

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5309 PCB HCAS 11-05 Domestic Violence

SPONSOR(S): Health Care Appropriations Subcommittee, Hudson

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Care Appropriations Subcommittee	13 Y, 2 N	Perritti	Pridgeon
1) Appropriations Committee	22 Y, 0 N	Perritti	Leznoff

SUMMARY ANALYSIS

The bill makes statutory changes to conform to decisions made in the House proposed General Appropriations Act (GAA) for Fiscal Year 2011-12.

The bill amends the duties and functions of the Department of Children and Families relating to the domestic violence program as follows:

- The bill limits the Department's role in certification of domestic violence shelters to initial certification, suspension and revocation. Ongoing certification of domestic violence shelters will be performed by the Florida Coalition Against Domestic Violence (FCADV).
- The Department will partner with the FCADA to coordinate and administer the statewide activities related to the prevention of domestic violence.
- The bill eliminates certification of batterers' intervention programs as well as the authority to collect fees by the Department associated with the certification program.

The House proposed GAA for Fiscal Year 2010-11 reduces recurring general revenue expenditures by \$372,054 and \$762,276 in recurring trust funds and 11.0 FTE as a result of limiting the Department of Children and Families role to the domestic violence program and eliminating the Department's authority to certify batterer's intervention programs. The House proposed GAA for Fiscal Year 2010-11 also provides for a transfer of \$307,331 in recurring general revenue and \$644,520 in recurring trust funds to the FCADV for the certification program.

The bill repeals the Department's authority to assess and collect fees for the certification of batterers' intervention programs. This is estimated to have a negative fiscal impact to the Domestic Violence Trust Fund of \$117,738, however this loss is offset since the Department will no longer be required to certify the batterers' intervention programs and positions associated with this function are eliminated.

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Domestic Violence Program

Background:

The Department of Children and Families (department) is currently responsible for the statewide Domestic Violence Program, which provides supervision, direction, coordination, and administration of activities related to domestic violence prevention and intervention services.¹

Domestic Violence centers are community-based agencies that provide services to the victims of domestic violence. 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.²

The 1978 Florida Legislature enacted the certification of domestic violence centers.³ The department is responsible for monitoring certification on an annual basis to ensure that the certified centers continue to remain in compliance with the standards for certification.⁴ In order for a domestic violence center to receive funding, it must be certified.⁵

The Florida Coalition Against Domestic Violence serves as the professional association for the state's 42 certified domestic violence centers and is the primary representative of battered women and their children in the public policy arena. Funding sources for the coalition have included the federal Family Violence Prevention Services Act, the federal Violence Against Women Act, membership fees, private donations, and funds from the state. The Coalition administers state and federal funding earmarked to the 42 domestic violence centers in the state. Effective January 1, 2004, the Coalition became responsible for approving or rejecting applications for funding and contracting with certified centers. In order to receive state funds, a center must obtain certification by the State of Florida; however, the issuance of certification does not obligate the coalition to provide state funding. The Coalition monitors the centers fiscally and programmatically under their new authority to administer funds. This review process also includes compliance with rule and law.

Effect of bill:

The bill maintains the department's operation of the domestic violence program, but requires the department to partner with the Florida Coalition Against Domestic Violence to perform specific duties currently performed by the department. Pursuant to the bill, the department retains the responsibility of establishing certification standards for centers; however, ongoing certification activities would be performed by the Coalition. The department retains the authority to deny, suspend or revoke certification of a center. The bill provides that certification will be renewed annually by the department upon a favorable monitoring report by the Coalition.

The bill retains the authorization for the department to enter and inspect the premises of domestic violence centers applying for an initial certification after July 1, 2011. The bill removes the authority of the department to enter and inspect existing certified domestic violence centers and gives this authority to the Coalition.

¹ s. 39.903(3), F.S.

² s. 39.905, F.S.

³ Ch. 78-281, L.O.F.

⁴ s. 39.903(1)(d), F.S.

⁵ s. 39.905(6)(a), F.S.

The department will be required to contract with the Coalition to implement, administer and evaluate all services provided by the certified domestic violence centers and will have the ability to approve or reject funding and to determine compliance with certification minimum standards. Further, the Coalition will be required to report to the Legislature information that is currently reported by the department regarding the status and number of domestic violence cases.

The bill requires information relating to domestic violence advocates who are employed or who volunteer at a domestic violence center and may claim a privilege to refuse to disclose confidential communications to be reported to the Coalition rather than the department. The bill also requires a new center applying for certification in an area where a center already exists to demonstrate the unmet need by the existing center and describe efforts to reduce duplication of services.

The bill codifies that the department will serve as the lead agency application of relevant federal grants and coordinator of the State Violence Against Women STOP Implementation Plan that promotes domestic violence awareness, increases services to victims and strengthens perpetrator accountability. The bill requires the department to contract with the Coalition for the administration of contracts and grants associated with federal grants as directed by the department.

Batterer Intervention Program

Background:

Section 741.32, F.S. provides for certification of batterers' intervention programs by the department. According to that section of statute, the "purpose of certification of programs is to uniformly and systematically standardize programs to hold those who perpetrate acts of domestic violence responsible for those acts and to ensure safety for victims of domestic violence."

Section 741.325, F.S. requires the department to promulgate rules setting forth certain requirements of the programs. Several sections of statute authorize or require judges to order an offender to participate in a batterers' intervention program. For example, section 948.038, F.S. provides that as a condition of probation, community control, or any other court-ordered community supervision, a judge must, with certain exceptions, order a person convicted of an offense of domestic violence to attend and successfully complete a batterers' intervention program. This section requires that the batterers' intervention program must be a program certified under s. 741.32, and the offender must pay the cost of attending the program.

Section 741.327, F.S. authorizes the department to assess and collect fees for the certification of batterers' intervention programs as follows:

- An annual certification fee not to exceed \$300 for the certification and monitoring of batterers' intervention programs.
- An annual certification fee not to exceed \$200 for the certification and monitoring of assessment personnel providing direct services to persons who:
 - Are ordered by the court to participate in a domestic violence prevention program;
 - Are adjudged to have committed an act of domestic violence as defined in s. 741.28;
 - Have an injunction entered for protection against domestic violence; or
 - Agree to attend a program as part of a diversion or pretrial intervention agreement by the offender with the state attorney.

Further, this section requires all persons required by the court to attend domestic violence programs certified by the department to pay an additional \$30 fee for each program to the department. The fees assessed and collected under this section are deposited in the Executive Office of the Governor's Domestic Violence Trust Fund established in s. 741.01 and directed to the Department of Children and Family Services to fund the cost of certifying and monitoring batterers' intervention programs. The Department has indicated that the current fee collections do not support the cost associated with the certifying and monitoring batterers' intervention programs.

Effect of bill:

The bill eliminates the department's certification role in the Batterer's Intervention program. The bill amends s. 741.325, F.S. to require that batterers' intervention programs meet the requirements currently in law but removes the authority for the department to promulgate rules to establish these requirements. The bill retains references to batterers' intervention programs elsewhere in statute but eliminates references to the programs being certified by the department.

The bill provides an effective date of July 1, 2011.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 39.303, F.S., relating to duties and functions of the Department of Children and Family Services with respect to domestic violence, specifically regarding certification of newly established domestic violence centers.
- Section 2.** Amends 39.904, F.S., relating to reports to the Legislature on the status of domestic violence cases. Requiring FCADV to report to the Legislature and changing the changing the information required in the report.
- Section 3.** Amends 39.905, F.S., relating to requirements for certification as a domestic violence center. Requires the center to file with the FCADV
- Section 4.** Amends 381.006(18), F.S., relating to environmental health to conform to the new duties delegated to FCADV.
- Section 5.** Amends s. 381.0072, F.S., relating to food service protection to conform to the new duties delegate to FCADV to monitor domestic violence centers.
- Section 6.** Amends s. 741.281, F.S., relating to court ordered batter's intervention programs. Removes the requirement that it must be a certified program.
- Section 7.** Amends s. 741.2902, F.S., relating to the legislative intent with respect to judiciary's role in domestic violence.
- Section 8.** Amends s. 741.316, F.S., to assign the domestic violence fatality review teams to the FCADV and remove from the department.
- Section 9.** Amends s. 741.32, F.S., relating to batterers' intervention programs. Removes the requirement that the program be certified by the department.
- Section 10.** Amends s. 41.325, F.S., relating to requirements for batterers' intervention programs, to remove the department's responsibility to create guidelines and conforming to removal of certification.
- Section 11.** Repeals s. 741.327, F.S.
- Section 12.** Amends s. 948.038, F.S. relating to batterers' intervention programs, conforming to removal of certification.
- Section 13.** Provides the bill is effective July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Domestic Violence Trust Fund revenues will be reduced by approximately \$117,738 in fees associated with cost of certifying and monitoring batterers' intervention programs however this loss is offset since the Department will no longer be required to certify the batterers' intervention programs.

2. Expenditures:

	<u>FTE</u>	<u>FY 2011-12</u>
<u>Domestic Violence Program</u>		
Positions	(9.00)	
General Revenue		(307,331)
Trust Funds		(644,520)
Total	(9.00)	(951,851)
<u>Batterer's Intervention Program</u>		
Positions	(2.00)	
General Revenue		(64,741)
Trust Funds		(117,738)
Total	(2.00)	(182,479)
Total	(11.00)	(1,134,330)
<u>Transfer to FCADV</u>		
Positions		
General Revenue		307,331
Trust Funds		644,520
Total		951,851

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES