

violence is often the most critical first step toward this goal. Women who appear in court with legal representation are much more likely to be granted an injunction for protection order than women who do not have legal representation. As a result of the concern with the lack of legal representation for victims served by domestic violence centers, the Governor's Task Force on Domestic Violence began contracting with the Florida Coalition Against Domestic Violence in 1997 to implement the Legal Assistance/Legal Clearinghouse Project. Through this project the Coalition subcontracts with legal providers across the state to provide representation at the permanent injunction hearings for victims at domestic violence centers, as well as provides training and technical assistance to attorneys in the area of domestic violence to enhance their skills in representing victims of domestic violence.

Extensive public education efforts have increased the likelihood that domestic violence victims will seek help; however, barriers to victims requesting assistance from law enforcement agencies are still considered to exist by many experts. During fiscal year 1999-2000, 14,358 victims of domestic violence and their children were provided with emergency shelter and 21,823 victims, including both residents and non-residents of the emergency shelters, were provided with one-to-one case management by domestic violence centers. However, in 1999, 126,044 police reports were filed for domestic violence offenses and 63,410 arrests were made. It is also estimated that only roughly 11 percent of the litigants in injunction for protection proceedings receive legal assistance. While there is not a definitive method for documenting the need for domestic violence services and legal assistance services, the volume of police reports and arrests for domestic violence offenses compared to the number of victims of domestic violence receiving services and the few who have legal representation for their injunction for protection proceeding indicates that many individuals are still dealing with domestic violence situations who could benefit from domestic violence and legal assistance services in assuring their safety.

Domestic Violence Funding

Funding collected and appropriated for domestic violence centers is distributed annually by the Department of Children and Families to districts for certified centers, primarily utilizing an allocation formula established by the department. This funding includes federal funds through the Family Violence Prevention and Services Act; Temporary Assistance for Needy Families (TANF) funding for the Diversion Program for Victims of Domestic Violence, s. 414.157, F.S., (created in ch. 99-241, L.O.F.); general revenue funds; and fees collected and deposited into the Domestic Violence Trust Fund. Domestic Violence centers are required to receive at least 25 percent of their funding from other public or private, local, municipal or county sources.

Section 741.01(2), F.S., establishes the Domestic Violence Trust Fund and provides that the funds generated to the trust fund are to be used for the specific purpose of funding domestic violence centers. Funds deposited into the Domestic Violence Trust Fund include a \$30 fee charged for each marriage license issued (s. 741.01(2), F.S.), an \$18 charge on each petition for a dissolution of marriage (s. 28.101(1)(c), F.S.) and fines assessed in response to violations of an injunction for protection against domestic violence (s. 741.30 (8)(a)).

For fiscal year 2000-2001, a total of \$19,269,777 from all sources was appropriated to the Department of Children and Families for domestic violence centers. This includes funding from the Domestic Violence Trust Fund which has been steadily decreasing over the last 4 years, with

total available revenue declining from \$6,239,959 in fiscal year 1996-1997 to \$5,746,722 in fiscal year 1999-2000.

The Legal Assistance/Legal Clearinghouse Project is funded through the Governor's Task Force on Domestic Violence in the Department of Children and Families, using federal Violence Against Women Act funds. For the calendar year 2001, \$519,000 was contracted to the Florida Coalition Against Domestic Violence for this project which funded 26 subcontracts to legal providers to serve an estimated 4,000 victims. The funding for this project has been reduced from \$1.1 million for an 18 month period in 1997 to its current allocation.

Costs and Fees Required of Perpetrators

Currently, under s. 741.281, F.S., persons who have been found guilty of, have had adjudication withheld on, or have pled nolo contendere to a crime of domestic violence are ordered by the court to a minimum term of 1 year probation and to attend a batterer's intervention program. The court can determine not to impose the condition of the batterer's intervention program if found inappropriate and documented. Both of these conditions require payment of fees. The batterer's intervention program is a user-fee funded program. The individuals who attend are required to pay an initial fee of \$30 to the Department of Corrections and a weekly fee to the program which is based on a sliding fee ranging from zero to \$50 weekly (the average is usually \$15 to \$20 per week) for 26 weeks.

The cost of supervision required to be paid by the individual on probation varies depending on whether the offense was a misdemeanor or felony and often varies from county to county. For felony probationers, a monthly fee to the Department of Corrections is imposed (s. 948.09, F.S.) up to the per diem cost of supervision, which is \$103.72. The actual fee imposed averages approximately \$50.00 per month. For misdemeanor probations, the monthly cost of supervision is imposed by the county or the probation service provider. This cost varies from county to county and may be waived by the judge. One county contacted charged \$40.

In addition to the various fees, there are court costs and fines imposed in prosecuting criminal offenses. These court costs vary across circuits and counties. In one county contacted, the standard court cost for persons convicted of a first-degree misdemeanor was \$295 and ranged from \$808 for third-degree felony convictions to \$2,333 for first-degree felony convictions. Section 775.083, F.S., authorizes courts to impose fines as possible additional penalties and sets forth maximum amounts of such fines. For example, a first-degree misdemeanant may be fined up to \$1,000. A first-degree felon could be fined up to \$10,000.

III. Effect of Proposed Changes:

Section 1 creates a new section in ch. 938, Part II, F.S., Mandatory Costs in Specific Types of Cases, to provide that an additional \$36 mandatory court cost will be assessed against persons pleading guilty or nolo contendere to, and those found guilty of, an act of domestic violence. This court cost is to be assessed against the person unless specifically waived by the court on record.

The assessments are to be collected by the clerk of the court and transferred to the Domestic Violence Trust Fund on a monthly basis. The Clerks of the Court are authorized to retain \$1 of

the \$36 collected to cover the cost of processing this assessment. Under the terms of the recently adopted amendment to Article V of Florida's Constitution, without such a retention of some portion of the fee, the Legislature may be responsible for covering the cost of processing. The bill specifies that funds are to be disbursed in accordance with s. 39.903(7), F.S.

Section 2 provides that the funds generated pursuant to s. 938.14, F.S., are to be used exclusively for legal assistance and legal clearinghouse services to victims of domestic violence served by domestic violence centers. Subsection (7) is added to s. 39. 903, F.S., to establish the specifications for the legal assistance and legal clearinghouse services, and the allocation of the funds. The bill stipulates that the services to be provided with this funding include individual legal consultation to victims of domestic violence, legal representation in injunctions for protection cases of victims of domestic violence, training for attorneys representing victims of domestic violence, and meetings of the attorneys to share strategies in representing victims of domestic violence. The funds will be contracted to a statewide non-profit association whose primary purpose is to represent and provide technical assistance to domestic violence centers to manage the services through subcontracts with local providers.

The provisions included in s. 39.903(7), F.S., link the provision of these legal assistance and legal clearinghouse services with accomplishment of performance based measures. The Department of Children and Families is directed to develop outcome measures that will evaluate the effectiveness of the services. These measures are to reflect the permanent injunctions for protection against domestic violence obtained, temporary child support orders obtained, improved competency of attorneys in the area of domestic violence, and the satisfaction of the victims served. Based on the level of funding generated by this assessment the first year, the department will determine whether there is adequate funding to offer all of the identified services or which services will be provided, in the event the level of funding generated is not sufficient to offer the full range of services. Expected standards for the identified outcome measures will be developed, also based on the level of funding generated. A predominate consideration in the allocation of funds to the local providers will be the achievement of the targeted standards. The department is directed to adopt rules which provide the process for allocating the funds to local providers. This process will be incorporated into the contract with the statewide association and used in its subcontracting with local providers.

Section 3 amends s. 39.904, F.S., to require that the Department of Children and Families' annual report on the status of domestic violence in the state include information on the utilization of the funds collected from this court cost for legal assistance services.

While the additional funding to the Domestic Violence Trust Fund would enable more victims of domestic violence to obtain legal representation and secure permanent injunctions, the ability of the perpetrator to pay this court cost, given the level of existing fees required, may impact the level of funds actually generated by this assessment.

Section 4 provides an effective date of October 1, 2001.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

A \$36 court cost will be assessed against persons who are found guilty of an act of domestic violence, regardless of whether persons are found guilty or plead guilty or nolo contendere. This assessment will be applied in addition to the cost of supervision for probation, a batterer's intervention program (if program participation is ordered), and other standard court costs and fines applied by the courts in prosecuting the case. However, this assessment may be waived by the court.

B. Private Sector Impact:

The funds collected as a result of assessing this court cost will generate additional revenue for legal assistance and legal clearinghouse services for victims of domestic violence. The Florida Department of Law Enforcement reported that while offenses and arrests can be identified as a domestic violence act, data on convictions is not categorized in a manner that allows for the number of persons pleading guilty or nolo contendere to, or found guilty of, an act of domestic violence to be identified at this time. Therefore, the level of revenue that can potentially be generated through this court cost currently cannot be projected.

C. Government Sector Impact:

The Department of Children and Families reports that its responsibility to administer and monitor the contract with the statewide non-profit association that represents domestic violence centers can be performed within existing resources.

The Office of State Courts Administrator reports that by providing attorneys in the injunction proceedings, it is likely that the length of the hearing will be increased requiring additional judge time. The precise impact cannot be determined. The Office of State Court Administrator notes that additional court costs should be examined in light of the

amendments to Article V of Florida Constitution which require the state and users of the court to take on increased funding responsibilities.

The Clerks of the Court have reported that the \$1 provided in the bill to be retained by the clerk would cover the costs of process the assessment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

While this new assessment is created as a “court cost,” the monies are not retained by the Clerk of the Court for costs associated with prosecuting the cases, but instead are transferred to the Domestic Violence Trust Fund. There are, however, precedents in ch. 938, F.S. for assessing mandatory court costs which are then transferred to other depositories for other purposes.

VIII. Amendments:

#1 by Children and Families:

Corrects the reference to “meeting” of attorneys to reflect the potential for more than one meeting.