

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 390

INTRODUCER: Senator Garcia

SUBJECT: Domestic Violence Task Force

DATE: March 3, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	Cox	CF	Pre-meeting
2.	_____	_____	AHS	_____
3.	_____	_____	FP	_____

I. Summary:

SB 390 creates a Domestic Violence Task Force (Task Force) adjunct to the Department of Children and Families (DCF). The DCF is required to provide administrative and support staff services to the Task Force.

The bill details the purposes of the Task Force:

- Evaluate the child welfare system in relation to domestic violence investigations and cases in Florida;
- Consider proposed legislation; and
- Make recommendations to change existing laws, rules and policies.

The Task Force consists of 11 members, including the Secretary of the DCF and the president of the Florida Partnership to End Domestic Violence, to serve as co-chairs, and nine other individuals appointed by the Governor or the Legislature.

The Task Force is required to hold its first meeting by November 1, 2023, and conduct quarterly meetings thereafter via teleconference or other electronic means. The Task Force may call upon state agencies for assistance in the discharge of its duties.

The Task Force must submit a final report on its findings and recommendations by November 1, 2024. Upon submission of the final report, the Task Force is dissolved and the corresponding statute that created it is repealed.

This bill will have an indeterminate but likely insignificant fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

Domestic violence is a pervasive issue across the United States¹ and worldwide.² 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.³

Under Florida law, the term “domestic violence” means any assault,⁴ aggravated assault,⁵ battery,⁶ aggravated battery,⁷ sexual assault, sexual battery,⁸ stalking,⁹ aggravated stalking,¹⁰ kidnapping,¹¹ false imprisonment,¹² or any criminal offense resulting in physical injury or death of one family or household member by another family member or household member.¹³ 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

¹ National Conference of State Legislatures (NCSL), *Domestic Violence/Domestic Abuse Definitions and Relationships*, June 13, 2019, available at <https://www.ncsl.org/research/human-services/domestic-violence-domestic-abuse-definitions-and-relationships.aspx> (last visited February 15, 2023) (hereinafter cited as “NCSL DV”).

² World Health Organization, *Violence Against Women*, March 9, 2021, available at <https://www.who.int/news-room/factsheets/detail/violence-against-women> (last visited February 15, 2023).

³ U.S. Department of Justice, Office on Violence Against Women, *Domestic Violence*, available at <https://www.justice.gov/ovw/domestic-violence> (last visited February 15, 2023).

⁴ Section 784.011(1), F.S., defines “assault” as intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.

⁵ Section 784.021(1), F.S., defines “aggravated assault” as an assault with a deadly weapon without the intent to kill; or with an intent to commit a felony.

⁶ Section 784.03(1)(a), F.S., states that the offense of battery occurs when a person: actually and intentionally touches or strikes another person against the will of the other; or intentionally causes bodily harm to another person.

⁷ Section 784.045(1)(a), F.S., states a person commits aggravated battery who, in committing battery: intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or uses a deadly weapon.

⁸ Section 794.011(1)(h), F.S., defines “sexual battery” as oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

⁹ Section 748.048(2), F.S., states a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking.

¹⁰ Section 784.048(3), F.S., states that a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking. Section 784.048(1)(a), F.S., states that “harass” means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose. Section 784.048(1)(c), F.S., defines “credible threat” as a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. Section 784.048(1)(d), F.S., states “cyberstalk” means: to engage in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person; or to access, or attempt to access, the online accounts or Internet-connected home electronic systems of another person without that person’s permission. Section 784.048(1)(b), F.S., defines “course of conduct” as a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose.

¹¹ Section 787.01(1)(a), F.S., defines “kidnapping” as forcibly, secretly, or by threat confining, abducting, or imprisoning another person against her or his will and without lawful authority, with intent to: hold for ransom or reward or as a shield or hostage; commit or facilitate commission of any felony; inflict bodily harm upon or to terrorize the victim or another person; or interfere with the performance of any governmental or political function.

¹² Section 787.02(1)(a), F.S., defines “false imprisonment” as forcibly, by threat, or secretly confining, abducting, imprisoning, or restraining another person without lawful authority and against his or her will.

¹³ Section 741.28(2), F.S.

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.¹⁴ The use of threats, intimidation, isolation, and using children as pawns are examples of the tactics domestic violence perpetrators use against victims.¹⁵

Domestic violence harms all family members.¹⁶ Family violence harms the victim and presents dangers for immediate family members.¹⁷ Significant trauma, such as domestic violence, can interfere with brain and skill development of the young child.¹⁸ A child's emotional, psychological, or physical development can be harmed if he or she is exposed to violence at a young age.¹⁹ Children who witness violence are more likely to have difficulty in school, abuse drugs or alcohol, act aggressively, and suffer from depression.²⁰

Domestic Violence Data

Based on data from 2000 to 2018, approximately 26 percent of women have been subjected to physical or sexual violence from a current or former husband or male intimate partner at least once in their lifetime, totaling approximately 641 to 753 million victims.²¹ According to a national study conducted by the Centers for Disease Control and Prevention (CDC), approximately 1 in 3 women and men have experienced domestic violence acts including sexual violence, physical violence, or stalking in their lifetime, approximately 43 million women and 37 million men.²² Approximately 1 in 4 women and 1 in 9 men experience domestic violence with "related impact," meaning fear for safety, PTSD, injury, or needing services and 23.2% of women and 13.9% of men experience severe physical violence from an intimate partner during their lifetime.²³ The national cost of medical and mental health care services related to domestic violence is estimated to be over \$8 billion annually.²⁴

¹⁴ Section 741.28(3), F.S.

¹⁵ *Id.*

¹⁶ See Seifert, K. *Domestic Violence Harms All Family Members*, Psychology Today, October 30, 2012, available at <https://www.psychologytoday.com/us/blog/stop-the-cycle/201210/domestic-violence-harms-all-family-members> (last visited February 28, 2023) (hereinafter cited as "DV Harms Families").

¹⁷ U.S. Department of Justice, Office of Justice Programs, *Family Violence, Special Features*, available at <https://www.ojp.gov/feature/family-violence/overview> (last visited February 28, 2023) (hereinafter cited as "US DOJ Family Violence").

¹⁸ DV Harms Families.

¹⁹ US DOJ Family Violence.

²⁰ *Id.*

²¹ World Health Organization (WHO) on behalf of the United Nations Inter Agency Working Group on Violence Against Women Estimation and Data, *Violence Against Women Prevalence Estimates, 2018: Executive Summary*, 2018, available at: <https://www.who.int/publications/i/item/9789240026681> (last visited February 28, 2023).

²² The CDC, *The National Intimate Partner and Sexual Violence Survey: 2015 Data Brief – Updated Release*, pp. 7-9, Nov. 2018, available at <https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf> (last visited February 28, 2023) (hereinafter cited as "CDC Study").

²³ National Coalition Against Domestic Violence, *Domestic Violence Fact Sheet*, 2020, available at https://assets.speakcdn.com/assets/2497/domestic_violence-2020080709350855.pdf?1596828650457 (last visited February 28, 2023).

²⁴ Huecker, M., King, K., & others, *Domestic Violence*. National Center for Biotechnology Information, Aug. 26, 2021, available at <https://www.ncbi.nlm.nih.gov/books/NBK499891/> (last visited February 28, 2023).

The National Domestic Violence Hotline (NDVH) is available to help by phone, live chat, and text 24 hours per day, 7 days per week.²⁵ The hotline receives more than 24,000 calls per month.²⁶

Stakeholders

There are several stakeholders who are responsible for, and contribute to, the operation and functions of domestic violence programs, dependency cases, and injunctions of protection in Florida. Some of the key entities are:

The Department of Children and Families (DCF)

The DCF is required to comply with child protection and child welfare outcomes, including:

- Children are first and foremost protected from abuse and neglect;
- Children are safely maintained in their homes, if possible and appropriate;
- Services are provided to protect children and prevent removal from their home; and
- Children have permanency and stability in their living arrangements.²⁷

With respect to the duties and functions relating to domestic violence incidents, the DCF is statutorily responsible for the statewide domestic violence program. 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 Florida'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.

The DCF is also tasked with certifying and monitoring batterers' intervention programs²⁸ ("BIP") that are used by the justice system to ensure statewide consistency, including but not

²⁵ NDVH, *Here for You*, available at <https://www.thehotline.org/> (last visited February 28, 2023).

²⁶ U.S. Department of Health & Human Services, Family and Youth Services Bureau, *The National Domestic Violence Hotline*, available at <https://www.acf.hhs.gov/fysb/ndvh> (last visited February 28, 2023).

²⁷ Section 409.986(2), F.S.

²⁸ BIPs are designed to address the root cause of domestic violence and deter participants from committing acts of domestic violence in the future. Battered Women's Justice Project, *Current Research on Batterer Intervention Programs and*

limited to, developing criteria for the approval, suspension, or rejection of certification of BIPs.²⁹ In September of 2022, the DCF adopted rules to administer this section.³⁰

Florida Partnership to End Domestic Violence (FPEDV)

In 2020, the FPEDV replaced the Florida Coalition Against Domestic Violence (“Coalition”) following a finding that the chief executive officer of the Coalition was paid more than \$7.5 million over three years.³¹ Federal law requires each state to have a State Domestic Violence Coalition to access federal funding provided for in the Family Violence Prevention and Services Act.³² The FPEDV is Florida’s federally recognized Domestic Violence Coalition.³³

The FPEDV’s mission is to eliminate domestic violence by promoting safe families, providing technical assistance to centers and providers, and engaging in systems and social change. It is tasked with:

- Providing education, support and technical assistance for domestic violence service providers;
- Serving as an information clearinghouse, primary point of contact, and resource center on domestic violence in the state;
- Following and providing updates on relevant national developments;
- Supporting the development of policies, protocols, and procedures to improve domestic violence intervention and prevention in Florida; and
- Working cooperatively with all related state and federal agencies.³⁴

Implications for Policy, p. 1, Dec. 2017, available at <https://www.bwjp.org/assets/batterer-intervention-paper-final-2018.pdf> (last visited February 28, 2023).

²⁹ Chapter No. 2021-152, L.O.F., in part, revived, reenacted, and amended s. 741.327, F.S., to authorize the DCF to certify and monitor BIPs. The DCF was authorized to adopt rules to administer this section, including but not limited to, developing criteria for the approval, suspension, or rejection of certification of BIPs. Prior to 2021, the DCF performed this role from 2001 through 2012 under s. 741.325, F.S. However, the General Appropriations Act of 2011-2012 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. Ch. 2011-69, L.O.F.

³⁰ Rules 65H-2.014 – 2.021, F.A.C.

³¹ See Dan Sweeney, *Disgraced nonprofit CEO served a subpoena via Twitter by Florida House*, Sun Sentinel, Mar. 05, 2020, available at <https://www.sun-sentinel.com/news/politics/fl-ne-tiffany-carr-subpoena-twitter-20200305-vhqbdq5ucnc3tajblvkezerh64-story.html>; Renzo Downey, *Ron DeSantis calls for reviews of state’s private-public contracts*, Florida Politics, Feb 20, 2020, available at <https://floridapolitics.com/archives/320097-ron-desantis-calls-for-reviews-of-states-private-public-contracts/>; Mary Ellen Klas, *Tampa Bay Times, Eckerd Connects in Clearwater Exceeded Florida Cap on Salaries, Says IG Report*, Oct. 19, 2021, available at [Eckerd Connects in Clearwater exceeded Florida cap on salaries, says IG report \(tampabay.com\)](https://www.tampabay.com/news/politics/government/eckerd-connects-in-clearwater-exceeded-florida-cap-on-salaries-says-ig-report/) (all sites last visited February 27, 2023).

³² 42 U.S.C. §10411(c).

³³ The Florida Partnership to End Domestic Violence, About Us, *Our Story*, available at <https://www.fpedv.org/about-us/#who> (last visited February 23, 2023).

³⁴ *Id.*

Domestic Violence Centers

Domestic violence centers provide services to survivors of domestic violence.³⁵ 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.³⁶

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 and case management.
- Education for community awareness.
- Nonresidential outreach.
- Training for law enforcement and other professionals.
- Other ancillary services such as relocation assistance, daycare, and transitional housing.³⁷

Domestic violence centers are certified by the DCF in order to receive state funding.³⁸ The DCF sets criteria for certification and minimum standards to ensure the health and safety of clients served.³⁹ To be eligible for certification as a domestic violence center, an applicant must apply to the DCF and be a not-for-profit entity.⁴⁰ A domestic violence center's primary mission must be to provide services to survivors of domestic violence. Certified domestic violence centers employ staff and rely on volunteers to provide services to survivors.

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.⁴¹ 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.⁴² 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.⁴³

³⁵ Section 39.902(2), F.S.; Rule 65H-1.011, F.A.C.

³⁶ The Department of Children and Families, *Office of Domestic Violence*, available at <https://www.myflfamilies.com/services/abuse/domestic-violence/office-domestic-violence> (last visited February 23, 2023).

³⁷ *Id.*

³⁸ Section 39.905(6)(a), F.S.

³⁹ Sections 39.903(9) and 39.905(1), F.S.; Rule 65H-1, F.A.C.

⁴⁰ The DCF, *Domestic Violence Center Certification, Application for Certification, Form CF613*, p. 3, January 2015, available at https://www.myflfamilies.com/sites/default/files/2022-10/CF-613_Application-for-Certification.pdf (last visited February 23, 2023).

⁴¹ Section 39.905(1)(i), F.S.; Rule 65H-1.012, F.A.C.

⁴² Section 39.905(1)(h), F.S.; Rule 65H-1.012, F.A.C.

⁴³ Section 39.905(3), F.S.; Rule 65H-1.012, F.A.C.

During FY 2019-20, Florida's certified domestic violence centers⁴⁴ provided emergency shelter to 13,250 survivors of domestic violence and their children.⁴⁵

Law Enforcement

Law enforcement officers are often the first person a victim of domestic violence is likely to encounter. As first responders, law enforcement officers play an important role in protecting victim safety and enhancing offender accountability. The visibility and authority of law enforcement increases the likelihood that a person experiencing domestic violence will come into contact with such officers. The goal of the law enforcement response to domestic violence should be to reduce the prevalence and frequency of the crime, while preserving officer safety. Domestic violence calls are among the most dangerous situations in which an officer may find himself or herself.⁴⁶

Section 741.29, F.S., requires law enforcement officers investigating an alleged incident of domestic violence to perform certain actions to:

- Assist the victim to obtain medical treatment if such is required as a result of the alleged incident to which the officer responds.
- Advise the victim that there is a domestic violence center from which the victim may receive services.
- Give the victim immediate notice of the legal rights and remedies available on a standard form.

In 2020, there were 106,515 crimes of domestic violence reported to the Florida Department of Law Enforcement which resulted in 63,217 arrests.⁴⁷

Domestic Violence Courts

Domestic violence cases that relate to injunctions are a family court case, but many of the legal issues overlap with several other types of cases, such as dependency and dissolution cases. Several circuits, such as the tenth, eleventh, and seventeenth, have domestic violence courts.⁴⁸ Some circuits have several judges who are assigned exclusively to hear domestic violence

⁴⁴ Section 39.902(2), F.S.; Rule 65H-1.011, F.A.C. provide that domestic violence centers provide services to survivors of domestic violence. 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. The Department of Children and Families, *Office of Domestic Violence*, available at <https://www.myflfamilies.com/services/abuse/domestic-violence/office-domestic-violence> (last visited February 23, 2023).

⁴⁵ *Id.*

⁴⁶ See Stop Violence Against Women, *Role of Police*, available at https://www.stopvaw.org/role_of_police; See also Palm Beach County Law Enforcement Guidelines *Domestic Violence Investigations*, p. 4, available at <https://www.flsheriffs.org/uploads/DVprotocolFNL.pdf> (all sites last visited February 23, 2023).

⁴⁷ The DCF, *Domestic Violence Statistics*, available at <https://www.myflfamilies.com/services/abuse/domestic-violence/resources/domestic-violence-statistics> (last visited February 23, 2023) (hereinafter cited as "Florida DV Statistics") [citing the FDLE, *UCR Domestic Violence*, available at <https://www.fdle.state.fl.us/CJAB/UCR/Annual-Reports/UCR-Domestic-Violence.aspx>, (last visited February 23, 2023)].

⁴⁸ See Tenth Judicial Circuit, *Domestic Violence*, available at <https://www.jud10.flcourts.org/domestic-violence>; Eleventh Judicial Circuit, *Domestic Violence*, available at <https://www.jud11.flcourts.org/About-the-Court/Court-Divisions/Domestic-Violence> (hereinafter cited as "11th Circuit DV Courts"); Seventeenth Judicial Circuit, *Domestic Violence*, available at <http://www.17th.flcourts.org/06-domestic-violence/> (hereinafter cited as "17th Circuit DV Courts") (all sites last visited February 23, 2023).

cases,⁴⁹ whereas other circuits do not specify the number of judges, if any, who are designated exclusively as domestic violence courts.⁵⁰ Florida's Domestic Violence Benchbook is a comprehensive book available to courts that addresses issues related to domestic violence injunctions, mandatory reporting, civil and criminal proceedings outlines, child support in domestic violence proceedings and other relevant case materials.⁵¹

Batterers' Intervention Program (BIP)

BIPs emerged in the United States in the late 1970's as one component of the social response to domestic violence.⁵² BIPs are designed to address the root cause of domestic violence and deter participants from committing acts of domestic violence in the future.⁵³

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;
- Program content must be based on a cognitive behavioral therapy model or 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.⁵⁴

There are several BIP providers throughout the state.⁵⁵ A list of them may be found on the Department of Children and Families (DCF) website.⁵⁶

⁴⁹ See 11th Circuit DV Courts noting that there are seven judges who exclusively hear domestic violence cases. *See also* 17th Circuit DV Courts noting that there are four judges who are assigned to criminal and civil domestic violence divisions.

⁵⁰ Florida Second Judicial Circuit, *Navigating the Court System*, available at <http://2ndcircuit.leoncountyfl.gov/courtSystem.php> (last visited February 23, 2023) (noting that circuit courts are courts of general jurisdiction that handle domestic relations cases and explicitly refer to family courts but not domestic violence). *See also* Florida Eighth Judicial Circuit, *The Eighth Judicial Circuit of Florida Administrative Order 9.03 (v 2022-1), General Assignments*, available at <https://circuit8.org/wp-content/uploads/9.03-v2022-General-Assignments-Effective-January-1-2022-December-31-2022.pdf> (list visited February 23, 2023).

⁵¹ *See* the OSCA, *Florida's Domestic Violence Benchbook*, June 2020, available at <https://www.flcourts.org/content/download/719254/file/Domestic-Violence-Benchbook-2020.pdf> (last visited February 28, 2023).

⁵² 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 February 28, 2023) (hereinafter cited as "Research on BIP and Policy Implications").

⁵³ *Id.* at p. 3, 6.

⁵⁴ Section 741.325(1)(e), F.S., provides an exception that allows for batterers' intervention programs to also be partially or wholly funded by local, state, or federal programs.

⁵⁵ The DCF, *Find a Local Batterers Intervention Program*, available at <https://www.myflfamilies.com/services/abuse/domestic-violence/resources/find-local-batterers-intervention-program> (last visited February 28, 2023).

⁵⁶ *Id.*

Child Protective Investigations

The DCF is required to investigate reports of known or suspected child abuse, abandonment, or neglect that are determined to require investigation by the central abuse hotline.⁵⁷ A child protective investigator has certain responsibilities, including, in part:

- Conducting investigations relating to allegations of abuse, abandonment, and/or special conditions for children;
- Assessing danger threats, child vulnerabilities and caregiver protective capacities in order to determine whether a child is safe or not safe;
- Working closely with law enforcement;
- Collecting information through observation and interviews with certain persons, including the children and parents;
- Providing written present and impending danger assessments; and
- Completing a Risk Assessment on families investigated and explaining risk score to family.⁵⁸

Currently, seven county sheriff offices conduct child protective investigations through a grant agreement with the DCF, including Pinellas, Pasco, Manatee, Hillsborough, Broward, Seminole, and Walton.⁵⁹ In February 2023, the DCF announced plans to transition all child protective investigative functions back to the DCF and committed to working with the Florida Legislature to formulate a plan that ensures as smooth of a transition as possible.⁶⁰

Community-based Care Lead Agencies

A lead agency is a single entity with which the DCF has a contract for the provision of care in the child welfare system.⁶¹ The DCF enters into 5-year contracts with lead agencies for the procurement of services.⁶² There are minimum requirements with which lead agencies must comply to be eligible to contract with the DCF.⁶³

The lead agencies are obligated to perform several duties, which apply to domestic violence reports and cases, including, in part, to:

- Serve the children who are referred as a result of abuse, abandonment, or neglect reports;
- Provide accurate and timely information to the DCF, as specified in s. 409.997, F.S.;
- Prepare and file all necessary court documents, and attend dependency court proceedings to give evidence;
- Ensure all individuals providing care to dependent children receive training and specified information and meet employment requirements;

⁵⁷ Section 39.301, F.S.

⁵⁸ The DCF, *Child Protective Investigator*, available at <https://www.myflfamilies.com/about/careers/job-opportunities/child-protective-investigator> (last visited February 28, 2023).

⁵⁹ The DCF, *Sheriff Offices Conducting Child Protective Investigations*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/sheriff-offices-conducting-child-protective> (last visited February 28, 2023).

⁶⁰ Letter from Secretary Shevaun Harris announcing the transition of CPI duties back to the DCF from Sheriff Offices currently in charge of child protective investigations. February 17, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁶¹ Section 409.986(3)(d), F.S.

⁶² Section 409.987(3), F.S.

⁶³ See s. 409.987(4), F.S.

- Comply with federal and state statutory requirements and agency rules in the provision of contractual rules; and
- Use authority to subcontract for the provision of services provided the lead agency contribute to services and meet specified criteria.⁶⁴

The DCF contracts with the following lead agencies as illustrated in the table and map below:⁶⁵

<u>Lead Agency</u>	<u>Circuit(s)</u>
Northwest Florida Health Network	1
Northwest Florida Health Network	2 & 14
Partnership for Strong Families	3 & 8
Family Support Services of North Florida	4 (Duval, Nassau)
Kids First of Florida	4 (Clay)
Kids Central	5
Family Support Services of SunCoast	6
Children’s Network Of Hillsborough	13
St Johns County Board of County Commissioners	7 (St Johns)
Community Partnership for Children	7 (Flagler, Volusia, Putnam)
Embrace Families	9 and 18 (Seminole)
Heartland for Children	10
Citrus Family Care Network	11 and 16
Safe Children Coalition	12
ChildNet Inc.	15 and 17
Brevard Family Partnership	18 (Brevard)
Communities Connected for Kids	19
Children’s Network of SW Florida	20

Dependency Process

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the Florida’s central abuse hotline (hotline), including incidents of domestic violence.⁶⁶ A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse,⁶⁷ abandonment,⁶⁸ or

⁶⁴ Section 409.988(1), F.S.

⁶⁵ The DCF, *Lead Agency Information*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/lead-agency-information> (last visited February 28, 2023).

⁶⁶ Section 39.201(1), F.S.

⁶⁷ Section 39.01(2), F.S. The term “abuse” means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

⁶⁸ Section 39.01(1), F.S. The term “abandoned” or “abandonment” means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution

neglect.⁶⁹ A child protective investigator investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.⁷⁰

After conducting an investigation, if the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.⁷¹ The dependency court process is summarized in the table below.

The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines a child is unsafe in his or her home and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Post-disposition hearing	The court may change temporary placement at a post disposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.

to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both.

⁶⁹ Sections 39.01(50) and 39.201(2)(a), F.S. “Neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

⁷⁰ Section 39.101(2), F.S.

⁷¹ See s. 39.01(14), F.S., for the definition of “child who is found to be dependent”.

Dependency Proceeding	Description of Process	Controlling Statute
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

Child Welfare and Domestic Violence

Domestic violence can be a basis for a child becoming the subject of a dependency proceeding as described above if the allegations meet the statutory definition of abuse, abandonment, or neglect.

Often, complex relational dynamics are at play in an impacted household, creating multiple risk factors for those who are experiencing violence. Some examples these dynamics can be expressed with the following hypothetical circumstances:

- The offending parent may make allegations of child abuse and neglect against the non-offending parent as a control tactic.
- A survivor may decide to leave the relationship with the offending parent without having the financial resources to care for the children.
- The survivor might stay in a dangerous household for fear of more severe retaliation if he or she were to leave with the children.⁷²

In households where domestic violence is present, children’s experiences can range from overhearing or witnessing confrontations, to being hurt when intervening, or directly experiencing abuse. Several factors influence the impact of domestic violence on children, including the nature of the violence, the age and gender of the child, the amount of time that has elapsed since the child’s exposure to violence, and the presence of child maltreatment. It is important to note that not all children exposed to domestic violence experience negative effects, in part due to protective factors such as social competence and supportive relationships with adults.⁷³

⁷² Child Welfare.gov, *FACT Sheets, Domestic Violence: A Primer for Child Welfare Professionals*, December 2020, p. 2-3, available at https://www.childwelfare.gov/pubPDFs/domestic_violence.pdf (last visited February 28, 2023).

⁷³ *Id.* at p. 3.

When domestic violence is identified and a case is screened in for services, caseworkers are tasked with assessing safety and risk in the household. The extensive overlap between domestic violence and child maltreatment requires a specialized and coordinated response in child welfare casework.⁷⁴

Termination of Parental Rights

Section 39.806, F.S., authorizes the DCF to file a petition for termination of parental rights (TPR) against both parents when they fail to remedy the family problems that brought a child into the dependency system.⁷⁵ Alternatively, the DCF may move to terminate only one of the parent's rights if it can prove certain grounds, such as incarceration, egregious conduct, aggravated child abuse, murder or manslaughter of the other parent or another child, or felony battery that resulted in serious bodily injury to the child or another child.⁷⁶

Safe & Together Model (SATM)

The SATM was developed by the Safe & Together Institute (SATI) and is an internationally recognized model designed to increase child welfare professionals' proficiency in domestic violence informed practice and advanced training options, including certification programs.⁷⁷ Child welfare professionals and domestic violence advocates throughout the state have received domestic violence training and technical assistance.⁷⁸ The SATI has worked with child welfare professionals and local community partners in several states, including Florida, to implement the SATM.⁷⁹

It is unclear to what extent this model is being utilized currently in Florida to address allegations of abuse, abandonment, or neglect where domestic violence is occurring in the home and to what extent children are being removed from his or her caregiver as a result of such actions.

Injunctions

Current law establishes a cause of action for an injunction for protection against domestic violence.⁸⁰ The circuit court has jurisdiction to hear a petition for injunction. 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.⁸¹ 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

⁷⁴ *Id.* at p. 6.

⁷⁵ Section 39.8055, F.S.

⁷⁶ Sections 39.806 and 39.811(6), F.S.

⁷⁷ The SATI, *Model Overview*, available at <https://safeandtogetherinstitute.com/the-sti-model/model-overview/> (last visited February 28, 2023).

⁷⁸ The SATI, *Florida co-located advocates, Florida DCF and Safe and Together model combine to reduce removal of children from domestic violence survivors in half*, available at <https://safeandtogetherinstitute.com/florida-co-located-advocates-florida-dcf-and-safe-and-together-model-combine-to-reduce-removal-of-children-from-domestic-violence-survivors-in-half/> (last visited February 28, 2023).

⁷⁹ The SATI, *Model Effectiveness and Results*, available at <https://safeandtogetherinstitute.com/the-sti-model/model-effectiveness-and-results/> (last visited February 28, 2023).

⁸⁰ Section 741.30(1), F.S.

⁸¹ Section 741.30(1)(a), F.S.

whom the petitioner had a child.⁸² A person is not precluded from requesting an injunction because he or she is not a spouse.⁸³ The court is prohibited from issuing mutual orders of protection, but may issue separate injunctions for petition against domestic violence where each party has complied with the provisions under law which cannot be waived.⁸⁴

An injunction may be sought even if there is no other cause of action pending between the parties, but a petitioner must disclose the pendency of any such action in a petition.⁸⁵ If an action is filed under ch. 61, F.S., regarding dissolution of marriage, support and time-sharing, any order entered in that proceeding takes precedence over any inconsistent provision of an injunction ordered under s. 741.30, F.S., which addresses matters governed by ch. 61, F.S.⁸⁶

A sworn petition for injunction for protection against domestic violence must contain specific allegations of domestic violence, including facts and circumstances upon the basis of which relief is sought.⁸⁷ Effective October 1, 2002, the clerk of the court may not assess a fee for filing a petition for protection against domestic violence.⁸⁸ The clerk of the court is tasked with several responsibilities with respect to injunction proceedings, for instance providing simplified petition forms for the injunction, any modifications, and the enforcement of them, including instructions for completion.⁸⁹

A domestic violence form pack and form packs for other injunctions, such as stalking and repeat violence, as well as helpful information and links on domestic violence are available on some clerk of courts websites, such as the Broward County Clerk of Court.⁹⁰ Current law sets out a sample of a sworn petition which must be in substantially the same form when it is filed with the court to request an injunction for domestic violence.⁹¹

If the sworn petition seeks to determine a parenting plan and time-sharing schedule with regard to the parties' minor child or children, allegations required under s. 61.522, F.S., of the Uniform Child Custody Jurisdiction and Enforcement Act must be accompanied by or included incorporated into the petition.⁹²

In determining whether there is reasonable cause to believe that the petitioner is in imminent danger of becoming a victim of domestic violence, the court must consider and evaluate all relevant factors alleged in the petition, including, but not limited to:

- The history between the petitioner and respondent, including any threats, harassment, stalking, or physical abuse;

⁸² Section 741.30(3)(f), F.S.

⁸³ Section 741.30(1)(e), F.S.

⁸⁴ Section 741.30(1)(i), F.S.

⁸⁵ Section 741.30(1)(b), F.S.

⁸⁶ Section 741.30(1)(c), F.S.

⁸⁷ Section 741.30(3)(a), F.S.

⁸⁸ Section 741.30(2)(a), F.S.

⁸⁹ *Id.*

⁹⁰ Brenda D. Forman, Clerk of Courts (COC), *Domestic Violence Forms and Self-Help*, available at <https://www.browardclerk.org/Divisions/DomesticViolence#FormsAndSelfHelp> (last visited February 28, 2023).

⁹¹ Section 741.30(3)(b), F.S.

⁹² Section 741.30(3)(d), F.S.

- Whether the respondent has attempted to harm the petitioner or individuals closely associated with the petitioner;
- Whether the respondent has threatened to conceal, kidnap, or harm the petitioner's child;
- Whether the respondent has intentionally injured or killed a family pet;
- Whether the respondent has used, or has threatened to use, against the petitioner any weapons;
- Whether the respondent has a criminal history involving violence or the threat of violence;
- The existence of a verifiable order of protection issued previously or from another jurisdiction;
- Whether the respondent has destroyed personal property; and
- Whether the respondent engaged in any other behavior or conduct that leads the petitioner to have reasonable cause to believe that he or she is in imminent danger of becoming a victim of domestic violence.⁹³

The court may grant a temporary injunction ex parte, pending a full hearing, if it appears that an immediate and present danger of domestic violence exists.⁹⁴ The court may grant such relief that it deems proper, including an injunction:

- Restraining the respondent from committing any acts of domestic violence;
- Awarding to the petitioner the temporary and exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner;
- On the same basis as provided in s. 61.13, F.S., providing the petitioner a temporary parenting plan, including a time-sharing schedule, which may award the petitioner up to 100 percent of the time-sharing;
- Ordering the respondent to participate in treatment, intervention, or counseling services;
- Referring a petitioner to a certified domestic violence center;⁹⁵
- Awarding to the petitioner the temporary, exclusive care, possession, or control of an animal that is owned or cared for by certain persons, including the parties to the injunction; and
- Ordering such other relief as the court deems necessary for the protection of a victim.⁹⁶

Relief ordered that restrains the respondent from committing any acts of domestic violence or other relief granted that the court deems is necessary for protection of the victim remain in effect until the injunction is modified or dissolved.⁹⁷ Any temporary parenting plan remains in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting certain parenting rights, including, but not limited to, placement, adoption or time-sharing.⁹⁸

A temporary or final judgment on injunction must explicitly state that:

- The injunction is valid and enforceable in all counties in the State of Florida;
- Law enforcement officers may use their arrest powers under s. 901.15(6), F.S. to enforce the terms of the injunction;

⁹³ Section 741.30(6)(b), F.S.

⁹⁴ Section 741.30(6)(a), F.S.

⁹⁵ Section 741.30(6)(a)6., F.S., requires the court to provide the petitioner with a list of certified domestic centers.

⁹⁶ Section 741.30(6)(a), F.S.

⁹⁷ Section 741.30(6)(c), F.S., provides that any party may move to modify or dissolve the injunction at any time.

⁹⁸ Section 741.30(6)(a)4., F.S.

- The court had jurisdiction over the parties and matter under the laws of Florida and that reasonable notice and opportunity to be heard was given to the person against whom the order is sought sufficient to protect that person’s due process rights;
- The date the respondent was served with the temporary or final order, if the information is known;⁹⁹ and
- It is a violation of s. 790.233, F.S., and a first degree misdemeanor, for the respondent to possess or control any firearm or ammunition.¹⁰⁰

The court may also include in the injunction an order that the respondent attend a BIP, and must order it in certain circumstances.¹⁰¹ When the court orders the alleged perpetrator to participate in a BIP, the court must provide a list of batterers’ intervention programs.¹⁰²

Task Force

Section 20.03, F.S., includes definitions related to organizational structure. It defines a “task force” as an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.¹⁰³

Florida has established a number of task forces in the past related to child welfare. These have typically been created either by the Governor or DCF’s Secretary in response to a tragic incident involving a child under DCF’s custody. Examples of these include, in part:

- The Nubia Report, the Investigative Panel’s Findings and Recommendations, 2011.¹⁰⁴
- Report of Gabriel Myers Work Group on Child-on-Child Sexual Abuse, 2010.¹⁰⁵
- Governor’s Blue Ribbon Panel on Child Protection, 2003 (Rilya Wilson).¹⁰⁶

There is currently no task force that evaluates the impact of domestic violence and the removal of a child and initiation of dependency proceedings as a result of such domestic violence.

III. Effect of Proposed Changes:

The bill creates a Task Force, as the term “task force” is defined in current law, adjunct to the Department of Children and Families (DCF), which must provide administrative and support staff services for the Task Force.

⁹⁹ Section 741.30(6)(d), F.S.

¹⁰⁰ Section 741.30(6)(g), F.S.

¹⁰¹ Section 741.30(6)(e), F.S.

¹⁰² Section 741.30(6)(a)5., F.S.

¹⁰³ Section 20.30(8), F.S.

¹⁰⁴ Lawrence, D., Martinez, R., and Sewell, J., *The Nubia Report, The Investigative Panel’s Findings and Recommendations*, available at <https://www2.myflfamilies.com/service-programs/child-welfare/kids/publications/docs/taskforce/NubiasStory.pdf> (last visited March 3, 2023).

¹⁰⁵ The DCF, *Report of Gabriel Myers Work Group*, available at <https://myflfamilies.com/sites/default/files/2022-12/Gabriel%20Myers%20COC%20Report%20May%2014%202010.pdf> (last visited March 3, 2023).

¹⁰⁶ The DCF, *Governor’s Blue Ribbon Panel on Child Protection*, available at <https://www2.myflfamilies.com/service-programs/child-welfare/kids/publications/docs/taskforce/BlueRibbonFinal110703.pdf> (last visited March 3, 2023).

The bill sets out the purposes of the Task Force which are to:

- Evaluate the child welfare system in relation to domestic violence investigations and cases in Florida;
- Consider proposed legislation; and
- Make recommendations to change existing laws, rules, and policies.

The Task Force is comprised of eleven members. Two members are specifically provided for by title, and serve as co-chairs, including the Secretary of the DCF, or the secretary's designee, and the president of the Florida Partnership to End Domestic Violence, or the president's designee. The Governor, the President of the Senate, or the Speaker of the House of Representatives each appoint three of the nine remaining members. Specifically, the Governor must appoint:

- A representative of domestic violence courts;
- A representative of a certified batterers' intervention program; and
- A representative from the field of law enforcement.

The President of the Senate must appoint:

- A domestic violence victim;
- A child protective investigator from the DCF; and
- A chief executive officer of a community-based care lead agency.

The Speaker of the House of Representatives must appoint:

- A representative of a certified domestic violence center;
- A representative from a county sheriff's office protective investigation team; and
- A licensed therapist who specializes in treating victims of domestic violence.

The nine members must be appointed by October 1, 2023, and they will be appointed to serve at the pleasure of the appointing authority. A vacancy on the Task Force must be filled in the same manner as the original appointment.

The Task Force must convene its first meeting by no later than November 1, 2023, and must meet quarterly or upon the call of the chair. It must hold its meetings by teleconference or other electronic means.

The bill sets out the duties of the Task Force which include, in summary, to:

- Examine the effectiveness of current operations and treatment in batterers' intervention programs, the consistency in enforcement of laws, and the level of accountability of agencies and providers;
- Elicit feedback and seek input from stakeholders who are responsible for domestic violence investigations and cases regarding certain changes;
- Develop best practices, policies and procedures relating to specified issues;
- Develop updated protocols, as necessary, to ensure that policies relating to certain domestic violence reports and cases are consistently enforced;
- Develop policies relating to the roles of the DCF and the Florida Partnership to End Domestic Violence with respect to specified domestic violence incidents with a goal of optimizing accountability;

- Evaluate the appropriateness of establishing a diversion program model for victims of domestic violence;¹⁰⁷
- Determine the need for updated definitions and corresponding provisions applicable to domestic violence abuse reports and dependency cases, such as “failure to protect” and “intimate partner violence”;
- Determine when a domestic violence victim’s failure to protect his or her child may be used as a basis to file a shelter petition;
- Evaluate steps needed, as appropriate, to ensure proper implementation of and adherence to, as appropriate, the SATM; and
- Determine what steps should be taken during a domestic violence investigation to ensure certain goals are met.

The Task Force may call upon appropriate departments and agencies of state government for professional assistance as may be needed in the discharge of its duties, and such agencies must provide such assistance in a timely manner.

The Task Force is required to submit an interim report by May 1, 2024, and a final report by November 1, 2024, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must contain its findings and recommendations on best practices, policies, and procedures regarding:

- Domestic Violence reports and cases involving children; and
- Proposed changes to current legislation to implement the Task Force’s recommendations.

The Task Force is set to dissolve upon submission of its final report. The new section created under the bill to establish the Task Force is repealed on November 1, 2025, unless saved from repeal through reenactment by the Legislature.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁰⁷ There currently is no diversion program model in Florida for domestic violence victims related to dependency cases. No such model has been identified as being used in any other state.

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 bill will likely have an insignificant fiscal impact on state government. However, the DCF, which is responsible for providing administrative and support services to the Task Force, can likely absorb any workload or support costs through its existing base budget.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the section 39.909 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.