

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 Committee on Children, Families, and Elder Affairs

BILL: SB 1482

INTRODUCER: Senator Bean

SUBJECT: Domestic Violence Services

DATE: January 27, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Pre-meeting
2.			AHS	
3.			AP	

I. Summary:

SB 1482 bill 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 (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 has an indeterminate fiscal impact on the department and has an effective date of July 1, 2020.

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.

¹ Section 741.28, F.S.

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

Currently, the 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 reviewing monitoring reports for certified domestic violence centers.

Florida Coalition Against Domestic Violence

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. The coalition was founded on principles of cooperation and unity among shelters. Today, FCADV serves as the professional association for Florida's 42 domestic violence centers. The mission of the Florida Coalition Against Domestic Violence is to work towards ending violence through public awareness, policy development, and support for Florida's domestic violence centers.⁷ FCADV operates Florida's toll-free domestic violence hotline linking callers to the nearest domestic violence center and provides translation assistance when needed.

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.

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

All Florida certified domestic violence centers are required to provide the following core services: emergency shelter, 24-Hour Hotline, advocacy, children's program, community education, crisis counseling, service management, professional training, safety planning, information and referral. In addition to these core services the centers provide the following; court/legal advocacy, outreach, primary prevention programming, support groups and assist with the relocation assistance application. Each center provides a number of specialized services based on the local community needs.^{8,9} While several of Florida's domestic violence centers have kennels and partnerships with local vets, FCADV embodies a goal to help generate funds to supplement these efforts and ensure all survivors have the ability to flee a violent home with their animal companions.¹⁰

The coalition is responsible for overseeing the funding of forty-two domestic violence shelters across the state and receives most of its funding from the department, which operates as the main oversight body for the organization.

Contractual Agreement

Currently, under s. 39.903(7), F.S., DCF must contract with the FCADV for the management of the delivery of services for the state's domestic violence program.¹¹ In 2004, the Legislature directed the department to contract with a statewide association for the domestic violence program 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.¹²

The department and the coalition work in collaboration to administer the state's domestic violence program. 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.¹³

The FCADV receives funding from the federal and state government, as well through private funds. The 2019-20 General Appropriations Act appropriated \$46.7 million to the FCADV from the following sources:

⁸ Florida Coalition Against Domestic Violence, *Local Center Services*, available at: <https://www.fcadv.org/local-center-services> (Last visited January 22, 2020).

⁹ Section 39.905, F.S.

¹⁰ Florida Coalition Against Domestic Violence, *Darby Against Domestic Violence*, available at: <https://www.fcadv.org/darby> (Last visited January 22, 2020).

¹¹ Section 39.903, F.S.

¹² Ch. 2012-147, L.O.F.

¹³ Section 39.9035, F.S.

- General Revenue Fund: \$11.1 million
- Domestic Violence Trust Fund: \$7.9 million
- Federal Grants Trust Fund: \$19.8 million ¹⁴
- Welfare Transition Trust Fund: \$7.8 million

The funding is for implementation of programs and the management and delivery of services of the state's domestic violence program including implementation of statutory directives contained in chapter 39, Florida Statutes, 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.¹⁵

According to the coalition's Form 990 filed with the IRS, their 2016 tax return indicates that 99.7 percent of their revenue comes from public funding.

The Department of Children and Families

Despite being the main oversight body for the coalition, the department has reported a number of difficulties in the 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, Florida media outlets published 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 & 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.¹⁶

The department also reports that according to letters from ACF, unless it was satisfied that the executive director's salary complied with federal limits (\$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. In a letter dated December 4, 2018, the coalition provided ACF with an attestation letter from James Moore, CPAs, which stated that the executive director's base salary charged to the Family Violence Prevention and Services Act grants for the period of October 1, 2017 to September 30, 2018, was \$137,562; however, no additional documentation was provided to support the salary.¹⁷

¹⁴ 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.

¹⁵ SB 2500, 2019, available at: <https://www.flsenate.gov/Session/Bill/2019/2500/BillText/er/PDF> (Last visited January 21, 2020).

¹⁶ Florida Department of Children and Families, 2020 Agency Legislative Bill Analysis, SB 1482, January 14, 2020.

¹⁷ *Id.*

The coalition received a letter dated June 4, 2020, from the federal ACF that stated:

The FVPSA Program requested documentation to show FCADV was in compliance with Executive Level II compensation in the same letter dated November 20, 2018. FCADV provided an independent accountant's report on December 3, 2018. The FVPSA Program has reviewed the independent accountant's report provided that verifies FVPSA funding allocated for the salary of the Executive Director is \$137,562 and within the limits of Executive Level II compensation under the Consolidated Appropriations Act of 2018 which is \$189,600.

Further, FCADV submission of the independent accountant's report on December 3, 2018 and the FVPSA Program's 2019 review of this report closes out our compensation inquiry. The FVPSA Program is taking no further action at this time; however, we request that FCADV makes the information from the independent accountant's report available during the next single audit.

We thank you for your responsiveness to our inquiry and for your cooperation as we confirmed that the FCADV Executive compensation level was in compliance the Consolidated Appropriations Act of 2018. We also thank you for your efforts to provide comprehensive services to survivors of domestic violence in the State of Florida.¹⁸

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.¹⁹ The coalition has provided the department with the amount of the former President and CEO's salary paid for with state-appropriated funds under the coalition's contract with the department for fiscal years 2016-17 and 2018-19 in the amounts of \$59,350 and \$73,279, respectively.

Background Screenings of Personnel

The department has been unable to come to an agreement with the coalition to add provisions to the contract that require coalition employees to be subject to DCF's background screening process; however, FCDAV will not agree to those provisions.

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

¹⁸ Written correspondence from the Administration for Children and Families, Administration on Children, Youth and Families, to the Florida Coalition Against Domestic Violence, June 4, 2020.

¹⁹ Florida Coalition Against Domestic Violence, Board of Directors Policies, *Compensation and Benefits*, Policy No. A-3, October 5, 2009.

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.²⁰

Provision of Records

The department and the coalition have also failed to come to an agreement related to the provision of records by the coalition to the department.

The department has reported that the coalition has repeatedly failed to provide all records held by the coalition, particularly those related to executive compensation. There were at least four written requests, from August 27, 2018 through to November 7, 2019. The department's Office of the Inspector General (OIG) made three written requests on August 27, 2018, January 31, 2019, and September 11, 2019. The department's Office of the General Counsel (OGC) made a written request in follow up to the OIG requests on November 7, 2019. The OIG met with coalition representatives on January 7, 2020. In the OIG's estimation the coalition responses to each letter and the meeting were incomplete. In response, the coalition has explained their earlier answers were sufficient and the coalition had supplied all the information it had available to it as to matters not purely private and therefore not subject to audit by the OIG. The coalition's responses did not assert statutory restrictions nor protections of confidential material.²¹

The department received two written responses from outside counsel to the coalition. In a letter dated September 27, 2019, it was noted:²²

- FCADV is a private, non-profit corporation with operations and activities that are separate and apart from FCADV's contract with the department and that do not involve department funding. FCADV is not a state agency or other governmental agency.
- 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 first notified 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 FCADV on administrative costs and executive compensation and information provided by FCADV to the department regarding that funding.
- In a telephone conference with the department's then Acting General Counsel John Jackson and Assistant General Counsel Jeffrey Richardson on August 31, 2018, it was explained that the August 27, 2018 letter requested records unrelated to FCADV's contract with the department and beyond the stated scope of the consulting engagement. It was proposed that the coalition respond to the August 27, 2018 letter by producing only those records requested that are public records relating to FCADV's contract with the department. Mr. Richardson

²⁰ Section 397.4073(4), F.S.

²¹ Email communication from the Florida Department of Children and Families, January 21, 2020.

²² 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.

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.

- The department's Contract Oversight Unit ("COU") routinely monitors FCADV for compliance with its contractual requirements with the department. The COU monitored FCADV relating to the contract every year beginning with fiscal year 2013-14 through fiscal year 2016-17 with no findings.

In a follow-up letter dated November 22, 2019, it was also noted:²³

- In addition to the monitoring by the department's COU, the department's Office of Internal Audit (OIA) conducted an audit of the department's contractual agreement with the coalition focusing primarily on expenditures and monitoring activities between July 1, 2016 and 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 coalition in Contract Nos. LN967 and LJ990, it is relevant whether or not records are the coalition's private records or records relating to the coalition's contract with the department. 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 Florida Coalition Against Domestic Violence regarding domestic violence.

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 statewide.

²³ 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 5 amends s. 39.905, F.S., relating to domestic violence centers, to remove references to the coalition, and requiring 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, to 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. 943.0542, F.S., relating to access to criminal history information provided by the department to qualified entities, to added victims of domestic violence to allow access to national background checks for employees and volunteers working with domestic violence victims. Access to national criminal history data is limited by federal law to those individuals working with children, elderly or disabled. See section VI Technical Deficiencies for more information.

Section 15 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 16 amends s. 1004.615, F.S., relating to the Florida Institute for Child Welfare, to remove the coalition from entities the Florida Institute for Child Welfare is required to work with.

Section 17 provides an effective date of July 1, 2020.

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:

None.

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, through contract, or both.²⁴

²⁴ Florida Department of Children and Families, 2020 Agency Legislative Bill Analysis, SB 1482, January 14, 2020.

VI. Technical Deficiencies:

Lines 427-444 of the bill - If the intended purpose of including “victims of domestic violence” within the definition of “care” under s. 943.0542(1)(a), F.S, is to allow access to national background checks for those employees/volunteers working with domestic violence victims that purpose will not be achieved without the enactment of a similar amendment to the National Child Protection Act of 1993. Federal law currently limits this avenue of access to national background checks to those caring for children, the elderly, or individuals with disabilities (see 34 U.S.C.A. § 40102(a)(1), formerly cited as 42 USCA § 5119a).²⁵

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 ss. 39.902, 39.903, 39.904, 39.905, 39.9055, 39.8296, 381.006, 381.0072, 383.402, 402.40, 741.316, 753.03, 943.0542, 943.1701, and 1004.615, of the Florida Statutes.

This bill repeals s. 39.9035, of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of 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.

²⁵ Florida Department of Law Enforcement, 2020 FDLE Legislative Bill Analysis, SB 1482, January 14, 2020.