

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1087 Domestic Violence Services

SPONSOR(S): Children, Families & Seniors Subcommittee, Fernandez-Barquin

TIED BILLS: **IDEN./SIM. BILLS:** SB 1482

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	15 Y, 0 N, As CS	Woodruff	Brazzell
2) Public Integrity & Ethics Committee	14 Y, 0 N	Fakes	Rubottom
3) Health & Human Services Committee	18 Y, 0 N	Woodruff	Calamas

SUMMARY ANALYSIS

The Department of Children and Families (DCF) administers the statewide domestic violence program. The program protects adults and their children from domestic violence and helps victims develop ways to avoid further harm. DCF certifies, monitors, and oversees the funding of domestic violence centers. These centers are community-based organizations and serve victims of domestic violence. In 2012, the Legislature amended statute to require DCF to contract with the Florida Coalition Against Domestic Violence (FCADV) to manage the domestic violence programs. While DCF retains overall authority to certify domestic violence centers, the FCADV is responsible for monitoring, evaluating, and distributing the state and federal funds to the state's domestic violence centers.

The express statutory requirement to contract with a specific provider has presented challenges to DCF in overseeing the state's domestic violence services, including DCF's inability to obtain desired contract provisions or complete an audit regarding the organization's spending.

CS/HB 1087 removes the express requirement for DCF to contract with the FCADV. The bill does not prohibit DCF and FCADV from contracting for domestic violence services in the future.

Further, the bill amends various statutes to remove duties previously held by FCADV. All functions will now be under DCF, unless DCF chooses to contract for the provision of domestic violence services.

CS/HB 1087 has an indeterminate fiscal impact on DCF, and has no fiscal impact on local government.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Domestic Violence Program

The Domestic Violence Program protects adults and their children from domestic violence and helps victims develop ways to avoid further harm. The Department of Children and Families (DCF) is statutorily responsible for the statewide domestic violence program, which certifies, monitors, and oversees funding of the state's domestic violence centers.¹ Domestic violence centers are community-based organizations that provide services to the victims of domestic violence. Florida has 42 certified domestic violence centers throughout the state, which are responsible for emergency shelter services and programs to survivors of domestic violence and their children.² Pursuant to Florida Statutes, the minimum services that a center must provide are:

- Information and referrals;
- Counseling and case management;
- Temporary emergency shelter for more than 24 hours;
- A 24-hour emergency hotline;
- Training for law enforcement and other professionals;
- Educational services for community awareness; and
- Assessment and appropriate referral of resident children.³

In addition to the services required by statute, the certified centers provide transportation, rent, utility assistance, transitional housing, legal and court advocacy, work skills and job-readiness training and placement, financial literacy and other training and educational programs.⁴

The program is funded by state general revenue and federal funding from the federal Administration of Children and Families at the United States Department of Health and Human Services. In FY 2019-20 the Legislature appropriated \$46,679,559 to the program (\$19,115,728 in state general revenue and \$27,563,831 in federal funds). During the 2018-19 fiscal year, certified centers provided 646,971 nights of emergency shelter to 14,817 women, children, and men.⁵

Florida Coalition Against Domestic Violence

The Florida Coalition Against Domestic Violence (FCADV) is a nonprofit with the mission to work towards ending violence through public awareness, policy development and support for Florida's domestic violence centers.⁶ DCF contracts with FCADV to monitor, evaluate, and distribute funds to the certified domestic violence centers.

The FCADV board of directors has ten members:

- Tiffany Carr, CEO
- Melody Keeth, Chairman
- Angela Diaz-Vidaillet, Vice-President, 1st Vice-Chair
- Donna Fagan, Vice-President, 2nd Vice-Chair
- Laurel Lynch, Director
- Sherrie Schwab, Director

¹ S. 39.903, F.S.

² Florida Coalition Against Domestic Violence, *Leading Florida Higher, Lifting Survivors Upward; Florida's Commitment to Ending Domestic Violence and Saving Lives*, <https://www.fcadv.org/sites/default/files/2019AnnualReportFinal.pdf> (last visited Jan. 15, 2020).

³ S. 39.905(1)(c), F.S.

⁴ *Supra* note 2.

⁵ *Id.*

⁶ Florida Coalition Against Domestic Violence, <https://www.fcadv.org/> (last visited Jan. 15, 2020).

- Lorna Taylor, Director
- Penny Morrill, Director
- Shandra Riffey, Treasurer
- Theresa Beachy, Secretary

Most the board members previously or currently serve in leadership roles for certified domestic violence centers in Florida.⁷

Certification of Domestic Violence Centers

Current law requires domestic violence centers to be certified by DCF in order to receive state funding.⁸ DCF sets criteria for certification and sets minimum standards to ensure the health and safety of clients served.⁹ To be eligible for certification as a domestic violence center, an applicant must apply to DCF and be a not-for-profit entity. A domestic violence center's primary mission must be to provide services to victims of domestic violence, as defined as any assault, aggravated assault, 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 family or household member.¹⁰

An applicant may seek certification to serve an area that has an existing certified domestic center; however, the applicant must show there is an unmet need in the area.¹¹ An applicant can only apply if their domestic violence center has been providing services to victims for 18 consecutive months, including 12 months as an emergency shelter.¹² In addition to other requirements for certification, DCF requires an applicant to become a member of the FCADV and maintain membership as a condition of certification.¹³ Failure to join the FCADV and maintain membership is grounds for revocation of certification.¹⁴

After DCF certifies a domestic violence center, the certification is good for one year and automatically expires on June 30.¹⁵ DCF will annually renew a domestic violence center's certification provided there is a favorable report from the FCADV.¹⁶

Florida Coalition Against Domestic Violence Contract

In 2004, the Legislature directed DCF to contract with a statewide association for the domestic violence program to help with the delivery of domestic violence services. To implement this legislative directive, DCF contracted with FCADV. In 2012, the Legislature amended statute to require DCF to contract specifically with FCADV to monitor, evaluate, and fund the state's domestic violence centers.¹⁷ This express directive means DCF cannot competitively procure the contract to find the best provider, but must contract with FCADV regardless of qualifications, so DCF has very little negotiating power.

Under current law, DCF and FCADV must work in collaboration to administer the state's domestic violence program. While DCF retains overall authority to certify domestic violence centers, FCADV is responsible for monitoring, evaluating, and funding the centers. Under the contract, FCADV responsibilities include, but are not limited to:

- the administration of contracts and grants;

⁷ See Florida Coalition Against Domestic Violence, *2018 Directory of Florida Certified Domestic Violence Centers*, <https://www.fcadv.org/sites/default/files/1.%20FCADV%20Hotline%20Info%20%28PAGE%206%20ONLY%29.pdf> (last visited Feb. 5, 2020).

⁸ S. 39.905(6)(a), F.S.

⁹ S. 39.903(9), F.S.; R. 65H-1, F.A.C.

¹⁰ S. 741.28(2), F.S.

¹¹ R. 65H-1.012, F.A.C.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ S. 39.903, F.S., Ch. 2012-147, F.S.

- implementation of special projects;
- provision of training and technical assistance to certified domestic violence centers; and
- prevention, research, evaluation, and educational programs for professionals and the public.¹⁸

The FCADV is the sole recipient of the state's domestic violence money. It receives state and federal dollars and distributes the money to the community-based domestic violence centers. FCADV is also required to ensure the money is spent properly.¹⁹

FCADV receives funding from the federal and state government, as well from private donations. The 2019-20 General Appropriations Act appropriated \$46,679,559 to FCADV for domestic violence services. This included funding from the following sources:

- General Revenue Fund: \$11,164,596
- Domestic Violence Trust Fund: \$7,951,132
- Federal Grants Trust Fund (from federal grant awards to the state): \$19,813,831
- Welfare Transition Trust Fund (from the federal Temporary Assistance for Needy Families block grant): \$7,750,000²⁰

FCADV's Form 990 filing with the IRS indicates that on their 2017 tax return they had total revenues of \$52,010,131 with 99.75 percent being public funds.²¹ FCADV's Form 990 filing for 2016 reflects that they had total revenues of \$42,751,725.²² According to DCF, it provided 89.13 percent (\$38,102,717) of the 2016 funding and Florida's Office of Attorney General provided 7.9 percent (\$3,403,910).²³ Combined, at least 97.09 percent of FCADV's funding was received through the state that fiscal year. The FCADV's 2018-19 annual report lists total funding of \$43,942,812, though the report does not indicate the time period on which this is based.²⁴

DCF operates as the main oversight body for FCADV. DCF's Inspector General reviews a third-party audit of FCADV's contract annually and conducts annual reviews to ensure funds are spent properly.²⁵

According to DCF, the statutory requirement to contract with FCADV leaves DCF with little bargaining power in contractual negotiations. For example, DCF's Office of General Counsel has been unable to come to an agreement with FCADV to add provisions to the contract that require FCADV employees to be subject to DCF's background screening process; this is in addition to FCADV's refusal to provide records it deems private to DCF's Inspector General.²⁶ Despite these disputes, DCF is statutorily required to contract with FCADV. DCF simply does not have leverage to seek anything more than what is currently in its contract with FCADV because it is not legally authorized to negotiate with any other vendor.

¹⁸ Contract No. LN967

¹⁹ S. 39.9035, F.S.

²⁰ Ch. 2019-115, L.O.F.

²¹ Form 990, Return of Organization Exempt from Income Tax, 2017, Florida Coalition Against Domestic Violence, https://pdf.guidestar.org/PDF_Images/2018/592/055/2018-592055476-1099952d-9.pdf (last viewed January 28, 2020).

²² Form 990, Return of Organization Exempt from Income Tax, 2016, Florida Coalition Against Domestic Violence, https://pdf.guidestar.org/PDF_Images/2017/592/055/2017-592055476-0f80825c-9.pdf (last viewed January 20, 2020).

²³ Florida Department of Children and Families, Agency Analysis of 2020 House Bill 1087.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Email from John Paul Fiore, Department of Children and Families, HB 1087 Questions and Analysis, (Jan. 21, 2020).

Executive Compensation

The present contract between DCF and FCADV does not place any limitation on executive salaries. There has been a federal investigation and a state audit of FCADV's funding and expenditures after media reports criticized the exorbitant salary of the FCADV executive director.

Federal Investigation

In 2018, Florida media outlets published reports alleging FCADV's executive director was receiving a high salary while domestic violence centers went understaffed and under-resourced.²⁷ For example, a Tampa Bay area domestic violence shelter was reported to have roaches and moldy food.²⁸ In response to these reports, the Family Violence Prevention and Services Act Program in the Family & Youth Services Bureau of the federal Administration of Children and Families (ACF) contacted FCADV expressing concerns about the executive director's reported compensation and requested specific documentation of her compensation.²⁹ Federal law limits the salary amount an executive level employee may receive if the organization receives federal funds.³⁰

According to letters from ACF, unless it was satisfied that the executive director's salary complied with federal limits of \$189,600, ACF would take corrective action, including withholding payment and possible referral to the United States Department of Health and Human Services Inspector General.³¹ The FCADV responded to the ACF requests stating that the executive director's base salary charged to the Family Violence Prevention and Services Act grants was \$137,562.³²

State Audit

The DCF Secretary requested the DCF Inspector General to do an audit to determine the proportion of DCF's funding expended on administrative costs and executive compensation and to determine whether funding expended on executive compensation agrees with information provided to DCF.³³

Between August 27, 2018, and November 7, 2019, DCF provided at least four written requests to FCADV for documentation in relation to the audit.³⁴ Although FCADV provided some information to DCF, the Inspector General found the information incomplete.³⁵ FCADV refused to turn over documents relating to compensation and personnel files of the president and chief executive office, chief operating officer, and chief financial officer, minutes for specified FCADV meetings, as well as information relating to dues³⁶ collected from certified domestic violence centers.³⁷ Relying on its contract with DCF, FCADV believes it provided all information that was subject to the audit and did not need to provide information that it considers private in nature.³⁸

As of January 30, 2020, DCF has not received the requested documentation it requires to complete the audit.³⁹

²⁷ See Adiel Kaplan, 'That's... ridiculous.' Florida domestic violence chief is paid \$761,000 a year, Miami Herald (Jul. 25, 2018), <https://www.miamiherald.com/news/state/florida/article214972045.html> (last visited Jan. 15, 2020).

²⁸ Kylie McGivern, *Former residents call for action after roaches, moldy food found in domestic violence shelters*, (Aug. 14, 2019), <https://www.abcactionnews.com/news/local-news/i-team-investigates/former-residents-call-for-action-after-roaches-moldy-food-found-in-domestic-violence-shelters> (Jan. 21, 2020).

²⁹ *Supra* note 23.

³⁰ 30 U.S.C. § 962 (2011).

³¹ *Supra* note 23.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ The Florida House Public Integrity & Ethics Committee has requested information on what these dues include as part of an investigation on the Florida Coalition Against Domestic Violence.

³⁷ Letter from Javier A. Enriquez, General Counsel, Department of Children and Families (Nov. 7, 2019)

³⁸ *Supra* note 26.

³⁹ On January 20, FCADV provided salary payment information to DCF without explaining the sources of those funds.

Background Screenings

While DCF has requested FCADV to require coalition employees to be subject to DCF's background screening process, FCADV has refused to agree to require screenings.⁴⁰ Requiring background screenings would seem to promote a safer environment.⁴¹ However, FCADV believes that background screenings could potentially harm potential employees, who may be victims of domestic violence themselves who had to commit crimes in order to satisfy or even escape their abuser.⁴² FCADV believes that background screenings might disqualify these potential employees.⁴³

Effect of Proposed Changes

CS/HB 1087 amends various statutes to remove the express requirement for DCF to contract with FCADV. The bill still allows DCF to contract for domestic violence services. It allows DCF more flexibility in determining with whom it contracts and what domestic violence services are covered by contract. It will potentially broaden the pool of providers with which DCF may contract, and increase DCF's negotiating power. This may increase transparency of the use of appropriated funds that pay for services that help victims of domestic violence.

The bill does not prohibit FCADV from contracting in the future with DCF if both parties choose to do so.

The bill also amends statutes to shift duties previously held by FCADV to DCF. The bill removes all duties previously held by FCADV, including:

- Implementing, administering, and evaluating all domestic violence services provided by the certified domestic violence centers.
- Receiving and approving or rejecting applications for funding of certified domestic violence centers.
- Evaluating certified domestic violence center in order to determine compliance with minimum certification standards.
- Having the right to enter and inspect the premises of certified domestic violence centers for monitoring purposes.
- Providing a report to the Legislature on the status of domestic violence in the state.
- Having the domestic violence centers provide the names of the domestic violence advocates employed at the centers who may claim privilege to refuse to disclose a confidential communication between a victim and the advocate.
- Requiring the contract between domestic violence centers and FCADV to contain provisions ensuring the available and geographic accessibility of services in the area and allowing the domestic violence centers to distribute funds through subcontractors with approval by FCADV.
- Requiring the FCADV to monitor food services for domestic violence centers.
- Being a representative on the Statewide Guardian ad Litem training curriculum committee.
- Being a member of the State Child Abuse Death Review Committee and being required to provide training to local child abuse death review committee members on the impact of domestic violence.
- Administering the domestic violence fatality review teams.
- Requiring the Criminal Justice Standards and Training Commission to work with the FCADV on law enforcement domestic violence training.
- Requiring the institute for Child Welfare to work with FCADV.

All functions will now be under DCF unless DCF chooses to contract for the provision of domestic violence services.

⁴⁰ Interview by Florida House Public Integrity & Ethics Committee staff with Florida Department of Children and Families Office of General Counsel's office staff (Jan. 24, 2020).

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

B. SECTION DIRECTORY:

- Section 1:** amending s. 39.902, F.S., relating to definitions.
- Section 2:** amending s. 39.903, F.S., relating to duties and functions of the department with respect to domestic violence.
- Section 3:** repealing s. 39.9035, F.S., relating to duties and functions of the coalition with respect to domestic violence.
- Section 4:** amending s. 39.904, F.S., relating to report to the legislature on the status of domestic violence cases.
- Section 5:** amending s. 39.905, F.S., relating to domestic violence centers.
- Section 6:** amending s. 39.9055, F.S., relating to certified domestic violence centers; capital improvement grant program.
- Section 7:** amending s. 39.8296, F.S., relating to the statewide Guardian Ad Litem Office: legislative findings and intent; creation; appointment of executive director; duties of office.
- Section 8:** amending s. 381.006, F.S., relating to environmental health.
- Section 9:** amending s. 381.0072, F.S., relating to food service protection.
- Section 10:** amending s. 383.402, F.S., relating to child abuse death review; State Child Abuse Death Review Committee; local child abuse death review committee.
- Section 11:** amending s. 402.40, F.S., relating to child welfare training and certification.
- Section 12:** amending s. 741.316, F.S., relating to domestic violence fatality review teams; definition; membership; duties.
- Section 13:** amending s. 753.03, F.S., relating to standards for supervised visitation and supervised exchange programs.
- Section 14:** amending s. 943.1701, F.S., relating to uniform statewide policies and procedures; duty of the commission.
- Section 15:** amending s. 1004.615, F.S., relating to Florida Institute of Child Welfare.
- Section 16:** providing an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None.
- 2. Expenditures:
Until decisions are finalized as to whether the domestic violence program's responsibilities will be fulfilled by DCF, through contract, or both, the expenditures to state government are indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If DCF and FCADV do not contract for the provision of domestic violence services in the future, the FCADV will lose the state funding it is provided through the contract for these services but will also no longer have the responsibilities that the contract funded.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rulemaking is not required to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 22, 2020, the Children, Families, and Seniors Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed section 14 of the bill that expanded the definition of "care" to include "victims of domestic violence" in s, 943.0542, F.S., regarding access to criminal history information provided by DCF to qualified entities who provide care to certain individuals.

The analysis is drafted to the committee substitute as passed by the Children, Families, and Seniors Subcommittee.