

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 1231 Domestic Violence
SPONSOR(S): Melo and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 606

FINAL HOUSE FLOOR ACTION: 118 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

HB 1231 passed the House on April 15, 2021, and subsequently passed the Senate on April 26, 2021.

The Domestic Violence Program protects adults and their children from domestic violence and helps survivors avoid further harm. The Department of Children and Families (DCF) certifies and funds domestic violence centers, which provide crisis counseling and support services to survivors of domestic violence and their children.

HB 1231 amends current law to add nonresidential outreach services to the list of minimum services a certified domestic violence center must provide. It amends current law to require certified domestic violence centers to obtain public and private funding in an amount of at least 25 percent of the amount of funding the center receives from the state Domestic Violence Trust Fund and permits them to carry forward, from one fiscal year to the next, unexpended state funds in a cumulative amount not to exceed eight percent of their total contract with DCF.

Batterers' Intervention Programs (BIPs) address the root cause of domestic violence and prevent program participants from committing acts of domestic violence in the future and are used by courts to order domestic violence perpetrators for services. Current law recognizes the need for a standardized programming for domestic violence BIPs, but does not establish standardized programming or require regulation of such programs. The statute requiring DCF to certify and monitor BIPs was repealed in 2012.

The bill revives and reenacts statutory authority for DCF to certify and monitor BIPs. The bill also amends current law to permit certified BIPs to use a cognitive behavioral model or a psychoeducational model in their program content.

The bill has a negative, insignificant, recurring fiscal impact on state government that can be absorbed within existing resources. There is no fiscal impact on local government.

The bill was approved by the Governor on June 21, 2021, ch. 2021-152, L.O.F., the effective date of this bill is July 1, 2021.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Domestic Violence

Domestic violence is a pattern of behavior, violence, or threats of violence that one person uses to establish power and control over a current or former intimate partner.¹ Threats, intimidation, isolation, and using children as pawns are examples of the tactics domestic violence perpetrators use against their victims.

Florida law defines 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.² A family or household member includes 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.³

In 2018, 104,914 domestic violence offenses were reported to Florida law enforcement.⁴ That same year, 215 individuals died as a result of domestic violence homicide, representing approximately 19 percent of all homicides in Florida.⁵

Domestic Violence Program and Centers

The Legislature recognizes that certain persons who assault, batter, or otherwise abuse their spouses, and the victims of domestic violence, are in need of treatment and rehabilitation.⁶ The Legislature's express intent is to assist in the development of domestic violence centers for the victims of domestic violence and to provide a place where the parties involved may be separated until they can be properly assisted.⁷ The Legislative intent does not recognize that domestic violence also includes violence against ex-spouses and persons who share a child in common as victims of domestic violence.

The Domestic Violence Program protects adults and their children from domestic violence and helps survivors avoid further harm. Under s. 39.903, F.S., DCF must coordinate and administer the statewide domestic violence program and certify and fund domestic violence centers. DCF relies on certified domestic violence centers to provide crisis counseling and support services to survivors and their children.⁸

¹ Florida Coalition Against Domestic Violence, *2019 Annual Report*, p. 3, <https://www.myflfamilies.com/service-programs/domestic-violence/docs/2019%20Annual%20Report.pdf> (last visited Feb. 28, 2021).

² S. 741.28(1), F.S.

³ S. 741.28(2), F.S.

⁴ *Supra* note 1.

⁵ *Id.*

⁶ S. 39.901, F.S.

⁷ *Id.*

⁸ Department of Children and Families, *Domestic Violence Overview*, <https://www.myflfamilies.com/service-programs/domestic-violence/overview.shtml> (last visited Feb. 20, 2021).

DCF certifies domestic violence centers, and sets criteria for certification and minimum standards to ensure the health and safety of clients served.⁹ Certification is good for one year and automatically expires on June 30, unless renewed by DCF.¹⁰

While certification is voluntary, it is a condition of receiving state funding from DCF.¹¹ In addition, domestic violence centers must provide a local match of at least 25 percent of funding from one or more local, municipal or county sources, public or private, to qualify for state funding. Contributions in kind may be counted toward the 25 percent of the local funding match. When this provision was originally enacted, certified centers had to obtain funding in an amount of at least 25 percent of the amount of funding the center received from the state Domestic Violence Trust Fund, not from all funding sources.¹² Currently, centers receive funding from additional state sources, including the Office of the Attorney General.¹³

Section 39.905, F.S., currently does not permit certified domestic violence centers to carry forward documented unexpended state funds from one fiscal year to the next. The current annual funding model requires certified domestic violence centers to spend all funds within the fiscal year, potentially creating an incentive for inappropriate use of funds.

Section 39.905(1)(c), F.S., sets forth minimum services certified domestic violence centers must provide, including, but not limited to, emergency shelter, a 24-hour crisis and information hotline, education for community awareness, and other ancillary services such as relocation assistance, daycare, and transitional housing.¹⁴ All certified domestic violence centers also provide nonresidential outreach services.¹⁵ Nonresidential outreach services include supportive individual and group counseling, systems advocacy and information, and referrals for housing, legal and other assistance to enable survivors to safely separate, and remain safe, from abusers. Current law does not require certified domestic violence centers to offer this type of service for certification.

Batterers' Intervention Programs

Batterers' intervention programs (BIPs) emerged in the United States in the late 1970's as one component of the social response to domestic violence.¹⁶ BIPs are designed to address the root cause of domestic violence and deter participants from committing acts of domestic violence in the future. A court may, and in some cases must, order alleged domestic violence perpetrators to participate in a BIP.

The court becomes aware of an alleged perpetrator when a petition for protection against domestic violence is filed against the perpetrator. A petition may be filed by any person who either is the victim of domestic violence or has reasonable cause to believe to be in imminent danger of becoming the victim of domestic violence.¹⁷ A petition can be filed against a current or former spouse, any person related by blood or marriage, any person who is or was residing within a single dwelling unit, or is a person with whom the petitioner had a child.¹⁸

⁹ S. 39.905(9), F.S.; R. 65H-1, F.A.C.

¹⁰ R. 65H-1.012, F.A.C.

¹¹ S. 39.905(6)(a), F.S.

¹² See Florida Department of Children and Families, *Agency Analysis of 2021 House Bill 1231* (Feb. 28, 2021);

S. 740.01(2) establishes the Domestic Violence Trust Fund and provides that the funds generated are to be used for the specific purpose of funding domestic violence centers.

¹³ *Supra* note 13.

¹⁴ See s. 39.905, F.S., and R. 65H-1.014, F.A.C.

¹⁵ *Supra* note 13.

¹⁶ Battered Women's Justice Project, *Current Research on Batterer Intervention Programs and Implications for Policy*, <https://www.bwjp.org/assets/batterer-intervention-paper-final-2018.pdf> (last visited Mar. 4, 2021).

¹⁷ S. 741.30(1)(a), F.S.

¹⁸ S. 741.30(3)(f), F.S.

When it appears to the court that the petitioner either is the victim of domestic violence or has reasonable cause to believe to be in imminent danger, the court may order the alleged perpetrator to participate in treatment, intervention, or counseling services.¹⁹ If a person is found guilty, has adjudication withheld, or pleads no contest²⁰ to a domestic violence charge, the court must order the defendant to complete a BIP as a condition of probation.²¹

The court must provide a list of BIP providers when the court orders the alleged perpetrator to participate in a BIP.²² BIPs are funded by user fees paid by the batterers who attend the program, which allows them to take responsibility for their acts of violence. An exception is made for local, state, or federal programs that fund BIPs in whole or part.

Section 741.32, F.S., establishes standards for domestic violence BIPs. BIPs' primary purpose must be victim safety and the safety of children, if present, and BIPs must hold batterers accountable for their acts of violence. BIPs must be at least 29 weeks and include 24 weekly sessions, plus appropriate intake, assessment, and orientation programming.

BIP program content must be based on a psychoeducational model that addresses tactics of power and control by one person over another. Florida is one of 47 states with BIP laws that require adherence to this model, referred to as the Duluth model.²³ The Duluth model is a coordinated service approach utilizing psychoeducational intervention methods that require batterers to acknowledge the various forms of violence they use to exert power and control over their intimate partners.²⁴ While the Duluth model remains one of the primary BIP models today, BIP programs also utilize or incorporate a cognitive behavioral model, which has been more recently recognized as effective in changing batterer behavior.²⁵

Current law does not require certification or monitoring of BIPs to ensure compliance with program standards. Prior to 2012, s. 741.325, F.S., required DCF to certify and monitor BIPs. However, the Legislature repealed s. 741.21(2), F.S., which removed DCF's Office of Certification and Monitoring of Batterers' Intervention and the statutory requirement that BIPs be certified by DCF. The General Appropriations Act of Fiscal Year 2011-2012 eliminated funding for DCF's BIP certification staff. BIPs have not been certified or monitored since 2012.

Judges, domestic violence advocates, prosecutors, survivors, and BIP providers have raised concerns that lack of state certification and monitoring has adversely impacted the overall quality of BIPs in their communities.²⁶

Effect of the Bill

Domestic Violence

HB 1231 updates the legislative intent expressed in s. 39.901, F.S., to reflect the current s. 741.28, F.S., statutory definition of domestic violence, which includes spouses, ex-spouses, and those persons who share a child in common as victims of domestic violence. The new language recognizes that domestic violence is a significant public health threat that has adverse physical, emotional, and financial impact on Florida families. It also recognizes the critical need for victims and their dependents to have access to emergency shelter and crisis intervention services to help them live free of violence.

¹⁹ S. 741.30(6)(a)5., F.S.

²⁰ A no contest plea (also referred to as a nolo contendere plea) means a criminal defendant will not dispute the charge.

²¹ S. 741.281, F.S.

²² *Id.*

²³ S. 741.281, F.S.

²⁴ *Id.*

²⁵ Ferraro, Kathleen, Current Research on Batterer Intervention Programs and Implications for Policy, Battered Women's Justice Project, (Dec. 2017), <https://www.bwjp.org/assets/batterer-intervention-paper-final-2018.pdf> (last visited Apr. 5, 2021).

Domestic Violence Centers

The bill amends s. 39.905(1)(c), F.S., to add nonresidential outreach services to the list of minimum services that certified domestic violence centers must provide to victims. This change reflects the fact that all 41 certified domestic violence centers currently provide nonresidential outreach services as a core service. The addition of nonresidential outreach services also recognizes that not all victims require emergency shelter services, but may require critical outreach support services to help them to safely separate from, and remain separate from, abusers.

The bill amends s. 39.905(6)(b), F.S., to specify that to be eligible for state funds, certified domestic violence centers must obtain public and private funding in an amount of at least 25 percent of the amount of funding the center receives from the Domestic Violence Trust Fund established in s. 741.01, F.S.

The bill permits certified domestic violence centers to carry forward, from one fiscal year to the next, unexpended state funds in a cumulative amount not to exceed 8 percent of their total contract with DCF, consistent with current law for child welfare community-based care agencies. Funds carried forward may not be used in a way that would increase future recurring obligations, and such funds may not be used for any type of program or service that is not authorized by the existing contract. The bill requires the certified domestic violence centers to report expenditures of funds carried forward separately to DCF, and any unexpended funds that remain at the end of the contract period must be returned to DCF. Funds carried forward may be retained through any contract renewal so long as the same certified domestic violence center is retained by DCF.

Batterers' Intervention Programs

The bill revives and reenacts s. 741.327, F.S., to authorize DCF to certify and monitor BIPs. The bill authorizes DCF to adopt rules to administer this section, including, but not limited to, developing criteria for the approval, suspension, or rejection of certification of BIPs. The bill removes the annual certification fee and user fee amounts from former s. 741.327, F.S., and the requirement that such fees assessed and collected from BIPs be deposited in the Executive Office of the Governor's Trust Fund established in s. 741.01, F.S. The bill also removes the former requirement for DCF to fund the costs of certifying and monitoring BIPs.

The bill amends s. 741.325, F.S., to permit certified BIPs to use a cognitive behavioral model or a psychoeducational model in their program content. This change will give BIPs flexibility in their programs and reflects current research that BIPs that utilize a cognitive behavioral model are effective in changing behavior.

The bill amends s. 741.30, F.S., to remove language allowing the court to direct an alleged perpetrator to obtain treatment for domestic violence under s. 39.901, F.S. This deletion was necessary to conform to the changes to s. 39.901, F.S., which removes the reference to "treatment" of perpetrators of domestic violence. The court can still direct the alleged perpetrator to participate in a BIP.

The bill provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DCF indicates that two additional FTE will be required to implement the provisions of the bill relating to the certification and monitoring of BIPs, requiring \$166,359 of state funds (a \$157,463 recurring need). A review of DCF's vacant positions shows there are sufficient existing vacancies from which resources can be redirected to fund new positions to certify and monitor BIPs. These positions have been vacant for over 300 days, and DCF has the ability to internally reorganize personnel as needed.

There is an indeterminate, but likely negative, recurring impact on DCF for legal costs associated with potential hearings if entities denied BIP certification challenge such denial.

The bill does not present a significant workload impact upon judges.²⁷

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

²⁷ Office of the State Courts Administrator, *Judicial Impact Statement for HB 1231* (Mar. 10, 2021) (on file with the Health Care Appropriations Subcommittee).