes language delineating that, to the extent permissible under federal law, a parent or caretaker relative shall not be penalized for failure to cooperate with child support provisions when such cooperation could subject an individual to a risk of domestic violence. This language was removed in because it is already contained in federal law and agency rule. The amendment also contained a title amendment to remove the relevant language from the title of the bill.

Amendment #6 allows exceptions to the limited temporary cash assistance for children born to families receiving temporary cash assistance to a program participant who is confirmed by the Title IV-D Agency (child support enforcement) as having been granted an exemption to child support enforcement participation for circumstances consistent with the conception of the child as a result of rape, incest or sexual exploitation in cases where the victim does not report the incident to the police. The amendment also provides that a child for whom an

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exemption is made under this provision and for whom the application for a good cause exemption from s. 414.095 has been made, shall receive temporary benefits until a determination is reached on the application for a good cause exemption from s. 414.095.

VII. SIGNATURES:

COMMITTEE ON CHILDREN AND FAMILY EMPOWERMENT:

Prepared by:

Legislative Research Director:

ROBERT S. COX

ROBERT BARRIOS

AS REVISED BY THE COMMITTEE ON CRIME AND PUNISHMENT:

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