

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/CS/SB 858

SPONSOR: Appropriations Subcommittee on Health and Human Services , Committee on Children and Families

SUBJECT: Domestic Violence

DATE: March 28, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dowds</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
2.	<u>Peters</u>	<u>Belcher</u>	<u>AHS</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>AP</u>	<u>Withdrawn: Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

The Committee Substitute for CS/SB 858 sets forth the following provisions relative to families where there is domestic violence who are involved in the child protection system.

- Directs the Department of Children and Family Services to provide its domestic violence training to existing child protection staff who have not yet received the training, as well as to all operations program administrators by June 30, 2002.
- Directs the Department of Children and Family Services to conduct district wide joint training sessions with both domestic violence center staff and child protection staff.
- Directs the Department of Children and Family Services to incorporate into its training on conducting the initial child safety assessment instruction on the injunction process provided in s. 39.504, F.S., as it relates to families where domestic violence exists.
- Requires the Department of Children and Family Services to conduct an examination of the staff positions and professions that interact with families where there is domestic violence and the family is involved in child protection system who should receive domestic violence training.
- Directs the Department of Children and Family Services to pilot the use of domestic violence consultants in protective investigative units in a minimum of three counties.
- Directs the Department of Children and Family Services to incorporate into its administrative rule or operating procedures policies providing specific direction for intervening with families where domestic violence exists.
- Requires a workgroup to be formed by the Department of Children and Family Services to examine the process used by the Central Abuse Hotline of identifying the non-abusing parent as an alleged perpetrator due to failure to protect at the intake of the abuse report.

- Amends ss. 741.30 (6)(a) and (b), F.S., to require the batterer's intervention program to provide notification of the respondent's enrollment and discharge and to require that a respondent have completed the batterer's intervention program in the court's consideration of the respondent's request for a dissolution of their injunction.
- Provides for an examination of the batterer's intervention program, specifically the current court processes for requiring domestic violence perpetrators to participate in the batterer's intervention program, the current mechanisms for monitoring participants' completion of the batterer's intervention program and the effectiveness of the batterer's intervention program.
- Amends s. 39.903(1), F.S., to direct the Department of Children and Family Services to promote and encourage district offices of the department and local domestic violence centers to negotiate and execute the Interagency Working Agreements.
- Amends s. 39.904, F.S., to add to the annual report on domestic violence the implementation activities surrounding the Interagency Working Agreements.

This bill substantially amends the following sections of the Florida Statutes: 39.903(1) and 741.30(6). Subsection (8) of section 39.904, of the Florida Statutes, is created.

## **II. Present Situation:**

Detailed discussion of the issues and current situation is presented in the Interim Project Report 2000-008, *Protecting the Child and Adult Victim Where Domestic Violence Exists*.

### **DOMESTIC VIOLENCE TRAINING AND TECHNICAL ASSISTANCE**

Child protection staff in Florida are required to participate in and meet the requirements of the Department of Children and Family Services' certification program (ss. 402.40 and 402.731, F.S.). Included in phase II of the certification program is a 2-day training on domestic violence that is required for new protective investigators, protective service counselors, foster care counselors, adoption counselors, and protective investigative supervisors. This domestic violence training has been in place for at least 3 years, and while planned for full implementation, existing staff have not yet received the training and management level staff are not being trained.

Domestic violence center staff who work with victims of domestic violence and their dependents are required to have 24 hours of training each year (Rule 65C-6.004(d)4, Florida Administrative Code on Domestic Violence) on domestic violence or other related topics which can include child abuse. In addition, s. 90.5036, F.S., which provides domestic violence center staff with privileged communication with victims of domestic violence, requires 30 hours of training in assisting victims of domestic violence. This training includes only a minimal level of information on child abuse.

### **CHILD PROTECTION LAWS AND POLICIES RELATIVE TO DOMESTIC VIOLENCE**

Any person who knows or has reasonable cause to suspect that a child has been abused or neglected by a parent or other designated person is required to report the maltreatment to the Department of Children and Family Services' central abuse hotline (s. 39.201, F.S.). The

designated person (or perpetrator) alleged to have caused or inflicted the abuse determines whether the abuse falls within the jurisdiction of Florida's child protection laws. As one recourse to prevent any act of child abuse in a case, s. 39.504, F.S., allows the Department of Children and Family Services, law enforcement, state attorney, or "other responsible persons" to request an injunction from the court to remove the abuser from the home.

Florida's definition of child abuse, neglect and harm, as it relates to domestic violence, provides that harm to a child's health or welfare can occur when there is a failure to protect the child from inflicted physical, mental, or sexual injury caused by the acts of another (s. 39.01 (30)(j), F.S.), or when there is violent behavior that demonstrates a wanton disregard for the presence of a child and could reasonably result in serious injury to the child (s. 39.01 (30)(i), F.S.). Sections 39.01(30)(i) and (j), F.S., are applied as "failure to protect the child" and "family violence threatens the child" maltreatment allegations. The Department of Children and Family Services' Operating Procedure No. 175-28 on the Allegation Matrix requires, in applying the "failure to protect" maltreatment allegation where there is domestic violence, that the circumstances of the case be carefully examined, including the parent's help-seeking activities. However, the non-abusing parent's ability or failure to protect her child is also considered in determining whether a parent is identified by the Central Abuse Hotline as a perpetrator based on the parent's failure to protect the child, and whether the parent is able and willing to protect the child in determining the disposition of the case and how to keep the child safe. These considerations of failure to protect the child do not have guidance in procedures or rules relative to families where there is domestic violence.

### **SERVICES AND SUPPORTS FOR FAMILIES WHERE DOMESTIC VIOLENCE EXISTS**

Certified domestic violence centers offer a range of services to assist battered victims keep themselves and their children safe and are certified pursuant to s. 39.905, F.S. There are 38 certified domestic violence centers in the state, each offering at a minimum the following services: emergency shelter, counseling, 24-hour hotline, information and referral, case management, assessment and referral of resident children and safety planning. The Department of Children and Family Services is responsible for certifying domestic violence centers (s. 39.903, F.S.) and for distributing collected and appropriated funds to the domestic violence program (s. 39.905, F.S.). Section 39.904, F.S., requires the Department of Children and Family Services to furnish to the President of the Senate and Speaker of the House of Representatives a report on the status of domestic violence in this state.

When child abuse is alleged, services to stabilize the home environment, such as medical care, homemaker service, day care, and protective supervision, can be offered for voluntary acceptance by the parents if the protective investigation determines that such services are needed for immediate or long-term protection (s. 39.301 (12), F.S.). These services can also be provided to parents through court ordered protective services to either stabilize the home or reunite the parent(s) with the child. When domestic violence exists, parents can be referred for domestic violence services or the batterer's intervention program. However, in a review of a sample of child abuse protective investigation records, there were a number of cases, primarily cases for which protective services were not court ordered, where domestic violence potentially existed but referrals for domestic violence services were not made. For families where the domestic violence

does not pose an immediate risk to the child and protective services are not appropriate, the system and supports for intervention are not adequate.

### **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.). For persons ordered to participate in the batterer's intervention program 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.

Parents who are the domestic violence perpetrators can be ordered to participate in the batterer's intervention program by the dependency court judge as part of the case plan requirements, pursuant to ch. 39, F.S. However, often in cases before the dependency court, the domestic violence perpetrator is not the parent or legal custodian and the dependency court has no authority to require participation in the batterer's intervention program.

### **BUILDING PARTNERSHIPS BETWEEN CHILD PROTECTION AND DOMESTIC VIOLENCE**

The Florida Coalition Against Domestic Violence/Department of Children and Family Services Task Force developed a model Interagency Working Agreement to be used in each of the districts between the department and the certified domestic violence centers to develop partnerships for serving these families. Implementation of this agreement in the district was initiated in the Fall 2000.

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

### **DOMESTIC VIOLENCE TRAINING AND TECHNICAL ASSISTANCE**

The bill sets forth a number of domestic violence training provisions. First, the Department of Children and Family Services is directed to provide its domestic violence training to all existing protective investigators, protective supervisors, foster care counselors, adoption counselors, and protective service counselors who have not yet received the training. The domestic violence training is also to be provided to all Operations Program Administrators, which are the first level of management in the system. Provision of the training must be completed by June 30, 2002.

Second, the Department of Children and Family Services is directed to conduct district-wide joint training sessions with both domestic violence center staff and protective investigator and protective investigator supervisor staff during fiscal 2001-2002. The purpose of the joint training is to build a common understanding of the functions and perspectives of the child protection and domestic violence systems and the joint role of both systems in protecting the child and battered parent. The sum of \$121,651 is appropriated for this training initiative.

Third, the Department of Children and Family Services is directed to incorporate into its training on conducting the initial child safety assessment instruction on the injunction process provided in s. 39.504, F.S., as it relates to families where domestic violence exists. The instruction is to address when the s. 39.504, F.S., injunction would and would not offer protection for the child and non-abusing parent, as well as guidelines for utilization of this injunction process when there is domestic violence.

Fourth, the bill requires the Department of Children and Family Services to conduct an examination of the staff positions and professions that interact with families where there is domestic violence and the family is involved in child abuse reporting, protective investigations or the child protection judicial proceedings and identify those positions and professions that should receive domestic violence training. Recommendations are to be developed for implementing domestic violence training for each of the identified positions and professions. The examination and development of recommendations is to be developed in collaboration with other identified stakeholders. A report of the recommendations is required by January 1, 2002 to the Governor, the President of the Senate and the Speaker of the House of Representatives.

Finally, the bill directs the Department of Children and Family Services to pilot the use of domestic violence consultants to educate and support the protective investigative staff in identifying and assembling the most effective interventions possible for the children and adult victims. The domestic violence consultants are to be existing protective investigators or supervisors who will receive a higher level of compensation and are to be piloted in a minimum of three counties. Data must be collected and analyzed by the department on the technical assistance provided to the investigations and to the families, with a report required to the Legislature by January 1, 2003.

### **CHILD PROTECTION LAWS AND POLICIES RELATIVE TO DOMESTIC VIOLENCE**

The bill directs the Department of Children and Family Services to incorporate into either its administrative rule or operating procedures relative to the protective investigation process policies providing specific direction for intervening with families where domestic violence exists. The policies to be added include considering all circumstances surrounding the abuse, including the battered parent's attempts at help-seeking, before determining a parent's ability or failure to protect the child where there is domestic violence; assessing whether the battered parent is in any current danger and, if danger exists, making a referral for the development of a safety plan for the battered parent; and referring the family for a domestic violence assessment and services if any potential for domestic violence exists.

A workgroup is required to be formed by the Department of Children and Family Services to examine the process used by the Central Abuse Hotline of identifying the non-abusing parent as an alleged perpetrator due to failure to protect at the intake of the initial abuse report, when an abuser is also identified as an alleged perpetrator. The purpose of this examination is to assess the value to the investigation process of identifying a parent as a perpetrator due to failure to protect at the initiation of the report and the implications of this identification prior to examining the parent's actions. This examination and development of recommendations is to be conducted in

collaboration with other stakeholders, with a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2002.

### **BATTERER'S INTERVENTION PROGRAM**

Sections 741.30 (6)(a) and (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. Respondents who have been ordered to participate in the batterer's intervention program as a condition of their injunction and who request a 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 dissolve the injunction unless substantial justification exists for not complying with this condition.

The bill directs the Office of Program Policy Analysis and Government Accountability to conduct an examination of the Batterer's Intervention Program. The examination is to focus on the following:

- The current court processes, as well as related systems, that can require or lead to the requirement of domestic violence perpetrators identified through the child protection or dependency court processes to participate in the batterer's intervention program and potential strategies for increasing the domestic violence perpetrators requirement to participate in the batterer's intervention program.
- The current monitoring of participants' completion of the batterer's intervention program and potential strategies for ensuring that participants complete the program.
- Available data on the effectiveness of the batterer's intervention program.

Key stakeholders to be consulted in conducting this examination are identified. A report on the findings of the examination and recommendations is to be submitted to the President of the Senate and Speaker of the House of Representatives by December 31, 2001. An option for a phase II report to be submitted by December 31, 2002 is provided if it is determined that key recommendations require continued examination or implementation of provisions of this legislation should be studied as it relates to the focus of this examination.

### **PARTNERSHIP BETWEEN CHILD PROTECTION AND DOMESTIC VIOLENCE**

Section 39.903(1), F.S., is amended to add to the responsibilities of the Department of Children and Family Services relative to domestic violence centers the promotion and encouragement of district offices of the department and local domestic violence centers to negotiate and execute the Interagency Working Agreements. Section 39.904, F.S., which requires the Department of Children and Family Services to furnish an annual report on the status of domestic violence in Florida, is amended to add to the report the implementation activities surrounding the Interagency Working Agreements.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

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

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The Department of Children and Family Services reports that the provision of domestic violence training to existing child protection staff and to all Operations Program Administrators could be accomplished within existing resources if the required date for completion of training was moved from December 31, 2001 to June 30, 2002. The department estimates the cost of providing district-wide joint training for child protection and domestic violence center staff to be \$121,651 (estimated 2,545 child protection and domestic violence center staff multiplied by \$47.80 per trainee for 1 day of training totals \$121,651). The bill provides a non-recurring appropriation of \$121,651 to the Federal Grants Trust Fund to be funded from the Temporary Assistance for Needy Families Block Grant. If the joint training continues to be provided in subsequent years for the 20 percent turnover in staff, the recurring costs for providing this training is \$24,330.

The department reports that the piloting of domestic violence consultants in protective investigative units in three counties can be implemented within existing resources. Plans had been in place for implementing consultants in domestic violence, with an advanced domestic violence training curriculum currently being developed to achieve this purpose. However, consultants will need to manage a smaller case loads in order to assume the additional responsibilities. Also ensuring the availability of the domestic violence consultants to the protective investigators 24 hours a day could entail the expenditure of overtime dollars.

The Department of Corrections reports that while the amendments to s. 741.30(6)(a)5., F.S., provide court notification of a respondent's enrollment and discharge from the program, it provides neither the mechanism for the court to capture this information nor a tracking

system to ensure the respondents are participating in the program as ordered. The proposed amendments will necessitate revisions of the Certification Procedures and Minimum Standards for Assessors and Batterer's Intervention Programs by the department's Office of Certification and Monitoring of Batterer's Intervention Program. In addition, the Governor's 2001-2002 budget contains a provision to transfer the Office of Certification and Monitoring of Batterer's Intervention Programs from the Department of Corrections to the Department of Children and Family Services. The Secretary of the Department of Corrections is supportive of this transfer.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**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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