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1 A bill to be entitled
2 An act relating to domestic violence; amending s.
3 39.902, F.S.; providing a definition; amending s.
4 39.903, F.S.; revising provisions relating to
5 certification of domestic violence centers; providing
6 specified additional duties for and authority of the
7 Florida Coalition Against Domestic Violence; revising
8 the duties of the Department of Children and Family
9 Services; requiring the department to contract with the
10 Florida Coalition Against Domestic Violence for
11 specified purposes; amending s. 39.904, F.S.; requiring
12 the Florida Coalition Against Domestic Violence rather
13 than the department to make a specified annual report;
14 revising the contents of the report; amending s. 39.905,
15 F.S.; requiring the Florida Coalition Against Domestic
16 Violence rather than the department to perform certain
17 duties relating to certification of domestic violence
18 centers; revising provisions relating to certification
19 of domestic violence centers; revising the demonstration
20 of need for certification of a new domestic violence
21 center; revising provisions relating to expiration of a
22 center's annual certificate; amending ss. 381.006,
23 381.0072, 741.281, 741.2902, 741.30, and 741.316, F.S.;
24 conforming provisions to changes made by the act;
25 amending s. 741.32, F.S.; deleting the Office for
26 Certification and Monitoring of Batterers' Intervention
27 Programs; amending s. 741.325, F.S.; revising the
28 guidelines for batterers' intervention programs; repealing

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s. 741.327, F.S., relating to certification and monitoring of batterers' intervention programs; amending ss. 948.038 and 938.01, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 39.903, Florida Statutes, is amended to read:

39.903 Duties and functions of the department with respect to domestic violence.—

(1) The department shall:

(a) Develop by rule criteria for the approval, suspension or rejection of certification ~~or funding~~ of domestic violence centers.

(b) Develop by rule minimum standards for domestic violence centers to ensure the health and safety of the clients in the centers.

(c) Receive and approve or reject applications for initial certification of domestic violence centers. Such certification may be renewed annually thereafter by the department upon a favorable monitoring report by the Florida Coalition Against Domestic Violence. If any of the required services are exempted from certification by the department under s. 39.905(1)(c), the center may ~~shall~~ not receive funding from the Florida Coalition Against Domestic Violence for those services.

(d) May ~~Evaluate each certified domestic violence center annually to ensure compliance with the minimum standards. The~~

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~~department has the right to enter and inspect the premises of~~
domestic violence centers applying for an initial certification,
or which have received an unfavorable monitoring report.
~~certified domestic violence centers at any reasonable hour in~~
~~order to effectively evaluate the state of compliance with~~
minimum standards. of these centers with this part and rules
relating to this part. The Florida Coalition Against Domestic
Violence may enter and inspect the premises of certified
domestic violence centers for monitoring purposes.

(e) Adopt rules to implement this part.

(f) Promote the involvement of certified domestic violence
centers in the coordination, development, and planning of
domestic violence programming in the circuits. ~~districts and the~~
~~state.~~

~~(2) The department shall serve as a clearinghouse for~~
~~information relating to domestic violence.~~

(2)(3) The department shall operate the domestic violence
program, and partner with the Florida Coalition Against Domestic
Violence in which provides supervision, direction, coordination,
and administration of statewide activities related to the
prevention of domestic violence.

(3)(4) The department shall coordinate with state agencies
having health, education, or criminal justice responsibilities
to raise awareness of domestic violence and promote consistent
policy implementation. ~~enlist the assistance of public and~~
~~voluntary health, education, welfare, and rehabilitation~~
~~agencies in a concerted effort to prevent domestic violence and~~
~~to treat persons engaged in or subject to domestic violence.~~

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85 ~~With the assistance of these agencies, the department, within~~
86 ~~existing resources, shall formulate and conduct a research and~~
87 ~~evaluation program on domestic violence. Efforts on the part of~~
88 ~~these agencies to obtain relevant grants to fund this research~~
89 ~~and evaluation program must be supported by the department.~~

90 ~~(5) The department shall develop and provide educational~~
91 ~~programs on domestic violence for the benefit of the general~~
92 ~~public, persons engaged in or subject to domestic violence,~~
93 ~~professional persons, or others who care for or may be engaged~~
94 ~~in the care and treatment of persons engaged in or subject to~~
95 ~~domestic violence.~~

96 (4)~~(6)~~ The department shall cooperate with, assist in, and
97 participate in, programs of other properly qualified state
98 agencies, federal agencies, private organizations ~~including any~~
99 ~~agency of the Federal Government, schools of medicine,~~
100 ~~hospitals, and clinics, in planning and conducting research on~~
101 ~~the prevention of domestic violence and provision of services to~~
102 ~~clients, care, treatment, and rehabilitation of persons engaged~~
103 ~~in or subject to domestic violence.~~

104 (5)~~(7)~~ The department shall contract with the Florida
105 Coalition Against Domestic Violence for the delivery and
106 management of services for the state's domestic violence
107 program. Services under this contract shall include, but are
108 not limited to, administration of contracts and grants
109 associated with the implementation of the state's domestic
110 violence program. As part of its management of the delivery of
111 services for the state's domestic violence program, the a
112 ~~statewide association whose primary purpose is to represent and~~

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113 ~~provide technical assistance to certified domestic violence~~
114 ~~centers. This~~ Florida Coalition Against Domestic Violence
115 ~~association~~ shall implement, administer, and evaluate all
116 services provided by the certified domestic violence centers, ~~and~~
117 ~~The association shall~~ receive and approve or reject applications
118 for funding of certified domestic violence centers, and monitor
119 certified domestic violence centers to determine compliance with
120 minimum certification standards. When approving funding for a
121 newly certified domestic violence center, the Florida Coalition
122 Against Domestic Violence ~~association~~ shall make every effort to
123 minimize any adverse economic impact on existing certified
124 domestic violence centers or services provided within the same
125 service area. In order to minimize duplication of services, the
126 Florida Coalition Against Domestic Violence ~~association~~ shall
127 make every effort to encourage subcontracting relationships with
128 existing certified domestic violence centers within the same
129 service area. In distributing funds allocated by the Legislature
130 for certified domestic violence centers, the Florida Coalition
131 Against Domestic Violence ~~association~~ shall use a formula
132 approved by the department as specified in s. 39.905(7)(a).

133 (6) The department shall consider and award applications
134 from certified domestic violence centers for capital improvement
135 grants pursuant to s. 39.9055.

136 Section 2. Section 39.904, Florida Statutes, is amended to
137 read:

138 39.904 Report to the Legislature on the status of domestic
139 violence cases.—On or before January 1 of each year, the Florida
140 Coalition Against Domestic Violence ~~department~~ shall furnish to

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141 the President of the Senate and the Speaker of the House of
142 Representatives a report subject to the approval of the
143 department, on the status of domestic violence in this state,
144 which ~~report~~ shall include, but is not limited to, the
145 following:

146 (1) The incidence of domestic violence in this state.

147 (2) An identification of the areas of the state where
148 domestic violence is of significant proportions, indicating the
149 number of cases of domestic violence officially reported, as
150 well as an assessment of the degree of unreported cases of
151 domestic violence.

152 (3) An identification and description of the types of
153 programs in the state that assist victims of domestic violence
154 or persons who commit domestic violence, including information
155 on funding for the programs.

156 (4) The number of persons who receive services from ~~are~~
157 ~~treated by or assisted by~~ local certified domestic violence
158 programs that receive funding through the Florida Coalition
159 Against Domestic Violence ~~department~~.

160 (5) The incidence of domestic violence homicides in the
161 state, including information and data collected from state and
162 local domestic violence fatality review teams. ~~A statement on~~
163 ~~the effectiveness of such programs in preventing future domestic~~
164 ~~violence.~~

165 ~~(6) An inventory and evaluation of existing prevention~~
166 ~~programs.~~

167 ~~(7) A listing of potential prevention efforts identified~~
168 ~~by the department; the estimated annual cost of providing such~~

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169 ~~prevention services, both for a single client and for the~~
170 ~~anticipated target population as a whole; an identification of~~
171 ~~potential sources of funding; and the projected benefits of~~
172 ~~providing such services.~~

173 Section 3. Paragraphs (c), (g) and (i) of subsection (1),
174 subsection (3), paragraph (a) of subsection (6), and paragraph
175 (b) of subsection (7) of section 39.905, Florida Statutes, are
176 amended to read:

177 39.905 Domestic violence centers.—

178 (1) Domestic violence centers certified under this part
179 must:

180 (c) Provide minimum services that ~~which~~ include, but are
181 not limited to, information and referral services, counseling
182 and case management services, temporary emergency shelter for
183 more than 24 hours, a 24-hour hotline, training for law
184 enforcement personnel, assessment and appropriate referral of
185 resident children, and educational services for community
186 awareness relative to the incidence of domestic violence, the
187 prevention of such violence, and the services available ~~care,~~
188 ~~treatment, and rehabilitation~~ for persons engaged in or subject
189 to domestic violence. If a 24-hour hotline, professional
190 training, or community education is already provided by a
191 certified domestic violence center within its designated service
192 ~~area a district~~, the department may exempt such certification
193 requirements for a new center serving the same service area
194 ~~district~~ in order to avoid duplication of services.

195 (g) File with the Florida Coalition Against Domestic
196 Violence ~~department~~ a list of the names of the domestic violence

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advocates who are employed or who volunteer at the domestic violence center who may claim a privilege under s. 90.5036 to refuse to disclose a confidential communication between a victim of domestic violence and the advocate regarding the domestic violence inflicted upon the victim. The list must include the title of the position held by the advocate whose name is listed and a description of the duties of that position. A domestic violence center must file amendments to this list as necessary.

(i) If its center is a new center applying for certification, demonstrate that the services provided address a need identified in the most current statewide needs assessment approved by the department. If the center applying for initial certification proposes providing services in an area where a certified domestic violence center exists, it must demonstrate the unmet need by the existing center and describe any efforts to reduce duplication of services.

(3) The annual certificate ~~shall~~ automatically expires on June 30 of each year. The department may temporarily extend a certification for not more than 60 days to allow a domestic violence center to implement a corrective action plan ~~the termination date shown on the certificate.~~

(6) In order to receive state funds, a center must:

(a) Obtain certification pursuant to this part. However, the issuance of a certificate does ~~will~~ not obligate the Florida Coalition Against Domestic Violence ~~department~~ to provide funding.

(7) (b) A contract between the Florida Coalition Against Domestic Violence ~~statewide association~~ and a certified domestic

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225 violence center shall contain provisions ensuring ~~assuring~~ the
226 availability and geographic accessibility of services throughout
227 the service area ~~district~~. For this purpose, a center may
228 distribute funds through subcontracts or to center satellites,
229 if provided such arrangements and any subcontracts are approved
230 by the Florida Coalition Against Domestic Violence ~~statewide~~
231 ~~association~~.

232 Section 4. Subsection (18) of section 381.006, Florida
233 Statutes, is amended to read:

234 381.006 Environmental health.—The department shall conduct
235 an environmental health program as part of fulfilling the
236 state's public health mission. The purpose of this program is to
237 detect and prevent disease caused by natural and manmade factors
238 in the environment. The environmental health program shall
239 include, but not be limited to:

240 (18) A food service inspection function for domestic
241 violence centers that are certified ~~and monitored~~ by the
242 Department of Children and Family Services under part XII of
243 chapter 39 and group care homes as described in subsection (16),
244 which shall be conducted annually and be limited to the
245 requirements in department rule applicable to community-based
246 residential facilities with five or fewer residents.

247
248 The department may adopt rules to carry out the provisions of
249 this section.

250 Section 5. Paragraph (b) of subsection (1) of section
251 381.0072, Florida Statutes, is amended to read:

252 381.0072 Food service protection.—It shall be the duty of

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the Department of Health to adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness. These rules shall provide the standards and requirements for the storage, preparation, serving, or display of food in food service establishments as defined in this section and which are not permitted or licensed under chapter 500 or chapter 509.

(1) DEFINITIONS.—As used in this section, the term:

(b) "Food service establishment" means detention facilities, public or private schools, migrant labor camps, assisted living facilities, adult family-care homes, adult day care centers, short-term residential treatment centers, residential treatment facilities, homes for special services, transitional living facilities, crisis stabilization units, hospices, prescribed pediatric extended care centers, intermediate care facilities for persons with developmental disabilities, boarding schools, civic or fraternal organizations, bars and lounges, vending machines that dispense potentially hazardous foods at facilities expressly named in this paragraph, and facilities used as temporary food events or mobile food units at any facility expressly named in this paragraph, where food is prepared and intended for individual portion service, including the site at which individual portions are provided, regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term does not include any entity not expressly named in this paragraph; nor does the term include a domestic violence center certified ~~and monitored~~ by the Department of Children and

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281 Family Services under part XII of chapter 39 if the center does
282 not prepare and serve food to its residents and does not
283 advertise food or drink for public consumption.

284 Section 6. Section 741.281, Florida Statutes, is amended
285 to read:

286 741.281 Court to order batterers' intervention program
287 attendance.—If a person is found guilty of, has had adjudication
288 withheld on, or pleads ~~has pled~~ nolo contendere to a crime of
289 domestic violence, as defined in s. 741.28, that person shall be
290 ordered by the court to a minimum term of 1 year's probation and
291 the court shall order that the defendant attend a batterers'
292 intervention program as a condition of probation. The court must
293 impose the condition of the batterers' intervention program for
294 a defendant under this section, but the court, in its
295 discretion, may determine not to impose the condition if it
296 states on the record why a batterers' intervention program might
297 be inappropriate. The court must impose the condition of the
298 batterers' intervention program for a defendant placed on
299 probation unless the court determines that the person does not
300 qualify for the batterers' intervention program pursuant to s.
301 741.325. ~~Effective July 1, 2002, the batterers' intervention~~
302 ~~program must be a certified program under s. 741.32.~~ The
303 imposition of probation under this section does ~~shall~~ not
304 preclude the court from imposing any sentence of imprisonment
305 authorized by s. 775.082.

306 Section 7. Paragraph (g) of subsection (2) of section
307 741.2902, Florida Statutes, is amended to read:

308 741.2902 Domestic violence; legislative intent with

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respect to judiciary's role.—

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

(g) Consider requiring the perpetrator to complete a batterers' intervention program. It is preferred that such program include guidelines described in s. 741.325 ~~be certified under s. 741.32.~~

Section 8. Paragraphs (a) and (e) of subsection (6) of section 741.30, Florida Statutes, are amended to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

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

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

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

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

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

4. On the same basis as provided in chapter 61, establishing temporary support for a minor child or children or the petitioner. An order of temporary support 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 child support.

5. Ordering the respondent to participate in treatment, intervention, or counseling services to be paid for by the respondent. When the court orders the respondent to participate in a batterers' intervention program, the court, or any entity designated by the court, must provide the respondent with a list of ~~all certified batterers' intervention programs and all programs which have submitted an application to the Department of Children and Family Services to become certified under s. 741.32,~~ from which the respondent must choose a program in which to participate. ~~If there are no certified batterers' intervention programs in the circuit, the court shall provide a list of acceptable programs from which the respondent must choose a program in which to participate.~~

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

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365 7. Ordering such other relief as the court deems necessary
366 for the protection of a victim of domestic violence, including
367 injunctions or directives to law enforcement agencies, as
368 provided in this section.

369 (e) An injunction for protection against domestic violence
370 entered pursuant to this section, on its face, may order that
371 the respondent attend a batterers' intervention program as a
372 condition of the injunction. Unless the court makes written
373 factual findings in its judgment or order which are based on
374 substantial evidence, stating why batterers' intervention
375 programs would be inappropriate, the court shall order the
376 respondent to attend a batterers' intervention program if:

377 1. It finds that the respondent willfully violated the ex
378 parte injunction;

379 2. The respondent, in this state or any other state, has
380 been convicted of, had adjudication withheld on, or pled nolo
381 contendere to a crime involving violence or a threat of
382 violence; or

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

386
387 ~~It is mandatory that such programs be certified under s. 741.32.~~

388 Section 9. Subsection (5) of section 741.316, Florida
389 Statutes, is amended to read:

390 741.316 Domestic violence fatality review teams;
391 definition; membership; duties.—

392 (5) The domestic violence fatality review teams are

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assigned for administrative purposes, to the Florida Coalition Against Domestic Violence.

Section 10. Section 741.32, Florida Statutes, is amended to read:

741.32 ~~Certification of~~ Batterers' ~~batterers'~~ intervention programs.—

(1) The Legislature finds that the incidence of domestic violence in this state ~~Florida~~ is disturbingly high, and that, despite the efforts of many to curb this violence, ~~that~~ one person dies at the hands of a spouse, ex-spouse, or cohabitant approximately every 2 ~~3~~ days. Further, a child who witnesses the perpetration of this violence becomes a victim as he or she hears or sees it occurring. This child is at high risk of also being the victim of physical abuse by the parent who is perpetrating the violence and, to a lesser extent, by the parent who is the victim. These children are also at a high risk of perpetrating violent crimes as juveniles and, later, becoming perpetrators of the same violence that they witnessed as children. The Legislature finds that there should be standardized programming available to the justice system to protect victims and their children and to hold the perpetrators of domestic violence accountable for their acts. Finally, the Legislature recognizes that in order for batterers' intervention programs to be successful in protecting victims and their children, all participants in the justice system as well as social service agencies and local and state governments must coordinate their efforts at the community level.

(2) ~~There is hereby established in the Department of~~

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~~Children and Family Services an Office for Certification and Monitoring of Batterers' Intervention Programs. The department may certify and monitor both programs and personnel providing direct 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 purpose of certification of programs is to uniformly and systematically standardize programs to hold those who perpetrate acts of domestic violence responsible for those acts and to ensure safety for victims of domestic violence. The certification and monitoring shall be funded by user fees as provided in s. 741.327.~~

Section 11. Section 741.325, Florida Statutes, is amended to read:

741.325 Guidelines for batterers' intervention programs
~~Guideline authority.-~~

(1) A batterers' intervention program shall meet the following guidelines ~~The Department of Children and Family Services shall promulgate guidelines to govern purpose, policies, standards of care, appropriate intervention approaches, inappropriate intervention approaches during the batterers' program intervention phase (to include couples counseling and mediation), conflicts of interest, assessment, program content and specifics, qualifications of providers, and credentials for facilitators, supervisors, and trainees. The department shall, in addition, establish specific procedures~~

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governing all aspects of program operation, including administration, personnel, fiscal matters, victim and batterer records, education, evaluation, referral to treatment and other matters as needed. In addition, the rules shall establish:

(a)(1) That The primary purpose of the program programs shall be victim safety and the safety of the children, if present.

(b)(2) That The batterer shall be held accountable for acts of domestic violence.

(c)(3) That The program programs shall be at least 29 weeks in length and shall include 24 weekly sessions, plus appropriate intake, assessment, and orientation programming.

(d)(4) That The program shall be a psychoeducational model that employs a program content based on tactics of power and control by one person over another.

~~(5) That the programs and those who are facilitators, supervisors, and trainees be certified to provide these programs through initial certification and that the programs and personnel be annually monitored to ensure that they are meeting specified standards.~~

(e)(6) The intent that The program shall programs be user-fee funded with fees from the batterers who attend the program as payment, which for programs is important to the batterer taking responsibility for the act of violence, ~~and from those seeking certification.~~ Exception shall be made for those local, state, or federal programs that fund batterers' intervention programs in whole or in part.

~~(7) Standards for rejection and suspension for failure to~~

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~~meet certification standards.~~

(2)(8) The guidelines of this section ~~That these standards~~
~~shall~~ apply only to programs that address the perpetration of
violence between intimate partners, spouses, ex-spouses, or
those who share a child in common or who are cohabitants in
intimate relationships for the purpose of exercising power and
control by one over the other. It will endanger victims if
courts and other referral agencies refer family and household
members who are not perpetrators of the type of domestic
violence encompassed by these guidelines ~~standards~~. Accordingly,
the court and others who make referrals should refer
perpetrators only to programming that appropriately addresses
the violence committed.

Section 12. Section 741.327, Florida Statutes, is
repealed.

Section 13. Section 948.038, Florida Statutes, is amended
to read:

948.038 Batterers' intervention program as a condition of
probation, community control, or other court-ordered community
supervision.—As a condition of probation, community control, or
any other court-ordered community supervision, the court shall
order a person convicted of an offense of domestic violence, as
defined in s. 741.28, to attend and successfully complete a
batterers' intervention program unless the court determines that
the person does not qualify for the batterers' intervention
program pursuant to s. 741.325. ~~The batterers' intervention~~
~~program must be a program certified under s. 741.32, and the~~
offender must pay the cost of attending the program.

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505 Section 14. Paragraph (a) of subsection (1) of section
506 938.01, Florida Statutes, is amended to read:

507 938.01 Additional Court Cost Clearing Trust Fund.—

508 (1) All courts created by Art. V of the State Constitution
509 shall, in addition to any fine or other penalty, require every
510 person convicted for violation of a state penal or criminal
511 statute or convicted for violation of a municipal or county
512 ordinance to pay \$3 as a court cost. Any person whose
513 adjudication is withheld pursuant to the provisions of s.
514 318.14(9) or (10) shall also be liable for payment of such cost.
515 In addition, \$3 from every bond estreature or forfeited bail
516 bond related to such penal statutes or penal ordinances shall be
517 remitted to the Department of Revenue as described in this
518 subsection. However, no such assessment may be made against any
519 person convicted for violation of any state statute, municipal
520 ordinance, or county ordinance relating to the parking of
521 vehicles.

522 (a) All costs collected by the courts pursuant to this
523 subsection shall be remitted to the Department of Revenue in
524 accordance with administrative rules adopted by the executive
525 director of the Department of Revenue for deposit in the
526 Additional Court Cost Clearing Trust Fund. These funds and the
527 funds deposited in the Additional Court Cost Clearing Trust Fund
528 pursuant to s. 318.21(2)(c) shall be distributed as follows:

529 1. Ninety-two percent to the Department of Law Enforcement
530 Criminal Justice Standards and Training Trust Fund.

531 2. Six and three-tenths percent to the Department of Law
532 Enforcement Operating Trust Fund for the Criminal Justice Grant

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533 Program.

534 3. One and seven-tenths percent to the Department of
535 Children and Family Services Domestic Violence Trust Fund for
536 the domestic violence program pursuant to s. 39.903 (2) ~~(3)~~.

537 Section 15. This act shall take effect July 1, 2012.