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 for SB 1226 and CS/SB 734

SPONSOR: Judiciary Committee and Senator Burt

SUBJECT: Family Court Reform

DATE: February 12, 2002 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matthews	Johnson	JU	Favorable/CS
2.		Whiddon	CF	Withdrawn
3.	Fournier	Johansen	FT	Favorable
4.			APJ	
5.			AP	
6.				

I. Summary:

This committee substitute for SB 1226/CS/SB 734 is the by-product of a joint committee interim project regarding a review of the family courts division and the model family court. The bill seeks to facilitate the courts' decision-making abilities relating to family law matters as the court system moves toward the implementation of a unified family court model, to assist children and families through the judicial process, to improve court operations through better information flow, to promote systems of coordination between the courts and social service providers and between specified interagencies, and to improve the delivery of needed services for children and families outside the court system. Specifically, the bill addresses the following:

- Provides legislative intent and findings regarding the continuance of the legislative initiative for family court reform, the conceptual framework for the unified family court model, and the collaboration and coordination between the courts and other entities in the provision of delivery of services outside the judicial system;
- Directs the Division of Statutory Revision to designate specified chapters to constitute the Family Code and to reorganize provisions of chapters 61 and 741, F.S., into parts and to rename chapters;
- Authorizes the courts and the clerks of court to collect and use social security numbers or other personal identifying information until October 2, 2007, for the sole purpose of developing unique identifier systems to identify, coordinate, link and track related cases;
- Clarifies provisions regarding the continuing precedence of orders in chapter 39, F.S., over similar prior, concurrent or subsequent orders entered in civil proceedings affecting the same type of orders;
- Limits the subsequent admissibility of orders and evidentiary matters entered in chapter 39, F.S., proceedings in other civil proceedings affecting the placement of, access to, parental time with or parental responsibility for a child;

- Clarifies provisions regarding the continuing precedence of temporary orders governing custody, visitation and support entered in domestic violence injunction proceedings over other similar orders or proceedings affecting the placement of, access to, parental time with, or parental responsibility or support for a child;
- Deletes unconstitutional provision relating to grandparent visitation rights in chapter 61, F.S. proceedings, to reflect current court rulings;
- Creates the Uniform Child Custody Jurisdiction and Enforcement Act to replace the outdated Uniform Child Custody Jurisdiction Act in chapter 61, F.S.;
- Promotes participation in presuit and voluntary mediation by providing legislative intent regarding the provision of a continuum of alternative dispute options to the judicial process, by requesting the establishment of a formal court process to file and obtain approval of stipulated agreements without the necessity of court appearances, by providing confidentiality provisions in presuit and voluntary mediations, by authorizing the establishment of presuit mediation pilot programs for the modification or enforcement of judgments relating to family matters, by converting the $45 locally-imposed service charge into a $65 mandatorily-imposed statewide service charge on modification of dissolutions of marriages to fund specified mediation services, and by authorizing the Department of Revenue and Office of State Courts Administrator to pursue federal Title IV-D funds for mediation services, and appropriating for a study thereof;
- Imposes an earlier deadline for parents to complete parent education courses in dissolution of marriage proceedings in order to maximize the benefits of the course;
- Clarifies the mandatory co-residency requirement in the definitions of "domestic violence" and "family or household member" except under specified circumstances;
- Sets forth a statutory framework to begin the establishment of a statewide certification and monitoring system to improve the quality and safety of supervised visitation and exchange programs and provides incentives for law enforcement officers to secure educational credits and to volunteer in these types of programs.
- Promotes systems of coordination between the court and social service agencies by providing a framework for them to collaborate in the development of a system that ensures access to services for children and families in the court system
- Promotes systems of coordination between the Department of Juvenile Justice, the Department of Children and Families and the Department of Education by requiring them to organize interagency workgroups, to enter into interagency agreements for handling issues relating to services for children who cross agency jurisdictional lines, and to report on the workgroup efforts;
- Creates a legislative technology workgroup of major stakeholders to address how and when to initiate legislative action regarding the direction and coordination of efforts of various entities for the development of a technology network, to identify support issues and to facilitate the flow and integrity of needed information to, within, and from the court through a coordinated and integrated database system; and
- Conforms a number of statutory cross-references to the new provisions in the bill;
- Includes a severability clause.

This bill substantially amends the following sections of the Florida Statutes: 25.385, 39.013, 39.0132, 39.502, 39.521, 39.814, 39.902, 44.1011, 44.108, 61.13, 61.21, 741.28, 741.30, 943.135, and 943.171. The bill creates sections 23.375, 44.1012, 44.1025, 44.202, 61.501,

61.502, 61.503, 61.504, 61.505. 61.506, 61.507, 61.508, 61.509, 61.510, 61.511, 61.512, 61.513, 61.514, 61.515, 61.516, 61.517, 61.518, 61.519, 61.520, 61.521, 61.522, 61.523, 61.524. 61.525, 61.526, 61.527, 61.528, 61.529, 61.530, 61.531, 61.532, 61.533, 61.534, 61.535, 61.536, 61.537, 61.538, 61.539, 61.540, 61.541, 61.542, 61.543, 61.544, 63.052, 63.087, 63.102, 753.01, 753.02, 753.03, 753.04, 753.05, 753.06, 753.07, 753.08, 753.09, and 943.254, of the Florida Statutes. Sections 753.001-753.004, ss. 61.1302-63.1348, and 61.183, of the Florida Statutes, are repealed. Sections 61.19 and 61.191, F.S., are transferred and renumbered. Section 741.24, F.S., is transferred to chapter 772, F.S., and renumbered.

II. Present Situation:

Like many other states, Florida's initiative for family court reform has been spurred by the continuing and overwhelming demands on the judicial system by cases involving children and families. Florida initiated its own family court reform over 10 years ago. The Legislature established and directed the Commission on Family Courts to make recommendations for the implementation of a family division in each court. *See* ch. 90-273, L.O.F. The Commission's subsequent recommendations engendered the primary guiding principle to develop a judicial process that coordinated the court's equitable and comprehensive consideration of all matters affecting a child and family, regardless of which legal matter had initiated court involvement or intervention.

Since that time, the volume of family law cases has dramatically increased. Domestic relation court filings increased by almost 70% from 1986 to 2000 while juvenile delinquency and dependency court filings increased by almost 60%. In 2000, these cases accounted for 44.4% of all cases heard in circuit courts. In addition, the cases have become much more complex. Many of these cases involve children or families with previous, concurrent or subsequent involvement in other related family law cases including delinquency and dependency. The cases are also complicated by the underlying non-legal issues that create or exacerbate the child's or family's legal problems, which if detected or addressed earlier, might have facilitated resolution of the legal matters and even have obviated judicial intervention or involvement in the first place. As a result, many children and families repeatedly and unnecessarily appear before the court with the same or more serious civil, if not criminal, matters. Another complication is the fact that an increasing number of litigants in family court cases are foregoing legal counsel and since many of these pro-se litigants are minimally or totally unfamiliar with the judicial process, their cases traditionally extract greater demands for time and assistance on the judicial system.

In consideration of these factors over the last 10 years, the Florida Supreme Court, through the efforts of the Family Court Steering Committee as the successor to the Commission, continued to work on and refine the Commission's recommendations. The Court formulated specific family division measures that focus on the needs of children involved in litigation, that refer families to needed court-based and community services, that coordinate cases to provide consistent results, and that strive to leave families in better condition than when they entered the judicial system. The prevailing court model offered for advancing this conceptual approach is the unified family court model whose underlying principles and concept the Florida Supreme Court recently endorsed. *See* In Re: Report of the Family Court Steering Committee, 794 So.2d 518, reh'g den. (Fla. 2001)

In furtherance of the court's efforts to fulfill the legislative initiative on family court reform, the Legislature appropriated funds for three unified family court model pilot programs to begin July 2001. The Legislature also recently directed a joint senate interim project to be conducted by the Committee on Children and Families and the Committee on Judiciary on a review of the family court divisions and the unified family court model. Through questionnaires, workshop discussions and other forms of input from key stakeholders, major legislatively-based issues and proposed actions were identified. For purposes of dedicating appropriate attention to specific issues in the development of legislation, the Committee on Judiciary took primary oversight in matters relating to court services and system. *See* Senate Interim Project Report 2002-141, *Review of Family Courts Division and the Model Family Court: Court Services and System*. The Committee on Children and Families took primary oversight in matters relating to other services and systems for children and families. *See* Senate Interim Project Report 2002-121, *Review of Family Courts Division and the Model Family Court: Other Services and Systems for Children and Families*.

Initially, the focus of the interim project was on legislative actions that would facilitate the future implementation of the concept and structural framework for a unified family court model in Florida. However, during the course of the interim project, it became clear that statutory changes also could improve substantially the courts' current decision-making abilities in tailoring a comprehensive resolution to a child or family's legal matters in current and other pending related matters within the existing structure of the family, delinquency and dependency court divisions. These recommended changes could also build on and substantially enhance current initiatives for collaboration between the court and non-court-based service providers to address the underlying non-legal needs of the children and families in court through intake, referral, coordination and delivery of services outside the judicial system.

III. Effect of Proposed Changes:

This proposed committee substitute is a by-product of the joint interim project.[1] Due to the comprehensive nature of the bill, analysis is provided according to the major issues and when applicable, within the context of current law to explain the rationale for the proposed changes.

COURT SERVICES AND SYSTEM

- *Unified Family Court Model Concept*

Present Situation:
Under current law, legal matters involving children and families are frequently addressed piecemeal by different court divisions, particularly in larger judicial circuits. In many cases, the parties are appearing before a different judge in each proceeding. Frequently, due to lack of information sharing, coordination or case management, the judge is completely unaware of

[1] Two other major issues identified during the interim project but not addressed in this bill, are public records (accessibility, confidentiality, and privacy) and the representation of children. These issues are the current subject for at least two other bills. See SB 668 (relating to the creation of a Study Commission on Public Records and Privacy and the issuance of a moratorium on the publication of specified public records via the Internet) and SB 686 (relating to the legal representation of children). *See also* Senate Interim Project Report, 2002-140, *Legal Needs of Children*.

previous or pending related legal matters involving the same children or family before the court. Moreover, the child or family's underlying non-legal issues may go undetected or unaddressed. The court may lack the network of informational resources or management systems to facilitate coordination of their multiple legal proceedings and the delivery of services from outside the court system to children and families. Alternatively, the court is often ill-equipped to recognize or lacks the jurisdictional authority to address the complex family dynamics and social, economic and psychological factors or even lacks the services and resources to refer and link children and families to needed services outside the court system. Consequently, these non-legal matters may have caused or exacerbate a child's and family's legal problems, necessitating further judicial intervention or court appearances.

Effect of proposed changes:

Section 1 provides legislative intent as to the Legislature's continued initiative to reform the family courts through the development of an integrated and comprehensive approach to handling cases involving children and families. This section also sets forth the concept behind the framework for the unified family court model which encompasses not only judicial resolution of legal matters but also collaboration between the courts and social service providers to identify, refer and link a child and family to services addressing their non-legal needs outside the judicial system. It also acknowledges the value of information sharing and enhanced technology for case processing, management and resolution. It also provides recognition for the need to protect the rights, privileges and safety of the children and families who come before the court.

Section 2 directs the Division of Statutory Revision to create a Family Code by reference to related chapters in further recognition of the comprehensive jurisdictional approach to resolving matters involving children and families. The Family Code shall link by reference chapters 39 (dependency and termination of parental rights), 61 (dissolution of marriage, support and custody), 63 (adoption), 88 (uniform interstate support act), 741 (husband and wife), 742 (paternity), 743 (disability of minors), 751 (temporary custody by extended family), 752 (grandparent visitation), 753 (supervised visitation), 984 (CINS/FINS) and 985 (delinquency), F.S. It also directs the Division to reorganize in the next statutory edition chapter 61, F.S., into major parts relating to dissolution of marriage, support and custody, guardian ad litem, and interstate custody. It also directs that chapter 741, F.S., relating to Husband and Wife be retitled as "Marriage; Domestic Violence" and divided into specified parts.

Section 20 directs that ss. 61.19 and 61.191, F.S. (relating to the entry of final judgments on dissolution of marriage) be transferred and renumbered as ss. 61.053, and 61.054, F.S., to conform with the new part designations in chapter 61, F.S. In addition, **section 26** directs that s. 741.24, F.S. (relating to civil actions against parents for destruction of property by minors), be transferred to chapter 772, F.S. (relating to civil remedies for criminal practices) and renumbered as s.772.115, F.S., to conform with new part designations in chapter 741, F.S.

- *Judicial Case Management and Information Sharing*

Present Situation:

In order to fairly, timely, consistently, efficiently, and effectively handle all cases relating to a child or family, the court needs to be alerted and made aware of these cases.[2] Currently, there is no single or uniform system of judicial case management in the state. Initial anecdotal evidence from the unified family court model pilot programs indicate that the components of a judicial case management system will vary between counties based on the demographics, resources, and nature of cases. Integral to the development and implementation of an effective judicial process is a judicial case management system that identifies, coordinates, monitors and links all related cases impacting one child or family and that moves those cases expeditiously within the judicial process to final resolution. A judicial case management system also envisions the provision of services such as supervised visitation and alternative dispute resolution), and the referral and linkage to judicial recommend or needed social services available outside the court system.

It is recognized that enhanced technology is a key element to implementing effective judicial case management and resolution of matters impacting a child and family. Although a number of existing information systems exist throughout the state, many of them are not coordinated or integrated to facilitate information sharing, exchange or retrieval within and outside the court system. In addition, the courts' current ability to track and coordinate related cases is complicated by the increased mobility of family households between circuits and the divergent and evolving nature of family household dynamics. Therefore, a number of stakeholders, including the court, have begun to conduct assessments of their respective technology. It is recognized that a minimum and uniform level of technological support is necessary to ensure parity and uniformity among all counties and circuits for court access to information relevant about children and families and for identifying, tracking and linking related cases.

As with most governmental entities, some courts and clerks of court have come to rely on the social security number either in its entirety or partially as they develop unique identifier systems to link, coordinate and manage cases. It is not altogether clear, however, that statutory authority exists for the collection and use for this purpose.

Effect of proposed changes:

Section 3 creates s. 25.375, F.S., to provide statutory authorization for the courts and the clerks of court's to collect and use personal identifying information such as social security numbers for the sole purpose of developing a system for case management and tracking.[3] This authorization is effective until October 2, 2007, to provide the courts time to develop a unique identifier code system which may or may not ultimately encompass use of the social security number. Services, rights and remedies otherwise provided by law, however, may not be denied anyone for failure to provide the social security number.

Section 38 creates a legislative workgroup of major stakeholders to address how and when to initiate legislative action regarding the direction and coordination of efforts of various entities for the development of a technology network, to identify support issues and to facilitate the flow and integrity of needed information to, within and from the court through a coordinated and integrated database system. Focus will be directed on technological needs assessment by each entity, data collection and maintenance, statewide technological

[2] In re: Report of the Family Court Steering Committee, 794 So.2d 518, reh'g den. (Fla. 2001)
[3] CS/SB 1648, a public records exemption bill, is linked and traveling with this bill.

structure, integration of systems, coordination, and development of uniform standards. The Statewide Technology Office is to establish a technology workgroup by July 1, 2002. The workgroup must submit a final report by February 1, 2003, to include at a minimum, identification of information needs of the court, clerks of court, agencies and other stakeholders functioning under a unified family court model program, of information technology needs to facilitate information sharing and flow, of funding needs and sources to meet those needs, and other recommendations.

- *Jurisdictional Conflicts: Precedence of Orders*

Present Situation:
As the court system implements measures to facilitate its operations and decision-making abilities as pertains to all related cases involving a single child or family, there is the need to clarify the precedence of specified orders in subsequent legal proceedings. Since relief for matters such as custody, visitation and support may arise through a number of different proceedings such as a dependency action, a dissolution of marriage action and a paternity action, it is not uncommon for each court with respective jurisdiction of the proceedings to enter, without knowledge of the pending actions, an order ruling on the same matter. The issue arises as to which order should take precedence and under what circumstances.

For example, the Legislature has already recognized that dependency orders or orders issued by the court with jurisdiction over dependency orders should take precedence over other orders that may overlap or conflict in pending or subsequent civil matters. *See* s. 39.013, F.S., and s. 39.521, F.S. The rationale is that the state has had to intervene to protect a child of potential abuse or neglect thus overriding a parent's constitutionally implied right to raise or otherwise determine matters relating to their child until the court determines otherwise what is in the child's best interest. Therefore, if a court hearing a dissolution of marriage enters without knowledge of a pending dependency matter, an order affecting custody which is in direct conflict with an existing order affecting custody in a dependency order, the dependency order should take precedence. However, the law is unclear about the continuing precedence of that order if the dependency court has terminated jurisdiction. If a petition for modification is sought based on a substantial change of circumstances under a divorce or paternity proceeding and such change in circumstances does not rise to the level of abuse or neglect sufficient to invoke the Department's (of Children and Families) involvement, a parent is without recourse but to try to re-open the dependency case.

Another area of confusion and conflict is the continuing precedence of temporary orders on custody and visitation entered in domestic violence proceedings over other such orders in other civil proceedings. Current law permits a court hearing a domestic violence injunction to include a determination on issues of custody, visitation or support at the ex parte hearing and the final hearing but that determination is entered only as a temporary order which suggests that if there is a pending action or if there is none, that a subsequent separate proceeding potentially under chapter 61 must be filed in order to secure a ruling on permanent custody, visitation or support. *See* s. 741.30, F.S. Additionally, it has been anecdotally suggested that this process is sometimes manipulated to allow one person to secure a determination on temporary custody and support at the ex parte hearing before the court with the pending dissolution proceeding has had an opportunity to address custody and support issues. Alternatively, that temporary order on custody

and support in the injunction may then be inappropriately relied upon as permanent determinations of custody and support without satisfying the full evidentiary burden required under a dissolution of marriage or paternity proceeding.

Effect of proposed changes:
Sections 5 and 8 amend ss. 39.013 and 39.521, F.S., respectively, to clarify that orders entered under chapter 39, F.S., shall take precedence over other prior, concurrent or subsequent orders relating to child custody or visitation in civil proceedings. However, if the court terminates jurisdiction, then an order entered under chapter 39, F.S., relating to the child, continues to take precedence until subsequently modified in other civil proceedings, provided notice and opportunity to be heard is given to the Department of Children and Families.

Section 28 amends s. 741.30, F.S., to clarify the continuing precedence of temporary orders relating to custody and visitation and support in domestic violence injunction proceedings. A temporary order shall remain effective until the order expires or a permanent order is entered by a court of competent jurisdiction, which occurs earlier, in a pending or subsequent civil proceeding affecting the placement of, access to, parental time with, or parental responsibility or support for the minor child.

- *Admissibility of Dependency Orders and Evidence*

Present Situation:
In conjunction with the issue on the precedence of dependency orders, clarification has also been sought on the issue regarding the subsequent admissibility of such orders and their findings of fact and other evidentiary matter in other civil proceedings involving the same child or a sibling of that child. The admissibility of evidence in civil and criminal proceedings, including workers' compensation proceedings, is generally governed by the Evidence Code set forth in chapter 90, F.S. However, the Legislature carved out an exception from the application of the Evidence Code to the admissibility of all orders and evidentiary matters in chapter 39, F.S. Therefore, current law prohibits their admissibility in any civil or criminal proceeding except under limited exceptions. *See* ss. 39.0132 and 39.814, F.S. For example, a termination of parental rights orders may be admissible in a subsequent adoption proceeding of the same child or sibling. Records or portions of a dependency case may be admitted into perjury proceedings. However, as the court system moves towards handling all related cases involving a single child or family, this provision may impede the court's decision-making ability to consider fully all matters relating to a single child or family, and may require unnecessary relitigation of the same facts or evidence in subsequent legal proceedings. The rationale is that if the evidence was admissible in an evidentiary hearing under chapter 39, it ought to have the same presumptive standard of reliability and relevance in a subsequent civil proceeding.

Effect of proposed changes:
Sections 6 and 9 amend s. 39.0132, F.S., and s. 39.814, F.S., respectively, to facilitate the admissibility of reliable and relevant evidence from a proceeding arising under chapter 39, F.S., to another civil proceeding affecting the same child or sibling of the child. This language expands the admissibility of final orders and admitted evidence into other civil proceedings relating to the same child or sibling of that child on limited matters.

Additionally, to deal with due process considerations, notice must be given of the intent to offer the evidence and a copy of that evidence must be delivered to the party against whom it is being offered. The court can then make its determination of whether it is relevant and admissible to the issue at hand, in accordance to the standard set forth in the Evidence Code. Furthermore, the confidentiality of such order or evidentiary matter is retained even when used in a subsequent civil proceeding. With the exception of perjury proceedings, this evidence remains inadmissible in criminal proceedings as is provided in current law.

- *Other Statutory Updates to Facilitate An Integrated and Comprehensive Resolution to Family Matters*

Present Situation:
The conceptual approach of a family law division with comprehensive jurisdiction over all cases involving children and relating to the family, implicates numerous provisions under family law chapters, including but not limited to, chapters 39, 61, 63, 88, 741, 742, 743, 751, 752, 753, 984, and 985, F.S. Even without the formal implementation of a unified family court model program in each of the circuits, specific changes were identified in existing provisions that are needed to facilitate the court's coordination and resolution of related cases under the existing family law, dependency and delinquency court divisions. It was noted that many provisions in these chapters have not kept pace nor reflect the complexity of the evolving and divergent dynamics of familial relationships in household units, particularly for parents who may never have been married to each other, let alone lived together. For example, chapter 61, F.S., is heavily weighted on the presumption that the parents petitioning for child support, custody or visitation is or was a spouse. However, many parents may never have been married, let alone have resided together.

Another example is the evolving definition of "domestic violence" and "family or household member." Over the years, the category of individuals to whom the definition of domestic violence applies has expanded from just individuals who were or had been married to individuals who lived together or who had a child in common, regardless of marital status or residency. Injunctive relief and services and sanctions thereunder are contingent upon the applicable definition of "domestic violence" and "family or household member."[4] Section 741.28, F.S., is the predominant definition used to seek an injunction for protection against domestic violence. Prior or present co-residency between the offender and the family or household member is required under the definition of "domestic violence." However, the residency requirement does not appear in the definition for "family or household member."[5] Family or household member 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, regardless past or present marital status or residency. [6]

[4] Notably, in recent years, twenty-nine states, plus the District of Columbia, Puerto Rico and the Virgin Islands have begun to include "dating violence" victims in some or all of their domestic violence laws, which permit some form of injunctive relief for these victims. In 2000, Congress amended the Violence Against Women Act to add "dating violence" for purposes of federal grant programs. *See* P.L. 106-386.
[5] When the definitions for "family or household member" and "domestic violence" were redefined, the residency requirement was only removed from the term family or household member." *See* ch. 94-135, L.O.F.
[6] The terms "domestic violence" and "family or household member" are also defined in four other statutory sections. With the exception of s. 414.0252(4), F.S. (relating to Family Self-Sufficiency), prior or present co-residency is required in s..

The difference in co-residency requirements of these two terms poses potentially inconsistent directives and results for two distinct groups of family and householder members, i.e., those members who have a child in common and those members related by blood or marriage. There is no data regarding how these definitions have been applied by the courts statewide. Depending on whether the residency requirement is imposed, either group may or may not be able to seek injunctive relief from domestic violence. *See Sharpe v. Sharpe*, 695 So.2d 1302 (Fla. 5th DCA 1997)(injunctive relief for domestic violence under s. 741.28, F.S., is not available to sister-in-law against brother-in-law because although relatives by marriage, they had not nor were residing together).

In recent years, many of the statutory provisions governing grandparent visitation or custody rights have come under intense constitutional scrutiny. Both federal and Florida state courts have tended to find that absent a finding of specified or demonstrable harm, a parent's fundamental right to raise his or her child free from governmental interference is protected under the Fourteenth Amendment of the *United States Constitution*, and under the explicit right of privacy provision in article 1, section 23 of the *Florida Constitution*. In essence, current law recognizes a natural parent's rights are superior to that of any other relative or person over the custody or visitation of the child until or unless it can be demonstrated that the parent is unfit or a detriment to the welfare of the child. In 2000, the Florida Supreme Court declared a provision granting grandparent custodial rights in proceedings under chapter 61, F.S., unconstitutional. *See Richardson v. Richardson*, 766 So.2d 1036 (Fla. 2000). The Court held that *section 61.13(7), F.S., vesting custody rights in grandparents was facially unconstitutional as it equates grandparents with natural parents and permits courts to determine custody disputes using solely the "best interest of the child" standard without first determining detriment to the child.* The court found the provision to be even more intrusive on a parent's right to raise his or her than the grandparent visitation statute even when the child has been residing with the grandparent in a stable relationship. Although, section 61.13(2)(b) allows the court to award grandparents visitation rights in a pending chapter 61, F.S. proceeding if it is in the child's best interests, this provision also suffers from the same constitutional infirmity that s. 61.13(7), F.S., in that the statute does not require some preliminary or demonstrable showing of harm to the child.

Another area identified as requiring an update is the 25 year old interstate custody act (UCCJA). *See* ss.61.1302-.1348, F.S. In 1977, Florida adopted the Uniform Child Custody Jurisdiction Act (UCCJA). *See* ch. 77-433, *Laws of Florida* (1977); ss. 61.1302-61.1348, F.S. The UCCJA is based on a 1968 draft of an uniform act by the National Conference of Commissioners on Uniform State Laws (ANCCUSL≅). By 1981, all 50 states had adopted the uniform act. The uniform act was intended to avoid jurisdictional competition and conflict among state courts in interstate child custody matters, to discourage forum shopping and to deter interstate kidnapping of children by their non-custodial parents. Over the last 25 years, specific problems have developed with the uniform act. Major areas of concern have been identified as follows: 1) Confusion over proceedings subject to the application of the Act, 2) Conflicts over the establishment and relinquishment of primary jurisdiction, 3) Ambiguity and inconsistency with

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), and s. 943.171(2)(a), F.S., (Basic skills training in handling domestic violence cases by law enforcement).

applications and interpretations of subsequently adopted federal and international law, 4) Lack of effective enforcement procedures, and 5) Lack of uniformity due to state variations of the UCCJA. To date, over 27 states have enacted the new UCCJEA.

Effect of proposed changes:

Section 27 amends s. 741.28, F.S., to revise the definition for "domestic violence" and "family or household member ." It reconciles an inconsistency in current definitions for "domestic violence" and family or household member" to clarify that prior or present co-residency between the victim and the family or household member is required for purposes of domestic violence injunctive relief, with the exception of parents who have a child in common. In addition, **sections 4, 10, 27, and 33** amend the following statutory sections, respectively, by virtue of the statutory cross-reference to the definitions for domestic violence and family householder member in s. 741.28, F.S., as revised by this bill:

- Section 25.385, F.S.: *Instruction standards for trial court judges handling domestic violence case*--This section directs the Florida Court Educational Council to establish instruction standards for circuit or county court judges handling domestic violence cases. Since the definition of domestic violence is a component of the instruction to the judges, the revised definition would potentially require some minor alteration of information provided to the judges.
- Section 39.902, F.S.: *Definitions in Part XI of ch. 39, F.S., as relates to the development, certification and funding of domestic violence centers by the Department of Children and Families*--The amended definition of domestic violence would not alter service delivery for the domestic violence centers since a substantial portion of their funding is either from Temporary Assistance for Needy Families (TANF), which uses the definitions provided for in s. 414.0252(4), F.S., or private sources, neither of which require co-residency.
- Section 943.171(2)(a), F.S.: *Basic skills training for law enforcement in handling domestic violence cases*-- The Criminal Justice Standards and Training Commission is directed to establish the instruction standards for law enforcement officers on domestic violence. As with the instruction for judges, the revision to the definition would potentially change the information provided to law enforcement.

Section 20 amends s. 61.13, F.S., relating to custody and visitation, to reflect current law regarding the unconstitutionality of provisions granting grandparents rights to petition for visitation without a demonstrable showing of harm or parental unfitness in a pending dissolution of marriage or custody action.

Sections 18 and 22 repeal the old Uniform Child Custody Jurisdiction Act (ss. 61.1302-.1348, F.S.) and replace the Act, respectively, with the updated Uniform Child Custody Jurisdiction and Enforcement Act (ss. 61.501-.542, F.S.). The new Act remedies many years of inconsistent interpretations of the interstate custody act and discrepancies with other state and federal enactments affecting interstate custody jurisdiction and enforcement. The major provisions of this Act apply to the modification and enforcement of child custody determinations. It provides for the establishment of priority court jurisdiction based on the child's home state, mechanisms for granting temporary emergency jurisdiction, and procedures for the enforcement of out-of-state custody orders, including assistance from state attorneys and law enforcement in locating a child and enforcing an out-of-state decree. It

facilitates resolution of interstate custody matters as may arise in a unified family court model program or other civil proceeding impacting custody, residence, visitation or responsibility of a child. In addition, **sections 7, 17, 23, 24, 25, 28, and 31** amend s. 39.502, F.S. (relating to notice and process in dependency proceedings), s. 61.13, F.S. (relating to custody and support), ss. 63.052, 63. 087, and 63.102, F.S. (relating to adoption) and s. 741.30, F.S. (relating to domestic violence injunctions), and 787.03, F.S. (relating to interference with custody proceedings), respectively, to conform with statutory cross-references to the Uniform Child Custody Jurisdiction and Enforcement Act.

OTHER SERVICES AND SYSTEMS FOR CHILDREN AND FAMILIES

- *Alternatives to Litigation*

Present Situation:
With the increasing volume of family law cases and of unrepresented litigants, attention is focusing more on the promotion of a broad spectrum of alternative dispute resolution options that are less adversarial than the court process. These options are potentially more effective in diffusing the highly charged emotions and better at addressing complex family problems underlying these cases. As a result, unified family court efforts in other states have examined and begun integrating into their systems alternative avenues to assist families through opportunities for alternative dispute resolution and through the development of skills to deal with future conflicts with minimal or no court involvement.

Chapter 44, F.S., sets forth the statutory framework for mediation alternatives to judicial action. Its primary focus is on court-ordered mediation and arbitration, which occur after litigation has already begun. The Supreme Court currently establishes standards and maintains a certification process for mediators and arbitrators. Court-ordered mediation is the alternative most frequently applied in family law cases. Statutory confidentiality provisions encourage the flow of information and disclosure by parties in mediation proceedings and limit their use in subsequent legal proceedings. *See* s. 44.102, F.S. Additionally, there is a provision providing for the court referral to mediation of certain contested family law issues in chapter 61, F.S. *See* s. 61.183, F.S. This section also provides for the confidentiality of communications made during the mediation. Concern was raised regarding conflict between mediation provisions in chapters 44 and 61, F.S., in that the same confidentiality provisions and other rules governing mediation were not, but should be, applicable to all specified matters relating to family law. It was also recommended that in order to encourage resolution of matters without resorting to the adversarial process, these provisions should also be available to pre-suit and voluntary mediations. Although presuit and voluntary mediation relating to family law matters do occur formally and informally, there are no express statutory provisions providing for the confidentiality of communications made in these types of mediation.

Mediation and arbitration services are funded in part by service charges imposed by each local board of county commissioners, and fees assessed on parties who are able to pay for mediation services. *See* s. 44.108, F.S. A maximum of $5 may be imposed on any circuit court proceeding to be used for mediation and arbitration as directed by the chief judge in the circuit. A maximum of $5 may be levied on each county court proceeding to fund county civil mediation services. Or

alternatively, a maximum of $45 may be levied on any petition for a modification of a final judgment of dissolution to fund family mediation services. These service charges only apply to petitions of modification on final judgments involving dissolutions of marriage, not judgments arising from paternity actions where the parents were not married.

Effect of proposed changes:
A number of provisions are amended and created to enhance the availability and use of alternative dispute resolution options to the adversarial judicial process, particularly in family matters, and to minimize court involvement, as follows:

Section 11 amends s.44.1011, F.S., to clarify that the definition of "family mediation" applies to mediation involving issues of paternity, adoption, and emancipation of minors. This section creates definitions for voluntary and presuit mediation. At this time, these definitions apply solely to mediation of family matters including dependency.

Section 12 creates s. 44.1012, F.S. to provide legislative intent regarding the provision of a continuum of alternatives to litigation to persons before and after they become involved in the judicial process.

Section 13 creates s. 44.1025, to provide for the express confidentiality of communications disclosed in presuit and voluntary mediation as defined, with exceptions.[7] Patterned in part after the existing confidentiality provisions communications for court-ordered mediation and specified family law mediation in s. 61.183, F.S., it affords the same privilege of confidentiality to communications and documents in presuit and voluntary mediation. Communications that may be the subject of mandatory reporting requirements on abuse, acts or threats of violence, ,and professional misconduct are not protected under this provision. **Section 22** repeals s. 61.183, F.S., which is replaced by the new s. 44.1025, F.S.

Section 14 amends s. 44.108, F.S., to revise the permissible service charges on cases involving modifications of final judgments for dissolution of marriage that fund family mediation services. The $45 (currently locally authorized) service charge is converted into a mandatory statewide service charge and is increased to $65. The additional $20 is to be used to fund presuit mediation pilot programs as may be created under s. 44.202, F.S. Up to 50% of these designated funds may be discretionarily used for court-ordered family mediation in circuits where such mediation services are not adequately provided.

Section 15 requests the court to establish a formal process by which stipulated agreements on the modification and enforcement of final judgments on family law matters may be filed and approved through a court order without necessitating the appearances of the parties in court.

Section 16 creates s. 44.202, F.S., regarding authorization for the courts to implement presuit mediation pilot programs as to modification and enforcement of judgments regarding family matters. These programs may be funded by the designated funds generated by the increased service charge fees in s. 44.108, F.S. However, the use of these designated funds is contingent first upon the Supreme Court's establishment of a formal process for the filing

[7] CS/SB 1648, a public records exemption bill, is linked and traveling with this bill.

and approval of stipulated agreements in family matters without court appearances and second upon the incorporation of that process into the presuit mediation pilot programs. The presuit-mediation pilot programs are to provide families with an opportunity to mediate a post judgment disputed family matter before filing a petition with the court to modify or enforce a judgment and to facilitate entry of an order approving a mediated stipulated agreement without a court appearance. An evaluation of the pilot programs is required, with a report to be submitted to the legislature by December 31, 2004.

Section 35 authorizes the Department of Revenue and Office of State Courts Administrator to pursue federal Title IV-D Child Support Enforcement funds for mediation services. Currently, circuits are providing mediation services which could potentially receive federal reimbursement for 66% of the costs when provided to Title IV-D clients. Additional state funds are not required to generate this federal funding. The bill appropriates a yet unspecified amount of money for a staff study on the issue which is necessary to justify the mediation service costs required for federal approval.

- *Services to Assist Children and Families with Complex Legal and Non-Legal Matters Within and Outside the Judicial Process*
  (Parenting Education Courses and Supervised Visitation Programs)

Present Situation:
There are a number of services (including guardian litem services, supervised visitation programs, parenting courses, and domestic violence assistance services) made available to children and families that are an outgrowth of the courts' need for information in their decision-making. Additionally, these services have developed to assist families navigate the judicial process and assure the safety of children and families, particularly in volatile family scenarios. For example, all parties in a dissolution of marriage or paternity proceeding where minor children are involved are required to complete a parenting course entitled "Parent Education and Family Stabilization." *See* s. 61.21, F.S. The course is designed to educate the parents as to the consequences of divorce on the parents and children. The course must be completed any time before the entry of the final judgment. However, it has been reported that earlier completion of the course could facilitate the mediation process and enhance communications between the parents to ease the emotional tension and negative effect on the children and families.

Additionally, many dependency, domestic violence and divorce cases have created a need for supervised visitation programs because of the volatile nature of relationships between family members. In 1996, in the wake of evolving supervised visitation and exchange programs, the Legislature created ch. 753, F.S., the Family Visitation Network. *See* ch. 96-402, L.O.F. A supervised visitation program provides the opportunity for contact between a noncustodial parent and a child in the presence of a third party in presumably a structured and safe venue. *See* s. 753.001, F.S. These programs provide the facilities, resources and administrative services in the course of supervised visitation and exchange. The Florida Family Visitation Network existed to provide formal communication between the existing and emerging programs, and provided a mechanism for new community supervised visitation projects to receive assistance. There are currently 40 supervised visitation programs in Florida. Although the Chief Justice of the Supreme Court has established minimum guidelines for supervised visitation programs used by the courts, there are no statewide or uniform standards by which to assess the quality of the

programs and to monitor the services provided. In addition, although security is critical for these programs and law enforcement officers in some areas of the state provide services either as volunteers or unpaid employees, many supervised visitation programs do not have the resources to ensure adequate security for the children and families participating in the programs.

Effect of proposed changes:

Section 21 amends s. 61.21, F.S., to shorten the time frame in which parents can complete the parenting education course in dissolution of marriage and paternity actions. If the parent is the petitioner, the parent must complete the course within 45 days after filing the petition. All other parties must complete the course within 45 days after service of the petition. The court is provided the authority to waive the stipulated time frame for completing the course for good cause.

Sections 29 and 30 substantially revise chapter 753, F.S., governing the Family Visitation Network. Existing ss. 753.001-753.004, F.S., are repealed and replaced by new sections governing supervised visitation programs statewide. Sections 753.01 through 753.09, F.S., are created and set forth the statutory framework for the quality and safety of supervised visitation programs statewide. It provides legislative findings and intent to provide for uniform standards, security, training and certification for supervised visitation programs, subject to available funding. Definitions are specified for certain core terms. Comprehensive standards are to be developed to provide a uniform set of guidelines that will be used by supervised visitation programs and form the basis for a statewide certification program to be phased in, subject to the availability of funds. Once fully implemented, statewide certification for a supervised visitation program will be required for receipt of both state or federal funds and referrals from the court. Until that time, supervised visitation programs are required to meet the minimum standards adopted by the courts and are prohibited from receiving federal access and visitation grant funds unless documentation is provided that the program has entered into agreement as required by the court.

The Clearinghouse on Supervised Visitation at the Institute for Family Violence at Florida State University is charged with developing training materials for supervised visitation programs, offering training to staff, tracking training compliance, and developing and maintaining a mechanism for collecting data on supervised visitation services, to the extent the available funding permits. With the assistance of a 10-member advisory board, the Clearinghouse is also directed to develop standards for supervised visitation programs, criteria for approving and rejecting certification of a program, a process for phasing in the standards and certification process, and a recommendation for the state entity that should be charged with certifying and monitoring supervised visitation programs. The Clearinghouse must submit a report to the Legislature and the Chief Justice of the Supreme Court by December 31, 2003.

Section 32 amends. s. 943.135, F.S., relating to training requirements for law enforcement officers, to communicate the importance of security at these supervised visitation and exchange programs. Supervised visitation programs are encouraged to collaborate with law enforcement agencies to encourage law enforcement officers to volunteer at their programs. This section requires that the Criminal Justice Standards and Training Commission within the Florida Department of Law Enforcement allow law enforcement agency officers to

satisfy 3 of the 40 hours of required continuing education and training requirements by volunteering at a community-based, not-for-profit organization that serves children and families who have experienced or are at risk for child abuse or domestic violence, including, but not limited to, a supervised visitation program.

Section 34 creates s. 943.254, F.S., to articulate law enforcement agencies' authority to administer a program that allows their officers to volunteer for security services during off-duty hours at these organizations and programs. It provides that the community-based programs are responsible for the acts or omissions of the law enforcement officer. However, for the purposes of workers' compensation, the volunteering law enforcement officers are deemed to be acting within the course of their employment. *See* s. 440.091, F.S. Section 440.091, F.S., provides for those circumstances when a law enforcement officer who is off-duty and acting within the scope of employment is covered by the employer's workers' compensation.

- *Systems of Coordination: Coordination with Community and Social Services and Interagency Coordination*

Present Situation:
The legal issues before the family court often have their genesis in underlying social, psychological and economic problems such as domestic violence, drug or alcohol abuse, mental illness, poverty, unemployment, and inadequate housing. The court system possesses limited authority and lacks the jurisdiction to provide families with the services needed for achieving the positive and lasting outcomes desired for families with these problems. Many family courts have already begun to develop partnerships with the social services agencies in their communities. However, there is a need to develop a system that connects the court with the numerous community and social service agencies that identifies the availability and facilitates the accessibility of these non-court-based services to children and families. However, historically, building partnerships and designing such systems to coordinate services has been found to be a long and difficult process.

A similar difficulty exists between agencies with jurisdictional oversight over children, particularly the Department of Children and Families and the Department of Juvenile Justice. Each of these agencies offer services to children and families from the perspective of the agency's own particular purposes and goals. The juvenile delinquency system focuses on two groups: youth under the age of 18 years who have been charged with a crime (governed by ch. 985, F.S.) and youth who run away from home, are habitually truant or are ungovernable at home (ch. 984, F.S.). Children who have been abused, neglected or abandoned are the responsibility of the Department of Children and Families, pursuant to ch. 39, F.S. In examining how to improve the coordination of cases involving children and families, and to address more comprehensively a child's and family's needs, it was found that there are a significant number of youths who cross the dependency and delinquency jurisdiction of these two departments, either simultaneously or following their placement with the other department. There are still other children who do not fall clearly within the jurisdiction of one department or the other but are still in need of services. These "cross-over" children include, but are not limited to, children who have reached the maximum time for detention or commitment with the Department of Juvenile Justice and their

parents refuse to allow them to return home, children who have committed an act of domestic violence on another family member and cannot return home, and children who do not meet the criteria for Department of Juvenile Justice detention.

Effect of proposed changes:
Section 36 creates a statutory framework for a system of coordination between the courts and social services agencies to address services for children and families outside the court system. It provides legislative intent that the circuit courts and social service agencies collaborate to assist families with the problems that are contributing to their legal issues and need for judicial intervention. The chief judge of each circuit court is requested to develop a collaborative initiative between the circuit court and the social service agencies. It delineates goals and specific elements that circuit courts can use to develop effective collaboration systems with the social service agencies. Social service agencies are requested to cooperate with these collaborative initiatives which the Supreme Court is requested to promote. The Office of State Courts Administrator is directed to submit to the Legislature a copy of the report required by the Supreme Court of each circuit on the progress of the family law advisory group. Certain information specific to the collaborative initiatives is requested to be provided within that report and the first report is to be submitted by June 30, 2003.

Section 37 creates a statutory framework for a system of coordination between the Department of Children and Families, the Department of Juvenile Justice and the Department of Education to address services for children and families outside the court system. It provides legislative intent and findings regarding productive coordination and cooperation between these agencies to address children's needs, particularly those of "cross-over" jurisdictional children. This section directs the Department of Juvenile Justice to organize an interagency workgroup with the Department of Children and Families and Department of Education to address issues relative to serving children who cross jurisdictional lines. It sets forth the workgroup's five minimum goals. It requires the development and execution of an interagency agreement for handling these issues. The workgroup is encouraged to draw on the expertise of specified entities to develop strategies to accomplish the desired goals. The Department of Juvenile Justice is required to submit a report on the workgroup's progress to the Legislature by January 31, 2003.

- *Miscellaneous Provisions*

Section 39 provides a severability clause that provides for the continued effect of other provisions of this act in the event a provision is declared unconstitutional.

Section 40 provides for an effective date of July 1, 2002.

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:

Some of these parenting and supervised visitation services have been implemented and funded by the courts and at the local level. However, in light of Revision 7 amending Article V of the Florida Constitution to shift major court costs to the state, these services will undergo scrutiny as to whether they are an essential element of a uniform state courts system. In 1999, a constitutional amendment was adopted to provide for the shifting of major costs of Florida's judicial system from the counties to the state. *See* art. V, s. 14, Fla. Const. In 2000, the Legislature established a statutory framework for defining those constitutionally mandated or essential elements of a state-funded court system, including the public defenders' offices, the state attorneys' offices, and court-appointed counsel, and those court-related functions that are the responsibility of the counties for funding purposes. *See* ch. 2000-237, L.O.F. The Legislature also provided for a four-year implementation schedule to be completed by July 1, 2004. The Joint Legislative Committee on Article V was appointed to coordinate and oversee this effort but no final determination has yet been made as to the essential elements of a uniform state courts system.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The $45 service charge that may be levied locally on a petition for modifying a final judgment of dissolution will be converted to a mandatorily-imposed statewide service charge and increased to $65. Currently, 37 counties apply the $45 modification fee, 20 counties do not and 7 counties require a fee that is less than $45. Based on FY 2000-2001 dissolution modification information, the additional $20 on the modification fee is anticipated to generate $251,951 for the funding of presuit-mediation pilot programs.

B. Private Sector Impact:

The cumulative effect of many provisions in this bill may be to promote a judicial and collaborative process that comprehensively, judiciously and effectively addresses a child's and family's legal and non-legal needs through full resolution of legal matters and through referral and linkage to services outside the court system.

It is indeterminate what impact the clarification in the prior or current co-residency requirement in the definitions for domestic violence and family or household member will have on domestic violence scenarios involving relatives by blood or marriage as it is

currently unknown how the co-residency requirement was being applied for injunctions in the circuits.

Persons filing for a dissolution of marriage will be required to pay a higher fee. Individuals seeking a modification to their dissolution of marriage order will be required to pay a $65 service charge. This represents a $65 increase for individuals in those counties where no fee is currently required to obtain a modification. For other counties, this service charge will require a minimum of a $20 increase in the fee paid for a modification. This fee is only applied to individuals who were married and are modifying their final judgment of dissolution of marriage. Parents who were not married and file for a modification of their child support, visitation, custody or other provisions of their final paternity order are not required to pay this fee. The fee may encourage parties to resolve disputes on modifications and enforcements in forums other than the courts which typically necessitate considerable court time to resolve or refer to court-ordered mediation when the modifications are highly contested.

Community-based, not-for-profit organizations such as supervised visitation programs will be required to meet the minimum standards adopted by the courts. However, many programs have already complied with minimum standards in order to secure referrals from the court. The Clearinghouse on Supervised Visitation at Florida State University has agreed to convene the advisory committee and develop the requested recommendations within their existing revenues. The existing revenue is a small grant through the Department of Children and Families, without which the Clearinghouse could not perform the identified function.

C. Government Sector Impact:

The cumulative effect of many provisions in the bill may be to enhance the courts' decision-making abilities, maximize existing judicial resources, avoid the entry of conflicting orders, and reduce multiple court appearances.

The Department of Revenue and the Office of State Courts Administrator are designated to receive any legislation appropriation to conduct a study that documents the mediation costs that are eligible for reimbursement by Title IV-D funds. This documentation is required for approval to draw down the federal dollars. The cost of the study has not yet been determined.

The Department of Revenue also reports that the proposed language for the modification fee in s. 44.108, F.S., could be interpreted to require that the fee be applied to modifications sought through the Child Support Enforcement Program. Current law prohibits the Department from charging for court reporter, clerk, or comptroller fees. See s. 409.2571, F.S. Section 409.259, F.S., caps the amount to be reimbursed by the department for non-public assistance Title IV-D clients at the federal financial participation rate of $40, which eliminates the department's requirement to pay the additional fees that are provided for in s. 28.241, F.S. The contractual arrangements with the clerks for reimbursement for services rendered have not included the modification fee currently allowed. However, the Department of Revenue contends that there is no

specific direction relative to modification fees and, with the proposed language, it could be interpreted that the modification fee applies to Title IV-D clients. It is anticipated that 12,200 modifications to existing orders will be sought next fiscal year. The proposed modification fee increase only applies to dissolutions of final judgments and not other paternity actions. It is unknown what the ratio of modifications to dissolution of marriage judgments to judgments arising from paternity actions will be.

The Department of Children and Families does not report any fiscal impact from this bill.

The Florida Department of Law Enforcement reports that there would be no fiscal impact to their agency with this bill. They also note that the provision that allows volunteering in lieu of required continuing education or training will work in conjunction with their current practice.

The Office of State Courts Administrator anticipates that if the presuit-mediation pilot programs are successful and the increased availability of mediation is realized, the judicial workload could be lessened as a result of more cases reaching settlement outside the court process. Additionally, the requirement that all counties impose the modification fee will also require that all counties provide $1 per modification of the dissolution of the final judgment to the state mediation and arbitration trust fund. This fee is anticipated to generate approximately $1,200 in new revenue for the state level mediation functions prescribed in s. 44.106, F.S., including administering the mediation certification process and training mediators and arbitrators.

The Office of State Courts Administrator also reports that the court and social services collaborative initiative in the bill is duplicative of the Supreme Court's Family Court initiative. However, the Family Court Steering Committee is requested, not required, to assume additional responsibilities and report to the Legislature. OSCA anticipates that compliance with these requests will require judicial and staff time at the circuit and state level. Specifically, OSCA states that a full-time senior court analyst would be required to perform the state level functions delineated in the bill, at a cost of $65,668. The bill recognizes and encourages the use of existing collaborative efforts.

If the definition of domestic violence has been previously 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 are parents of a child in common could increase the number of petitions for the injunction for protection against domestic violence. Consideration of additional factors in determining whether to grant an injunction as well as additional prohibited activities that may constitute criminal violations of such injunction may also consume more court hearing time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

- Section 39 requires the Statewide Technology Office to establish a technology workgroup by July 1, 2002. The effective date of this act is July 1, 2002. A revised date is recommended.

- The current definitions for "domestic violence" in s. 741.28, F.S., are cross-referenced in a number of statutory provisions. For some of the statutory provisions, amending the definitions do not result in any substantive impact. However, for the following provisions, the proposed modifications to the definition for "domestic violence" may have significant impact such that specified rights, criminal sanctions and civil liabilities may now extend to a broader class of individuals as either victims or offenders of domestic violence under the following sections:

  - ✓ 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. 741.283, F.S., requires a minimum sentence of 5 days in the county jail for persons adjudicated guilty of a crime of domestic violence where intentional bodily harm was caused on another person.
  - ✓ s. 741.29, F.S., makes a violation of certain conditions of pretrial release a misdemeanor if the original arrest was for an act of domestic violence.
  - ✓ s. 768.35, F.S., provides that victims of continuing domestic violence can recover compensatory and punitive damages against the perpetrator. However, this provision additionally requires the victim to have suffered repeated physical or psychological injuries over an extended period of time.
  - ✓ s. 901.15, F.S., provides that an officer may arrest a person without a warrant when there is probable cause to believe the person has committed an act of domestic violence.
  - ✓ s. 907.041, F.S., provides that an act of domestic violence is considered a "dangerous crime" for which non-monetary pretrial release cannot be granted at first appearance, except under certain conditions.
  - ✓ s. 921.0024, F.S., provides for a multiplier in computing the sentencing points under the Criminal Punishment Code if the primary offense was domestic violence and it was committed in the presence of a child of the victim or perpetrator.
  - ✓ s. 943.0582, F.S., provides for the expunction of non-judicial records relating to the arrest of a minor who has successfully completed a pre-arrest or post-arrest diversion program but excludes expunction of records of minors arrested for domestic violence.
  - ✓ s. 948.03, F.S., requires courts to order persons convicted of an offense of domestic violence to attend the Batterer's Intervention Program as a condition of probation, community control and any other court ordered community supervision.

VIII. Amendments:

None.