

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1087 Domestic Violence Services

**SPONSOR(S):** Children, Families & Seniors Subcommittee, Fernandez-Barquin

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1482

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	15 Y, 0 N, As CS	Woodruff	Brazzell
2) Public Integrity & Ethics Committee	14 Y, 0 N	Fakes	Rubottom
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

The Department of Children and Families (DCF) is statutorily responsible for the statewide domestic violence program. In 2012, the Legislature amended the statute to require DCF to contract with the Florida Coalition Against Domestic Violence (FCADV) for the management of domestic violence services. While DCF retains overall authority to certify domestic violence centers, the FCADV is responsible for monitoring and evaluating services of the program.

The express statutory requirement to contract with a specific provider has presented challenges to DCF in overseeing the state's domestic violence services, including DCF's inability to obtain desired contract provisions or complete an audit regarding the organization's spending.

CS/HB 1087 amends statute to remove express requirement for DCF to contract with the FCADV. The bill does not prohibit DCF and FCADV from contracting regarding domestic violence services in the future.

Further, the bill amends various statutes to shift duties previously held by FCADV to DCF, including requiring domestic violence centers to submit information to and receive certification directly from DCF and requiring the contracts between DCF and the certified domestic violence centers to contain provisions that ensure the availability and geographic accessibility of services through the service area.

CS/HB 1087 has an indeterminate fiscal impact on DCF. There is no impact on local government.

The bill provides an effective date of July 1, 2020.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Domestic Violence Program

The Domestic Violence Program protects adults and their children from domestic violence and helps victims develop ways to avoid further harm. The Department of Children and Families (DCF) is statutorily responsible for the statewide domestic violence program, which certifies and monitors domestic violence centers.<sup>1</sup> Domestic violence centers are community-based organizations that provide services to the victims of domestic violence. Florida has 42 certified domestic violence centers throughout the state, which are responsible for emergency shelter services and programs to survivors of domestic violence and their children.<sup>2</sup> Pursuant to Florida Statutes, the minimum services that a center must provide are:

- Information and referrals;
- Counseling and case management;
- Temporary emergency shelter for more than 24 hours;
- A 24-hour emergency hotline;
- Training for law enforcement and other professionals;
- Educational services for community awareness; and
- Assessment and appropriate referral of resident children.<sup>3</sup>

In addition to the services required by statute, the certified centers provide transportation, rent, and utility assistance, transitional housing, legal and court advocacy, work skills and job-readiness training and placement, financial literacy and other training and education programs.<sup>4</sup>

During the 2018-19 fiscal year, certified centers provided 646,971 nights of emergency shelter to 14,817 women, children, and men.<sup>5</sup>

Through the domestic violence program, DCF has rulemaking authority to develop criteria for the approval, suspension, or rejection of certification of domestic violence centers and develop minimum standards for domestic violence centers to ensure the health and safety of the clients in the centers.<sup>6</sup>

##### *Florida Coalition Against Domestic Violence*

The Florida Coalition Against Domestic Violence (FCADV) is a nonprofit with the mission is to work towards ending violence through public awareness, policy development and support for Florida's domestic violence centers.<sup>7</sup>

##### *Florida Coalition Against Domestic Violence Contract*

Currently, under s. 39.903(7), F.S., DCF must contract with the FCADV for the management of the delivery of services for the state's domestic violence program.

In 2004, the Legislature directed DCF to contract with a statewide association for the domestic violence program to help with the delivery of domestic violence services. To implement this legislative directive, DCF contracted with the FCADV. In 2012, the Legislature amended statute to require DCF to contract

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<sup>1</sup> S. 39.903, F.S.

<sup>2</sup> Florida Coalition Against Domestic Violence, *Leading Florida Higher, Lifting Survivors Upward; Florida's Commitment to Ending Domestic Violence and Saving Lives*, <https://www.fcadv.org/sites/default/files/2019AnnualReportFinal.pdf> (last visited Jan. 15, 2020).

<sup>3</sup> S. 39.905(1)(c), F.S.

<sup>4</sup> *Supra* note 2.

<sup>5</sup> *Id.*

<sup>6</sup> S. 39.903(9), F.S.

<sup>7</sup> Florida Coalition Against Domestic Violence, <https://www.fcadv.org/> (last visited Jan. 15, 2020).

specifically with FCADV for the management of the delivery of services for the state's domestic violence program.<sup>8</sup>

Under the statute, DCF and the FCADV work in collaboration to administer the state's domestic violence program. While DCF retains overall authority to certify domestic violence centers, the FCADV is responsible for monitoring and evaluating services of the program. Under the contract, FCADV responsibilities include, but are not limited to, the administration of contracts and grants, implementation of special projects, provision of training and technical assistance to certified domestic violence centers and allied professionals, prevention, research and evaluation, and educational programs for professionals and the public.<sup>9</sup> The FCADV is also required to monitor funding for domestic violence services to ensure the money is spent properly.<sup>10</sup>

The FCADV receives funding from the federal and state government, as well through private funds. The 2019-20 General Appropriations Act appropriated \$46,679,559 to the FCADV for domestic violence services, which appears to comprise nearly all of the organization's revenues. This included funding from the following sources:

- General Revenue Fund: \$11,164,596
- Domestic Violence Trust Fund: \$7,951,132
- Federal Grants Trust Fund: \$19,813,831
- Welfare Transition Trust Fund: \$7,750,000<sup>11</sup>

The FCADV's Form 990 filing with the IRS indicates that on their 2017 return they had total revenues of \$52,010,131 with 99.75 percent being from public support.<sup>12</sup> The FCADV's Form 990 filing for 2016 reflects that they had total revenues of \$42,751,725.<sup>13</sup> According to DCF, it provided 89.13 percent (\$38,102,717) of the 2016 funding and Florida's Office of Attorney General provided 7.9 percent (\$3,403,910).<sup>14</sup> Combined, at least 97.09 percent of FCADV's funding was received through the state that fiscal year. The FCADV's 2018-19 annual report lists total funding of \$43,942,812, though the report does not indicate the time period on which this is based.

DCF operates as the main oversight body for the FCADV. DCF's Inspector General reviews a third-party audit of the FCADV's contract annually and conducts annual reviews to ensure funds are spent properly.<sup>15</sup>

## Contracting Issues

### *Executive Compensation*

The present contract between DCF and FCADV does not appear to place any limitation on executive salaries. Nonetheless, there have been a federal investigation and state audit of the FCADV's funding and expenditures after media reports criticizing as exorbitant the salary of the FCADV president.

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<sup>8</sup> S. 39.903, F.S., Ch. 2012-147, F.S.

<sup>9</sup> Contract No. LN967

<sup>10</sup> S. 39.9035, F.S.

<sup>11</sup> Line 316, Conference Report on SB 2500.

<sup>12</sup> Form 990, Return of Organization Exempt from Income Tax, 2017, Florida Coalition Against Domestic Violence, [https://pdf.guidestar.org/PDF\\_Images/2018/592/055/2018-592055476-1099952d-9.pdf](https://pdf.guidestar.org/PDF_Images/2018/592/055/2018-592055476-1099952d-9.pdf) (last viewed January 28, 2020).

<sup>13</sup> Form 990, Return of Organization Exempt from Income Tax, 2016, Florida Coalition Against Domestic Violence, [https://pdf.guidestar.org/PDF\\_Images/2017/592/055/2017-592055476-0f80825c-9.pdf](https://pdf.guidestar.org/PDF_Images/2017/592/055/2017-592055476-0f80825c-9.pdf) (last viewed January 20, 2020).

<sup>14</sup> Department of Children and Families, Agency Analysis of 2020 House Bill 1087, on file with the Children, Families, and Seniors Subcommittee.

<sup>15</sup>. *Id.*

## *Federal Investigation*

In 2018, Florida media outlet published reports alleging the FCADV's executive director was receiving a high salary while domestic violence centers went understaffed and under-resourced.<sup>16</sup> For example, a Tampa Bay area domestic violence shelter was reported to have roaches and moldy food.<sup>17</sup> In response to these reports, the Family Violence Prevention and Services Act Program in the Family & Youth Services Bureau of the federal Administration of Children and Families (ACF) contacted the FCADV expressing concern about the executive director's reported compensation and requested specific documentation of her compensation.<sup>18</sup>

According to letters from ACF, unless it was satisfied that the executive director's salary complied with federal limits of \$189,600, ACF would take corrective action, including withholding payment and possible referral to the United States Department of Health and Human Services Inspector General.<sup>19</sup> The FCADV responded to the ACF requests stating that the executive director's base salary charged to the Family Violence Prevention and Services Act grants was \$137,562.<sup>20</sup>

## *State Audit*

DCF's Secretary requested DCF's Inspector General to do an audit to determine the proportion of DCF's funding expended on administrative costs and executive compensation and to determine whether funding expended on executive compensation agrees with information provided to DCF.<sup>21</sup>

Between August 27, 2018, and November 7, 2019, DCF provided at least four written requests to the FCADV for documentation in relation to the audit.<sup>22</sup> Although the FCADV provided some information to DCF, DCF's Inspector General found the information provided was incomplete.<sup>23</sup> The FCADV refused to turn over documents relating to compensation and personnel files of the president and chief executive officer, chief operating officer, and chief financial officer, minutes for specified FCADV meetings, as well as information relating to dues collected from certified domestic violence centers.<sup>24</sup> Relying on its contract with DCF, the FCADV believes it provided all information that was subject to the audit and did not need to provide information that it considers private in nature.<sup>25</sup>

As of January 29, 2020, DCF has not received the requested documentation it requires to complete the audit.<sup>26</sup>

## Background Screenings

While DCF has requested FCADV to require coalition employees to be subject to DCF's background screening process, FCADV has refused to agree to required screenings. Requiring background screenings would seem to promote a safer environment. However, FCADV believes that background screenings could potentially harm potential employees, who may be victims of domestic violence themselves who had to commit crimes in order to satisfy or even escape their abuser. FCADV believes that background screenings might disqualify these potential employees.

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<sup>16</sup> See Adiel Kaplan, 'That's... ridiculous.' Florida domestic violence chief is paid \$761,000 a year, Miami Herald (Jul. 25, 2018), <https://www.miamiherald.com/news/state/florida/article214972045.html> (last visited Jan. 15, 2020).

<sup>17</sup> Kylie McGivern, *Former residents call for action after roaches, moldy food found in domestic violence shelters*, (Aug. 14, 2019), <https://www.abcactionnews.com/news/local-news/i-team-investigates/former-residents-call-for-action-after-roaches-moldy-food-found-in-domestic-violence-shelters> (Jan. 21, 2020).

<sup>18</sup> Department of Children and Families, Agency Analysis of 2020 House Bill 1087, on file with the Children, Families, and Seniors Subcommittee.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Email from John Paul Fiore, Department of Children and Families, HB 1087 Questions and Analysis, (Jan. 21, 2020).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Letter from Javier A. Enriquez, General Counsel, Department of Children and Families (Nov. 7, 2019)

<sup>25</sup> *Supra* note 20.

<sup>26</sup> On January 20, FCADV provided salary payment information to DCF without explaining the sources of those funds.

## *Nature of Statutory Requirement to Contract*

According to DCF, the statutory requirement to contract with the FCADV leaves DCF with little bargaining power in contractual negotiations. For example, DCF's Office of General Counsel has been unable to come to an agreement with the FCADV to add provisions to the contract that require FCADV employees to be subject to DCF's background screening process; this is in addition to FCADV's refusal to provide records it deems private to DCF's Inspector General. Despite these disputes, DCF is statutorily required to contract with the FCADV. DCF simply does not have leverage to seek anything more than what is currently in its contract with the FCADV because it is not legally authorized to negotiate with any other vendor.

### **Effect of Proposed Changes**

CS/HB 1087 amends various statutes to remove the express requirement for DCF to contract with FCADV. The bill still allows DCF to contract for domestic violence services. It allows DCF more flexibility in determining with whom it contracts with and what domestic violence services are covered by contract. It will potentially broaden the pool of providers with which DCF may contract and may increase transparency of the appropriated funds that pay for services that help victims of domestic violence.

The bill does not prohibit FCADV from contracting in the future with DCF if both parties choose to do so.

The bill also amends statutes to shift duties previously held by FCADV to DCF, including requiring domestic violence centers to submit information to and receive certification directly from DCF and requiring the contract between DCF and the certified domestic violence centers to contain provisions that ensure the availability and geographic accessibility of services through the service area.

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

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

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

**Section 3:** repealing s. 39.9035, F.S., relating to duties and functions of the coalition with respect to domestic violence.

**Section 4:** amending s. 39.904, F.S., relating to report to the legislature on the status of domestic violence cases.

**Section 5:** amending s. 39.905, F.S., relating to domestic violence centers.

**Section 6:** amending s. 39.9055, F.S., relating to certified domestic violence centers; capital improvement grant program.

**Section 7:** amending s. 39.8296, F.S., relating to the statewide Guardian Ad Litem Office: legislative findings and intent; creation; appointment of executive director; duties of office.

**Section 8:** amending s. 381.006, F.S., relating to environmental health.

**Section 9:** amending s. 381.0072, F.S., relating to food service protection.

**Section 10:** amending s. 383.402, F.S., relating to child abuse death review; State Child Abuse Death Review Committee; local child abuse death review committee.

**Section 11:** amending s. 402.40, F.S., relating to child welfare training and certification.

**Section 12:** amending s. 741.316, F.S., relating to domestic violence fatality review teams; definition; membership; duties.

**Section 13:** amending s. 753.03, F.S., relating to standards for supervised visitation and supervised exchange programs.

**Section 14:** amending s. 943.1701, F.S., relating to uniform statewide policies and procedures; duty of the commission.

**Section 15:** amending s. 1004.615, F.S., relating to Florida Institute of Child Welfare.

**Section 16:** providing an effective date of July 1, 2020.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Until decisions are finalized as to whether the domestic violence program's responsibilities will be fulfilled by DCF, through contract, or both, the expenditures to state government are indeterminate.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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

If DCF and FCADV do not contract for the provision of domestic violence services in the future, the FCADV will lose the state funding it is provided through the contract for these services but will also no longer have the responsibilities that the contract funded.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

DCF does not need rulemaking to implement this bill.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 22, 2020, the Children, Families, and Seniors Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed section 14 of the bill that expanded the definition of "care" to include "victims of domestic violence" in s, 943.0542, F.S., regarding

access to criminal history information provided by DCF to qualified entities who provide care to certain individuals.

The analysis is drafted to the committee substitute as passed by the Children, Families, and Seniors Subcommittee.