

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: CS/SB 682

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Bracy

SUBJECT: Fees/Batterers' Intervention Programs

DATE: March 3, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Cox	CF	Fav/CS
2.			AHS	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 682 revives, reenacts, and amends s. 741.327, F.S., related to certification and monitoring of batterers' intervention programs and fees, requiring the DCF to assess and collect a statutory fee not to exceed \$300 for the annual certification and monitoring of batterers' intervention programs (BIP). This certification and monitoring requirement was first created in 1995 and was repealed in 2012.

The Florida Constitution requires that legislation imposing or authorizing new state taxes or fees and legislation that raises existing state taxes or fees to be passed by a two-thirds vote of the membership of each house of the Legislature, and the tax or fee provisions must be passed in a separate bill. CS/SB 682 applies a revived and reenacted fee for the certification and monitoring of BIPs and a currently existing fee for individuals attending the program. As such, the Florida Constitution may require that the fees be passed in a separate bill by a two-thirds vote of the membership of each house of the Legislature.

An annual fee not to exceed \$300 will be assessed and collected from a BIP for monitoring and certifying the program. A user fee in the amount of \$30 is to be paid by an individual attending a program. CS/SB 680, which is tied to this bill, requires the DCF to complete the certification process, which may include visiting the BIP sites to ensure that the programs are in compliance with the statutory requirements. The DCF states that if all 133 active BIP providers apply for certification and recertification, the DCF will collect \$39,900 annually. See Section V. Fiscal Impact Statement.

The provisions of the bill take effect on the same date that SB 680, or other similar legislation, takes effect if such legislation is passed in the same legislative session or extension thereof.

II. Present Situation:

Domestic Violence

The National Coalition Against Domestic Violence defines domestic violence as 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, economic, and emotional/psychological abuse.¹

Nationally, more than 10 million adults experience domestic violence annually. Further, it is estimated that 25 percent of women and 10 percent of men experience sexual violence, physical violence or stalking by an intimate partner during their lifetime.²

Batterers' Intervention Programs

Batterers' Intervention Programs (BIPs) are programs that batterers attend either voluntarily or under court order to educate and rehabilitate the batterer. The goal of BIPs is to change offender thinking and behavior with the result that offenders are held accountable and victim safety is enhanced and to decrease the likelihood of further violence. An important feature of BIPs is that the programs are designed to first promote survivor safety, which is achieved through accountability. All offender participants must sign a waiver of confidentiality to permit disclosure of participation to survivors, probation, and the courts, as needed. This assists the BIPs' accountability to survivors by ensuring that survivors have information needed to make informed decisions through sharing information with courts and probation.³

Currently there is no state entity certifying and monitoring BIPs and collecting annual fees from BIP providers seeking certification.⁴ The Office of State Court Administrator lists 133 active BIP providers in Florida on its website.⁵ <https://www.flcourts.org/Resources-Services/Court-Improvement/Family-Courts/Domestic-Violence/Batterers-Intervention-Program-List-of-Providers>

¹ National Coalition Against Domestic Violence, *Domestic Violence*, available at https://assets.speakcdn.com/assets/2497/domestic_violence-2020080709350855.pdf?1596828650457 (last visited February 25, 2021).

² *Id.*

³ The Advocates for Human Rights, Stop Violence Against Women, *Batterers' Intervention Programs*, March 2019, available at https://www.stopvaw.org/batterers_intervention_programs (last visited February 25, 2021).

⁴ Department of Children and Families, 2021 Agency Legislative Bill Analysis, SB 682. On file with the Senate Committee on Children, Families and Elder Affairs.

⁵ Florida Courts, Batterers' Intervention Program List of Providers, Available at: <https://www.flcourts.org/Resources-Services/Court-Improvement/Family-Courts/Domestic-Violence/Batterers-Intervention-Program-List-of-Providers> (last visited February 25, 2021).

Florida Batterers' Intervention Programs

BIPs were first recognized in statute in 1995 and the responsibility for certifying and monitoring the programs was placed in the Department of Corrections (DOC) Office for Certification and Monitoring of Batterers' Intervention Programs (OCMBIP).⁶

In 2001, the OCMBIP, along with all associated resources, powers, and responsibilities, was transferred from the DOC to the DCF. The fees assessed and collected under this section were required to be deposited in the Executive Office of the Governor's Domestic Violence Trust Fund and directed to the DCF to fund the cost of certifying and monitoring batterers' intervention programs.⁷

At that time a \$300.00 fee was collected from batterers' intervention programs applying for state certification and a \$100.00 fee from individuals applying for state certification as an assessor under s. 741.327, F.S. (2001). In addition, court ordered perpetrators of domestic violence were required to pay a one-time \$30.00 participant's fee which is collected by the certified programs and forwarded to the OCMBIP on a monthly basis.⁸

In 2012, the duties and functions of the DCF were revised relating to the domestic violence program. Those changes included, in part, the elimination of the certification of batterers' intervention programs as well as the authority for the DCF to collect fees associated with the certification program.⁹ Specifically, with respect to the batterers' intervention programs:

- Legislative intent relating to certifying batterers' intervention programs was amended;
- The role of the DCF related to the certification of these programs was eliminated;
- Statutory references to certified batterers' intervention programs were eliminated;
- The requirement that batterers' intervention programs meet the requirements currently in law was unchanged, but the authority for the DCF to promulgate rules to establish these requirements was removed; and
- References to batterers' intervention programs in statute were retained but references to the programs being certified by the DCF were removed.¹⁰

Current law only provides the following requirements for batterers' intervention programs:

- The primary purpose of the program shall be victim safety and the safety of children, if present.
- The batterer shall be held accountable for acts of domestic violence.
- The program shall be at least 29 weeks in length and include 24 weekly sessions, plus appropriate intake, assessment, and orientation programming.
- The program content shall be based on a psychoeducational model that addresses tactics of power and control by one person over another.

⁶ Chapter 95-195, L.O.F.

⁷ Chapter 2001-183, L.O.F.

⁸ HB 1729, Bill Analysis, March 22, 2001, available at:

https://www.flsenate.gov/Session/Bill/2001/1729/Analyses/20011729HFRC_2001h1729.frc.pdf (last visited February 24, 2021).

⁹ Chapter 2012-147, L.O.F.

¹⁰ *Id.*

- The 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.¹¹

The DCF states that certain stakeholders, such as certified domestic violence centers, court systems, and law enforcement have expressed concern of the lack of certification and monitoring of BIPs.¹²

Fees Associated with Batterer's Intervention Programs

Currently, the only statutorily required fee related to BIPs is a user fee paid by the individuals attending the program. No amount for the fee is specified.¹³ The requirement for a fee for monitoring and certification of programs and a specified amount of the user fee was repealed in 2012.¹⁴

CS/SB 680

CS/SB 680 amends s. 741.325, F.S., requiring the DCF to certify and monitor batterers' intervention programs that provide direct services to specified individuals. SB 680 also provides requirements that must be met in order for a batterer's intervention program to be certified by the DCF.

CS/SB 680 requires the program to be funded by user fees paid by the batterers who attend the program and while a batterer may not be admitted to the program until the fee has been paid, a batterer who has been deemed indigent by the court and is unable to pay the user fee may not be refused admittance. Further, CS/SB 680 requires the DCF to annually review the intervention programs to ensure compliance and the DCF may reject or suspend the certification of a program that does not meet the required qualifications. The DCF must notify the court of any program suspensions and must adopt rules to implement the requirements of the bill.

CS/SB 680 provides an effective date of July 1, 2021.

III. Effect of Proposed Changes:

The bill revives, reenacts, and amends s. 741.327, F.S., related to certification and monitoring of batterers' intervention programs and fees, requiring the DCF to assess and collect a statutory fee not to exceed \$300 for the annual certification and monitoring of BIPs. Additionally, the bill requires a person court-ordered to a BIP to pay the \$30 fee for each 29-week program attended and the program must remit the fee to the DCF. However, a person who is indigent is not required to pay the \$30 program fee.

The provisions of the bill take effect on the same date that SB 680, or other similar legislation, takes effect if such legislation is passed in the same legislative session or extension thereof.

¹¹ Section 741.325, F.S.

¹² The DCF, *2021 SB 682 Agency Legislative Bill Analysis*, p. 3, January 15, 2021 (on file with the Senate Committee on Children, Families and Elder Affairs) (hereinafter cited as "The DCF Analysis").

¹³ Section 741.325, F.S.

¹⁴ Chapter 2012-147, L.O.F.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill applies a revived, reenacted statutory fee the certification and monitoring of batterers' intervention programs (BIP) created in 1995 and a currently existing fee to be paid by individuals attending a program. As such, the Florida Constitution may require that the fees be passed in a separate bill by a two-thirds vote of the membership of each house of the Legislature.

Article VII, s. 19, of the Florida Constitution requires that a new state tax or fee, as well as an increased state tax or fee, must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1), of the Florida Constitution defines "fee" to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service."¹⁵

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The bill revives an annual fee not to exceed \$300 on BIPs for certification through the DCF.

B. Private Sector Impact:

A fee not to exceed \$300 will be assessed and collected from a BIP for monitoring and certifying the program. A user fee in the amount of \$30 is to be paid by an individual attending a program. The DCF states that it is not possible to calculate the potential total

¹⁵ FLA. CONST. art. VII, s. 19(d)(1)

amount of user fees BIPs would collect and remit to the DCF annually given that there is no data readily available regarding number of persons that are required to attend BIPs by the courts annually.¹⁶

C. Government Sector Impact:

CS/SB 680 requires the DCF to complete the certification process, which may include visiting the BIP sites to ensure that the programs are in compliance with the statutory requirements. This bill also provides that the fees assessed and collected are required to be deposited into the Executive Office of the Governor's Domestic Violence Trust Fund and directed to the DCF. The DCF states that if all 133 active BIP providers apply for certification and recertification, the DCF will collect \$39,900 annually.¹⁷

To the extent that the fees collected and deposited under this bill cover the certification process of the BIPs, the bill will have an indeterminate negative fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill revives, reenacts, and amends s. 741.327 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.)

CS by Children, Families, and Elder Affairs on March 2, 2021:

The committee substitute provides the number of the tied bill, SB 680, to the bill.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁶ The DCF Analysis, p. 4.

¹⁷ *Id.*