

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 295 Food Service Inspections of Domestic Violence Centers  
**SPONSOR(S):** Health Care Regulation Policy Committee; Hukill  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 532

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Health Care Regulation Policy Committee	14 Y, 0 N, As CS	Guy	Calamas
2)	Health & Family Services Policy Council	13 Y, 0 N	Quinn-Gato	Gormley
3)	_____	_____	_____	_____
4)	_____	_____	_____	_____
5)	_____	_____	_____	_____

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**SUMMARY ANALYSIS**

Committee Substitute for House Bill 295 creates an exception to the current regulatory scheme for food services inspections of certified domestic violence centers.

Current law provides for a tiered system of food services inspection, based on the number of residents. The regulatory scheme is not based on whether the facility is preparing and serving food to residents, or whether residents prepare and serve their food themselves.

The bill requires the Florida Department of Health to conduct food service inspections for certified domestic violence centers at the inspection level required for facilities having five or fewer residents without regard to the actual number of residents in each center. The bill maintains a resident number-based inspection scheme for those centers that prepare and serve food to residents or advertise food or drink for public consumption.

The bill has an insignificant positive fiscal impact to the Department of Health (see Fiscal Comments).

The bill takes effect July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Certified Domestic Violence Centers**

There are 42 certified domestic violence centers ("Centers") in Florida which serve all 67 counties.<sup>1</sup> In 2008-2009, these Centers provided emergency shelter to 14,667 individuals, the majority of which were women and children.<sup>2</sup> The Centers combined have a capacity of 1,818 beds and range in size from 16-bed to 102-bed facilities.<sup>3</sup> The average capacity is 41 beds.<sup>4</sup>

Domestic violence centers are annually certified and regulated by the Florida Department of Children and Families ("DCF") under Chapter 39, F.S. Certified centers must, at a minimum, provide: temporary emergency shelter for more than 24 hours; counseling; and information and referral services.<sup>5</sup> The Centers "...strive to offer a homelike setting where [domestic violence] survivors may seek refuge and feel safe."<sup>6</sup>

For certification purposes, DCF requires Centers to have a satisfactory environmental health inspection report completed by the local county health department.<sup>7</sup> Most Centers have kitchen areas which are equipped with basic supplies and tools, but do not provide prepared meals to residents. One of the 42 certified centers provides meal service to residents.<sup>8</sup>

##### **Florida Department of Health Food Service Protection**

The Florida Department of Health ("DOH") administers an Environmental Health Program pursuant to s. 381.006, which encompasses a food service component.<sup>9</sup> As part of this program, DOH regulates

<sup>1</sup> Florida Coalition Against Domestic Violence, see <http://www.fcadv.org/about.php> (last visited January 26, 2010).

<sup>2</sup> Florida Coalition of Against Domestic Violence, *Domestic Violence Annual Report 7/1/2008 – 6/30/2009*, see <http://www.dcf.state.fl.us/domesticviolence/publications/dv0809.pdf> (last visited January 26, 2010).

<sup>3</sup> Florida Department of Children & Families, *Domestic Violence Annual Report 2007-2008*, see <http://www.dcf.state.fl.us/domesticviolence/publications/dvff0708.pdf> (last visited January 26, 2010).

<sup>4</sup> *Id.*

<sup>5</sup> S. 39.905(1)(c), F.S.

<sup>6</sup> Florida Department of Children & Families, *Domestic Violence Annual Report 2007-2008*, see <http://www.dcf.state.fl.us/domesticviolence/publications/dvff0708.pdf> (last visited January 26, 2010).

<sup>7</sup> Rule 65H-1.102, F.A.C.

<sup>8</sup> Department of Children and Family Services Staff Analysis and Economic Impact, House Bill 295 (November 5, 2009).

<sup>9</sup> s. 381.0072, F.S.

group care facilities.<sup>10</sup> Certified domestic violence centers are not specifically referenced in this section, but DOH treats the Centers as group-care-facilities for inspection purposes.<sup>11</sup> All residential facilities are subject to annual physical plant inspections.<sup>12</sup>

DOH uses a tier system based on number of residents to determine the level of regulation and inspection required for any community-based residential facility that provides food preparation facilities to its residents.<sup>13</sup> Tier One applies to facilities with 1-5 residents; Tier Two applies to facilities with 6-10 residents; and Tier Three applies to facilities with 11 or more residents.<sup>14</sup> The Tier system is designed to apprehend the risk of food-borne illness that increases as the number of residents in a facility increases.<sup>15</sup> The Tier system is predicated upon number of residents in a facility, not whether those residents prepare their own meals or meals are prepared for them by others.

Regulations for Tiers One and Two are less stringent than Tier Three and, according to DOH, "...allow smaller operations to maintain a home-like environment in their kitchens...."<sup>16</sup> Tier Three facilities, with larger numbers of residents, are subject to the more rigorous requirements of Rule 64E-11, F.A.C.<sup>17</sup> Typically, Tier Three facilities provide meal service to residents and these facilities have a professional kitchen and food preparation staff.<sup>18</sup> These facilities are subject to quarterly inspections by DOH<sup>19</sup> and are inspected according to the following risk factors: types of food served; amount of preparation required; population served; and, quantity of food prepared.<sup>20</sup> Currently, most certified domestic violence centers house over 11 residents and thus are inspected as Tier Three facilities even though a vast majority of them do not provide meal services to residents nor do they hire food preparation staff.

### **Effect of Proposed Changes**

Committee Substitute for House Bill 295 requires food inspection services performed by DOH to treat all certified domestic violence centers as having five or fewer residents notwithstanding the actual number of residents in each Center. The effect of this requirement is to subject certified domestic violence centers to the lowest threshold of food service regulation and inspection requirements – Tier One. Any Center with six or more residents would be exempted from DOH food inspection regulations and would be subject to lower inspection regulations than other types of facilities with six or more residents. Currently, no Center has a residential capacity lower than 16 beds.

Committee Substitute for House Bill 295 provides an exemption for certified domestic violence centers from the definition of "food service establishment" in Section 381.0072(1)(b), F.S. This exemption clarifies that certified domestic violence centers are not subject to the food inspection regulatory scheme in Rule 64E-12.004, F.A.C., which requires facilities to be inspected according to the number of residents housed. The exemption does not include domestic violence centers that prepare and serve meals to their residents.

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 381.006, F.S., relating to environmental health.

Section 2: Amends s. 381.0072, F.S., relating to food service protection.

Section 3: Provides an effective date of July 1, 2010.

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<sup>10</sup> s. 381.006(16), F.S.

<sup>11</sup> Department of Children and Family Services Staff Analysis and Economic Impact, House Bill 295 (November 5, 2009).

<sup>12</sup> According to DOH staff, annual inspections are required by DOH procedures as outlined in the Environmental Health Program Manual 150-4. Rule 64E-12.004, F.A.C.

<sup>14</sup> *Id.*

<sup>15</sup> Department of Health Bill Analysis, Economic Statement and Fiscal Note, House Bill 295 (November 18, 2009).

<sup>16</sup> *Id.*

<sup>17</sup> Rule 64E-11.001, F.A.C., prescribes the sanitary practices for food service establishments that serve food or drink to the public.

<sup>18</sup> Department of Health Bill Analysis, Economic Statement and Fiscal Note, House Bill 295 (November 18, 2009).

<sup>19</sup> According to DOH staff, quarterly inspections are required by DOH procedures as outlined in the Environmental Health Program Manual 150-4.

<sup>20</sup> Florida Department of Health, Food Hygiene Program. See <http://www.doh.state.fl.us/Environment/community/food/index.html> (last visited on February 19, 2010).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
See Fiscal Comments.
2. Expenditures:  
See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
None.
2. Expenditures:  
None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

According to the Department of Health, DOH already exempts approximately 13 Centers from quarterly inspection and sanitation certification.<sup>21</sup> DOH prepared its original fiscal impact to include the 25 Centers DOH subjects to Tier Three inspection and certification. The bill, as amended, would require DOH to perform quarterly inspections and sanitation certification for one Center because currently only one Center prepares and serves meals to its residents, or advertises food and drink to the public. This results in an annual net savings to the department of \$3,960.

	<i><b>1st Year Recurring</b></i>	<i><b>2nd Year</b></i>
Estimated cost to DOH to perform quarterly inspections (24 centers X \$100 per inspection X 3 inspections per center)	\$7,200	\$0
Estimated reduction in sanitation certificate fees collected by DOH (24 centers X \$135 fee)	(\$3,240)	\$0
<b>Estimated Net Reduction in Costs</b>	<b>\$3,960</b>	<b>\$0</b>

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

#### 2. Other:

None.

<sup>21</sup>Teleconference with Florida Department of Health staff, February 22, 2010 (notes on file with Council).

**B. RULE-MAKING AUTHORITY:**

C. The Department of Health has sufficient rule-making authority to implement provisions of the bill 295.

**D. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On February 2, 2010, the Health Care Regulation Policy Committee adopted one amendment to House Bill 295.

The amendment provides that the exemption from the definition of “food service establishment” in s. 381.0072, F.S., does not apply to a certified domestic violence center that prepares and serves meals to its residents, or advertises food and drink to the public. Such a center would be inspected according to the number of residents, based on the existing regulatory structure.

The bill was reported favorably as a Committee Substitute. This analysis reflects the committee substitute.