

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 316

SPONSOR: Children and Families Committee and Senator Saunders

SUBJECT: Domestic Violence

DATE: December 5, 2001

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dowds</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
2.	<u>                    </u>	<u>                    </u>	<u>JU</u>	<u>                    </u>
3.	<u>                    </u>	<u>                    </u>	<u>FT</u>	<u>                    </u>
4.	<u>                    </u>	<u>                    </u>	<u>AHS</u>	<u>                    </u>
5.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>
6.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

## I. Summary:

CS/SB 316 amends the definitions for “domestic violence” and “family or household member” in four sections of the Florida Statutes to include individuals who have or have had a dating relationship and to require present or prior co-residency between the victim and the family or household member, with the exception of when the victim and perpetrator are parents of a child in common or when there has been a dating relationship. Cross-references to the domestic violence definitions in s. 741.28, F.S., are amended to reflect the revised numbering of paragraphs in the sections.

The filing charge for petitions for dissolution of marriage is increased from \$18 to \$36. The funds from the filing charge are deposited into the Domestic Violence Trust Fund and used for funding domestic violence centers.

The bill clarifies the circumstances in existing law under which a person can petition the court for an injunction for protection against domestic violence. A set of factors is provided that, if alleged in the petition, can be considered by the court in determining whether a petitioner is in imminent danger of becoming a victim of domestic violence.

The venue for a protective injunction against domestic violence is specifically defined to allow for filing in the circuit where the petitioner currently or temporarily resides, where the respondent resides or where the domestic violence occurred.

The bill provides that in a cause of action for an injunction for protection against domestic violence, the full hearing must be recorded.

The courts are required to allow advocates for the petitioner or respondent into the injunction for protection proceeding or hearing, if requested.

The actions which are considered violations of the injunction for protection, as defined in s. 741.31, F.S., are expanded.

The requirement that the court order defendants to attend a batterer's intervention program as a condition of their admittance to a pretrial diversion program when there has been a charge of domestic violence is deleted.

This bill substantially amends the following sections of the Florida Statutes: 25.385, 28.101, 39.902, 390.01115, 470.002, 626.9541, 641.3903, 741.28, 741.281, 741.30, 741.31, 943.171, 985.213, and 985.215.

## **II. Present Situation:**

### **Act of Domestic Violence**

There is no criminal offense designated as "domestic violence." Instead, "domestic violence" is a term which encompasses a variety of criminal acts committed against a family or household member. Section 741.28(1), F.S., provides that such acts may include assault, aggravated assault, battery, sexual battery, aggravated battery, sexual assault, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another. Prior or present co-residency between the offender and the family or household member is required. The definition of "family or household member," s. 741.28(2), F.S., includes a spouse, a former spouse, a person related by blood or marriage, a person who is presently residing with another as if a family or who has resided together in the past with another as family, and a person who has a child in common with the offender. However, contrary to the definition of "domestic violence," prior or present co-residency is not required to be considered a "family or household member." The difference between the two definitions has provided an inconsistent directive for two groups of family and household members when the offender and perpetrator have never lived together: those in which there is a child in common and those involving individuals related by blood or marriage. As a result of the inconsistency, the determination of whether or not a criminal act is considered an act of domestic violence could either require co-residency and thus exclude these two groups or not require co-residency and include these groups of individuals.

The terms "domestic violence" and "family or household member" are defined in four other sections of Florida law.

- s. 25.385(2)(a), F.S., -- Standards for instruction of circuit and county court judges in handling domestic violence cases
- s. 39.902(1), F.S., -- Definitions (in Part XI on Domestic Violence in Chapter 39 Relating to Children)
- s. 943.171(2)(a), F.S., -- Basic skills training in handling domestic violence cases (Chapter 943 on Department of Law Enforcement)
- s. 414.0252(4), F.S., -- Family Self-Sufficiency

Each of these definitions, with the exception of s. 414.0252(4), F.S., requires prior or present co-residency and has an inconsistent corresponding definition of “family or household member” which does not contain the requirement for co-residency.

Certain services, sanctions and other provisions become applicable to acts determined to be “domestic violence.” However, the primary utilization of the definitions of “domestic violence” and “family or household member” is to seek an injunction for protection against domestic violence. There is no concrete information regarding how these definitions have been applied across the state. However, relative to injunctions for protection against domestic violence, on June 27, 1997, the Fifth District Court of Appeal of Florida ruled in the Sharpe vs Sharpe case that statutory domestic violence did not, and could not, occur between the two individuals in the absence of residence by the individuals in the same household. The domestic violence injunction that the sister-in-law received against her brother-in-law was reversed. Current compliance with this ruling in the circuits is not known.

Over the years, the individuals to whom the definition of domestic violence applies has expanded from the individuals who were or had been married to include individuals who lived together and or had a child in common. Twenty-nine states, plus the District of Columbia, Puerto Rico and the Virgin Islands have included dating violence victims in some or all of their domestic violence laws, most of which apply some form of a dating relationship to their protective order. The 2000 reauthorization of the Violence Against Women Act (P.L. 106-386) added “dating violence” to a number of the act’s grant programs, including the Violence Against Women Formula Grant Program, the Rural Domestic Violence and Child Victimization Enforcement Grant, and the Grants to Reduce Violent Crimes Against Women on Campus Program. Common to each of the groups to whom the definition of domestic violence has applied and is being expanded to with the inclusion of dating relationships is the intimate nature of the individuals’ relationships.

### **Domestic Violence Centers**

Domestic violence centers have been established by the Legislature to provide services to victims of domestic violence. The provisions for certification under s. 39.905(1), F.S., require that domestic violence centers offer a wide range of services to and on behalf of victims of domestic violence, minor children and other dependents of victims of domestic violence, including but not limited to information and referral services, counseling and case management services, temporary emergency shelter for more than 24 hours, a 24-hour hotline, training for law enforcement personnel, assessment and appropriate referral of resident children, and educational services for community awareness. During fiscal year 2000-2001, 14,158 victims of domestic violence and their children were provided with emergency shelter, and 23,834 victims, including both residents and non-residents of the emergency shelters, were provided with one-to-one case management by domestic violence centers. However, a recent needs assessment conducted of domestic violence services in Florida found a number of unmet needs of women experiencing domestic violence. The unmet needs that ranked the highest and identified as most important included permanent and transitional housing, mental health and transportation.

One source of funding for domestic violence centers is the Domestic Violence Trust Fund. Section 741.01(2), F.S., establishes the Domestic Violence Trust Fund and provides that the

funds generated are to be used for the specific purpose of funding domestic violence centers. Funds deposited into the Domestic Violence Trust Fund include a \$30 fee charged for each marriage license issued [s. 741.01(2), F.S.], an \$18 charge on each petition for a dissolution of marriage [s. 28.101(1)(c), F.S.], and fines assessed in response to violations of an injunction for protection against domestic violence [s. 741.30 (8)(a)]. Chapter 2001-50, L.O.F., established a new surcharge for various violent offenses, of which \$85 is to be deposited into the Domestic Violence Trust Fund for the domestic violence centers. However, \$500,000 of the funds from this surcharge are allocated to the Office of the Governor for the purpose of administering a statewide public-awareness campaign regarding domestic violence.

The funding from the Domestic Violence Trust Fund decreased steadily from a total of \$6,239,959 in fiscal year 1996-1997 to \$5,746,772 in fiscal year 1999-2000. For fiscal year 2000-2001, however, the total available revenue from the fund increased to \$6,322,396.

### **Fees Required for Dissolution of Marriage Petitions**

Section 28.101, F.S. identifies specific charges required in filing for a petition for dissolution of marriage. Of these filing charges, \$60.50 are transferred to other specific trust funds, including the Child Welfare Training Trust Fund, the Domestic Violence Trust Fund, the Displaced Homemaker Trust Fund, and the Family Courts Trust Fund. An additional \$7 service charge is imposed when the final judgment of dissolution of marriage is filed for recording the judgment with the Department of Health. Section 28.241, F.S., provides for specific service charges for trial and appellate procedures, which are applied to petitions for dissolution of marriage, and allow the governing authority of the county to impose additional charges. The fees associated with filing a petition for dissolution of marriage vary from county to county with the lowest fee of \$144 in Calhoun and Hendry counties and the highest of \$260.50 in Broward and Martin counties and \$265.50 in Hillsborough county.

### **Court Proceedings Relative to Domestic Violence**

Section 741.30, F.S., provides for injunctive relief for victims of domestic violence or any person with reasonable cause to believe that he or she is in imminent danger of becoming a victim of domestic violence. The relief available through injunctions for protection against domestic violence includes restraining the respondent from committing acts of domestic violence, giving the petitioner use and possession of the dwelling, awarding temporary custody or visitation of any minor children, establishing temporary child support for minor children, and ordering the respondent to participate in the batterer's intervention program. While two criteria exist for filing a petition, some courts have been found to focus on one of the criteria to the exclusion of the alternative criteria, thus limiting conditions under which a petition will be granted. The requirement that the petitioner be in "imminent danger" of becoming a victim of domestic violence is considered by some to be problematic because of its varying interpretations and applications across the circuits and by others to be necessary because of the significant ramifications to the alleged perpetrator.

The venue for petitioning for injunctions for protection against domestic violence is governed by ch. 47, F.S., which requires actions to be brought only in the county where the defendant (or respondent) resides or where the cause of action occurred (s. 47.011, F.S.). The purpose of the

venue statutes is to require that the litigation be instituted where the least amount of expense and inconvenience to the defendant would be incurred [Kilpatrick v. Boynton, App., 374 So. 2d 557 (1979)]. However, advocates have noted that when petitioners flee the county of residence or where the domestic violence occurred for protection, they are unable to petition for an injunction for protection in the county to which they have fled. While the ability of the respondent to offer a defense at a full hearing is an important consideration, the interference with custody statute (s. 787.03, F.S.) and the permitted defense of protection against domestic violence is one example of where an exemption to the general provision is provided in response to a victim's need to flee as a means of protection.

Section 741.30, F.S., is silent as to whether injunction proceedings are public or closed, and therefore whether individuals other than the parties to the injunction and their attorneys are permitted in the hearings.

Section 741.30 (6)(b), F.S., provides that the terms of the injunction are to remain in effect until the injunction is modified or dissolved. Either party may move to modify or dissolve the injunction, and no specific allegations are required. The Third District Court of Appeals of Florida ruled in the Madan vs Madan case (1999) that s. 741.30(6)(b), F.S., provides for either party to move at any time to modify or dissolve the injunction and this motion includes presenting evidence regarding the initial procurement of the injunction. In those counties that do not record injunction hearings, the only record maintained of the injunction proceeding is the final judgment. In those instances, there is no record of the testimony provided and evidence submitted during the hearing. If injunctions for protection can be reconsidered and new evidence presented, then the testimony, evidence, and factors considered at the initial injunction proceedings provide an important comprehensiveness to the information available at the time of reconsideration.

Violations of the reliefs provided in an injunction are sanctioned according to different provisions of law. Generally, violations of the provisions of an injunction are enforceable by the court through civil or criminal contempt proceedings. Courts can enforce the respondent's compliance with the injunction using civil and criminal remedies, including a monetary assessment [s. 741.30 (8)(a), F.S.]. A violation of the provision of an injunction that prohibits a respondent from possessing any firearms or ammunition is a first degree misdemeanor, punishable as provided in ss. 775.082 or 775.083, F.S. [s. 741.30(6)(f), F.S.]. Finally, s. 741.31(4)(a), F.S., ascribes particular actions as violations of an injunction (regardless of whether they were specifically identified in the injunction) which carry a criminal penalty of misdemeanor of the first degree. These actions are as follows: refusal to vacate shared dwelling, going to specific places frequented by petitioner, committing an act of domestic violence against petitioner, committing an intentional threat of violence against the petitioner, and communicating with the petitioner.

Injunctions for protection can also be granted in cases of repeat violence, where a domestic violence relationship does not exist (s. 784.046, F.S.). Protective injunctions for victims of repeat violence can be sought when there have been two incidents of violence or stalking committed by the respondent, one of which must have been within the last 6 months. This form of injunctive relief is available to persons regardless of the relationship of the perpetrator to the victim. The threshold at which a repeat violence injunction may be granted, i.e. two incidents of violence one

of which in the last 6 months, is higher than that of the domestic violence injunction which requires an act of violence or reasonable cause to believe there is imminent danger of violence.

### **Batterer's Intervention Program**

The Legislature established a batterer's intervention program to protect the victims of domestic violence and their children and hold the perpetrators of domestic violence responsible for their acts. The Department of Children and Families is responsible for certifying and monitoring the batterer's intervention programs in Florida (s. 741.32, F.S.). Persons found guilty of an act of domestic violence or persons for whom an injunction for protection against domestic violence has been entered can be ordered to attend and participate in the batterer's intervention program [ss. 741.281 and 741.30 (6)(a)5, F.S.].

In addition, s. 741.281, F.S., requires the court to order a person admitted to a pretrial diversion program who has been charged with an act of domestic violence to attend the batterer's intervention program as a condition of the pretrial diversion program. Persons who are first offenders or who were previously convicted of not more than one nonviolent misdemeanor who are charged with any misdemeanor or felony of the third degree are eligible for release to the pretrial intervention program where counseling, education, supervision and treatment are provided (s. 948.08, F.S.). While s. 948.08, F.S., requires the consent of the judge in releasing an offender to a pretrial intervention program, it does not provide for any form of review (*Cleveland v. State*, 417 So. 2d 653, Supreme Court 1982). The discretion to either prosecute or not to prosecute is a pre-trial posture vested solely with the state attorney (*State v. Jogan*, 388 So. 2d 322, Third District Court of Appeal 1980) and the pretrial diversion is basically a conditional decision not to prosecute (*Cleveland v. State*, 417 So. 2d 653, Supreme Court 1982). As a result, applying a condition of the batterer's intervention program to the requirement of admittance to the pretrial diversion program is not a judicial function, as implied in s. 741.281, F.S.

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

### **Act of Domestic Violence**

CS/SB 316 amends the definitions for "domestic violence" and "family or household member" in ss. 741.28, 25.385, 39.902, and 943.17(2) of the Florida Statutes as follows:

- Includes as family or household members to which the definition of domestic violence would apply, individuals who have or have had a continuing romantic or intimate relationship (referred to and defined as a "dating relationship"); and
- Requires present or prior co-residency between the victim and the family or household member in establishing an act of domestic violence, with the exception of when the victim and perpetrator are parents of a child in common or when there has been a dating relationship.

The domestic violence definitions contained in s. 741.28, F.S., are used in a number of applications in ch. 741, F.S., relating to domestic violence. The primary utilization of these definitions is as a cause of action (and therefore who can petition) for an injunction for protection

against domestic violence. These amendments would correct a current inconsistency between the definitions of “domestic violence” and “family or household member” by clearly requiring residency for persons related by blood or marriage and excluding persons who are parents of a child in common from the residency requirement. The impact of this revision in issuing of injunctions is indeterminant since the current application of the co-residency requirements in the circuits is not known.

Circumstances under which an injunction for protection against domestic violence could be sought would also be expanded to include victims for whom the perpetrator of the violence is a person with whom there has been a relationship of an intimate or romantic nature. Residency would not be required. The court is provided with the discretion to determine if the relationship meets the definition of “dating relationship” based on the length of the relationship, the nature of the relationship and the frequency and type of interaction between the persons involved in the relationship. The definition of dating relationship specifically excludes the casual acquaintanceship or ordinary fraternization between individuals in a business or social context. While individuals in dating relationships currently can be granted a protective injunction for victims of repeat violence, under the provisions of this legislation, they would not have to meet the higher threshold for an injunction of two incidents of violence, one of which must be within the last 6 months. This expansion in the individuals who could request an injunction for protection against domestic violence is anticipated to increase the number of injunctions sought.

The following statutory definitions of “domestic violence” and “family or household members” are also being amended to replace the actual definitions with a specific reference to the definition in s. 741.28, F.S. These definitions have historically closely mirrored the s. 741.28, F.S., definitions, with the exception of the list of offenses. The definitions of domestic violence in these statutes initially included the same offenses. In 1995 and 1997, additional offenses were added to s. 741.28, F.S., but not to the other statutory definitions.<sup>0</sup>

- s. 25.385, F.S., Standards for instruction of circuit and county court judges in handling domestic violence cases: This section of law directs the Florida Court Educational Council to establish standards for the instruction of those circuit and county court judges with the responsibility for domestic violence cases. Since the definition of domestic violence is a component of the instruction to the judges, the revision in the definition would potentially require some minor alteration of information provided to the judges.
- s. 39.902, F.S., Definitions: Part XI of ch. 39, F.S., requires the Department of Children and Families to develop, certify and fund domestic violence centers. The amendment to the definition of domestic violence would not alter service delivery for the domestic violence centers since a substantial portion of their funding is either from Temporary Assistance for Needy Families (TANF), which uses the definitions provided for in s. 414.0252(4), F.S., or private sources, neither of which require co-residency.
- s. 943.17(2)(a), F.S., Basic skills training in handling domestic violence cases: Under this section, the Criminal Justice Standards and Training Commission is directed to establish the standards for instruction of law enforcement officers in the subject of domestic violence. As with the instruction for judges, the revision to the definition would potentially change the information provided to law enforcement.

The definitions relative to “domestic violence” in s. 741.28, F.S., are cross-referenced in a number of statutory provisions. The following cross-references of the s. 741.28, F.S., domestic

violence definitions are amended by this bill to reflect the revised numbering of paragraphs in the section. However, the revisions to the definitions would also be applied to the sections to which they are cross-referenced.

- Section 390.01115, F.S., Parental Notice of Abortion Act: This act requires that one parent or legal guardian be notified at least 48 hours prior to the termination of a minor's pregnancy. Circumstances under which such notice is not required are delineated, including the court finding that there is evidence of child abuse and sexual abuse as ascribed in ss. 39.01 and 741.28, F.S., by a parent or guardian, or that notification would not be in the best interest of the child. While the broadening of the definition of domestic violence in s. 741.28, F.S., technically expands the individuals considered a family member for the purposes of child abuse and sexual abuse in this section, the practical impact is questionable. The court is still making the decision regarding a waiver of notice and the intent is not to jeopardize a minor by notifying someone who has been abusive.
- Section 470, F.S., Funeral Directing, Embalming and Direct Disposition: This chapter requires that a "legally authorized person" provide permission to a direct disposer to take possession of a dead body or to an embalmer for embalming services. A "legally authorized person" includes the surviving spouse, unless the spouse has been arrested for committing an act of domestic violence, as defined in s. 741.28, F.S., against the deceased. The change in the definition of domestic violence would not alter its application in this chapter since the reference to "legally authorized person" is specific to the spouse.
- Sections 626.9541 and 641.3903, F.S., Unfair Methods of Competition and Unfair or Deceptive Acts or Practices for the insurance industry and health maintenance organizations: These sections prohibit either the insurance industry or the health maintenance organizations from discriminating against, that is from refusing to issue a policy or to provide services to, a person because of medical services or treatment sought as a result of domestic violence. The expanded definition of domestic violence broadens the prohibition of discrimination to include the situation when the insured was abused by a person in a dating relationship. However, it is unknown if this will have an impact on insurance or health maintenance organization practice or if the expansion is inconsistent with the intended prohibition against discrimination.
- Sections 985.213 and 985.215, F.S., Delinquency and use of detention: These sections provide that the decision to place a juvenile in a detention facility is to be based on an assessment of risk. Under certain conditions, acts of domestic violence are specifically identified as circumstances that warrant detention for up to 48 hours, even if the detention criteria are not met. In addition, after the arraignment, detention can be continued if the juvenile has committed an act of domestic violence. The Department of Juvenile Justice anticipates that the broadened definition of domestic violence has the potential to increase the number of juveniles placed in secure detention.

### **Domestic Violence Center Funding**

CS/SB 316 amends s. 28.101 (1)(c), F.S., to increase the fee charged in petitions for dissolution of marriage that is deposited into the Domestic Violence Trust Fund from \$18 to \$36. The projections from the Department of Children and Families and the Office of State Courts Administrator of the additional revenue anticipated to be generated annually from this fee increase range from \$1.4 to \$1.6 million.

## **Court Proceedings Relative to Domestic Violence**

CS/SB 316 clarifies existing law that a person can petition the court for an injunction for protection against domestic violence based on either one of two circumstances: the person has been a victim of domestic violence or the person is in imminent danger of becoming a victim of domestic violence. It also provides the court with factors that, if alleged in the petition, can be considered in determining whether a petitioner is in imminent danger of becoming a victim of domestic violence.

Section 741.30, F.S., is amended to add a requirement that all injunctions for protection against domestic violence proceedings be recorded. Such recording will provide a transcript of the evidentiary hearing so that the court in any subsequent hearing for modification or dissolution can evaluate the contentions raised by the parties. The venue for an injunction for protection is specifically defined in s. 741.30, F.S., and expands the circuits in which a petition can be filed from the present options of where the defendant (or respondent) resides or where the cause of action (or domestic violence) occurred, to include where the petitioner currently or temporarily resides. A length of residency is not required to petition for an injunction.

The bill also requires the court to permit the petitioner or respondent to be accompanied by an advocate either from the state attorney's office, a law enforcement agency or a certified domestic violence center in an injunction for protection hearing, if requested. The role the advocate would play in the proceeding is not identified.

The acts which are considered a violation of the injunction for protection against domestic violence as defined in s. 741.31, F.S., and carry the sanction of a misdemeanor of the first degree have been expanded to include the following: knowingly or intentionally coming within 100 feet of the petitioner's motor vehicle, defacing or destroying the petitioner's personal property, and refusing to surrender firearms or ammunition, if ordered by the court. In addition, the violation of going to the petitioner's residence, school, place of employment or other frequented place was further defined to include being within 500 feet of any of these sites.

## **Batterer's Intervention Program**

CS/SB 316 deletes from s. 741.281, F.S., the requirement that the court order defendants to attend a batterer's intervention program as a condition of their admittance to a pretrial diversion program when there has been a charge of domestic violence. This modification corrects a directive to the court to apply a condition to the pretrial diversion program which was not within the jurisdiction of the court. However, it also eliminates the requirement for persons released to the pretrial diversion program who have been charged with an act of domestic violence to attend the batterer's intervention program.

The bill takes effect October 1, 2002.

**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:**

The filing fee for a dissolution of marriage will be increased from \$18 to \$36. The funds will be deposited into the Domestic Violence Trust Fund to support the domestic violence centers.

**B. Private Sector Impact:**

Persons filing for a dissolution of marriage will be required to pay a higher fee. However, the revenue generated will be used to address unmet needs of domestic violence victims through the domestic violence centers. In addition, a broader scope of individuals, in particular individuals in dating relationships, would be subject to the criminal penalties, rights and other sanctions imposed on persons who have committed an act of domestic violence.

**C. Government Sector Impact:**

The Office of State Courts Administrator reports there are elements of the bill that may impact the workload of the state court system. The expansion of the category of persons who are entitled to seek a domestic violence injunction is anticipated to result in an increase in the petitions for domestic violence injunctions filed. The requirement that the courts consider certain additional factors in determining whether to grant an injunction may result in additional hearing time, as may the additional actions that constitute a criminal violations of an injunction for criminal proceedings. The requirement that domestic violence hearings be recorded are reported to result in additional expenditures for such items as court reporters or costs for recording equipment and related costs. This should only apply to counties that are not presently recording injunction hearings, and in March 2000, the Office of State Courts Administrator reported that at least 35 counties recorded domestic violence hearings. Additionally, if the definition of domestic violence has been interpreted in the most restrictive manner by the circuits, i.e. to exclude family and household members who have never lived together, then the elimination of the co-

residency requirement for those instances where the victim and perpetrator are parents of a child in common could increase the number of petitions for the injunction for protection against domestic violence.

The Florida Association of Counties reports that the requirement to record the injunction hearing will result in a fiscal impact for those counties currently not recording the proceeding. The amount of the fiscal impact is indeterminate.

The Department of Juvenile Justice anticipates that the broadened definition of domestic violence has the potential to increase the number of juveniles placed in secure detention. In FY 2000-2001, the total number of youth charged with domestic violence offenses (according to the Juvenile Justice Information System) was 8,827. No data is available to determine what portion of other included crimes of the juveniles placed in detention could be attributed to a non-residing person of a dating relationship.

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

The population at risk of violence in a dating relationship not only includes adults, but teenagers. Some states' definition of "dating relationship" provides a mechanism for minor victims of dating violence to apply for protective injunctions. Some of those states allow minors to apply for an injunction for protection, while other states permit or require the involvement of an adult to apply for the order on the minor's behalf. In Florida, the statutory provisions for a petition for injunction for protection against repeat violence (s. 784.046, F.S.) specifically provides for the parent or legal guardian of the minor to seek the injunction on behalf of the minor. Current language in s. 741.30, F.S., for the injunction for protection against domestic violence and the amendments to the definition proposed in CS/SB 316 do not specify whether the ability to petition for an injunction applies to a minor. Clarification as to whether the domestic violence injunction is available to a minor, either directly or through a parent or legal guardian on the minor's behalf may be warranted.

The current definitions for "domestic violence" in s. 741.28, F.S., are cross-referenced in a number of statutory provisions. For some of the statutory provisions, amending the definitions do not result in any substantive impact. However, there are other provisions whereby the proposed modifications may potentially extend certain sanctions and rights to the following groups of individuals who have committed an act identified as domestic violence: individuals in dating relationships and, depending on the interpretation of the current residency requirement, individuals who are parents of a child in common who have never resided together. Those statutory provisions that cross-reference the definitions in s. 741.28, F.S., where the expansion of the definitions appears to broaden the individuals to which the provision applies and, subsequently, may have an impact are as follows:

- s. 464.018, F.S., provides for the commission of an act of domestic violence to be considered grounds for disciplinary action for persons licensed to practice nursing.

- s. 741.283, F.S., requires a minimum sentence of 5 days in the county jail for persons adjudicated guilty of a crime of domestic violence where intentional bodily harm was caused on another person.
- s. 741.29, F.S., makes a violation of certain conditions of pretrial release a misdemeanor if the original arrest was for an act of domestic violence.
- s. 768.35, F.S., provides that victims of continuing domestic violence can recover compensatory and punitive damages against the perpetrator. However, this provision adds further qualifiers to the act of domestic violence, specifically that the victim must have suffered repeated physical or psychological injuries over an extended period of time.
- s. 901.15, F.S., provides that an officer may arrest a person without a warrant when there is probable cause to believe the person has committed an act of domestic violence.
- s. 907.041, F.S., provides that an act of domestic violence is considered a “dangerous crime” for which non-monetary pretrial release cannot be granted at first appearance, except under certain conditions.
- s. 921.0024, F.S., provides for a multiplier in computing the sentencing points under the Criminal Punishment Code if the primary offense was domestic violence and it was committed in the presence of a child of the victim or perpetrator.
- s. 943.0582, F.S., provides for the expungement of non-judicial records of the arrest of a minor who has successfully completed a prearrest or post arrest diversion program and excludes those records that can be expunged, minors with an arrest for domestic violence.
- s. 948.03, F.S., requires courts to order persons convicted of an offense of domestic violence to attend the Batterer’s Intervention Program as a condition of probation, community control and any other court ordered community supervision.

#### **VIII. Amendments:**

None.