

By the Committee on Children and Families

300-68F-00

1                                   A bill to be entitled  
2           An act relating to domestic violence; amending  
3           ss. 25.385, 39.902, 741.28, 943.171, F.S.;  
4           redefining the terms "domestic violence" and  
5           "family or household member"; amending s.  
6           90.5036, F.S.; redefining the terms "domestic  
7           violence center" and "domestic violence  
8           advocate"; specifying the persons to whom  
9           confidential communication provisions apply;  
10          amending s. 741.30, F.S.; providing legislative  
11          intent that ex parte temporary injunctions  
12          protect a victim as long as he or she is in  
13          danger; requesting the Supreme Court to adopt  
14          rules to require extensions of temporary  
15          injunctions; directing batterers' intervention  
16          programs to report to the court issuing the  
17          order to attend the program; requesting the  
18          Supreme Court to prescribe a standard process  
19          for determining enrollment and attendance;  
20          providing that a respondent's failure to  
21          participate in the batterers' intervention  
22          program is a violation of an injunction;  
23          directing the Office of State Court  
24          Administrator to examine and develop  
25          recommendations concerning certain court  
26          practices; providing for a report to the  
27          Governor and Legislature; providing an  
28          effective date.

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30 Be It Enacted by the Legislature of the State of Florida:  
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1 Section 1. Subsection (2) of section 25.385, Florida  
2 Statutes, is amended to read:

3 25.385 Standards for instruction of circuit and county  
4 court judges in handling domestic violence cases.--

5 (2) As used in this section:

6 (a) The term "domestic violence" means any assault,  
7 battery, sexual assault, sexual battery, or any criminal  
8 offense resulting in physical injury or death of one family or  
9 household member by another, ~~who is or was residing in the~~  
10 ~~same single dwelling unit.~~ With the exception of persons who  
11 have a child in common, the family or household members must  
12 be currently residing or have in the past resided together in  
13 the same single dwelling unit.

14 (b) "Family or household member" means spouse, former  
15 spouse, persons related by blood or marriage, persons who are  
16 presently residing together, as if a family, or who have  
17 resided together in the past, as if a family, and persons who  
18 have a child in common regardless of whether they have been  
19 married ~~or have resided together at any time.~~ With the  
20 exception of persons who have a child in common, the family or  
21 household members must be currently residing or have in the  
22 past resided together in the same single dwelling unit.

23 Section 2. Subsections (1) and (3) of section 39.902,  
24 Florida Statutes, are amended to read:

25 39.902 Definitions.--As used in this part, the term:

26 (1) "Domestic violence" means any assault, battery,  
27 sexual assault, sexual battery, or any criminal offense  
28 resulting in physical injury or death of one family or  
29 household member by another ~~who is or was residing in the same~~  
30 ~~single dwelling unit.~~ With the exception of persons who have a  
31 child in common, the family or household members must be

1 currently residing or have in the past resided together in the  
2 same single dwelling unit.

3 (3) "Family or household member" means spouses, former  
4 spouses, adults related by blood or marriage, persons who are  
5 presently residing together as if a family or who have resided  
6 together in the past as if a family, and persons who have a  
7 child in common regardless of whether they have been married  
8 ~~or have resided together at any time.~~ With the exception of  
9 persons who have a child in common, the family or household  
10 members must be currently residing or have in the past resided  
11 together in the same single dwelling unit.

12 Section 3. Paragraphs (a) and (b) of subsection (1) of  
13 section 90.5036, Florida Statutes, are amended to read:

14 90.5036 Domestic violence advocate-victim privilege.--

15 (1) For purposes of this section:

16 (a) A "domestic violence center" is any public or  
17 private agency that offers assistance to victims of domestic  
18 violence, as defined in s. 741.28, and their families, as its  
19 primary mission, and is providing all the services mandated  
20 under s. 39.905(1)(c).

21 (b) A "domestic violence advocate" means any employee  
22 or volunteer who has 30 hours of training in assisting victims  
23 of domestic violence and is an employee of or volunteer for a  
24 ~~program for victims of domestic violence center whose primary~~  
25 ~~purpose is the rendering of advice, counseling, or assistance~~  
26 ~~to victims of domestic violence.~~

27 Section 4. Subsections (1) and (2) of section 741.28,  
28 Florida Statutes, are amended to read:

29 741.28 Domestic violence; definitions.--As used in ss.  
30 741.28-741.31:

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1           (1) "Domestic violence" means any assault, aggravated  
2 assault, battery, aggravated battery, sexual assault, sexual  
3 battery, stalking, aggravated stalking, kidnapping, false  
4 imprisonment, or any criminal offense resulting in physical  
5 injury or death of one family or household member by another  
6 ~~who is or was residing in the same single dwelling unit.~~ With  
7 the exception of persons who have a child in common, the  
8 family or household members must be currently residing or have  
9 in the past resided together in the same single dwelling unit.

10           (2) "Family or household member" means spouses, former  
11 spouses, persons related by blood or marriage, persons who are  
12 presently residing together as if a family or who have resided  
13 together in the past as if a family, and persons who have a  
14 child in common regardless of whether they have been married  
15 ~~or have resided together at any time.~~ With the exception of  
16 persons who have a child in common, the family or household  
17 members must be currently residing or have in the past resided  
18 together in the same single dwelling unit.

19           Section 5. Paragraph (c) of subsection (5) and  
20 paragraph (d) of subsection (6) of section 741.30, Florida  
21 Statutes, are amended to read:

22           741.30 Domestic violence; injunction; powers and  
23 duties of court and clerk; petition; notice and hearing;  
24 temporary injunction; issuance of injunction; statewide  
25 verification system; enforcement.--

26           (5)

27           (c) Any such ex parte temporary injunction shall be  
28 effective for a fixed period not to exceed 15 days. A full  
29 hearing, as provided by this section, shall be set for a date  
30 no later than the date when the temporary injunction ceases to  
31 be effective. The court may grant a continuance of the hearing

1 before or during a hearing for good cause shown by any party,  
2 which shall include a continuance to obtain service of  
3 process. Any injunction shall be extended if necessary to  
4 remain in full force and effect during any period of  
5 continuance. It is the intent of the Legislature that the  
6 process of granting ex parte temporary injunctions protect  
7 victims of domestic violence for as long as the victim is in  
8 danger. Therefore, the Supreme Court is requested to adopt  
9 rules to require extensions of an ex parte temporary  
10 injunction in situations which include, but are not limited  
11 to, those instances in which the petitioner has returned for  
12 the full hearing, when the only basis for denying an extension  
13 is the lack of service process.

14 (6)

15 (d) An injunction for protection against domestic  
16 violence entered pursuant to this section, on its face, may  
17 order that the respondent attend a batterers' intervention  
18 program as a condition of the injunction. Unless the court  
19 makes written factual findings in its judgment or order which  
20 are based on substantial evidence, stating why batterers'  
21 intervention programs would be inappropriate, the court shall  
22 order the respondent to attend a batterers' intervention  
23 program if:

24 1. It finds that the respondent willfully violated the  
25 ex parte injunction;

26 2. The respondent, in this state or any other state,  
27 has been convicted of, had adjudication withheld on, or pled  
28 nolo contendere to a crime involving violence or a threat of  
29 violence; or

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1           3. The respondent, in this state or any other state,  
2 has had at any time a prior injunction for protection entered  
3 against the respondent after a hearing with notice.

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5 The batterers' intervention program shall report to the court  
6 a respondent's enrollment and failure to attend and  
7 participate in the program. The Supreme Court is requested to  
8 prescribe a standard process and a central contact point or  
9 points within the circuit for determining enrollment and for  
10 reporting to the court the failure of the respondent to attend  
11 and participate in the program. This process may, but need  
12 not, include the development of a form. A respondent's failure  
13 to enroll in, attend, or participate in a court-ordered  
14 batterers' intervention program is a violation of the  
15 injunction for protection, subject to enforcement by the court  
16 as provided in this section.It is mandatory that such  
17 programs be certified under s. 741.32.

18           Section 6. Subsection (2) of section 943.171, Florida  
19 Statutes, is amended to read:

20           943.171 Basic skills training in handling domestic  
21 violence cases.--

22           (2) As used in this section, the term:

23           (a) "Domestic violence" means any assault, battery,  
24 sexual assault, sexual battery, or any criminal offense  
25 resulting in the physical injury or death of one family or  
26 household member by another ~~who is or was residing in the same~~  
27 ~~single dwelling unit.~~ With the exception of persons who have a  
28 child in common, the family or household members must be  
29 currently residing or have in the past resided together in the  
30 same single dwelling unit.

1           (b) "Household member" means spouse, former spouse,  
2 persons related by blood or marriage, persons who are  
3 presently residing together, as if a family, or who have  
4 resided together in the past, as if a family, and persons who  
5 have a child in common regardless of whether they have been  
6 ~~married or have resided together at any time.~~ With the  
7 exception of persons who have a child in common, the family or  
8 household members must be currently residing or have in the  
9 past resided together in the same single dwelling unit.

10           Section 7. The Office of State Court Administrator  
11 shall examine the current practice of the courts with respect  
12 to the determination of visitation and custody and the terms  
13 of visitation and custody when an injunction for protection  
14 has been ordered; the consideration of custody and visitation  
15 in the injunction hearings; and the issuing of injunctions for  
16 protection during a dissolution-of-marriage proceeding. Based  
17 on the findings of this examination, the Office of State Court  
18 Administrator shall develop recommendations for ensuring the  
19 most appropriate consideration of custody and visitation  
20 issues during the injunction process and of  
21 injunction-for-protection issues during the  
22 dissolution-of-marriage process. This examination and  
23 development of recommendations must be conducted in  
24 collaboration with the Department of Children and Family  
25 Services, the Department of Community Affairs, the Department  
26 of Revenue, the Florida Coalition Against Domestic Violence,  
27 The Florida Bar, and any other interested organizations  
28 identified by the Office of State Court Administrator. All  
29 participants in this process shall attend meetings at their  
30 own expense. A report of the recommendations shall be  
31 submitted to the Governor, the President of the Senate, and

1 the Speaker of the House of Representatives by January 1,  
2 2001.

3 Section 8. This act shall take effect July 1, 2000.

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6 SENATE SUMMARY

7 Redefines the terms "domestic violence," "domestic  
8 violence center," "domestic violence advocate," and  
9 "family or household member." Clarifies that  
10 communications between a victim of domestic violence and  
11 an employee or volunteer of a domestic violence center  
12 are confidential even if the center has not been  
13 certified if the center is working toward certification  
14 under s. 39.905, F.S., and is providing all of the  
15 services mandated under s. 39.905(1)(c), F.S. Provides  
16 legislative intent that ex parte temporary injunctions  
17 protect a victim as long as he or she is in danger.  
18 Requests the Supreme Court to adopt rules to require  
19 extensions of temporary injunctions. Requires batterers'  
20 intervention programs to report a respondent's enrollment  
21 and failure to attend and participate to the court  
22 issuing the order to attend the program. Requests the  
23 Supreme Court to prescribe a standard process for  
24 determining enrollment and attendance. Requires the Office  
25 of State Court Administrator to examine specified court  
26 practices relating to domestic violence and make  
27 recommendations to the Governor and Legislature. Provides  
28 penalties for a respondent who fails to participate in a  
29 batterer's intervention program.  
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