

Bill No. CS for SB 462

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	<b>Senate Amendment (with title amendment)</b>		
14	On page 2, line 6,		
15			
16	insert:		
17	Section 1. Section 25.385, Florida Statutes, is		
18	amended to read:		
19	25.385 <u>Instruction for circuit and county court judges</u>		
20	<u>in domestic violence Standards for instruction of circuit and</u>		
21	<u>county court judges in handling domestic violence cases.--</u>		
22	(1) <u>It is crucial to the fair and efficient</u>		
23	<u>administration of justice in this state that all members of</u>		
24	<u>the judiciary be educated on domestic violence. Therefore, the</u>		
25	Florida Court Educational Council shall establish standards		
26	for <u>domestic violence instruction and a comprehensive</u>		
27	<u>education plan to ensure that each circuit and county court</u>		
28	<u>judge who has responsibility for cases of domestic violence</u>		
29	<u>has the opportunity to attend educational programs on a</u>		
30	<u>periodic, regular, and timely basis of circuit and county</u>		
31	<u>court judges who have responsibility for domestic violence</u>		

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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 2. 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 3. 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 4. 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 5. 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 1, lines 2 and 3, delete those lines

insert:

An act relating to the administration of justice; 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



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

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