

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 Appropriations Subcommittee on Health and Human Services

BILL: PCS/CS/SB 1482 (319360)

INTRODUCER: Appropriations Subcommittee on Health and Human Services; Children, Families, and Elder Affairs Committee; and Senator Bean

SUBJECT: Domestic Violence Services

DATE: February 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1482 makes a number of changes to Florida law relating to the domestic violence program and the provision of domestic violence services statewide. Specifically, the bill:

- Removes the requirement for the Florida Department of Children and Families (DCF or department) to contract with the Florida Coalition Against Domestic Violence (FCADV or coalition) for the delivery and management of domestic violence services statewide.
- Retains the ability of the department to contract with the coalition in the future.
- Shifts the responsibilities and duties currently required of the coalition to the department including, but not limited to, certifying domestic violence centers and implementing, administering, and evaluating all domestic violence services provided by certified domestic violence centers.

The bill will have an insignificant, yet indeterminate fiscal impact on state government. See Section V.

The bill takes effect upon becoming law.

II. Present Situation:

Domestic Violence

Current law defines the term “domestic violence” as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, 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.¹ The term “family or household member” means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.²

The National Coalition Against Domestic Violence recognizes a broader definition that includes the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another. It includes physical violence, sexual violence, threats, and emotional abuse. While the frequency and severity of domestic violence can vary dramatically, the one constant component of domestic violence is one partner’s consistent efforts to maintain power and control over the other.³

In Florida, domestic violence is tracked specifically for a number of offenses.⁴ While Florida’s population has increased 43.4% since 1998, the number of reported domestic violence offenses has been on a steady decline from 133,345 reported in 1998 to 104,914 being reported in 2018.⁵

Domestic Violence Program in Florida

The Department of Children and Families (department) is responsible for operating the domestic violence program and, in collaboration with the coalition, coordinating and administering statewide activities related to the prevention of domestic violence.⁶ Those responsibilities include certifying and monitoring reports on the state’s certified domestic violence centers.

Florida Coalition Against Domestic Violence (FCADV or coalition)

In 1977 fourteen shelters in Florida formed a network of battered women's advocates known as the Refuge Information Network. Several years later, this same organization was incorporated as the Florida Coalition Against Domestic Violence. Today, the FCADV serves as the professional association for Florida's domestic violence centers located throughout the state. The mission of

¹ Section 741.28, F.S.

² *Id.*

³ The National Coalition Against Domestic Violence, *Learn More*, available at: <https://ncadv.org/learn-more> (Last visited January 22, 2020).

⁴ Those offenses include Murder, Manslaughter, Rape (includes attempted rape), Forcible Sodomy, Forcible Fondling, Aggravated Assault, Aggravated Stalking, Simple Assault, Threat/Intimidation, and Simple Stalking.

⁵ Florida Department of Law Enforcement, Crime Trends – Domestic Violence, available at: <http://www.fdle.state.fl.us/FSAC/Crime-Trends/Domestic-Violence> (Last visited January 22, 2020).

⁶ Section 39.903, F.S.

the coalition is to work towards ending violence through public awareness, policy development, and support for Florida's domestic violence centers.⁷ The FCADV operates Florida's toll-free domestic violence hotline linking callers to the nearest domestic violence center and provides translation assistance when needed.⁸ The coalition is also responsible for overseeing the funding of the state's domestic violence centers. The department operates as the main oversight body for the coalition.

Domestic Violence Centers

The 42 state certified domestic violence centers are required to provide the following core services: temporary emergency shelter, 24-hour hotline, advocacy, community education, crisis counseling, case management, professional training for law enforcement personnel, safety planning, community outreach, and referral. In addition to the core services, most centers provide court/legal advocacy assistance, prevention programming, support groups, and assist individuals with relocation assistance applications. Each center provides a number of specialized services based on the local community needs.^{9,10} While several of Florida's domestic violence centers have kennels and partnerships with local vets, the FCADV helps generate funds to supplement the centers' efforts to ensure survivors have the ability to flee a violent home with their pets.¹¹

The centers are required to maintain a board of directors composed of at least three citizens, one of whom must be a member of a local, municipal, or county law enforcement agency. Each center is certified annually by the DCF.¹² In order to receive state funding, a center must receive at least 25 percent of its funding from local, municipal, or county sources, public or private. All funds collected and appropriated for the centers must be distributed annually according to an allocation formula approved by the department.¹³

DCF and FCADV Contract

Currently, under s. 39.903(7), F.S., the DCF must contract with the FCADV for the management of the delivery of services for the state's domestic violence program.¹⁴ In 2004, the Legislature directed the department to contract with a statewide association to help with the delivery of domestic violence services. As a result, the department contracted with the coalition. In 2012, the Legislature required the department to contract specifically with the coalition for the management of the delivery of services for the state's domestic violence program.¹⁵

⁷ Florida Coalition Against Domestic Violence, *About FCADV*, available at: <https://www.fcadv.org/about/about-fcadv> (Last visited January 22, 2020).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Florida Coalition Against Domestic Violence, *Darby Against Domestic Violence*, available at: <https://www.fcadv.org/darby> (Last visited January 22, 2020).

¹² Section 39.905, F.S.

¹³ *Id.*

¹⁴ Section 39.903, F.S.

¹⁵ Chapter 2012-147, L.O.F.

The department and the coalition are required to work in collaboration to coordinate and administer the state's domestic violence program.¹⁶ While the department retains overall authority to certify domestic violence centers, the coalition is responsible for monitoring and evaluating services of the program. Under the contract, coalition responsibilities include, but are not limited to, the administration of contracts and grants, implementation of special projects, provision of training and technical assistance to certified domestic violence centers and allied professionals, prevention, research and evaluation, and educational programs for professionals and the public. The coalition is also required to monitor funding for domestic violence services to ensure the money is spent properly.¹⁷

The FCADV receives funding from the federal and state government, as well as through private funds. In Fiscal Year 2019-2020, the General Appropriations Act appropriated \$46.7 million in the DCF for the FCADV from the following fund sources:

- \$11.1 million from the General Revenue Fund;
- \$8 million from the Domestic Violence Trust Fund;
- \$19.8 million from the Federal Grants Trust Fund;¹⁸ and
- \$7.8 million from the Welfare Transition Trust Fund.¹⁹

The funding is for the implementation of programs and management and delivery of services of the state's domestic violence program, including implementation of statutory directives contained in ch. 39, F.S., implementation of special projects, coordination of a strong families and domestic violence campaign, implementation of the child welfare and domestic violence co-location projects, conducting training and providing technical assistance to certified domestic violence centers and allied professionals, and administration of contracts designated under this appropriation.²⁰

The coalition's Form 990 filing with the IRS for 2017 reported total revenues of \$52.01 million and indicated that 99.75 percent of the revenues come from public funding.²¹

The Department of Children and Families

Despite being the main oversight body for the coalition, the department has reported a number of difficulties in its working relationship with the coalition.

Executive Compensation

The department has reported that media reports have led to recent federal and state investigations of the coalition's funding and expenditures. In 2018, several Florida media outlets published

¹⁶ *Id.*

¹⁷ Section 39.9035, F.S.

¹⁸ Some portion of the appropriation from the Federal Grants Trust Fund is transferred to the Department of Health to contract with the Florida Council Against Sexual Violence to implement portions of the Violence Against Women Act STOP Formula Grant.

¹⁹ Chapter 2019-115, Laws of Fla., Specific Appropriation 316, s. 3.

²⁰ *Id.*

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 February 6, 2020).

reports alleging that the coalition's executive director was receiving an exorbitant salary while domestic violence shelters went understaffed and under-resourced. In response to these reports, the Family Violence Prevention and Services Act Program in the Family and Youth Services Bureau of the federal Administration for Children and Families (ACF) contacted the coalition expressing concern about the executive director's reported compensation of \$761,560 and requesting specified documentation of the compensation.²²

The department also reports that according to letters from the ACF, unless it was satisfied that the executive director's salary complied with federal limits, the ACF would take corrective action, including withholding payment and possible referral to the United States Department of Health and Human Services Inspector General. The coalition provided the ACF with an independent accountant's report on December 3, 2018 that verified federal funding allocated for the salary of the Executive Director was \$137,562, and was within federal compensation requirement limits.²³ The FVPSA determined that no further action was necessary and closed out the compensation inquiry.²⁴

The Executive Committee of the FCADV Board of Directors serves as the Compensation Committee for establishing the salary and benefits package for the President/CEO of the coalition. The Competition Committee conducts a market analysis for comparable President/CEO positions to determine salary and benefit package with each employment contract renewal.²⁵ The coalition provided the department with the amount of the former President and CEO's salary paid for from state appropriated funds under the coalition's contract with the department for Fiscal Years 2016-2017 and 2018-2019 in the amounts of \$59,350 and \$73,279, respectively.²⁶

Background Screenings of Personnel

According to the department, it has been unable to come to an agreement with the FCADV to add provisions to the contract that require coalition employees be subject to the DCF's background screening process.²⁷

The coalition has responded that the department's background screening requirements may not always be appropriate for their employees. For example, some of the best employees working in domestic violence shelters may be survivors of domestic violence and often times those employees have committed crimes in order to meet the demands of their abuser and stay safe.

²² Florida Department of Children and Families, 2020 Agency Legislative Bill Analysis, SB 1482, January 14, 2020.

²³ The compensation limit for the classification of an Executive Level II for a nonprofit organization under the Consolidated Appropriations Act of 2018 is \$189,600.

²⁴ Written correspondence from the Administration for Children and Families, Administration on Children, Youth and Families, to the Florida Coalition Against Domestic Violence, June 4, 2019.

²⁵ Florida Coalition Against Domestic Violence, Board of Directors Policies, *Compensation and Benefits*, Policy No. A-3, October 5, 2009.

²⁶ Written correspondence to the Florida Department of Children and Families from Holland and Knight, outside counsel to the Florida Coalition Against Domestic Violence, September 27, 2019.

²⁷ Email from the Florida Department of Children and Families, Office of Legislative Affairs on January 21, 2020 (on file with the Senate Committee on Children, Families and Elder Affairs).

Those crimes would disqualify those survivors from employment regardless of the circumstances.²⁸

Current law provides background screening exceptions for other areas of employment in the human services arena that may seem to be an appropriate alternative for domestic violence services providers. For example, recognizing that in areas of substance abuse services rehabilitated substance abuse impaired persons are effective in the successful treatment and rehabilitation of individuals with substance use disorders, the law provides for exemptions from disqualification from employment for specified crimes.²⁹

Provision of Records

The department and the coalition have also failed to come to an agreement related to the records the coalition must provide to the department.

The department has reported that the coalition has repeatedly failed to provide all records, particularly those related to executive compensation. There were at least four written requests from the department to the coalition from August 27, 2018 to November 7, 2019. The department's Office of the Inspector General (OIG) and Office of Internal Audit (OIA) made three written requests on August 27, 2018, January 31, 2019, and September 11, 2019. The department's Office of the General Counsel made a written request on November 7, 2019 in follow up to the OIG requests and met with coalition representatives on January 7, 2020. In the OIG's estimation, the coalition responses were incomplete. The coalition contends that their responses were sufficient and has supplied all available information pertaining to matters not deemed private, and therefore, not subject to audit by the OIG. The coalition's responses did not assert statutory restrictions nor protections of confidential material.³⁰

The department received two written responses from outside counsel to the coalition. In a letter dated September 27, 2019, it was noted:³¹

- The FCADV is a private, non-profit corporation with operations and activities that are separate and apart from the FCADV's contract with the department and that do not involve department funding. The FCADV is not a state agency or other governmental agency.
- The FCADV has always complied with its obligations under its contract with the department and will continue to do so in the future.
- On August 27, 2018 the department's OIA first notified the FCADV of a consulting engagement at the request of then-Secretary Carroll related to administrative costs and executive compensation to determine the proportion of department funding expended by the FCADV on administrative costs and executive compensation and information provided by the FCADV to the department regarding that funding.³²

²⁸ *Id.*

²⁹ Section 397.4073(4), F.S.

³⁰ *Supra* note 27.

³¹ Written correspondence to the Florida Department of Children and Families from Holland and Knight, outside counsel to the Florida Coalition Against Domestic Violence, September 27, 2019.

³² Written correspondence to the Florida Coalition Against Domestic Violence from the Florida Department of Children and Families, August 27, 2018.

- In a telephone conference with the department's then-Acting General Counsel John Jackson and Assistant General Counsel Jeffrey Richardson on August 31, 2018, the FCADV's legal counsel explained that the August 27, 2018 letter requested records unrelated to the FCADV's contract with the department and beyond the stated scope of the consulting engagement. The FCADV's legal counsel proposed that the coalition respond to the August 27, 2018 letter by producing only those records requested that are public records relating to the FCADV's contract with the department. Mr. Richardson confirmed by e-mail that the coalition should proceed with responding to the August 27, 2018 letter as was discussed. The coalition did so by making records available to the department on September 5, 2018.³³
- The department's Contract Oversight Unit (Unit) routinely monitors the FCADV for compliance with its contractual requirements with the department. The unit monitored the FCADV relating to the contract every year beginning with Fiscal Year 2013-2014 through Fiscal Year 2016-2017 with no findings.

In a follow-up letter dated November 22, 2019, the FCADV's legal counsel noted:³⁴

- In addition to the monitoring by the department, the department's OIA conducted an audit of the department's contractual agreement with the coalition focusing primarily on expenditures and monitoring activities between July 1 to December 31, 2016, and in 2009 conducted an assurance project to determine whether the coalition used American Recovery and Reinvestment Act of 2009 funds for authorized purposes – all with no findings.
- As reflected by the language agreed to by the department and the FCADV in Contract Nos. LN967 and LJ990, whether or not records are the coalition's private records or records relating to the coalition's contract with the department is relevant. The contracts do not require disclosure of records unrelated to the coalition's contracts with the department regardless of whether such records may involve other government ("tax-payer") funds or matters that the department thinks are of "public concern." Moreover, the duties and responsibility of an agency inspector general involve the programs, actions and activities carried out or financed by the state agency, not all matters that may be paid for with tax-payer funds or that are of "public concern," and certainly not private matters paid for with private funds.

III. Effect of Proposed Changes:

Section 1 amends s. 39.902, F.S., relating to definitions, to remove the definition of the term "coalition."

Section 2 amends s. 39.903, F.S., relating to duties and functions of the department regarding domestic violence, to allow the department to contract with one or more entities for the provision of domestic violence related services if the department determines that it would be in the best interest of the state to do so.

Section 3 repeals s. 39.9035, F.S., relating to duties and functions of the coalition regarding domestic violence.

³³ *Supra* note 28.

³⁴ Written correspondence to the Florida Department of Children and Families from Holland and Knight, outside counsel to the Florida Coalition Against Domestic Violence, November 22, 2019.

Section 4 amends s. 39.904, F.S., relating to a report to the Legislature on the status of domestic violence cases, to require the department, rather than the coalition, to submit the annual report to the Legislature on the status of domestic violence cases statewide.

Section 5 amends s. 39.905, F.S., relating to domestic violence centers, to remove references to the coalition and require domestic violence centers to submit information to and receive certification directly from the department.

Section 6 amends s. 39.9055, F.S., relating to certified domestic violence centers and the capital improvement grant program, which provides funding to certified domestic violence centers for projects to construct, acquire, repair, improve, or upgrade systems, facilities, or equipment, to remove the coalition from the collaboration process to determine criteria for awarding the funding.

Section 7 amends s. 39.8296, relating to the Guardian Ad Litem Office, to remove the coalition from the training curriculum committee.

Section 8 amends s. 381.006, F.S., relating to environmental health, to remove the coalition from monitoring food service inspections for certified domestic violence centers.

Section 9 amends s. 381.0072, F.S., relating to food service protection, to conform to changes made by section 8 of the act.

Section 10 amends s. 383.402, F.S., relating to child abuse death reviews, to remove specific reference to the coalition as a member to the State Child Abuse Death Review Committee appointed by the Surgeon General.

Section 11 amends s. 402.40, F.S., relating to child welfare training and certification, to remove the coalition from the collaborative effort to develop core competencies and specializations for child welfare professional training.

Section 12 amends s. 741.316, F.S., relating to domestic violence fatality review teams, to reassign the review teams to the department rather than to the coalition.

Section 13 amends s. 753.03, F.S., relating to standards for supervised visitation and supervised exchange programs, to remove the coalition from the advisory board of the Clearinghouse on Supervised Visitation.

Section 14 amends s. 943.1701, F.S., relating to uniform statewide policies and procedures for the Criminal Justice Standards and Training Commission, to remove the coalition from advising the commission on matters relating to injunctions for protection against domestic violence.

Section 15 amends s. 1004.615, F.S., relating to the Florida Institute for Child Welfare, to remove the coalition from the list of entities the Florida Institute for Child Welfare is required to work with.

Section 16 provides that the bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

The department has reported that the fiscal impact to the agency is indeterminate. This is due to the fact that no decisions have been finalized as to whether the domestic violence program's responsibilities would be fulfilled by the department, or through a contract or contracts, or by some combination of these.³⁵

VI. Technical Deficiencies:

None.

³⁵ Florida Department of Children and Families, 2020 Agency Legislative Bill Analysis, SB 1482, January 14, 2020.

VII. Related Issues:

By simply going through the statutes and removing all references to the coalition and either replacing the coalition with the department or naming no replacement, the department may be depriving entities that provide input and service to a number of areas of the health and human service arena of necessary expertise from the domestic violence community.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.8296, 39.902, 39.903, 39.904, 39.905, 39.9055, 39.8296, 381.006, 381.0072, 383.402, 402.40, 741.316, 753.03, 943.1701, and 1004.615.

This bill repeals section 39.9035 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on February 13, 2020:

The committee substitute changes the effective date of the bill from July 1, 2020 to “upon becoming law.”

CS by Children, Families, and Elder Affairs on January 28, 2020:

- Removes the provision related to including “victims of domestic violence” within the definition of “care” under s. 943.0542(1)(a), F.S., to allow access to national background checks for those employees/volunteers working with domestic violence victims.

- B. **Amendments:**

None.