

By Senator Bracy

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1 A bill to be entitled
2 An act relating to batterers' intervention programs;
3 amending s. 741.325, F.S.; requiring the Department of
4 Children and Families to certify and monitor certain
5 batterers' intervention programs; providing that the
6 department's certification and monitoring activities
7 will be funded by specified fees; requiring batterers'
8 intervention programs to satisfy specified
9 requirements for certification by the department;
10 requiring programs to have certain safety measures in
11 place; requiring programs to employ certain measures
12 to hold batterers accountable; providing requirements
13 for program orientation and weekly group sessions;
14 revising program content requirements; specifying
15 elements and techniques programs may not include;
16 requiring the department to annually review programs
17 for compliance with certification requirements;
18 authorizing the department to reject or suspend
19 certification of a program for failure to comply with
20 the requirements; requiring the department to annually
21 provide a list of certified programs and to
22 immediately notify the courts if it suspends a
23 program's certification; requiring the department to
24 adopt specified rules; amending ss. 741.281, 741.2902,
25 741.30, 741.31, and 948.038, F.S.; conforming
26 provisions to changes made by the act; providing an
27 effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 741.325, Florida Statutes, is amended to read:

741.325 Requirements for batterers' intervention programs.—

(1) The Department of Children and Families shall certify and monitor batterers' intervention programs that provide direct intervention services to those persons who are adjudged to have committed an act of domestic violence as defined in s. 741.28, those against whom an injunction for protection against domestic violence is entered, those referred by the department, and those who volunteer to attend such programs. The certification and monitoring shall be funded by certification application and user fees as provided in s. 741.327.

(2) To be certified, a batterers' intervention program must meet all of the following requirements:

(a) The primary purpose of the program must ~~shall~~ be victim safety and the safety of children, if present. Safety measures must include, but need not be limited to, all of the following:

1. Coordination with the criminal justice system, domestic violence centers, social service agencies, and state and local government agencies.

2. Level 2 background screenings of program personnel in accordance with chapter 435.

3. A prohibition on the employment of perpetrators of domestic violence as program personnel.

4. Requirements and procedures for victim notification when a batterer is enrolled or discharged from the program.

5. Extensive recordkeeping requirements.

6. Written operating policies and manuals.

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59 7. Rigorous facilitator credentialing procedures and
60 continuing education requirements.

61 (b) The batterer shall be held accountable for acts of
62 domestic violence. The program must include measures that do all
63 of the following:

64 1. Assign to the batterers responsibility for their acts of
65 domestic violence.

66 2. Provide a strategy to assist the batterers in taking
67 responsibility for their acts of domestic violence.

68 3. Improve the batterers' ability to articulate and
69 identify emotions.

70 4. Encourage the batterers to develop critical thinking
71 skills and healthier behavior patterns.

72 5. Teach the batterers the effects domestic violence has on
73 children.

74 6. Improve the batterers' negotiation and conflict
75 resolution skills.

76 7. Teach the batterers communication skills and how to
77 listen to others with empathy.

78 8. Challenge the batterers' gender role expectations.

79 9. Teach the batterers about the relationship between
80 substance abuse and domestic violence.

81 10. Support the principle that domestic violence is
82 primarily a learned behavior and is not a natural response to
83 provocation.

84 11. Teach the batterers how distorted thinking can affect a
85 person's emotions or behavior.

86 (c) The program must ~~shall~~ be at least 29 weeks in length
87 and include at least 24 weekly group sessions, plus appropriate

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88 intake, assessment, and orientation programming.

89 1. Orientation sessions must be at least 90 minutes in
90 length, with breaks at appropriate intervals, and must include
91 all of the following programming:

92 a. The definition of domestic violence.

93 b. Statistics related to domestic violence.

94 c. An explanation of the cycle of abuse and introduction of
95 the power and control wheel.

96 d. An overview of the program's rules and expectations.

97 e. An introduction to the program's content, which shall
98 include the dynamics of power and control in domestic violence;
99 the effects of domestic violence on the victim, children, and
100 others; and the connection between gender roles, socialization,
101 and the nature of domestic violence.

102 2. Each weekly group session must be at least 90 minutes in
103 length, with breaks at appropriate intervals. A group session
104 must consist of at least 3 participants and no more than 24
105 participants with 2 facilitators, or no more than 15
106 participants with 1 facilitator. A program may accept new
107 participants into the weekly group sessions on an ongoing basis.
108 However, programs must ensure that all participants of a group
109 session are of the same gender.

110 3. If a participant in the group session is not fluent in
111 the English language, at least one facilitator must be able to
112 translate or effectively communicate in the participant's native
113 language. A program may not allow a person who is not affiliated
114 with the program to serve as an interpreter for a participant
115 during a group session.

116 (d) The program content must ~~shall~~ be based on an

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117 intervention ~~a psychoeducational~~ model that recognizes the use
118 ~~addresses tactics~~ of power and control tactics by one person to
119 inflict emotional or physical abuse on ~~over~~ another. The program
120 content must be submitted to the department at the time of
121 application for certification for review of compliance with
122 program standards under this section. The program content may
123 not include any of the following:

- 124 1. Couples, marriage, or family therapy or any technique
125 that requires victim participation.
- 126 2. Anger management techniques that identify anger as the
127 cause of domestic violence.
- 128 3. Identification of poor impulse control as a primary
129 cause of domestic violence.
- 130 4. Identification of psychopathology on the part of the
131 perpetrator or the victim as a primary cause of domestic
132 violence.
- 133 5. Instruction on fair fighting techniques.
- 134 6. Any other content the department deems inappropriate.

135 (e) The program must ~~shall~~ be funded by user fees paid by
136 the batterers who attend the program, which allows them to take
137 responsibility for their acts of violence. An exception must
138 ~~shall~~ be made for local, state, or federal programs that fund
139 batterers' intervention programs in whole or in part. The
140 program may not admit a batterer into the program until he or
141 she has paid the user fee. However, the program may not refuse
142 to admit a batterer into the program if the batterer has been
143 deemed indigent by the court and is not able to pay the user
144 fee.

145 (3)-(2) The requirements of this section apply only to

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146 programs that address the perpetration of violence between
147 intimate partners, spouses, ex-spouses, or those who share a
148 child in common or who are cohabitants in intimate relationships
149 for the purpose of exercising power and control by one over the
150 other. It will endanger victims if courts and other referral
151 agencies refer family and household members who are not
152 perpetrators of the type of domestic violence encompassed by
153 these requirements. Accordingly, the court and others who make
154 referrals should refer perpetrators only to programming that
155 appropriately addresses the violence committed.

156 (4) The department shall annually review certified
157 batterers' intervention programs to ensure that they continue to
158 meet the requirements of this section. The department may reject
159 or suspend certification of a program if it fails to meet the
160 requirements of this section.

161 (5) The department shall annually provide to the courts a
162 list of certified batterers' intervention programs and
163 immediately notify the courts of any suspension of a certified
164 batterers' program.

165 (6) The department shall adopt rules to implement this
166 section, including, at a minimum, all of the following:

167 (a) The programs' purpose, policies, and standards of care.

168 (b) The intervention approaches considered appropriate for
169 use by programs.

170 (c) Policies for conflicts of interest and ethical
171 standards.

172 (d) Curriculum and assessments for programs.

173 (e) The qualifications of providers and credentials for
174 facilitators, supervisors, and trainees of programs.

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175 (f) The standards for program operations, including
176 administrative, personnel, and fiscal operations.

177 (g) Record maintenance and retention policies for victim
178 and batterer records.

179 (h) Procedures for educating, evaluating, and referring
180 program participants for treatment.

181 Section 2. Section 741.281, Florida Statutes, is amended to
182 read:

183 741.281 Court to order batterers' intervention program
184 attendance.—If a person is found guilty of, has adjudication
185 withheld on, or pleads nolo contendere to a crime of domestic
186 violence, as defined in s. 741.28, that person shall be ordered
187 by the court to a minimum term of 1 year's probation and the
188 court shall order that the defendant attend and complete a
189 batterers' intervention program certified under s. 741.325 as a
190 condition of probation. The court must impose the condition of
191 the batterers' intervention program for a defendant under this
192 section, but the court, in its discretion, may determine not to
193 impose the condition if it states on the record why a batterers'
194 intervention program might be inappropriate. The court must
195 impose the condition of the batterers' intervention program for
196 a defendant placed on probation unless the court determines that
197 the person does not qualify for the batterers' intervention
198 program pursuant to s. 741.325. The imposition of probation
199 under this section does not preclude the court from imposing any
200 sentence of imprisonment authorized by s. 775.082.

201 Section 3. Paragraph (g) of subsection (2) of section
202 741.2902, Florida Statutes, is amended to read:

203 741.2902 Domestic violence; legislative intent with respect

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204 to judiciary's role.—

205 (2) It is the intent of the Legislature, with respect to
 206 injunctions for protection against domestic violence, issued
 207 pursuant to s. 741.30, that the court shall:

208 (g) Consider requiring the perpetrator to complete a
 209 batterers' intervention program certified under. ~~It is preferred~~
 210 ~~that such program meet the requirements specified in s. 741.325.~~

211 Section 4. Subsection (3) and paragraphs (a) and (e) of
 212 subsection (6) of section 741.30, Florida Statutes, are amended
 213 to read:

214 741.30 Domestic violence; injunction; powers and duties of
 215 court and clerk; petition; notice and hearing; temporary
 216 injunction; issuance of injunction; statewide verification
 217 system; enforcement; public records exemption.—

218 (3) (a) The sworn petition must ~~shall~~ allege the existence
 219 of such domestic violence and must ~~shall~~ include the specific
 220 facts and circumstances upon the basis of which relief is
 221 sought.

222 (b) The sworn petition shall be in substantially the
 223 following form:

224
 225 PETITION FOR
 226 INJUNCTION FOR PROTECTION
 227 AGAINST DOMESTIC VIOLENCE
 228

229 Before me, the undersigned authority, personally appeared
 230 Petitioner ...(Name)..., who has been sworn and says that the
 231 following statements are true:

232 (a) Petitioner resides at: ...(address)...

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233 (Petitioner may furnish address to the court in a separate
234 confidential filing if, for safety reasons, the petitioner
235 requires the location of the current residence to be
236 confidential.)

237 (b) Respondent resides at: ... (last known address)...

238 (c) Respondent's last known place of employment: ... (name
239 of business and address)...

240 (d) Physical description of respondent:....

241 Race....

242 Sex....

243 Date of birth....

244 Height....

245 Weight....

246 Eye color....

247 Hair color....

248 Distinguishing marks or scars....

249 (e) Aliases of respondent:....

250 (f) Respondent is the spouse or former spouse of the
251 petitioner or is any other person related by blood or marriage
252 to the petitioner or is any other person who is or was residing
253 within a single dwelling unit with the petitioner, as if a
254 family, or is a person with whom the petitioner has a child in
255 common, regardless of whether the petitioner and respondent are
256 or were married or residing together, as if a family.

257 (g) The following describes any other cause of action
258 currently pending between the petitioner and respondent:.....
259

260 The petitioner should also describe any previous or pending
261 attempts by the petitioner to obtain an injunction for

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262 protection against domestic violence in this or any other
263 circuit, and the results of that attempt:.....
264

265 Case numbers should be included if available.

266 (h) Petitioner is either a victim of domestic violence or
267 has reasonable cause to believe he or she is in imminent danger
268 of becoming a victim of domestic violence because respondent
269 has: (mark all sections that apply and describe in the spaces
270 below the incidents of violence or threats of violence,
271 specifying when and where they occurred, including, but not
272 limited to, locations such as a home, school, place of
273 employment, or visitation exchange)

274committed or threatened to commit domestic violence
275 defined in s. 741.28, Florida Statutes, as any assault,
276 aggravated assault, battery, aggravated battery, sexual assault,
277 sexual battery, stalking, aggravated stalking, kidnapping, false
278 imprisonment, or any criminal offense resulting in physical
279 injury or death of one family or household member by another.
280 With the exception of persons who are parents of a child in
281 common, the family or household members must be currently
282 residing or have in the past resided together in the same single
283 dwelling unit.

284previously threatened, harassed, stalked, or physically
285 abused the petitioner.

286attempted to harm the petitioner or family members or
287 individuals closely associated with the petitioner.

288threatened to conceal, kidnap, or harm the petitioner's
289 child or children.

290intentionally injured or killed a family pet.

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291 used, or has threatened to use, against the petitioner
292 any weapons such as guns or knives.

293 physically restrained the petitioner from leaving the
294 home or calling law enforcement.

295 a criminal history involving violence or the threat of
296 violence (if known).

297 another order of protection issued against him or her
298 previously or from another jurisdiction (if known).

299 destroyed personal property, including, but not limited
300 to, telephones or other communication equipment, clothing, or
301 other items belonging to the petitioner.

302 engaged in any other behavior or conduct that leads the
303 petitioner to have reasonable cause to believe he or she is in
304 imminent danger of becoming a victim of domestic violence.

305 (i) Petitioner alleges the following additional specific
306 facts: (mark appropriate sections)

307 A minor child or minor children reside with the
308 petitioner whose names and ages are as follows:

309
310

311 Petitioner needs the exclusive use and possession of
312 the dwelling that the parties share.

313 Petitioner is unable to obtain safe alternative housing
314 because:

315 Petitioner genuinely fears that respondent imminently
316 will abuse, remove, or hide the minor child or children from
317 petitioner because:

318
319 (j) Petitioner genuinely fears imminent domestic violence

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320 by respondent.

321 (k) Petitioner seeks an injunction: (mark appropriate
322 section or sections)

323Immediately restraining the respondent from committing
324 any acts of domestic violence.

325Restraining the respondent from committing any acts of
326 domestic violence.

327Awarding to the petitioner the temporary exclusive use
328 and possession of the dwelling that the parties share or
329 excluding the respondent from the residence of the petitioner.

330Providing a temporary parenting plan, including a
331 temporary time-sharing schedule, with regard to the minor child
332 or children of the parties which might involve prohibiting or
333 limiting time-sharing or requiring that it be supervised by a
334 third party.

335Establishing temporary support for the minor child or
336 children or the petitioner.

337Directing the respondent to participate in a batterers'
338 intervention program certified under s. 741.325, Florida
339 Statutes, or other treatment pursuant to s. 39.901, Florida
340 Statutes.

341Providing any terms the court deems necessary for the
342 protection of a victim of domestic violence, or any minor
343 children of the victim, including any injunctions or directives
344 to law enforcement agencies.

345 (c)

346 Every petition for an injunction against domestic violence
347 must ~~shall~~ contain, directly above the signature line, a
348 statement in all capital letters and bold type not smaller than

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349 the surrounding text, as follows:

350

351 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
352 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT
353 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE
354 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN
355 SECTION 837.02, FLORIDA STATUTES.

356 ... (initials) ...

357

358 (d) If the sworn petition seeks to determine a parenting
359 plan and time-sharing schedule with regard to the minor child or
360 children of the parties, the sworn petition must ~~shall~~ be
361 accompanied by or must ~~shall~~ incorporate the allegations
362 required by s. 61.522 of the Uniform Child Custody Jurisdiction
363 and Enforcement Act.

364 (6) (a) Upon notice and hearing, when it appears to the
365 court that the petitioner is either the victim of domestic
366 violence as defined by s. 741.28 or has reasonable cause to
367 believe he or she is in imminent danger of becoming a victim of
368 domestic violence, the court may grant such relief as the court
369 deems proper, including an injunction:

370 1. Restraining the respondent from committing any acts of
371 domestic violence.

372 2. Awarding to the petitioner the exclusive use and
373 possession of the dwelling that the parties share or excluding
374 the respondent from the residence of the petitioner.

375 3. On the same basis as provided in chapter 61, providing
376 the petitioner with 100 percent of the time-sharing in a
377 temporary parenting plan that remains in effect until the order

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378 expires or an order is entered by a court of competent
379 jurisdiction in a pending or subsequent civil action or
380 proceeding affecting the placement of, access to, parental time
381 with, adoption of, or parental rights and responsibilities for
382 the minor child.

383 4. On the same basis as provided in chapter 61,
384 establishing temporary support for a minor child or children or
385 the petitioner. An order of temporary support remains in effect
386 until the order expires or an order is entered by a court of
387 competent jurisdiction in a pending or subsequent civil action
388 or proceeding affecting child support.

389 5. Ordering the respondent to participate in treatment,
390 intervention, or counseling services to be paid for by the
391 respondent. When the court orders the respondent to participate
392 in a batterers' intervention program certified under s. 741.325,
393 the court, or any entity designated by the court, must provide
394 the respondent with a list of batterers' intervention programs
395 from which the respondent must choose a program in which to
396 participate.

397 6. Referring a petitioner to a certified domestic violence
398 center. The court must provide the petitioner with a list of
399 certified domestic violence centers in the circuit which the
400 petitioner may contact.

401 7. Awarding to the petitioner the exclusive care,
402 possession, or control of an animal that is owned, possessed,
403 harbored, kept, or held by the petitioner, the respondent, or a
404 minor child residing in the residence or household of the
405 petitioner or respondent. The court may order the respondent to
406 have no contact with the animal and prohibit the respondent from

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407 taking, transferring, encumbering, concealing, harming, or
408 otherwise disposing of the animal. This subparagraph does not
409 apply to an animal owned primarily for a bona fide agricultural
410 purpose, as defined under s. 193.461, or to a service animal, as
411 defined under s. 413.08, if the respondent is the service
412 animal's handler.

413 8. Ordering such other relief as the court deems necessary
414 for the protection of a victim of domestic violence, including
415 injunctions or directives to law enforcement agencies, as
416 provided in this section.

417 (e) An injunction for protection against domestic violence
418 entered under this section, on its face, may order that the
419 respondent attend a batterers' intervention program certified
420 under s. 741.325 as a condition of the injunction. Unless the
421 court makes written factual findings in its judgment or order
422 which are based on substantial evidence, stating why batterers'
423 intervention programs would be inappropriate, the court shall
424 order the respondent to attend a batterers' intervention program
425 if:

426 1. It finds that the respondent willfully violated the ex
427 parte injunction;

428 2. The respondent, in this state or any other state, has
429 been convicted of, had adjudication withheld on, or pled nolo
430 contendere to a crime involving violence or a threat of
431 violence; or

432 3. The respondent, in this state or any other state, has
433 had at any time a prior injunction for protection entered
434 against the respondent after a hearing with notice.

435 Section 5. Subsection (5) of section 741.31, Florida

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436 Statutes, is amended to read:

437 741.31 Violation of an injunction for protection against
438 domestic violence.—

439 (5) Whether or not there is a criminal prosecution under
440 subsection (4), the court shall order the respondent to attend a
441 batterers' intervention program certified under s. 741.325 if it
442 finds a willful violation of a domestic violence injunction,
443 unless the court makes written factual findings in its judgment
444 or order which are based on substantial evidence, stating why a
445 batterers' intervention program would be inappropriate.

446 Section 6. Section 948.038, Florida Statutes, is amended to
447 read:

448 948.038 Batterers' intervention program as a condition of
449 probation, community control, or other court-ordered community
450 supervision.—As a condition of probation, community control, or
451 any other court-ordered community supervision, the court shall
452 order a person convicted of an offense of domestic violence, as
453 defined in s. 741.28, to attend and successfully complete a
454 batterers' intervention program certified under s. 741.325
455 unless the court determines that the person does not qualify for
456 the batterers' intervention program pursuant to s. 741.325. The
457 offender must pay the cost of attending the program.

458 Section 7. This act shall take effect July 1, 2021.