

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB HHSC 12-01 Domestic Violence  
**SPONSOR(S):** Health & Human Services Committee; Harrell  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health & Human Services Committee	17 Y, 0 N	Mathieson	Gormley

### SUMMARY ANALYSIS

The bill makes statutory changes to conform to the General Appropriations Act (GAA) for fiscal year (FY) 2011-2012.

The bill amends the duties of the Department of Children and Families (DCF) relating to domestic violence program by:

- Requiring the department to contract with the Florida Coalition on Domestic Violence (FCADV) to monitor, fund and provide services for the state's domestic violence program;
- Limiting the role of the department in the certification of domestic violence shelters;
- Repealing the certification of batterers' intervention programs, and removing the authority to collect fees for certification; and
- Providing clarifying language for batterers' intervention program requirements.

The bill has no fiscal impact on the state and conforms Florida Statutes to FY 2011-2012 GAA provisions, (see Fiscal Impact).

The bill provides an effective date of July 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### Domestic Violence Shelters

Domestic violence centers are community based organizations that provide services to the victims of domestic violence. Pursuant to Florida Statute, the minimum services that a shelter must provide are:

- Temporary emergency shelter for more than 24 hours;
- Information and referrals;
- Safety planning;
- Counseling and case management;
- A 24 hour emergency hotline;
- Educational services for community awareness;
- Assessment and appropriate referral of resident children; and
- Training for law enforcement and other professionals.<sup>1</sup>

DCF is statutorily responsible for the statewide domestic violence program which certifies and monitors domestic violence shelters. DCF also provides supervision, direction, coordination and administration of activities related to prevention and intervention services.<sup>2</sup> The Legislature has delegated rulemaking authority to DCF to implement this responsibility.<sup>3</sup> DCF is directed by statute to monitor certification annually.<sup>4</sup> For a shelter to receive state funding, it must maintain certification pursuant to this chapter.<sup>5</sup> However, certification does not obligate the state to provide funds for a shelter.<sup>6</sup>

In 2004, the Legislature directed DCF to contract with a statewide association for the domestic violence program, specifically providing that the association would:

- Represent and provide technical assistance for certified shelters;
- Receive and approve or reject funding applications for certified shelters;
- Make efforts to reduce duplication of services in a service area, encouraging subcontracting for services amongst existing shelters; and
- Use a DCF approved formula for funding.<sup>7</sup>

To implement this legislative direction, DCF contracted with the Florida Coalition Against Domestic Violence (FCADV). The FCADV is the professional association for the state's 42 certified domestic violence centers.<sup>8</sup> Their mission is to work towards ending violence through public awareness, policy development, and support for Florida's domestic violence centers.<sup>9</sup> Funding sources include federal, state and private funds.

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<sup>1</sup> S. 39.905(1)(c), F.S.

<sup>2</sup> S. 39.903(3), F.S.

<sup>3</sup> S. 39.903(1)(e), F.S.

<sup>4</sup> S. 39.903(1)(d), F.S.

<sup>5</sup> S. 39.905(6)(a), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> S. 39.903(7), F.S.

<sup>8</sup> [www.fcadv.org/about](http://www.fcadv.org/about), site last visited December 19, 2011.

<sup>9</sup> *Id.*

Funding Source	FY 2007-2008	FY 2008-2009	FY 2009-2010	FY 2010-2011	FY 2011-2012
General Revenue	195,431	255,431	95,210	3,857,260	4,164,596
Domestic Violence Trust Fund	10,366,004	10,366,004	10,286,224	6,524,174	6,885,617
Federal Grants Trust Fund	8,739,534	8,294,406	13,611,523	9,496,510	10,662,290
Welfare Transition Trust Fund	7,750,000	7,750,000	7,750,000	7,750,000	7,750,000
Operations and Maintenance Trust Fund		90,000			
Federal Grants Trust Fund – ARRA Grant				2,486,729	
Domestic Violence Trust Fund - Unfunded Budget			79,780	79,780	79,780
Federal Grants Trust Fund - Unfunded Budget	539,684	984,812	966,585	282,708	
<b>TOTAL APPROVED OPERATING BUDGET</b>	<b>27,590,653</b>	<b>27,740,653</b>	<b>32,789,322</b>	<b>30,477,161</b>	<b>29,542,283</b>

The preceding table shows both the sources of funding from the state, and the total amount that is appropriated to domestic violence services each year. DCF passes this appropriation through to the FCADV.<sup>10</sup>

In Fiscal Year 2008-2009, DCF received \$5,298,980 from the federal government for American Recovery and Reinvestment Act of 2009 (ARRA), and in Fiscal Year 2010-2011, an additional \$2,486,729 from ARRA.<sup>11</sup> In Fiscal Year 2011-2012, the administrative budget of \$951,851 was transferred to the FCADV from DCF.<sup>12</sup>

### Batterer's Intervention Programs

Section 741.32(2), F.S., creates the Office for Certification and Monitoring of Batterer's Intervention Programs within DCF. The department is authorized to certify and monitor programs and personnel that provide direct services to people who have:

- Committed an act of domestic violence;<sup>13</sup>
- Had an injunction for protection against domestic violence entered against them;
- Been referred by DCF; or
- Voluntarily agree to attend.<sup>14</sup>

DCF is directed to promulgate guidelines for batterer's intervention programs in rule.<sup>15</sup> The department promulgated rules for such programs in ch. 65H-2, F.A.C.

Section 741.327, F.S., authorizes DCF to assess and collect fees for the certification of batterer's intervention programs. This section also requires all persons who are court-ordered to attend a DCF-certified program, to pay a \$30 fee to DCF. All fees that DCF collects pursuant to this authority are deposited into the Executive Office of the Governor's Domestic Violence Trust Fund, and directed to DCF to fund the cost of certification.

Courts are directed by the Legislature, with certain exceptions, to order someone convicted of a domestic violence offense to a certified batterer's intervention program as a condition of probation, community control, or any other court-ordered community supervision.<sup>16</sup>

<sup>10</sup> Email from DCF on file with Health and Human Services Committee staff, January 25, 2012.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> An act of domestic violence is defined in s. 741.32(2), F.S.

<sup>14</sup> S. 741.32(2), F.S.

<sup>15</sup> S. 741.325, F.S.

<sup>16</sup> *See*, s. 948.038, F.S., and s. 741.281, F.S.

## Fiscal Year 2011-2012 General Appropriations Act

In the 2011 legislative session, the GAA for FY 2011-2012 eliminated funding for the provision of domestic violence services at DCF, and transferred funding for the provision of domestic violence services to the FCADV. The GAA also eliminated the certification staff at DCF for batterers' intervention programs. The House of Representatives passed HB 5309, which made conforming changes to Florida law. HB 5309 died in Senate messages. Currently, ch. 39, F.S., conflicts with the directives in the FY 2011-2012 GAA.

### **Effect of Proposed Changes**

The bill conforms ch. 39, F.S., to the budget changes made in FY 2011-2012 GAA. The bill requires DCF to contract with the FCADV for the management of the delivery of services for the state's domestic violence program. The contracted entity is assigned the function of representing DCF on the domestic violence fatality review teams.

The bill retains DCF's overall authority to certify domestic violence centers, but delegates monitoring functions to the FCADV. The bill provides that DCF will receive and approve or deny applications for initial certification, and then may renew them based on a favorable monitoring report from the FCADV. DCF's authority to enter and inspect premises is restricted by the bill to initial certification or suspension or revocation of certification. The FCADV is given the authority to enter and inspect in relation to monitoring. In addition, FCADV will distribute DCF funding to the certified shelters.

The bill removes DCF's requirement to enlist the assistance of public and private entities to conduct a domestic violence research program, and to develop an educational program.

The bill directs the FCADV to prepare an annual report, subject to department approval, on the status of domestic violence cases in the state. The report is distributed to the Speaker of the House of Representatives and the President of the Senate.

The bill provides that all certifications for domestic violence centers shall expire on June 30, of each year. DCF is given discretionary authority to temporarily extend a certification beyond this date for 60 days to allow a center to implement a corrective action plan. Currently, certifications expire at different times during the year, depending on when the center initially applied for certification. This will provide for administrative efficiency.

The bill deletes the Office of Certification and Monitoring of Batterers' Intervention Programs from the department and repeals the statutory requirement that batterers' intervention programs be certified by DCF. The bill also removes authority for DCF to promulgate requirements for batterer intervention programs, conforming existing law to the removal of certification for such programs. The bill retains for guidelines for batterers' intervention programs in current law. There is no provision in the bill to enforce these program guidelines.

The bill makes conforming changes to environmental health and food service establishment provisions of Florida Statutes to reflect the removal of the monitoring function of domestic violence centers from DCF. The bill repeals s. 741.327, F.S., relating to certification fees for batterer's intervention programs, and conforms other provisions of ch. 741, F.S., to the changes in the bill. The bill makes a conforming amendment to s. 938.01(1)(a)3., relating to distribution of the \$3 court cost that is assessed for everyone convicted of a violation of state penal or criminal statute, or violation of county or municipal ordinance.

### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 39.902, F.S., relating to definitions.

**Section 2:** Amends s. 39.903, F.S., relating to duties and functions of the department with respect to domestic violence.

- Section 3:** Amends s. 39.904, F.S., relating to report to the Legislature on the status of domestic violence cases.
- Section 4:** Amends s. 39.905, F.S., relating to domestic violence centers.
- Section 5:** Amends s. 381.006, F.S., relating to environmental health.
- Section 6:** Amends s. 381.0072, F.S., relating to food service protection.
- Section 7:** Amends s. 741.281, F.S., relating to court to order batterers' intervention program attendance.
- Section 8:** Amends s. 741.2902, F.S., relating to domestic violence; legislative intent with respect to judiciary's role.
- Section 9:** Amends s. 741.30, F.S., relating to domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; statewide verification system; enforcement.
- Section 10:** Amends s. 741.316, F.S., relating to domestic violence fatality review teams; definition; membership; duties.
- Section 11:** Amends s. 741.32, F.S., relating to batterers' intervention programs.
- Section 12:** Repeals s. 741.325, F.S.
- Section 13:** Repeals s. 741.327, F.S.
- Section 14:** Amends s. 948.038, F.S., relating to batterers' intervention program as a condition of probation, community control, or other court-ordered community supervision.
- Section 15:** Amends s. 938.01, F.S., relating to additional court cost clearing trust fund.
- Section 16:** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None. The Domestic Violence Trust Fund revenues were reduced by approximately \$117,738 in fees associated with cost of certifying and monitoring batterers' intervention programs by the FY 2011-2012 GAA. However, this loss was offset since DCF is no longer required to certify the batterers' intervention programs.

#### 2. Expenditures:

	FTE	FY 2011-12
<b>Domestic Violence Program<sup>17</sup></b>		
Positions		(9.00)
General Revenue		(307,331)
Trust Funds		(644,520)
<b>Total</b>	<b>(9.00)</b>	<b>(951,851)</b>
<b>Batterer's Intervention Program</b>		
Positions		(2.00)
General Revenue		(64,741)
Trust Funds		(117,738)
<b>Total</b>	<b>(2.00)</b>	<b>(182,479)</b>
<b>Total</b>	<b>(11.00)</b>	<b>(1,134,330)</b>
<b>Transfer to FCADV</b>		
Positions		
General Revenue		307,331
Trust Funds		644,520
<b>Total</b>		<b>951,851</b>

<sup>17</sup> Fla. H. R. Comm. on Appropriations, H.B. 5309, (2011), March 21, 2011 (On file with the House Health and Human Services Quality Subcommittee).

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None

**B. RULE-MAKING AUTHORITY:**

The bill provides sufficient rule making authority to DCF to implement its revised duties related to domestic violence.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**