

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 Appropriations

BILL: SB 606

INTRODUCER: Senator Bean

SUBJECT: Domestic Violence

DATE: April 16, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|-----------------|------------|-----------------------------|
| 1. | <u>Moody</u> | <u>Cox</u> | <u>CF</u> | Favorable |
| 2. | <u>Sneed</u> | <u>Kidd</u> | <u>AHS</u> | Recommend: Favorable |
| 3. | <u>Sneed</u> | <u>Sadberry</u> | <u>AP</u> | Favorable |

I. Summary:

SB 606 amends current law to recognize that domestic violence is a significant public health threat that has adverse physical, emotional, and financial impact on Florida families. The bill also 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 Domestic Violence Trust Fund and 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 eight percent of their total contract with the DCF.

The bill revives, reenacts, and amends s. 741.327, F.S., to authorize the DCF to certify and monitor Batterers' Intervention Programs (BIPs). The bill also amends current law to permit certified BIPs to use a cognitive behavioral model or a psychoeducational model in its program content.

The bill has an insignificant fiscal impact on state government.

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

II. Present Situation:

Background

Domestic Violence

Domestic violence is a pattern of behavior, violence, or threats of violence that a person uses to gain power and control over a current or former intimate partner.¹ The use of threats, intimidation, isolation, and using children as pawns are examples of the tactics domestic violence perpetrators use against victims.²

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.³ 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.⁴

In 2018, a total of 104,914 domestic violence offenses were reported to law enforcement.⁵ That same year, 215 individuals died as a result of domestic violence homicide, which equals approximately 19 percent of all homicides in Florida.⁶ Law enforcement made 64,573 arrests for domestic violence related crimes.⁷

Domestic Violence Program

The Legislature acknowledges that certain perpetrators and victims of domestic violence are in need of treatment and rehabilitation.⁸ It is the intent of the Legislature 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.⁹

The Domestic Violence Program protects adults and their children from domestic violence and helps survivors develop ways to avoid further harm. The Department of Children and Families (DCF) is statutorily responsible for the statewide domestic violence program and is responsible

¹ Florida Coalition Against Domestic Violence, *Leading Florida Higher, Lifting Survivors Upward, Florida's Commitment to Ending Domestic Violence and Saving Lives*, p. 3, available at <https://www.myflfamilies.com/service-programs/domestic-violence/docs/2019%20Annual%20%20Report.pdf> (last visited April 1, 2021).

² *Id.*

³ Section 741.28(1), F.S.

⁴ Section 741.28(2), F.S.

⁵ Florida Coalition Against Domestic Violence, *Leading Florida Higher, Lifting Survivors Upward, Florida's Commitment to Ending Domestic Violence and Saving Lives*, p. 4, available at <https://www.myflfamilies.com/service-programs/domestic-violence/docs/2019%20Annual%20%20Report.pdf> (last visited April 1, 2021).

⁶ *Id.*

⁷ *Id.*

⁸ Section 39.901, F.S.

⁹ *Id.*

for performing specified duties and functions with respect to domestic violence. Section 39.903, F.S., requires the DCF to:

- Operate the domestic violence program and coordinate and administer statewide activities;
- Receive and approve or reject applications for initial certification of domestic violence centers, and annually renew the certification thereafter;
- Inspect the premises of domestic violence centers that are applying for an initial certification or facing potential suspension or revocation of certification;
- Promote the involvement of certified domestic violence centers in the coordination, development, and planning of domestic violence programming in the circuits;
- Coordinate with state agencies that have health, education, or criminal justice responsibilities;
- Cooperate with, assist in and participate in, programs of other properly qualified state agencies;
- Contract with an entity or entities for the delivery and management of services for the state's domestic violence program if it is in the best interest of the state;
- Consider applications from certified domestic violence centers for capital improvement grants and award those grants; and
- Adopt rules to administer this section.

Domestic Violence Centers

Domestic violence centers provide services to survivors of domestic violence.¹⁰ Florida has 41 certified domestic violence centers. The certified domestic violence centers provide crisis counseling and support services to victims of domestic violence and their children.¹¹

The certified domestic violence centers provide all of the following services free of charge:

- Emergency shelter.
- A 24-hour crisis and information hotline.
- Safety planning.
- Counseling, case management, and child assessments.
- Education for community awareness.
- Training for law enforcement and other professionals.
- Other ancillary services such as relocation assistance, daycare, and transitional housing.¹²

Certified domestic violence centers also provide nonresidential outreach services.

Domestic violence centers must be certified by the DCF in order to receive state funding.¹³ The DCF sets criteria for certification and minimum standards to ensure the health and safety of clients served.¹⁴ To be eligible for certification as a domestic violence center, an applicant must

¹⁰ Section 39.902(2), F.S.; Rule 65H-1.011, F.A.C.

¹¹ Department of Children and Families, *Domestic Violence Overview*, available at <https://www.myflfamilies.com/service-programs/domestic-violence/overview.shtml> (last visited April 1, 2021).

¹² *Id.*

¹³ Section 39.905(6)(a), F.S.

¹⁴ Sections 39.903(9) and 39.905(1), F.S.; Rule 65H-1, F.A.C.

apply to the DCF and be a not-for-profit entity.¹⁵ A domestic violence center's primary mission must be to provide services to survivors of domestic violence.

An applicant may seek certification to serve an area that has an existing certified domestic violence center; however, the applicant must show there is an unmet need in the area.¹⁶ One of the minimum criteria that an applicant must meet is that the domestic violence center has been providing services to survivors for 18 consecutive months, including 12 months as an emergency shelter.¹⁷ After the DCF certifies a domestic violence center, the certification is good for one year and automatically expires on June 30. If there is a favorable report from the DCF, it will annually renew a domestic violence center's certification.¹⁸

Certified domestic violence centers employ staff and rely on volunteers to provide services to survivors. A domestic violence advocate is an employee or a volunteer of a certified center who has 30 hours of training in assisting victims of domestic violence and is an employee or volunteer for a program for survivors of domestic violence whose primary purpose is the rendering of advice, counseling, or assistance to survivors of domestic violence.¹⁹ A volunteer is an unpaid staff member who provides direct or indirect services for a certified domestic violence center. All employees and volunteers receive some degree of training on domestic violence.²⁰

Section 39.905(6)(b), F.S., requires certified domestic violence centers to obtain at least 25 percent of funding from one or more local, municipal or county sources, public or private. Contributions in kind may be counted toward the 25 percent local funding requirement. When this provision was enacted, centers received funding from the Domestic Violence Trust Fund established in s. 741.01, F.S.

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.

Batterers' Intervention Program

Batterer intervention programs (BIPs) emerged in the United States in the late 1970's as one component of the social response to domestic violence.²¹ BIPs are designed to address the root

¹⁵ The DCF, *Domestic Violence Center, Application for Certification, Form CF613*, p. 3, January 2015, available at https://www.myflfamilies.com/service-programs/domestic-violence/docs/CF-613_Application-for-Certification.pdf (last visited March 15, 2021).

¹⁶ Section 39.905(1)(i), F.S.; Rule 65H-1.012, F.A.C.

¹⁷ Section 39.905(1)(h), F.S.; Rule 65H-1.012, F.A.C.

¹⁸ Section 39.905(3), F.S.; Rule 65H-1.012, F.A.C.

¹⁹ Section 90.5036, F.S.; R. 65H-1.011(9), F.A.C., states "'domestic violence advocate' means an employee or volunteer of a certified domestic violence center who: provides direct services to individuals victimized by domestic violence; has received 30 hours of domestic violence core competency training; and, has been identified by the domestic violence center as an individual who may assert a claim to privileged communications with domestic violence victims under section 39.905, F.S."

²⁰ Rule 65H-1.011(17), F.A.C., states "'volunteer' means unpaid staff members trained in the dynamics of domestic violence who provide direct and indirect services to those seeking and receiving services from a domestic violence center".

²¹ Battered Women's Justice Project, *Current Research on Batterer Intervention Programs and Implications for Policy*, p. 1, December 2017, available at <https://www.bwjp.org/assets/batterer-intervention-paper-final-2018.pdf> (last visited April 1, 2021) (hereinafter cited as "Research on BIP and Policy Implications").

cause of domestic violence and deter participants from committing acts of domestic violence in the future.²²

Alleged perpetrators may be ordered, and in some cases must be ordered, by the court to a BIP. An alleged perpetrator may come to the attention of the court after a petition for protection against domestic violence is filed against him or her. This petition may be filed by any person who either is the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming the victim of domestic violence.²³ The person can file a petition 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.²⁴ When it appears to the court that the petitioner either is the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger, the court may order the alleged perpetrator to participate in treatment, intervention, or counseling services.²⁵ When the court orders the alleged perpetrator to participate in a BIP, the court must provide a list of batterers' intervention programs.²⁶ If a person is found guilty of, has adjudication withheld, or pleads no contest²⁷ to an offense defined as domestic violence, the court must order the defendant to complete a BIP as a condition of probation.²⁸

Section 741.32, F.S., recognizes the need for standardized programming for domestic violence BIPs, but does not reference any state agency to certify and monitor BIPs to ensure compliance with program standards. The DCF performed this role from 2001 through 2012 under s. 741.325, F.S. However, the General Appropriations Act of 2011-2012²⁹ eliminated funding for the DCF's BIP certification staff, and the Legislature repealed s. 741.32(2), F.S., which removed the DCF's Office of Certification and Monitoring of Batterers' Intervention and repealed the statutory requirement that batterers' intervention programs be certified by the DCF. There has been no state certification or monitoring of BIPs 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.³⁰

Section 741.325, F.S., sets requirements for BIPs to meet, including that the:

- Primary purpose of the program must be the safety of the victim and children, if present;
- Batterer must be held accountable for acts of domestic violence;
- Program must be at least 29 weeks in length and include 24 weekly sessions, plus appropriate intake, assessment, and orientation programming;

²² *Id.* at pp. 3, 6.

²³ Section 741.30(1)(a), F.S.

²⁴ Section 741.30(3)(f), F.S.

²⁵ Section 741.30(6)(a)5., F.S.

²⁶ *Id.*

²⁷ A no contest plea (also referred to as a nolo contendere plea) means a criminal defendant will not dispute the charge.

²⁸ Section 741.281, F.S.

²⁹ Chapter 2011-69, Laws of Florida.

³⁰ The DCF, *Agency Analysis for SB 606*, p. 2, January 29, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as "The DCF Analysis").

- Program content must be based on a psychoeducational model that addresses tactics of power and control by one person over another; and
- Program shall be funded by user fees paid by the batterers who attend the program, which allows them to take responsibility for their acts of violence.³¹

Florida is one of 47 states that has BIP laws that require adherence to a psychoeducational type of model, referred to as the Duluth model.³² The Duluth model, named after a city in Minnesota where it was developed, is a coordinated service approach that requires batterers to acknowledge the various forms of violence they use to exert power and control over their intimate partners.³³

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.³⁴

III. Effect of Proposed Changes:

The bill 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 as victims spouses, ex-spouses, and those persons who share a child in common. 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.

The bill amends language to recognize that the DCF certifies and monitors domestic violence centers to ensure statewide consistency and effective service provision. This new language reflects the 2020 amendments to ch. 39, F.S., that removed references to the Florida Coalition Against Domestic Violence and named the DCF as the agency responsible for certifying and monitoring 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 they 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 equal to 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. This change will reduce the amount of match from other funding sources that certified domestic violence centers must provide to receive state funds.

³¹ Section 741.325(1)(e), F.S., provides that there is an exception for local, state, or federal programs that are wholly or partly fund batterers' intervention programs.

³² The DCF Analysis at p. 3.

³³ *Id.*

³⁴ *Id.* (citing Research on BIP and Policy Implications).

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 eight percent of their total contract with the DCF. Current law allows the carrying forward of funds in the same manner for child welfare community-based care lead agencies. This change will promote a more effective use of state funds for certified domestic violence services. 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 the DCF, and any unexpended funds that remain at the end of the contract period must be returned to the DCF. Funds carried forward may be retained through any contract renewal so long as the same certified domestic violence center is retained by the DCF.

The bill revives, reenacts, and amends s. 741.327, F.S., to authorize the DCF to certify and monitor BIPs. The bill authorizes the 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 s. 741.327, F.S. It also removes 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. Finally, the bill removes the requirement for the 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 its 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 is effective July 1, 2021.

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:

SB 606 may have a negative fiscal impact to BIP providers if the DCF denies an application for certification. If a BIP provider is not certified, it will not be able to conduct business and provide services. Further, a BIP provider will have to go through the ch. 120, F.S., process if it chooses to challenge a denial of certification, which may result in legal costs.

The certified domestic violence centers may incur a positive fiscal impact if the bill's provision allowing the centers to carryforward funding is enacted. Certification may be easier for domestic violence centers because the amount of matching funds the center must provide may decrease.

C. Government Sector Impact:

The DCF indicates that two additional FTE positions will be required to certify and monitor BIPs statewide, as required under the bill. The department projects the cost of the positions to total \$166,359 from the General Revenue Fund.³⁵ It is anticipated that two vacant positions and funding can be redirected from elsewhere within the agency to meet the provisions of the bill.

There is an indeterminate impact on the DCF for legal costs associated with potential administrative hearings pursuant to ch. 120, F.S., if entities denied BIP certification challenge such denial.³⁶

The State Courts Administrator reports the bill would have a minimum fiscal impact on expenditures of the State Courts System.³⁷

³⁵ The DCF Analysis at pp. 5-6.

³⁶ *Id.* at p. 6.

³⁷ Office of the State Courts Administrator, *2021 Judicial Impact Statement*, March 10, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.901, 39.905, 741.32, 741.325, 741.327, and 741.30.

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.