

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: CS/SB 532

INTRODUCER: Health Regulation Committee and Senator Altman

SUBJECT: Food Service Inspections

DATE: January 19, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Wilson	HR	Fav/CS
2.	_____	_____	CF	_____
3.	_____	_____	HA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
- B. AMENDMENTS..... Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This committee substitute requires the Department of Health (Department) to inspect certified domestic violence centers for compliance with food safety rules that apply to community-based residential facilities having five or fewer residents, regardless of the number of actual residents. The committee substitute further provides that a certified domestic violence center that only provides food for its residents is not a food service establishment for purposes of regulation under s. 381.0072, F.S., related to food service protection.

This committee substitute substantially amends the following sections of the Florida Statutes: ss. 381.006 and 381.0072.

II. Present Situation:

Domestic Violence Centers

Domestic violence centers are community-based agencies that provide services to adult victims of domestic violence and their children. Minimum services include temporary emergency shelter; information and referrals; safety planning, counseling and case management; a 24-hour

emergency hotline; educational services for community awareness; assessment and appropriate referral of resident children; and training for law enforcement and other professionals.¹

Domestic violence centers are regulated under ch. 39, F.S., and rule chapter 65H-1, Florida Administrative Code (F.A.C.), by the Department of Children and Families (DCF). Rule 65H-1.012, F.A.C., provides the standards for certification of domestic violence centers. Only not-for-profit corporations that have been operating and providing domestic violence services for 18 consecutive months, including 12 months operating an emergency shelter, are eligible to apply for certification. Currently, there are 49 certified domestic violence centers in the state.² Certification is for one year.

Centers are required to meet county and municipal building code enforcement requirements, have an annual fire safety inspection, have an annual sanitation inspection through the county health department, and otherwise take precautionary measures to ensure the physical safety of residents.³

The DCF conducts monitoring evaluations of certified domestic violence centers to ensure compliance with the minimum standards provided in rule chapter 65H-1, F.A.C., and s. 39.905, F.S. These evaluations occur annually, onsite or desktop, as determined by the DCF. An evaluation may also occur in response to a complaint.⁴

Certified domestic violence centers throughout Florida generally house from 15 to 102 residents per building and none house five or fewer residents.⁵

Department of Health

Section 20.43, F.S., creates the Department and requires it to plan and administer its public health programs through its county health departments. The Department, in carrying out the mission of public health, is to focus attention on identifying, assessing, and controlling the presence and spread of communicable diseases; on monitoring and regulating factors in the environment which may impair the public's health, with particular attention to preventing contamination of drinking water, the air people breathe, and the food people consume; and ensuring availability of and access to preventive and primary health care.

Food Services

The Department's rule chapter 64E-12, F.A.C., prescribes sanitary practices relating to community-based residential facilities, including domestic violence centers. Rule 64E-12.004, F.A.C., specifically addresses food service requirements using a risk-based tiered approach. Different minimal requirements apply for each tier based on facility type or the number of residents in care. There are three tiers of food service requirements in rule 64E-12.004, F.A.C. Tiers II and III, with resident populations in excess of 5 persons, reference some or all of the

¹ Department of Children and Family Services website found at: <<http://www.dcf.state.fl.us/domesticviolence/about.shtml>> (Last visited on January 14, 2010).

² Department of Health Bill Analysis, Economic Statement and Fiscal Note for SB 532, dated November 12, 2009, on file with the Senate Health Regulation Committee.

³ Rule 65H-1.015, F.A.C.

⁴ Rule 66H-1.017, F.A.C.

⁵ Ibid, 2.

food hygiene standards adopted under rule chapter 64E-11, F.A.C., for food service establishments. The Department inspects domestic violence centers annually for compliance with food safety, sanitation, and health standards.

Tier I applies to adult family-care homes and other community residential facilities with a maximum capacity to house up to five residents and requires:

- Food used in the facility must be clean, wholesome, free from spoilage and safe for human consumption. Home-canned food may not be used;
- Food must be protected from dust, flies, rodents and other vermin, toxic materials, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding by sewage, overhead leakage and all other sources of contamination at all times during storage, food preparation, transportation both on and off premises, and service;
- Food storage equipment must be provided to keep all potentially hazardous foods at safe temperatures, 41°F or below or 140°F or above, except during necessary periods of preparation and service. Food storage units must have a visible and accurate (within plus or minus 3°) thermometer. Potentially hazardous food must not have been out of temperature more than 4 cumulative hours during the course of thawing, preparation, service, and cooling;
- At least one sink with hot and cold potable water under pressure must be in the food preparation area; and
- Food containers must be labeled with their contents and certain foods must be stored in accordance with date marking and disposition requirements.

Tier II applies to facilities with a maximum capacity to house from 6 to 10 residents and requires compliance with

- Tier I requirements;
- Criteria related to sources and the condition of food supplies in rule 64E-11.003, F.A.C.;
- Preparation criteria for foods that are to be served without further cooking, comminuted meat (such as hamburger), poultry, raw animal products, beef, and microwave cooking in rule 64E-11.004, F.A.C.;
- Cooling, thawing, and reheating procedures in rule 64E-11.004, F.A.C.;
- Detailed food storage criteria, including containers and storage locations in rule 64E-11.004, F.A.C.;
- Criteria for food display and serving, including handling of utensils in rule 64E-11.004, F.A.C.;
- Criteria concerning the use and storage of cleaning aids and other poisonous or toxic materials in rule 64E-11.004, F.A.C.;
- Criteria for personnel, including being free from communicable disease and adhering to provisions related to personal hygiene in rule 64E-11.005, F.A.C.;
- Specifications for floors, walls, and shelving;
- Providing a separate hand-washing sink area;
- Criteria for multi-use equipment and utensils; and
- Preventing live animals and pets from entering the kitchen or food preparation area.

Tier III applies to facilities with a maximum capacity of 11 or more residents and requires compliance with all regulatory standards relating to food service establishments. These include

all requirements in Tier II, as well as additional food safety criteria set forth in rule chapter 64E-11, F.A.C., maintaining a food sanitation certificate at an annual fee of \$135, and quarterly inspections specifically addressing requirements related to food safety.

Facilities receiving or providing catered food must also meet applicable licensing and regulatory requirements.⁶

III. Effect of Proposed Changes:

Section 1. Amends s. 381.006, F.S., to limit food service inspections of certified domestic violence centers to compliance with standards for community-based residential facilities having five or fewer residents (Tier I requirements), regardless of the number of residents in the certified domestic violence center. This provision only applies to domestic violence centers that are certified and monitored by the DCF.

Section 2. Amends s. 381.0072, F.S., to exempt a domestic violence center that is certified and monitored by the DCF, only provides food for its residents to prepare for themselves, and does not advertise food or drink for public consumption from the definition of a food service establishment.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Approximately 25⁷ of the 49 domestic violence centers pay \$135 annually for a food sanitation certificate, which will no longer be required. Additionally, the domestic

⁶ Rule 64E-12.004(4), F.A.C.

violence centers will be required to comply with lesser regulatory standards and have fewer inspections related to food safety.⁸

C. Government Sector Impact:

The Department would lose an estimated \$3,375 annually in sanitation certificate fees but no longer incur approximately \$7,500 in expenses related to food sanitation inspections.⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Regulation Committee on January 19, 2010:

Eliminates the provision that a certified domestic violence center is not subject to any requirements that apply to food service establishments and limits the exemption of a certified domestic violence center from the definition of a food service establishment to a center that only provides food for its residents and does not advertise food or drink for public consumption.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁷ The other domestic violence centers were grandfathered in when the Tier III requirements went into effect.

⁸ Ibid, 2.

⁹ Ibid, 2.