

**STORAGE NAME:** h1039s1a.lec

**DATE:** April 11, 2000

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
LAW ENFORCEMENT AND CRIME PREVENTION  
ANALYSIS**

**BILL #:** CS/HB 1039

**RELATING TO:** Domestic Violence

**SPONSOR(S):** Committee on Family Law and Children, Representative Pruitt & others

**TIED BILL(S):** CS/HB 1037

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) FAMILY LAW AND CHILDREN YEAS 6 NAYS 0
  - (2) LAW ENFORCEMENT AND CRIME PREVENTION YEAS 8 NAYS 0
  - (3) GOVERNMENTAL OPERATIONS
  - (4) CRIMINAL JUSTICE APPROPRIATIONS
  - (5)
- 

**I. SUMMARY:**

This bill allows for the establishment of domestic violence fatality review teams, on a local, regional, or state level, to review fatal and near fatal incidents of domestic violence to evaluate both the incidents and ways to prevent such incidents. The bill provides a definition of domestic violence fatality review team, what information may be gathered by the teams, and the purpose of such teams. The review teams shall collect data, regarding incidents of domestic violence, in a manner consistent statewide and in a form determined by the Department of Law Enforcement. The Department of Law Enforcement will use the data to prepare an annual report on domestic violence fatalities, submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court, by July 1, of each year. The Governor's Task Force on Domestic Violence shall provide information and technical assistance to local fatality review teams. Immunity from liability is conferred upon any person, acting within the scope of membership or functions of a team. The domestic violence fatality review teams shall be administratively placed within the Department of Children and Family Services. This bill has an effective date of July 1, 2000.

This bill has a fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**Domestic Violence**

Domestic violence is defined as "any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family member or household member by another who is or was residing in the same single dwelling unit." s. 741.28(1), F.S.

Domestic violence is a serious problem across the nation and in Florida. A national survey on violence against women found that 52% of the women surveyed had been physically assaulted as either a child or an adult. Based on the data from this survey, it is estimated that approximately 1.9 million women are physically assaulted annually in the United States. In Florida, 126,044 police reports were filed in 1999 for domestic violence offenses and 63,410 arrests were made.

The Florida Department of Law Enforcement offers statistics for 1999 showing that 22% of murder in Florida is based on domestic violence. According to the latest research by the Governor's Task Force on Domestic Violence, over 325 domestic and partner fatalities have occurred in Florida and more than three family members or intimate partners die at the hands of other family members or intimate partners every week in Florida.

**The Governor's Task Force on Domestic Violence**

The Governor's Task Force on Domestic Violence (Task Force) was created by Executive Order 93-269, with the mission to end domestic violence. The Task Force was charged with documenting Florida's level of awareness and responsiveness to battered persons and their families. Since its inception, the Task Force has proffered three reports on domestic violence awareness within the state, and has made recommendations aimed towards ending domestic violence, including greater public education and awareness, increased funding for victims' services and criminal justice programs, and legislative reforms aimed at reducing domestic violence.

In 1999, Governor Jeb Bush reauthorized the Governor's Task Force on Domestic Violence. See Executive Order 99-99. The Task Force was charged with serving the

public purpose of directing policies on how to reduce and eliminate domestic violence and domestic violence fatalities. The Task Force, as an advisory body, is made up of no more than 20 members, with "diverse expertise and experience in the field of domestic violence." *Id.* Members include, but are not limited to: law enforcement, clerks of court, defense counsel, prosecutors, judges, a domestic violence survivor, a member of the public, medical, nursing, mental health, and social work professionals, representatives from local domestic violence centers, probation, batterers' intervention program experts, higher education professionals, representatives from the faith community, representatives from minority and underserved communities, and a member of the Florida Legislature. *Id.* In addition, the Task Force has the authority to designate liaisons to further its efforts including, but not limited to, representatives from the following agencies and organizations: Department of Children and Families; Department of Community Affairs; Department of Corrections; Department of Education; Department of Elder Affairs; Department of Health; Department of Juvenile Justice; Department of Law Enforcement; Department of Legal Affairs; the Office of State Courts Administrator; the Florida Prosecuting Attorneys Association; the Florida Coalition Against Domestic Violence; the Coalition of Batterers' Intervention Programs in Florida; and local fatality review teams. *Id.*

### **Local Fatality Review Teams**

Domestic violence fatality review teams are not addressed within the Florida Statutes. In 1997, through funding by the Violence Against Women Grants Office, of the U.S. Department of Justice, the Task Force selected four jurisdictions within Florida to create local Fatality Review Teams. The jurisdictions chosen were Miami/Dade County, Tampa/Hillsborough County, Palm Beach County, and Volusia/Putnam Counties. These teams have created operational guidelines, and constituted various subcommittees regarding matters such as the ethics of death reviews, data collection, working with family members of decedents, and effecting policy changes. The Task Force received additional federal funding to create six more local Fatality Review Teams. The funding pays for the creation of the team, and for training and travel expenses, but local funding is required for the administration of the Teams.

Training is available for fatality review teams in the form of national summits on the issue and training materials that have been created through the summits. According to the Governor's Task Force, all the fatality review team members in Florida have participated in training at a summit held in Orlando, in 1999. These teams do not have access to confidential information, but rely on sources of public information, such as newspaper articles.

### **C. EFFECT OF PROPOSED CHANGES:**

This bill allows for the establishment of domestic violence fatality review teams, on a local, regional, or state level, to review fatal and near fatal incidents of domestic violence to evaluate both the incidents and ways to prevent such incidents. A domestic violence fatality review team is defined as an organization that includes, but is not limited to, representatives from: law enforcement; the state attorney; the medical examiner; certified domestic violence centers; child protection teams of the Department of Children and Family Services; court administration; clerk of the court; victim services programs; child review death team; the business community; county probation and corrections; any other persons who have knowledge regarding domestic violence fatalities, nonlethal incidents of domestic violence, or suicide, including research, policy, law, and other matters connected with fatal incidents; and other representatives as determined by the review team.

Reviews by a domestic violence fatality review team may include gathering information on events leading up to the domestic violence incident, available community resources, current laws and policies, actions taken by systems and individuals related to the incident and the parties, and any other information or action deemed relevant by the teams, including review of public records and records for which public records exemptions are granted.

Data regarding incidents of domestic violence would be collected by the local teams or task forces, in a manner that is consistent statewide. The Department of Law Enforcement would be required to determine the form in which the data would be collected. This bill would require the Department of Law Enforcement to use the data collected to prepare an annual report on domestic violence. The report must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court, by July 1 of each year.

This bill would require the Governor's Task Force on Domestic Violence to provide information and technical assistance to local fatality review teams.

This bill would confer immunity from liability on any person for acts or services performed within the scope of membership on review team, or function of such organization.

This bill places the domestic violence fatality review teams under the administration of the Department of Children and Family Services

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Creates s. 741.316, F.S., relating to domestic violence fatality reviews. This section defines "domestic violence fatality review team" as an organization that includes, but is not limited to, representatives from specified organizations and agencies. Those organizations and agencies include: law enforcement; the state attorney; the medical examiner; certified domestic violence centers; child protection teams of the Department of Children and Family Services; court administration; clerk of the court; victim services programs; child review death team; the business community; county probation and corrections; any other persons who have knowledge regarding domestic violence fatalities, nonlethal incidents of domestic violence, or suicide, including research, policy, law, and other matters connected with fatal incidents; and other representatives as determined by the review team.

This section provides that domestic violence fatality review teams may be established at a local, regional or state level, in order to review fatal and near fatal incidents of domestic violence matters and suicides. This section provides that the review may include events leading up to the domestic violence incident, available community resources, current laws and policies, actions taken by systems and individuals related to the incident and the parties, and any information or action deemed relevant by the teams, including review of public records and records for which public records exemptions are granted.

This section provides that the purpose of the teams is to learn how to prevent domestic violence by intervening early and improving individual and systems' responses to domestic violence. The structure and activities of the team, and the number and types of incidents to review shall be determined by the teams.

This section also provides that teams shall collect data regarding incidents of domestic violence, in a manner that is consistent statewide and in a form determined by the

Department of Law Enforcement. The Department of Law Enforcement is required to use the data to prepare an annual report on domestic violence fatalities. The report is to be submitted to the Governor, the President of the Senate, the Speaker of the House or Representatives, and the Chief Justice of the Supreme Court, by July 1 of each year. The Governor's Task Force on Domestic Violence is required to provide information and technical assistance to the local fatality review teams.

This section provides that immunity from liability is conferred on any person who is acting as a member of a domestic violence fatality review team, or as a witness, incident reporter to, or investigator for a review team, unless the acts are performed outside of the scope of the review team. This section provides that it does not affect the provisions of s. 768.28, F.S., relating to waiver of sovereign immunity in tort actions.

This section also provides that domestic violence fatality review teams are to be administratively placed with the Department of Children and Family Services.

**Section 2.** Provides an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments" Section

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Florida Department of Law Enforcement reports that there are two ways to approach the requirements of data collection for this bill. First, FDLE could create a UNIX Oracle database which is consistent with the current databases already in-house within FDLE. According to FDLE, this approach will provide for future growth and additional data sharing capabilities between systems. With this system, FLDE would be able to search existing databases within the department that might have information related to the incidents that

are reviewed (i.e., criminal history records, injunction information, etc.). The second option is the development of NT Windows-based stand-alone program that will meet the minimal requirements of this bill based on the estimated workload. This system would simply allow for the retrieval and storage of data received from the review teams.

The following is a cost summary of each option:

**Option 1:**

This is the estimated resources that it will take to create and maintain the new program to meet the requirements of this bill and to build the infrastructure for additional future data sharing.

First Year

Criminal Justice Communication Liaison	\$55,428
System Programmer II	\$68,757
Database Analyst	\$69,955
Host Computer System	\$150,000
Maintenance & Support	\$15,000
Software License	\$50,000
Software Maintenance & Support	<u>\$12,500</u>
TOTAL	\$421,640

Recurring Costs Thereafter

Staff	\$178,537
Host Computer System Maintenance & Support	\$15,000
Software Maintenance & Support	<u>\$12,500</u>
TOTAL	\$206,037

**Option 2:**

This is the estimated resources required to meet the minimal requirements of this bill in a stand-alone system that will receive data and generate reports.

First Year

Criminal Justice Communication Liaison	\$55,428
System Programmer II	\$68,757
Host Computer System	\$25,000
Maintenance & Support	\$2,500
Software License	\$5,000
Software Maintenance & Support	<u>\$500</u>
TOTAL	\$157,185

Recurring Costs Thereafter

Staff	\$113,783
Host Computer System Maintenance & Support	\$2,500
Software Maintenance & Support	<u>\$500</u>
TOTAL	\$116,783

This cost analysis does not include the developmental costs of an entire program, i.e., forms to collect data, training manuals, training curriculum, data entry and data corrections. These costs include the development of a database to receive and maintain the collected data and the development of programming reporting requirements and edits.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 22, 2000, the Committee on Family Law and Children adopted one strike-everything amendment, thus creating CS/HB 1039. The provisions regarding data collection, submission of data to the Department of Law Enforcement, and the required report on domestic violence by FDLE remain substantially similar to HB 1039. HB 1039 allowed domestic violence fatality prevention task forces or domestic violence fatality review teams to review fatal and near fatal incidents of domestic violence to evaluate both the incidents and ways to prevent such incidents. The bill provided a definition of domestic violence fatality prevention task force or domestic violence fatality review team, and who should be included within a local task force or team. HB 1039 provided that the Governor's Task Force on Domestic Violence shall provide information and technical assistance to local fatality review teams and that no immunity from liability is conferred upon any person, acting outside the scope of membership or functions of a task force or team. For further details on CS/HB 1039, please see "Section-by-Section Analysis."

On April 11, 2000, the Committee on Law Enforcement & Crime Prevention adopted a strike everything amendment to CS/HB 1039. The amendment clarifies language found in CS/HB 1039 and conforms it to the Senate companion.

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The amendment provides that no fatality review team member, witness, incident reporter, or investigator acting within the scope of the functions of the team shall incur any monetary liability unless a person acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

The amendment also provides that the information and records of a domestic violence fatality review team are not subject to discovery or introduction into evidence in any civil action, or in any disciplinary proceeding that is the result of matters pertaining to the review teams evaluation and review. Any person in attendance at a domestic violence fatality review team meeting may not testify in any civil action or disciplinary proceeding as to records or information produced or presented to a team.

VII. SIGNATURES:

COMMITTEE ON FAMILY LAW AND CHILDREN:

Prepared by:

Staff Director:

Carol Preston

Carol Preston

AS REVISED BY THE COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:

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