

## CHAPTER 2012-147

### House Bill No. 7093

An act relating to domestic violence; amending s. 39.902, F.S.; defining the term “coalition” as it relates to domestic violence; amending s. 39.903, F.S.; revising provisions relating to certification of domestic violence centers; providing specified additional duties for and authority of the Florida Coalition Against Domestic Violence; revising the duties of the Department of Children and Family Services; requiring the department to contract with coalition for specified purposes; creating s. 39.9035, F.S.; providing the duties of the coalition as it manages the delivery of services to the state’s domestic violence program; amending s. 39.904, F.S.; requiring the coalition, rather than the department, to make a specified annual report; revising the contents of the report; amending s. 39.905, F.S.; requiring the coalition, rather than the department, to perform certain duties relating to certification of domestic violence centers; revising provisions relating to certification of domestic violence centers; requiring a demonstration of need for certification of a new domestic violence center; revising provisions relating to expiration of a center’s annual certificate; prohibiting a domestic violence center from receiving funding from the coalition for services that are exempted from certification; amending ss. 381.006, 381.0072, 741.281, 741.2902, 741.30, and 741.316, F.S.; conforming provisions to changes made by the act; amending s. 741.32, F.S.; deleting provisions relating to the certification of batterers’ intervention programs; amending s. 741.325, F.S.; revising the requirements for batterers’ intervention programs; repealing s. 741.327, F.S., relating to the certification and monitoring of batterers’ intervention programs; amending ss. 948.038 and 938.01, F.S.; conforming provisions to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (1), (2), and (3) of section 39.902, Florida Statutes, are redesignated as subsections (2), (3), and (4), respectively, and a new subsection (1) is added to that section, to read:

39.902 Definitions.—As used in this part, the term:

(1) “Coalition” means the Florida Coalition Against Domestic Violence.

Section 2. Section 39.903, Florida Statutes, is amended to read:

39.903 Duties and functions of the department with respect to domestic violence.—The department shall:

(1) Operate the domestic violence program and, in collaboration with the coalition, shall coordinate and administer statewide activities related to the prevention of domestic violence. ~~The department shall:~~

(a) ~~Develop by rule criteria for the approval or rejection of certification or funding of domestic violence centers.~~

(b) ~~Develop by rule minimum standards for domestic violence centers to ensure the health and safety of the clients in the centers.~~

(2)(e) Receive and approve or reject applications for initial certification of domestic violence centers. The department shall annually renew the certification thereafter upon receipt of a favorable monitoring report by the coalition. ~~If any of the required services are exempted from certification by the department under s. 39.905(1)(c), the center shall not receive funding for those services.~~

(3)(d) ~~Have~~ Evaluate each certified domestic violence center annually to ensure compliance with the minimum standards. The department has the right to enter and inspect the premises of domestic violence centers that are applying for an initial certification or facing potential suspension or revocation of certification certified domestic violence centers at any reasonable hour in order to effectively evaluate the state of compliance with minimum standards of these centers with this part and rules relating to this part.

(e) ~~Adopt rules to implement this part.~~

(4)(f) Promote the involvement of certified domestic violence centers in the coordination, development, and planning of domestic violence programming in the circuits districts and the state.

(2) ~~The department shall serve as a clearinghouse for information relating to domestic violence.~~

(3) ~~The department shall operate the domestic violence program, which provides supervision, direction, coordination, and administration of state-wide activities related to the prevention of domestic violence.~~

(5)(4) Coordinate with state agencies that have health, education, or criminal justice responsibilities to raise awareness of domestic violence and promote consistent policy implementation. The department shall enlist the assistance of public and voluntary health, education, welfare, and rehabilitation agencies in a concerted effort to prevent domestic violence and to treat persons engaged in or subject to domestic violence. With the assistance of these agencies, the department, within existing resources, shall formulate and conduct a research and evaluation program on domestic violence. Efforts on the part of these agencies to obtain relevant grants to fund this research and evaluation program must be supported by the department.

(5) ~~The department shall develop and provide educational programs on domestic violence for the benefit of the general public, persons engaged in or subject to domestic violence, professional persons, or others who care for or may be engaged in the care and treatment of persons engaged in or subject to domestic violence.~~

~~(6) The department shall Cooperate with, assist in, and participate in, programs of other properly qualified state agencies, including any agency of the Federal Government, schools of medicine, hospitals, and clinics, in planning and conducting research on the prevention of domestic violence and the provision of services to clients, care, treatment, and rehabilitation of persons engaged in or subject to domestic violence.~~

~~(7) The department shall Contract with the coalition for the delivery and management of services for the state's domestic violence program. Services under this contract include, but are not limited to, the administration of contracts and grants. a statewide association whose primary purpose is to represent and provide technical assistance to certified domestic violence centers. This association shall implement, administer, and evaluate all services provided by the certified domestic violence centers. The association shall receive and approve or reject applications for funding of certified domestic violence centers. When approving funding for a newly certified domestic violence center, the association shall make every effort to minimize any adverse economic impact on existing certified domestic violence centers or services provided within the same service area. In order to minimize duplication of services, the association shall make every effort to encourage subcontracting relationships with existing certified domestic violence centers within the same service area. In distributing funds allocated by the Legislature for certified domestic violence centers, the association shall use a formula approved by the department as specified in s. 39.905(7)(a).~~

~~(8) Consider applications from certified domestic violence centers for capital improvement grants and award those grants pursuant to s. 39.9055.~~

~~(9) Adopt by rule procedures to administer this section, including developing criteria for the approval, suspension, or rejection of certification of domestic violence centers and developing minimum standards for domestic violence centers to ensure the health and safety of the clients in the centers.~~

Section 3. Section 39.9035, Florida Statutes, is created to read:

39.9035 Duties and functions of the coalition with respect to domestic violence.—As part of its delivery and management of the delivery of services for the state's domestic violence program, the coalition shall:

(1) Implement, administer, and evaluate all domestic violence services provided by the certified domestic violence centers.

(2) Receive and approve or reject applications for funding of certified domestic violence centers. When approving funding for a newly certified domestic violence center, the coalition shall make every effort to minimize any adverse economic impact on existing certified domestic violence centers or services provided within the same service area. In order to minimize duplication of services, the coalition shall make every effort to encourage subcontracting relationships with existing certified domestic violence centers within the same service area. In distributing funds allocated by

the Legislature for certified domestic violence centers, the coalition shall use a formula approved by the department as specified in s. 39.905(7)(a).

(3) Evaluate certified domestic violence centers in order to determine compliance with minimum certification standards.

(4) Have the right to enter and inspect the premises of certified domestic violence centers for monitoring purposes.

Section 4. Section 39.904, Florida Statutes, is amended to read:

39.904 Report to the Legislature on the status of domestic violence cases. On or before January 1 of each year, the coalition ~~department~~ shall furnish to the President of the Senate and the Speaker of the House of Representatives a report on the status of domestic violence in this state, which must ~~report~~ shall include, but need ~~is not be~~ limited to, the following:

(1) The incidence of domestic violence in this state.

(2) An identification of the areas of the state where domestic violence is of significant proportions, indicating the number of cases of domestic violence officially reported, as well as an assessment of the degree of unreported cases of domestic violence.

(3) An identification and description of the types of programs in the state which ~~that~~ assist victims of domestic violence or persons who commit domestic violence, including information on funding for the programs.

(4) The number of persons who receive services from ~~are treated by or assisted by~~ local certified domestic violence programs that receive funding through the coalition ~~department~~.

(5) The incidence of domestic violence homicides in the state, including information and data collected from state and local domestic violence fatality review teams. A statement on the effectiveness of such programs in preventing future domestic violence.

~~(6) An inventory and evaluation of existing prevention programs.~~

~~(7) A listing of potential prevention efforts identified by the department; the estimated annual cost of providing such prevention services, both for a single client and for the anticipated target population as a whole; an identification of potential sources of funding; and the projected benefits of providing such services.~~

Section 5. Paragraphs (c), (g), and (i) of subsection (1), subsections (2), (3), and (5), paragraph (a) of subsection (6), and paragraph (b) of subsection (7) of section 39.905, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

39.905 Domestic violence centers.—

(1) Domestic violence centers certified under this part must:

(c) Provide minimum services ~~that which~~ include, but are not limited to, information and referral services, counseling and case management services, temporary emergency shelter for more than 24 hours, a 24-hour hotline, training for law enforcement personnel, assessment and appropriate referral of resident children, and educational services for community awareness relative to the incidence of domestic violence, the prevention of such violence, and the services available ~~care, treatment, and rehabilitation~~ for persons engaged in or subject to domestic violence. If a 24-hour hotline, professional training, or community education is already provided by a certified domestic violence center within its designated service area ~~a district~~, the department may exempt such certification requirements for a new center serving the same service area ~~district~~ in order to avoid duplication of services.

(g) File with the coalition ~~department~~ a list of the names of the domestic violence advocates who are employed or who volunteer at the domestic violence center who may claim a privilege under s. 90.5036 to refuse to disclose a confidential communication between a victim of domestic violence and the advocate regarding the domestic violence inflicted upon the victim. The list must include the title of the position held by the advocate whose name is listed and a description of the duties of that position. A domestic violence center must file amendments to this list as necessary.

(i) If its center is a new center applying for certification, demonstrate that the services provided address a need identified in the most current statewide needs assessment approved by the department. If the center applying for initial certification proposes providing services in an area that has an existing certified domestic violence center, the center applying for initial certification must demonstrate the unmet need in that service area and describe its efforts to avoid duplication of services.

(2) If the department finds that there is failure by a center to comply with the requirements established under this part or with the rules adopted pursuant thereto, the department may deny, suspend, or revoke the certification of the center.

(3) The annual certificate ~~shall~~ automatically expires ~~expire~~ on June 30 ~~of each state fiscal year unless the certification is temporarily extended to allow the center to implement a corrective action plan the termination date shown on the certificate.~~

(5) Domestic violence centers may be established throughout the state when private, local, state, or federal funds are available and a need is demonstrated.

(6) In order to receive state funds, a center must:

(a) Obtain certification pursuant to this part. However, the issuance of a certificate does ~~will~~ not obligate the coalition ~~department~~ to provide funding.

(7)

(b) A contract between the ~~coalition statewide association~~ and a certified domestic violence center shall contain provisions ensuring ~~assuring~~ the availability and geographic accessibility of services throughout the service area district. For this purpose, a center may distribute funds through subcontracts or to center satellites, if provided ~~such~~ such arrangements and any subcontracts are approved by the coalition statewide association.

(8) If any of the required services are exempted from certification by the department under this section, the center may not receive funding from the coalition for those services.

Section 6. Subsection (18) of section 381.006, Florida Statutes, is amended to read:

381.006 Environmental health.—The department shall conduct an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program shall include, but not be limited to:

(18) A food service inspection function for domestic violence centers that are certified by the Department of Children and Family Services and monitored by the Florida Coalition Against Domestic Violence Department of Children and Family Services under part XII of chapter 39 and group care homes as described in subsection (16), which shall be conducted annually and be limited to the requirements in department rule applicable to community-based residential facilities with five or fewer residents.

The department may adopt rules to carry out the provisions of this section.

Section 7. Paragraph (b) of subsection (1) of section 381.0072, Florida Statutes, is amended to read:

381.0072 Food service protection.—It shall be the duty of the Department of Health to adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness. These rules shall provide the standards and requirements for the storage, preparation, serving, or display of food in food service establishments as defined in this section and which are not permitted or licensed under chapter 500 or chapter 509.

(1) DEFINITIONS.—As used in this section, the term:

(b) "Food service establishment" means detention facilities, public or private schools, migrant labor camps, assisted living facilities, adult family-care homes, adult day care centers, short-term residential treatment centers, residential treatment facilities, homes for special services, transitional living facilities, crisis stabilization units, hospices, prescribed pediatric extended care centers, intermediate care facilities for persons with developmental

disabilities, boarding schools, civic or fraternal organizations, bars and lounges, vending machines that dispense potentially hazardous foods at facilities expressly named in this paragraph, and facilities used as temporary food events or mobile food units at any facility expressly named in this paragraph, where food is prepared and intended for individual portion service, including the site at which individual portions are provided, regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term does not include any entity not expressly named in this paragraph; nor does the term include a domestic violence center certified by the Department of Children and Family Services and monitored by the Florida Coalition Against Domestic Violence Department of Children and Family Services under part XII of chapter 39 if the center does not prepare and serve food to its residents and does not advertise food or drink for public consumption.

Section 8. Section 741.281, Florida Statutes, is amended to read:

741.281 Court to order batterers' intervention program attendance.—If a person is found guilty of, has had adjudication withheld on, or pleads has ~~pled~~ nolo contendere to a crime of domestic violence, as defined in s. 741.28, that person shall be ordered by the court to a minimum term of 1 year's probation and the court shall order that the defendant attend a batterers' intervention program as a condition of probation. The court must impose the condition of the batterers' intervention program for a defendant under this section, but the court, in its discretion, may determine not to impose the condition if it states on the record why a batterers' intervention program might be inappropriate. The court must impose the condition of the batterers' intervention program for a defendant placed on probation unless the court determines that the person does not qualify for the batterers' intervention program pursuant to s. 741.325. ~~Effective July 1, 2002, the batterers' intervention program must be a certified program under s. 741.32.~~ The imposition of probation under this section does ~~shall~~ not preclude the court from imposing any sentence of imprisonment authorized by s. 775.082.

Section 9. Paragraph (g) of subsection (2) of section 741.2902, Florida Statutes, is amended to read:

741.2902 Domestic violence; legislative intent with respect to judiciary's role.—

(2) It is the intent of the Legislature, with respect to injunctions for protection against domestic violence, issued pursuant to s. 741.30, that the court shall:

(g) Consider requiring the perpetrator to complete a batterers' intervention program. It is preferred that such program meet the requirements specified in s. 741.325 ~~be certified under s. 741.32.~~

Section 10. Paragraphs (a) and (e) of subsection (6) of section 741.30, Florida Statutes, are amended to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(6)(a) Upon notice and hearing, when it appears to the court that the petitioner is either the victim of domestic violence as defined by s. 741.28 or has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence, the court may grant such relief as the court deems proper, including an injunction:

1. Restraining the respondent from committing any acts of domestic violence.

2. Awarding to the petitioner the exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

3. On the same basis as provided in chapter 61, providing the petitioner with 100 percent of the time-sharing in a temporary parenting plan that remains shall remain in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the minor child.

4. On the same basis as provided in chapter 61, establishing temporary support for a minor child or children or the petitioner. An order of temporary support remains in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting child support.

5. Ordering the respondent to participate in treatment, intervention, or counseling services to be paid for by the respondent. When the court orders the respondent to participate in a batterers' intervention program, the court, or any entity designated by the court, must provide the respondent with a list of all certified batterers' intervention programs and all programs which have submitted an application to the Department of Children and Family Services to become certified under s. 741.32, from which the respondent must choose a program in which to participate. ~~If there are no certified batterers' intervention programs in the circuit, the court shall provide a list of acceptable programs from which the respondent must choose a program in which to participate.~~

6. Referring a petitioner to a certified domestic violence center. The court must provide the petitioner with a list of certified domestic violence centers in the circuit which the petitioner may contact.

7. Ordering such other relief as the court deems necessary for the protection of a victim of domestic violence, including injunctions or directives to law enforcement agencies, as provided in this section.



(e) An injunction for protection against domestic violence entered pursuant to this section, on its face, may order that the respondent attend a batterers' intervention program as a condition of the injunction. Unless the court makes written factual findings in its judgment or order which are based on substantial evidence, stating why batterers' intervention programs would be inappropriate, the court shall order the respondent to attend a batterers' intervention program if:

1. It finds that the respondent willfully violated the ex parte injunction;
2. The respondent, in this state or any other state, has been convicted of, had adjudication withheld on, or pled nolo contendere to a crime involving violence or a threat of violence; or
3. The respondent, in this state or any other state, has had at any time a prior injunction for protection entered against the respondent after a hearing with notice.

~~It is mandatory that such programs be certified under s. 741.32.~~

Section 11. Subsection (5) of section 741.316, Florida Statutes, is amended to read:

741.316 Domestic violence fatality review teams; definition; membership; duties.—

(5) The domestic violence fatality review teams are assigned to the Florida Coalition Against Domestic Violence Department of Children and Family Services for administrative purposes.

Section 12. Section 741.32, Florida Statutes, is amended to read:

~~741.32 Certification of Batterers' intervention programs.—~~

(1) ~~The Legislature finds that the incidence of domestic violence in this state Florida is disturbingly high, and that, despite the efforts of many to curb this violence, that one person dies at the hands of a spouse, ex-spouse, or cohabitant approximately every 3 days. Further, a child who witnesses the perpetration of this violence becomes a victim as he or she hears or sees it occurring. This child is at high risk of also being the victim of physical abuse by the parent who is perpetrating the violence and, to a lesser extent, by the parent who is the victim. These children are also at a high risk of perpetrating violent crimes as juveniles and, later, becoming perpetrators of the same violence that they witnessed as children. The Legislature finds that there should be standardized programming available to the justice system to protect victims and their children and to hold the perpetrators of domestic violence accountable for their acts. Finally, the Legislature recognizes that in order for batterers' intervention programs to be successful in protecting victims and their children, all participants in the justice system as well as social service agencies and local and state governments must coordinate their efforts at the community level.~~

~~(2) There is hereby established in the Department of Children and Family Services an Office for Certification and Monitoring of Batterers' Intervention Programs. The department may certify and monitor both programs and personnel providing direct services to those persons who are adjudged to have committed an act of domestic violence as defined in s. 741.28, those against whom an injunction for protection against domestic violence is entered, those referred by the department, and those who volunteer to attend such programs. The purpose of certification of programs is to uniformly and systematically standardize programs to hold those who perpetrate acts of domestic violence responsible for those acts and to ensure safety for victims of domestic violence. The certification and monitoring shall be funded by user fees as provided in s. 741.327.~~

Section 13. Section 741.325, Florida Statutes, is amended to read:

741.325 Requirements for batterers' intervention programs Guideline authority.—

~~(1) A batterers' intervention program must meet the following requirements. The Department of Children and Family Services shall promulgate guidelines to govern purpose, policies, standards of care, appropriate intervention approaches, inappropriate intervention approaches during the batterers' program intervention phase (to include couples counseling and mediation), conflicts of interest, assessment, program content and specifics, qualifications of providers, and credentials for facilitators, supervisors, and trainees. The department shall, in addition, establish specific procedures governing all aspects of program operation, including administration, personnel, fiscal matters, victim and batterer records, education, evaluation, referral to treatment and other matters as needed. In addition, the rules shall establish:~~

~~(a)(1) That~~ The primary purpose of the program ~~programs~~ shall be victim safety and the safety of the children, if present.

~~(b)(2) That~~ The batterer shall be held accountable for acts of domestic violence.

~~(c)(3) That~~ The program ~~programs~~ shall be at least 29 weeks in length and shall include 24 weekly sessions, plus appropriate intake, assessment, and orientation programming.

~~(d)(4) That~~ The program content shall be based on be a psychoeducational model that addresses ~~employs a program content based on~~ tactics of power and control by one person over another.

~~(5) That the programs and those who are facilitators, supervisors, and trainees be certified to provide these programs through initial certification and that the programs and personnel be annually monitored to ensure that they are meeting specified standards.~~

~~(e)(6) The intent that The program shall programs be user-fee funded by user with fees paid by from the batterers who attend the program, which allows them to take as payment for programs is important to the batterer taking responsibility for their acts the act of violence, and from those seeking certification. An exception shall be made for those local, state, or federal programs that fund batterers' intervention programs in whole or in part.~~

~~(7) Standards for rejection and suspension for failure to meet certification standards.~~

~~(2)(8) The requirements of this section That these standards shall apply only to programs that address the perpetration of violence between intimate partners, spouses, ex-spouses, or those who share a child in common or who are cohabitants in intimate relationships for the purpose of exercising power and control by one over the other. It will endanger victims if courts and other referral agencies refer family and household members who are not perpetrators of the type of domestic violence encompassed by these requirements standards. Accordingly, the court and others who make referrals should refer perpetrators only to programming that appropriately addresses the violence committed.~~

Section 14. Section 741.327, Florida Statutes, is repealed.

Section 15. Section 948.038, Florida Statutes, is amended to read:

948.038 Batterers' intervention program as a condition of probation, community control, or other court-ordered community supervision.—As a condition of probation, community control, or any other court-ordered community supervision, the court shall order a person convicted of an offense of domestic violence, as defined in s. 741.28, to attend and successfully complete a batterers' intervention program unless the court determines that the person does not qualify for the batterers' intervention program pursuant to s. 741.325. ~~The batterers' intervention program must be a program certified under s. 741.32, and the offender must pay the cost of attending the program.~~

Section 16. Paragraph (a) of subsection (1) of section 938.01, Florida Statutes, is amended to read:

938.01 Additional Court Cost Clearing Trust Fund.—

(1) All courts created by Art. V of the State Constitution shall, in addition to any fine or other penalty, require every person convicted for violation of a state penal or criminal statute or convicted for violation of a municipal or county ordinance to pay \$3 as a court cost. Any person whose adjudication is withheld pursuant to the provisions of s. 318.14(9) or (10) shall also be liable for payment of such cost. In addition, \$3 from every bond estreature or forfeited bail bond related to such penal statutes or penal ordinances shall be remitted to the Department of Revenue as described in this subsection. However, no such assessment may be made against any person convicted for

violation of any state statute, municipal ordinance, or county ordinance relating to the parking of vehicles.

(a) All costs collected by the courts pursuant to this subsection shall be remitted to the Department of Revenue in accordance with administrative rules adopted by the executive director of the Department of Revenue for deposit in the Additional Court Cost Clearing Trust Fund. These funds and the funds deposited in the Additional Court Cost Clearing Trust Fund pursuant to s. 318.21(2)(c) shall be distributed as follows:

1. Ninety-two percent to the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund.

2. Six and three-tenths percent to the Department of Law Enforcement Operating Trust Fund for the Criminal Justice Grant Program.

3. One and seven-tenths percent to the Department of Children and Family Services Domestic Violence Trust Fund for the domestic violence program pursuant to s. 39.903~~(1)~~(3).

Section 17. This act shall take effect July 1, 2012.

Approved by the Governor April 20, 2012.

Filed in Office Secretary of State April 20, 2012.