

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 708

SPONSOR: Committee on Children and Families

SUBJECT: Domestic Violence

DATE: February 8, 2000

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dowds</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

Senate Bill 708 amends the definitions for “domestic violence” and “family or household member” in four sections of Florida Statute to require present or prior co-residency between the victim and the family or household member in establishing an act of domestic violence, with the exception of when the victim and perpetrator have a child in common. These amendments would correct a current inconsistency between the definitions of “domestic violence” and “family or a household member.” They would also direct the application of domestic violence related legal actions and initiatives to those victims and perpetrators who have lived together in the same dwelling, either currently or in the past, or those victims or perpetrators who have a child in common, regardless of whether they had ever lived together.

Two additional conditions are provided for identifying when a family violence indicator must be placed on a child support enforcement case, which is then transmitted to the Federal Case Registry. These conditions are as follows: when an injunction for protection against domestic violence or repeat violence has been granted; and when the Domestic and Repeat Violence Injunction Statewide Verification System indicates that a party has been granted a domestic violence or repeat violence injunction.

The privilege of confidential communication offered to victims of domestic violence by domestic violence centers is clarified to apply to all domestic violence centers. Domestic violence centers are more specifically defined as agencies that offer assistance to victims of domestic violence as their primary mission and provide all the services required for domestic violence centers.

The bill sets forth as the intent of the Legislature that the process of granting ex parte temporary injunctions protect victims of domestic violence for as long as the victim is in danger. It requests the Supreme Court to adopt rules to require extensions of the ex parte temporary injunction when the sole reason for denying the extension is that the respondent could not be served the temporary restraining order and notice of the hearing.

The Batterers' Intervention Program is required by the bill to provide notification to the court's case file of the respondents' enrollment and discharge. Respondents who have been ordered to participate in the Batterers' Intervention Program as a condition of the injunction for protection and who are requesting to modify or dissolve the injunction are required to have completed the program, unless they have substantial justification for failing to complete the program. The court is directed not to grant the respondent's request to modify or dissolve the injunction unless the respondent has completed the program or there is substantial justification for the failure to complete the program.

The bill clarifies the circumstances in existing law under which a person can petition the court for an injunction for protection against domestic violence. A set of factors are provided that, if alleged in the petition, can be considered by the court in determining whether a petitioner is in imminent danger of becoming a victim of domestic violence.

The bill requires that all injunction for protection against domestic violence proceedings must be recorded.

The Office of State Court Administrator is directed to examine current court practices relative to visitation and custody issues and granting of injunctions for protection during the dissolution of marriage proceedings. Recommendations for ensuring the most appropriate consideration of visitation and custody issues at the injunction hearing and of injunction for protection issues during the dissolution of marriage proceedings are to be developed. This examination and recommendation development process is to be conducted in collaboration with identified state agencies and organizations. A report is to be submitted to the Legislature by January 1, 2001.

This bill substantially amends the following sections of the Florida Statutes: 25.385(2)(a), 25.385(2)(b), 39.902(1), 39.902(3), 61.1825(3), 90.5036(1)(a), 90.5036(1)(b), 741.28(1), 741.28(2), 741.30(1), 741.30(3), 741.30(5), 741.30(6), 943.171(2)(a), and 943.17(2)(b). Subsection (10) of section 741.30, F.S. is created.

## **II. Present Situation:**

Domestic violence is a very serious problem across the nation and in Florida. A national survey on violence against women found that 52 percent of the women surveyed had been physically assaulted as either a child or an adult. Based on the data from this survey, it was estimated that approximately 1.9 million women are physically assaulted annually in the United States. A survey of the victim assistance programs in the country revealed that the majority of individuals seeking assistance were victims of domestic violence. In Florida, 133,345 police reports were filed in 1998 for domestic violence offenses and 64,446 arrests were made. These numbers do not include the many injunctions for protection against domestic violence ordered which did not have a corresponding criminal offense or the many more victims who do not request assistance. The magnitude of this problem speaks to the need for a social and legal system that can adequately protect victims of domestic violence and their children and provide opportunities for safe futures.

### **Act of Domestic Violence**

There is no criminal offense designated as “domestic violence.” Instead, “domestic violence” is a term which encompasses a variety of criminal acts committed against a family or household member. Section 741.28(1), F.S., provides that such acts may include assault, aggravated assault, sexual battery, aggravated battery, sexual assault, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another. Prior or present co-residency between the offender and the family or household member is required. The definition of “family or household member,” s. 741.28(2), F.S., includes a spouse, a former spouse, a person related by blood or marriage, a person who is presently residing with another as if a family or who has resided together in the past with another as family, and a person who has a child in common with the offender. However, contrary to the definition of “domestic violence,” prior or present co-residency is not required to be considered a “family or household member.” The difference between the two definitions has provided an inconsistent directive for two groups of family and household members when the offender and perpetrator have never lived together: those in which there is a child in common and those involving individuals related by blood or marriage. As a result of the inconsistency, the determination of whether or not a criminal act is considered an act of domestic violence could either require co-residency and thus exclude these two groups or not require co-residency and include these groups of individuals. Certain services, sanctions and other provisions become applicable to acts determined to be “domestic violence.”

The terms “domestic violence” and “family or household member” are defined in four other sections of Florida law.

- ▶ s. 25.385(2)(a), F.S., -- *Standards for instruction of circuit and county court judges in handling domestic violence cases*
- ▶ s. 39.902(1), F.S., -- *Definitions* (in Part XI on Domestic Violence in Chapter 39 Relating to Children)
- ▶ s. 943.171(2)(a), F.S., -- *Basic skills training in handling domestic violence cases* (Chapter 943 on Department of Law Enforcement)
- ▶ s. 414.0252(4), F.S., -- *Family Self-Sufficiency*

Each of these definitions, with the exception of s. 414.0252(4), F.S., requires prior or present co-residency and has an inconsistent corresponding definition of “family and household member” which does not contain the requirement for co-residency.

“Domestic violence” was redefined in 1991 (ch. 91-210, L.O.F.) to include abuse directed from one family or household member to another, in lieu of the earlier definition which limited the term to spouses and persons related by blood or marriage. The requirement of present or prior co-residency was retained in the definition of “domestic violence.” However, a new term, “family and household member,” was added and the definition provided did not require co-residency, thus creating the inconsistency.

There is no concrete information regarding how these definitions have been applied across the state. The Florida Coalition Against Domestic Violence states that the domestic violence centers across the state are not requiring co-residency in order to receive the services of the centers. However, relative to injunctions for protection against domestic violence, on June 27, 1997, the Fifth District of the District Court of Appeal of Florida, ruled in the Sharpe vs Sharpe case that

statutory domestic violence did not, and could not, occur between the two individuals in the absence of residence by the individuals in the same household. The domestic violence injunction that the sister-in-law received against her brother-in-law was reversed. Current compliance with this ruling in the circuits is not known.

### **Domestic Violence Centers**

Domestic Violence Centers have been established by the Legislature to provide services to victims of domestic violence. The provisions for certification under s. 39.905(1), F.S., require that domestic violence centers offer a wide range of services to and on behalf of victims of domestic violence, minor children and other dependents of victims of domestic violence, including but not limited to information and referral services, counseling and case management services, temporary emergency shelter for more than 24 hours, a 24-hour hotline, training for law enforcement personnel, assessment and appropriate referral of resident children, and educational services for community awareness.

Section 90.5036, F.S., provides employees and volunteers of domestic violence centers the privilege of confidentiality for the communication disclosed by a victim of domestic violence as it relates to the incident of domestic violence. Confidentiality is a cornerstone of all services provided for battered individuals because disclosing abuse to outside parties may put the victim in additional danger. Individuals claiming this privilege are required to have 30 hours of training in assisting victims of domestic violence and to register as a domestic violence advocate. This registry is provided for under s. 39.905, F.S., as part of the certification requirements for domestic violence centers. Since these certification requirements also include that centers demonstrate an ability to sustain operations through a history of 18 consecutive months of operation as a domestic violence center prior to certification, the law has been interpreted to exclude employees and volunteers of domestic violence centers in this pre-certification period from claiming confidential communication. Section 39.905, F.S., also establishes the minimum set of services required to be offered by domestic violence centers and would apply to both certified centers and centers building their history of operation.

### **Court Proceedings Relative to Domestic Violence**

Section 741.30, F.S., provides for injunctive relief against domestic violence for victims of domestic violence or any person with reasonable cause to believe that he or she is in imminent danger of becoming a victim. The relief available through injunctions for protection against domestic violence includes restraining the respondent from committing acts of domestic violence, giving the petitioner use and possession of the dwelling, awarding temporary custody or visitation of any minor children, establishing temporary child support for minor children, and ordering the respondent to participate in the Batterer's Intervention Program. While two criteria exist for filing a petition, some courts have been found to focus on one of the criteria, to the exclusion of the alternative criteria, thus limiting conditions under which a petition will be granted.

The criterion for filing a petition for an injunction for protection was changed in 1997 from requiring that the person "may become" the victim of domestic violence to the current "is in imminent danger of becoming" the victim of domestic violence (ch. 97-155, L.O.F.). The new requirement that the petitioner be in "imminent danger" of becoming a victim of domestic violence is considered by some to be problematic because of the varying interpretations and applications

across the circuits, and by others to be necessary because of the significant ramifications to the alleged perpetrator.

Section 741.30, F.S., provides that if there is an “immediate and present danger” of domestic violence, the court may grant an ex parte temporary injunction without prior notice to the alleged perpetrator, pending a full hearing. The respondent is required to be personally served with a copy of the petition for injunction for protection, notice of a hearing, and temporary injunction, if any, prior to the hearing. The courts are permitted to grant a continuance of the hearing for good cause, including a continuance to serve the respondent when service of process could not be completed prior to the hearing. Injunctions can be extended, if necessary, to remain in full force and effect during any period of continuance. Such an extension is a valuable tool used by the courts when the respondent cannot be served. However, in some courts, when the respondent cannot be served, the injunction for protection is being dismissed.

In a number of courts in the state, the only record maintained of the injunction for protection against domestic violence proceeding is the final judgement. In those instances there is no record of the testimony provided and evidence submitted during the hearing. The Third District Court of Appeals of Florida ruled in the Madan versus Madan case (1999) that s. 741.30(6)(b), F.S., provides for either party to move at any time to modify or dissolve the injunction and this includes presenting evidence regarding the initial procurement of the injunction. If injunctions for protection can be reconsidered and new evidence presented, then the testimony, evidence and factors considered at the initial injunction proceedings provide an important comprehensiveness to the information.

Section 61.052(6), F.S., provides that injunctions for protection arising out of the dissolution of marriage shall be issued as a separate order and not included in the judgement of the dissolution of marriage. Some courts incorporate injunctions for protection into the dissolution of marriage proceeding orders, which causes complications for reporting and enforcement of the injunction.

Temporary custody, visitation and support for a minor child may be granted by the court in an injunction for protection hearing, using the same basis as provided in ch. 61, F.S. The courts have the authority not only to grant or deny, but also to specify the terms of visitation and custody of the minor child, including using supervised visitation or other arrangements that will protect the child (ss. 61.13(2) and 741.2902, F.S.). Section 61.13, F.S., provides that courts will order shared parental responsibility unless it is found to be detrimental to the child. In determining child visitation, there is considered to be a rebuttable presumption of harm to the child if a parent has been convicted of a felony of third degree or higher involving domestic violence. Even the evidence of domestic violence will be considered by the court as evidence of detriment to the child. The court’s specification of the terms of the visitation becomes an important consideration in the protection of the child during the visitation and even the protection of the parent with custody of the child in the visitation process.

Injunctions for protection can also be granted in cases of repeat violence, where a domestic violence relationship does not exist (s. 784.046, F.S.). Protective injunctions for victims of repeat violence can be sought when there have been two incidents of violence or stalking committed by the respondent, one of which must have been within the last 6 months. This form on injunctive relief is available to persons regardless of the relationship of the perpetrator to the victim.

### **Batterer's Intervention Program**

The Legislature established a batterer's intervention program to protect the victims of domestic violence and their children and hold the perpetrators of domestic violence responsible for their acts. The Department of Corrections is responsible for certifying and monitoring the batterer's intervention programs in Florida (s. 741.32, F.S.). The goals of the programs are to increase victim safety, eliminate violence in intimate relationships, and stop other forms of abusive behavior. Persons found guilty of an act of domestic violence or persons for whom an injunction for protection against domestic violence has been entered can be ordered to attend and participate in the batterer's intervention program. For those persons required to participate as a result of a criminal offense, the probation officer provides a vehicle for ensuring attendance and participation. However, for those persons ordered to participate as a provision of the injunction for protection, there is not a mechanism that enables statewide follow-through and a consistent application of penalty for non-participation and violation of the injunction.

### **Family Violence Indicator**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 required states to establish and maintain a State Case Registry. Information contained in the State Case Registry must be transmitted to the Federal Case Registry which other states access for location information for the limited purposes of establishing paternity; establishing, modifying, or enforcing child support obligations; or making or enforcing child custody or visitation orders. In order to protect location information in the State and Federal Case Registries when the safety of parties or children could be jeopardized by disclosure, states are required to have procedures for placement of family violence indicators.

In 1999, legislation was passed which prescribed that a family violence indicator must be placed on a State Case Registry when a party executes a sworn statement requesting an indicator and they have reason to believe that the release of the information to the Federal Case Registry may result in physical or emotional harm to the party or the child (ch.99-375, L.O.F.). Federal requirements compel states to place the family violence indicator on a case if there is reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the party or child. A recent federal policy directive provided that a protective order was reasonable evidence of domestic violence or abuse.

## **III. Effect of Proposed Changes:**

### **Act of Domestic Violence**

CS/SB 708 amends the definitions for "domestic violence" and "family or household member" in four sections of Florida Statute to require present or prior co-residency between the victim and the family or household member in establishing an act of domestic violence, with the exception of when the victim and perpetrator have a child in common. These amendments would correct a current inconsistency between the definitions of "domestic violence" and "family or household member." They would also direct the application of domestic violence related legal actions and initiatives to those victims and perpetrators who have lived in the same dwelling either currently

or in the past, or those victims and perpetrators who have a child in common, regardless of whether they had ever lived together.

The sections of Florida Statute where the definitions of “domestic violence” are being amended are as follows:

- ▶ s. 25.385, F.S., *Standards for instruction of circuit and county court judges in handling domestic violence cases*: This section of law directs the Florida Court Educational Council to establish standards for the instruction of those circuit and county court judges with the responsibility for domestic violence cases. Since the definition of domestic violence is a component of the instruction to the judges, the revision in the definition would potentially require some minor alteration of information provided to the judges.
- ▶ s. 39.902, F.S., *Definitions*: Part XI of ch. 39, F.S., requires the Department of Children and Families to develop, certify and fund domestic violence centers. The amendment to the definition of domestic violence would not alter service delivery for the domestic violence centers since they currently include family and household members without regard for co-residency.
- ▶ s. 943.17(2)(a), F.S., *Basic skills training in handling domestic violence cases*: Under this section, the Criminal Justice Standards and Training Commission is directed to establish the standards for instruction of law enforcement officers in the subject of domestic violence. As with the instruction for judges, the revision to the definition would potentially change the information provided to law enforcement.
- ▶ s. 741.28(1), F.S., *Domestic Violence definitions*: This definition is used in a number of applications in the domestic violence sections of ch. 741, F.S., relating to domestic relations between husband and wife. The primary utilization is as a cause of action (and therefore who can petition) for an injunction for protection against domestic violence. The impact of the revision to the definition of domestic violence in issuing of injunctions is indeterminant since the current application of the co-residency requirements in the circuits is not known.

This definition of “domestic violence” is used as one of the bases for ordering participation in the batterer’s intervention program (s. 741.281, F.S.), in particular to allow persons adjudged to have committed an act of domestic violence or respondents to an injunction for protection against domestic violence to be ordered to participate in the program. However, the batterer’s intervention program is limited to perpetrators involved in violence between intimate partners (s. 741.325(8), F.S.). Co-residency is not a requirement; therefore, the amendment to the definition of domestic violence would not impact the participants referred to the program.

Persons arrested for an act of domestic violence who willfully violate a condition of pretrial release are considered to have committed a misdemeanor of the first degree and shall be held in custody until their appearance (s. 741.29, F.S.). Section 741.2901, F.S., directs the state attorney to adopt a pro-prosecution policy for acts of domestic violence. For both of these purposes, s.741.28(1), F.S., defines what constitutes an act of domestic violence.

The Address Confidentiality Program (ss. 741.401 - 741.409, F.S.) offers victims of domestic violence use of the address designated by the Attorney General as their address in their effort to establish a new location for themselves and their family. This program was implemented in January 1999, and the applicants thus far have been primarily former spousal situations. As a new program with minimal history, any impact would be on the potential participants in the program in the future.

### **Domestic Violence Centers**

The definitions of “domestic violence centers” and “domestic violence advocates” in s. 90.5036, F.S., are amended to clarify that the privilege of confidential communication applies to employees and volunteers of all domestic violence centers. Domestic violence centers are more specifically defined as agencies that offer assistance to victims of domestic violence as their primary mission and provide all the services required for domestic violence centers. This amendment will provide employees and volunteers of those domestic violence centers in their required history building period, in addition to the certified centers as currently interpreted, with the privilege of maintaining the communications with victims of domestic violence as confidential.

### **Court Proceedings Relative to Domestic Violence**

The bill clarifies existing law that a person can petition the court for an injunction for protection against domestic violence based on either one of two circumstances: the person has been a victim of domestic violence or the person is in imminent danger of becoming a victim of domestic violence. It also provides the court with factors that, if alleged in the petition, can be considered in determining whether a petitioner is in imminent danger of becoming a victim of domestic violence.

The bill sets forth as the intent of the Legislature that the process of granting ex parte temporary injunctions protect victims of domestic violence for as long as the victim is in danger. It requests the Supreme Court to adopt rules to require extensions of the ex parte temporary injunction when the sole reason for denying the extension is that the respondent could not be served the temporary restraining order and notice of the hearing. This provision retains the protection granted in the temporary injunction for the victim of domestic violence while efforts to serve the respondent continue.

Section 741.30, F.S., is amended to add a requirement that all injunctions for protection against domestic violence proceedings be recorded. This recording may be by electronic means. This amendment provides injunction proceedings with complete records of the testimony, evidence, and considerations in granting or denying injunctions for protections.

The Office of State Court Administrator is directed to examine current court practices relative to visitation and custody issues. The specific issues to be examined include the consideration given to visitation and custody during injunction for protection against domestic violence hearings; the determination of visitation and custody, as well as specific terms utilized in granting visitation and custody when injunctions are ordered; and the disposition of injunctions for protection arising out of the dissolution of marriage proceedings. Recommendations are to be developed for ensuring the most appropriate consideration of visitation and custody issues during the injunction process



and of injunction for protection issues during the dissolution of marriage proceedings. The Office of State Court Administrator is to collaborate with identified state agencies and organizations, as well as any other key stakeholders they identify, in the examination and recommendation development process. A report is required by January 1, 2001, to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

### **Batterer's Intervention Program**

Sections 741.30(6)(a)5 and 741.30(6)(b), F.S., are amended to require the Batterer's Intervention Program to provide notification to the court's case file of the respondent's enrollment and discharge. The notification of discharge is to specify the category of discharge and, if other than completion of the program, the reason for discharge. The categories of discharge are completion of the program, rejection of services, or termination from the program. Respondents who have been ordered to participate in the Batterers' Intervention Program as a condition of their injunction and who request a modification or dissolution of their injunction are required to have completed the Batterer's Intervention Program, unless there is substantial justification for failure to complete the program. The court is directed not to grant a respondent's request to modify or dissolve the injunction unless substantial justification exists for not complying with this condition. For a respondent's request to modify an injunction, the court is also provided with the option of considering other significant overriding circumstances necessitating an immediate remedy.

### **Family Violence Indicator**

The bill amends s. 61.1825, F.S., to provide two additional conditions for identifying when a family violence indicator must be placed on a child support enforcement case, which is then transmitted to the Federal Case Registry, to prevent the disclosure of information on the case when release of the information may result in harm to the individual or child. These conditions are when a temporary or final injunction for protection against domestic violence, repeat violence or by a court from another state has been granted and when the Domestic and Repeat Violence Injunction Statewide Verification System indicates that a party has been granted a domestic violence or repeat violence injunction. The addition of these two conditions for determining when a family violence indicator must be added offers more immediate protection for the victims, since they would not have to take the extra step to issue a sworn statement if there was an injunction. It also provides greater assurance that Florida is in full compliance with federal regulations relative to this issue.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Corrections, which houses the Office of Certification and Monitoring of Batterer's Intervention Programs, reports that there would be an unknown cost associated with identifying and reporting of enrolled and non-enrolled respondents but that this cost would be minimal.

The Office of State Court Administrators reports that the requirement for them to study current practices of courts with respect to visitation and custody in domestic violence cases will require a case file audit of a sample of domestic violence cases. A fiscal impact of \$5,000 is projected. Funds are for OPS staff to perform these audits and generate the necessary reports, as well as for travel expenses related to the audit. The office reports that staffing for collaboration with other organizations preparation of the report and development of recommendations can be accomplished using existing resources.

Additionally, if the definition of domestic violence has been interpreted in the most restrictive manner by the circuits, i.e., to exclude family and household members who have never lived together, then the elimination of the co-residency requirement for those instances where the victim and perpetrator have a child in common could increase the number of petitions for injunction for protection against domestic violence.

**VI. Technical Deficiencies:**

None.

## VII. Related Issues:

CS/SB 708 is the product of a Committee on Children and Families interim project. The provisions in the bill address a number of the issues identified in the interim project report, *Domestic Violence Initiatives in Florida* (Interim Project Report 2000-15).

The current definition for “domestic violence” in s. 741.28, F.S., is cross-referenced in a number of statutory provisions. For some of the statutory provisions, amending the definition does not result in any substantive impact. However, there are provisions whereby eliminating the co-residency requirement in the definition, for instances where the victim and perpetrator have a child in common, may potentially extend to a broader class of individuals certain rights, sanctions and civil liabilities as either victims or perpetrators. As noted earlier, the potential for the elimination of the co-residency requirement for family and household members where there is a child in common to extend the related provisions to a broader class of individuals depends on how the combined definitions of “domestic violence” and “family or household member” are currently being applied primarily by the courts. Statutory provisions that cross-reference s. 741.28, F.S., are as follows:

- ▶ s. 61.13, F.S., allows the courts to consider the conviction of an act of domestic violence or evidence of domestic violence in ordering shared responsibility for a minor child.
- ▶ s. 455.597, F.S., requires that persons licensed or certified under chapters 458, 459, 464, 466, 467, 490, or 491, F.S., complete a 1-hour continuing education course on domestic violence as part of their biennial relicensure or recertification.
- ▶ s. 464.018, F.S., provides for the commission of an act of domestic violence to be considered grounds for disciplinary action for persons licensed to practice nursing.
- ▶ s. 626.9541, F.S., prohibits a health insurer, life insurer, or managed care provider from refusing to issue a policy, or refusing to pay a claim based solely on the claim for treatment for abuse, including acts of domestic violence.
- ▶ s. 768.35, F.S., provides that victims of continuing domestic violence can recover compensatory and punitive damages against the perpetrator. Punitive damages involving domestic violence are not governed by s. 768.73, F.S.
- ▶ s. 787.03, F.S., provides that the act of interference of custody is a third degree felony, but excludes the action of spouses to preserve the safety of the child if an act of domestic violence has or is believed to be about to be committed.
- ▶ s. 901.15, F.S., allows for a law enforcement officer to arrest a person without a warrant when there is probable cause to believe the person has committed an act of domestic violence. However, some of the additional actions identified whereby an arrest can be made without a warrant include, at least, a portion of the groups that would be incorporated with the deletion of co-residency, in particular, any battery upon another person, and an act of repeat violence in violation of an injunction for protection from repeat violence.
- ▶ s. 907.041, F.S., allows for the court to order pretrial detention under certain conditions, including if the defendant is charged with a “dangerous crime.” The act of domestic violence is identified as a “dangerous crime.” However, a number of the crimes identified as acts of domestic violence, are also specified as “dangerous crimes,” such as aggravated assault and aggravated battery.
- ▶ s. 921.0014(1)(b), F.S., provides sentencing guidelines that allows the court to multiply the sentencing points by 1.5 for offenders convicted of a crime of domestic violence as the

primary offense when the crime was committed in the presence of a child related by blood or marriage under the age of 16.

- ▶ s. 944.705, F.S., provides any inmate who claims to be a victim of domestic violence to receive as part of the release orientation program, a referral to the nearest domestic violence center.

#### **VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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