

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 Children, Families, and Elder Affairs Committee

BILL: SPB 7168

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: Domestic Violence

DATE: January 18, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Farmer	CF	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill makes statutory changes to conform to proviso included in the FY 2011-2012 General Appropriations Act (GAA)¹.

The bill revises the duties and functions of the Department of Children and Family Services (DCF or department) relating to the domestic violence program including the following:

- 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 or coalition);
- Requires the department to partner with the FCADV to coordinate and administer the statewide activities related to the prevention of domestic violence;
- Requires the department to contract with the coalition for the delivery and management of services for the state's domestic violence program; and
- Eliminates certification of batterers' intervention programs as well as the authority for the department to collect fees associated with the certification program.

This bill substantially amends ss. 39.903, 39.904, 39.905, 381.006, 381.0072, 741.281, 741.2902, 741.30, 741.316, 741.32, 741.325, 948.038, and 938.01 and repeals s.741.327 of the Florida Statutes:

¹ SB 2000 (2011).

II. Present Situation:

The initiative to transfer multiple functions related to domestic violence from the department to the FCADV was first introduced in the Governor's budget recommendations for FY 2011-12. The bill to carry out the transfer failed adoption during the 2011 legislative session.² Proviso was added to the GAA giving the coalition funding and authority to implement statutory directives contained in Chapter 39, F.S., relating to the domestic violence program. The department negotiated a contract with the coalition to perform these tasks effective July 1, 2011.

Domestic violence program

The department has historically been responsible for the statewide domestic violence program, which provides supervision, direction, coordination, and administration of activities related to domestic violence prevention and intervention services.³ Specifically, the department was required to:

- Develop criteria for the approval or rejection of certification or funding of domestic violence centers;
- Develop minimum standards for domestic violence centers to ensure the health and safety of the clients in the centers;
- Receive and approve or reject applications for certification of domestic violence centers;
- Evaluate each certified domestic violence center annually to ensure compliance with the minimum standards. The department has the right to enter and inspect the premises of certified domestic violence centers at any reasonable hour in order to effectively evaluate the state of compliance of these centers;
- Promote the involvement of certified domestic violence centers in the coordination, development, and planning of domestic violence programming in the districts and the state;
- Serve as a clearinghouse for information relating to domestic violence;
- Enlist the assistance of public and voluntary health, education, welfare, and rehabilitation agencies in a concerted effort to prevent domestic violence and to treat persons engaged in or subject to domestic violence; and
- Develop and provide educational programs on domestic violence for the benefit of the general public, persons engaged in or subject to domestic violence, professional persons, or others who care for or may be engaged in the care and treatment of persons engaged in or subject to domestic violence.⁴

Florida Coalition Against Domestic Violence

The department was also required to contract with a statewide association whose primary purpose is to represent and provide technical assistance to certified domestic violence centers.

² HB 5309 was heard only in the House Health Care Appropriations Subcommittee and the House Appropriations Committee; a bill addressing these issues was not filed in the Senate.

³ s.39.903, F.S.

⁴ *Id.*

This association implements, administers, and evaluates all services provided by the certified domestic violence centers.⁵

The coalition 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.⁶ 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.

Domestic violence centers

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.⁷

Domestic violence centers have been required to be certified since 1978.⁸ 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.⁹ A domestic violence center must be certified in order to receive funding.¹⁰

Batterers' intervention programs

The department has been responsible for certifying batterers' intervention programs since 2001.¹¹ The Office for Certification and Monitoring of Batterers' Intervention Programs was created in the Department of Corrections in 1995 and transferred to the department in 2001.¹² for the

⁵ *Id.*

⁶ In 1977, 14 shelters in Florida formed a network of battered women's advocates known as the Refuge Information Network. Several years later, this initial organization was incorporated as the Florida Coalition Against Domestic Violence. The Coalition, like the Network, was founded on principles of cooperation and unity among shelters. Members share the goal of ending domestic violence through community education, public policy development and services for victims. Retrieved January 9, 2012 from <http://www.fcadv.org/>

⁷ s.39.905, F.S.

⁸ Ch.78-281, L.O.F.

⁹ s.39.903(1)(d), F.S.

¹⁰ s.39.905(6)(a), F.S.

¹¹ s.741.325, F.S.

¹² Ch. 95-195, L.O.F. created the office in the Department of Corrections. Ch. 2001-183, L.O.F., transferred the office to the department by a type two transfer as defined in s. 20.06(2), F.S.

purpose of uniformly and systematically standardizing programs to hold those who perpetrate acts of domestic violence responsible for those acts and to ensure safety for victims of domestic violence.¹³

Section 741.325, requires the department to promulgate guidelines setting forth certain requirements of the programs. Those guidelines require that:

- The primary purpose of the programs shall be victim safety and the safety of the children, if present;
- The batterer shall be held accountable for acts of domestic violence;
- The programs shall be at least 29 weeks in length and shall include 24 weekly sessions, plus appropriate intake, assessment, and orientation programming;
- The programs be a psychoeducational model that employs a program content based on tactics of power and control by one person over another; and
- The programs and those who are facilitators, supervisors, and trainees be certified and that standards for rejection and suspension for failure to meet certification standards are established.

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, F.S., and the offender must pay the cost of attending the program.

Fees

The department was authorized to assess and collect fees for the certification of batterers' intervention programs as follows:¹⁴

- An annual certification fee not to exceed \$300 for the certification and monitoring of batterers' intervention programs; and
- An annual certification fee not to exceed \$200 for the certification and monitoring of assessment personnel providing direct services to persons who:
 - o Are ordered by the court to participate in a domestic violence prevention program;
 - o Are adjudged to have committed an act of domestic violence as defined in s. 741.28;
 - o Have an injunction entered for protection against domestic violence; or
 - o Agree to attend a program as part of a diversion or pretrial intervention agreement by the offender with the state attorney.¹⁵

¹³ s.741.325, F.S.

¹⁴ s.741.327, F.S.

¹⁵ *Id.*

In addition, all persons required by the court to attend domestic violence programs certified by the department are required to pay an additional \$30 fee for each program to the department.¹⁶ The fees assessed and collected under this section are deposited in the Executive Office of the Governor's Domestic Violence Trust Fund¹⁷ and directed to the department to fund the cost of certifying and monitoring batterers' intervention programs.¹⁸

III. Effect of Proposed Changes:

The bill maintains the department's operation of the domestic violence program, but requires the department to contract with the coalition to perform specific duties currently performed by the department.

Responsibilities of the department now include:

- Developing criteria for the approval, suspension, or rejection of certification of domestic violence centers;
- Developing minimum standards for domestic violence centers;
- Receiving and approving or rejecting applications for **initial** certification of domestic violence centers;¹⁹
- Having the authorization to enter and inspect at any reasonable hour the premises of domestic violence centers applying for initial certification after July 1, 2011;
- Coordinating with state agencies that have health, education, or criminal justice responsibilities to raise awareness of domestic violence and promote consistent policy implementation;
- Entering into partnerships with the coalition to coordinate and administer statewide activities related to the prevention of domestic violence; and
- Considering and awarding applications from certified domestic violence centers for capital improvement grants pursuant to s. 39.9055, F.S.

Responsibilities of the coalition now include:

- Having the authorization to enter and inspect the premises of certified domestic violence centers for monitoring purposes;
- Delivering and managing services for the state's domestic violence program;²⁰
- Implementing, administering, and evaluating all services provided by the certified domestic violence centers;
- Receiving and approving or rejecting applications for funding of certified domestic violence centers; and

¹⁶ *Id.* The intent that the programs be user-fee funded with fees from the batterers who attend the program as payment for programs is important to the batterer taking responsibility for the act of violence. Exception shall be made for those local, state, or federal programs that fund batterers' intervention programs in whole or in part.

¹⁷ s.741.01, F.S.

¹⁸ The department has indicated that the current fee collections do not support the cost associated with the certifying and monitoring batterers' intervention programs.

¹⁹ Certification will be renewed annually by the department upon a favorable monitoring report by the coalition.

²⁰ Services include, but are not limited to, the administration of contracts and grants as directed by the department.

- Evaluating certified domestic violence centers in order to determine compliance with minimum certification standards.

When approving funding for a newly certified domestic violence center, the coalition is required to make every effort to minimize any adverse economic impact on existing certified domestic violence centers or services provided within the same service area. In order to minimize duplication of services, the coalition must make every effort to encourage subcontracting relationships with existing certified domestic violence centers within the same service area. In distributing funds allocated for certified domestic violence centers, the coalition is required to use a formula approved by the department as specified in s. 39.905(7)(a).

Additional provisions of the bill include:

- Requiring the annual report on the status of domestic violence in the state that is required to be submitted to the legislature be submitted by the coalition rather than the department;²¹
- Requiring 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;
- Requiring 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;
- Specifying that the coalition rather than the department will conduct annual food service inspection functions for domestic violence shelters and that the coalition will not apply the term “food service establishment” if the center does not prepare and serve food; and
- Eliminating the requirement that a batterers’ intervention program must be a certified program under s.741.32, F.S.²² The bill contains additional provisions related to batterers’ intervention programs including:
 - Amending legislative intent relating to certifying batterers’ intervention programs;
 - Eliminating the role of the department related to the certification of these programs;
 - Eliminating statutory references to certified batterers’ intervention programs;
 - Requiring that batterers’ intervention programs meet the requirements currently in law but removes the authority for the department to promulgate rules to establish these requirements; and

²¹ s.39.905, F.S.

²² Due to previous budget cuts, the department suspended the acceptance and approval of new applicants for certification as a batterer intervention program or as an assessor. Certifications for all currently certified programs and assessors in good standing were extended for one year. Retrieved January 6, 2012, from <http://www.def.state.fl.us/programs/domesticviolence/bip/bip.shtml>.

- Retaining references to batterers' intervention programs in statute but eliminating references to the programs being certified by the department.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill repeals the requirement for providers of batterers' intervention programs to submit an initial application fee and annual certification fee to the department. Currently, the application fee is \$300 and the annual renewal fee is \$150 for batterers' intervention programs, and there is a \$100 application fee and a \$74 annual renewal fee for assessors. The bill also repeals the requirement for persons court-ordered to attend batterers intervention to pay an additional \$30 fee to the department.

B. Private Sector Impact:

See Tax/Fee Issues above.

C. Government Sector Impact:

The department reports that the GAA for FY2011-12 transferred \$951,851 of budget from the department to the coalition to perform certain duties rather than the department. The bill repeals the department's authority to collect fees; however, there is no fiscal impact because the department's budget for the batterer intervention program was not approved in the FY 2011-12 GAA.

VI. Technical Deficiencies:

Lines 45-136 of the bill may need to be redrafted in order to provide greater clarity relating to the roles and responsibilities of the department and the coalition.

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.)

None.

B. Amendments:

None.

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