

# 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: SB 716

SPONSOR: Senator Peaden

SUBJECT: Domestic Violence

DATE: January 14, 2002 REVISED: 01/24/02 \_\_\_\_\_

|    | ANALYST         | STAFF DIRECTOR  | REFERENCE  | ACTION                 |
|----|-----------------|-----------------|------------|------------------------|
| 1. | <u>Dowds</u>    | <u>Whiddon</u>  | <u>CF</u>  | <u>Fav/1 Amendment</u> |
| 2. | <u>Fournier</u> | <u>Johansen</u> | <u>FT</u>  | <u>Favorable</u>       |
| 3. | _____           | _____           | <u>AHS</u> | _____                  |
| 4. | _____           | _____           | <u>AP</u>  | _____                  |
| 5. | _____           | _____           | _____      | _____                  |
| 6. | _____           | _____           | _____      | _____                  |

## I. Summary:

SB 716 sets forth a new formula for distributing the funds deposited in the Additional Court Cost Clearing Trust Fund that provides a designated percentage to the Department of Children and Families for the domestic violence program. The Department of Children and Families is provided with clear authority to operate a domestic violence program. Section 741.466, F.S., prescribing the initial transfer of the domestic violence programs and funding from the Department of Community Affairs to the Department of Children and Families is repealed, as are the subsections of chapters 2001-184 and 2001-232, L.O.F., which effectuated the transfer of funds and determination of amount of funds to the Department of Children and Families for the domestic violence programs.

This bill substantially amends sections 39.903 and 938.01 of the Florida Statutes. Section 741.466, of the Florida Statutes, is repealed.

## II. Present Situation:

Effective FY 2000-2001, the Legislature transferred the domestic violence related programs being administered by the Department of Community Affairs to the Department of Children and Families. The funding the Department of Community Affairs was using to administer these programs from the Additional Court Cost Clearing Trust Fund was, in turn, transferred. However, the level of funding to be available through this source was not specifically established but was to be determined on a yearly basis, providing for an inconstant funding source for the transferred administrative functions. In addition, the Department of Children and Families did not possess clear authorization for expenditure of these trust fund dollars.

Part XIII of ch. 39, F.S., sets forth the duties of the Department of Children and Families (DCF) with respect to domestic violence, including, in particular, the domestic violence centers, which offer a wide range of services to and on behalf of victims of domestic violence. The duties of the department articulated in this part include certifying and funding domestic violence centers, managing the domestic violence center capital improvement grant program, serving as a clearinghouse for information relating to domestic violence, preparing an annual report on the status of domestic violence in this state, and conducting or assisting other agencies in conducting research on domestic violence.

Two other domestic violence related initiatives had concurrently been operated by the Department of Community Affairs (DCA) through its Prevention of Domestic and Sexual Violence Program: the Governor's Task Force on Domestic and Sexual Violence and the Violence Against Women Program. The Governor's Task Force on Domestic Violence was created by Executive Order 93-269 with the mission to end domestic violence. The last executive order updating the activities of the task force and providing for its transfer to DCF expired June 30, 2001. However, it is anticipated that a new executive order will be issued continuing the task force and its functions. The Violence Against Women Program includes the STOP (Services, Training, Officers and Prosecutors) Violence Against Women Formula Grant, the Grants to Encourage Arrest Policies and Enforcement of Protection Orders, and the Rural Domestic Violence and Child Victimization Enforcement Grants that Florida receives as part of the federal Violence Against Women Act. These federal grants are used to develop and strengthen the criminal justice system's response to violence against women and to support and enhance services for victims, to encourage government entities and courts to treat domestic violence as a serious violation of criminal law and provide a coordinated response and to enhance services available to rural victims of domestic violence and children.

Effective July 1, 2000, these initiatives were transferred by type two transfer from DCA to DCF. Authorization was also provided to transfer funding from the Additional Court Cost Clearing Trust Fund that had been used by DCA for these initiatives. The substantive law changes necessary to effect these transfers were placed in the appropriations implementing bill (ch. 2000-171, L.O.F.) and applied only to FY 2000-2001.

The Additional Court Cost Clearing Trust Fund (s. 938.01, F.S.), as it appeared in Florida Statutes in 1999, provided for the distribution of the following funds: \$3.00 assessment against each person convicted of a state penal or criminal statute or a municipal or county ordinance (excluding parking violations), or for whom adjudication is withheld pursuant to s. 318.14(9) or (10), F.S., (i.e., certain exceptions to noncriminal traffic violations) and funds collected pursuant to s. 318.21, F.S., which is five and one-tenth percent of all civil penalties collected by the county court (with the exception of an initial \$2 per penalty) to be used for criminal justice purposes. The funds were distributed to the Department of Law Enforcement (FDLE) and DCA as follows: \$2.75 of each \$3 assessment and 92 percent of the funds collected under s. 318.21, F.S., were disbursed to FDLE for the Criminal Justice Standards and Training Trust Fund; and \$.25 of the \$3 assessment and 8 percent of the funds collected under s. 318.21, F.S., were disbursed to DCA. The funds distributed to DCA were used to administer its criminal justice program.

Chapter 2000-171, L.O.F., also transferred the criminal justice program from DCA to FDLE and amended s. 938.01, F.S., to provide for the funding that had been disbursed to DCA to instead be provided to FDLE. As with the Prevention of Domestic Violence and Sexual Violence Programs, the amendments to s. 938.01, F.S., and transfer of the criminal justice program were only in effect until July 1, 2001.

During the 2001 legislative session, four different bills were adopted which continued the amendments to s. 938.01, F.S., and the transfer language for both the criminal justice program and the Prevention of Domestic and Sexual Violence Program (chapters 2001-122, 2001-184, 2001-232, and 2001-254, L.O.F.). While ch. 2001-254, L.O.F., repealed these actions effective July 1, 2002, it also provided for any other legislative acts to be preserved and continue without the repeal. Chapters 2001-184 and 2001-232, L.O.F., provided such actions, continuing the effects of these amendments and transfers. Chapters 2001-254, 2001-232, and 2001-184 L.O.F., provided for FDLE to transfer funds to DCF for the administration of the Prevention of Domestic and Sexual Violence Program. The amount of the transfer for FY 2001-2002 was to be based on the need of the program and historic use of the funds and to be determined by the Governor's Office of Planning and Budgeting, in consultation with FDLE, DCA and DCF. Chapters 2001-232 and 2001-184, L.O.F., further provided that in subsequent years, the transfer of funds is to be based on the amount appropriated in the General Appropriation Act. The Prevention of Domestic Violence and Sexual Violence Program and funding transfer provisions of ch. 2001-232, L.O.F., were placed in statute as s. 741.466, F.S.

For FY 1999-2000, the last year that the Prevention of Domestic and Sexual Violence Program was housed in DCA, the department reports that \$194,456 of the funds from the Additional Court Cost Clearing Trust Fund were expended on the domestic violence programs. FDLE reports that \$217,730 were committed to DCF for the domestic violence programs for both FY 2000-2001 and FY 2001-2002. DCF reports that these funds have been used to provide for the administration of the domestic violence initiatives that were transferred from DCA, including, but not limited to, supporting the Governor's Task Force on Domestic Violence and required activities (such as training and technical assistance to the Domestic Violence Fatality Review Teams) and managing the federal Violence Against Women Act grant funds.

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

SB 716 sets forth a new formula for distributing the funds deposited in the Additional Court Cost Clearing Trust Fund that provides a designated percentage to the Department of Children and Families for the domestic violence program. The Department of Children and Families is provided with clear authority to operate a domestic violence program. Section 741.466, F.S., prescribing the initial transfer of the domestic violence program and funding from the Department of Community Affairs to the Department of Children and Families, is repealed, as are the subsections of chapters 2001-184 and 2001-232, L.O.F., which effectuated the transfer of funds and determination of amount of funds to DCF for the domestic violence programs.

Section 938.01, F.S., is amended to establish a new formula for distributing the funds deposited into the Additional Court Cost Clearing Trust Fund, which includes a designated portion to DCF for the domestic violence program. The new formula provides for all trust fund dollars collected to be distributed as follows: 92 percent to the FDLE Criminal Justice Standards and Training

Trust Fund, six and three-tenths percent to the FDLE Operating Trust Fund for the criminal justice program, and one and seven-tenths percent to the DCF Domestic Violence Trust Fund for the domestic violence program as provided for under s. 39.903(3), F.S., which simplifies and closely mirrors the historic allocation of funds. This amendment will provide a predefined recurring funding source for the domestic violence programs which are now at DCF and replace the method used for FY 2000-2001 and FY 2001-2002 for determining the amount of funding to be disbursed for the transferred programs. However, the provision as proposed omits the funds deposited into the trust fund pursuant to s. 318.21, F.S. Without statutory authority for the deposit of these funds, the referenced dollars could not be distributed through this trust fund, which would result in a substantial revenue reduction.

The duties of DCF in Part XIII of ch. 39, F.S., are expanded to include the operation of the domestic violence program. The domestic violence program is described in s. 39.903, F.S., as providing supervision, direction, coordination, and administration of statewide activities related to the prevention of domestic violence. This provision sets forth clear authority for DCF to administer and receive trust fund dollars for the new domestic violence programs transferred from DCA.

Section 741.466, F.S., which provides for the transfer of the Prevention of Domestic Violence and Sexual Violence Program from DCA to DCF and stipulates that the amount of funds to be distributed from the Additional Court Cost Clearing Trust Fund is to be based on historic use and current need, as determined by the Governor's Office of Planning and Budgeting, is repealed. With the completion of the transfer of the domestic violence programs to DCF, the program transfer language is no longer necessary in statute. The new formula for distributing trust fund dollars in the amended s. 938.01, F.S., replaces the method articulated in this section.

The subsections of chapters 2001-184 and 2001-232, L.O.F., which stipulate the distribution of funds from the Additional Court Cost Clearing Trust Funds to DCF for the Prevention of Domestic Violence and Sexual Violence Program and the determination of the amount of funds to be disbursed, are repealed. These provisions would conflict with the amended s. 938.01, F.S., which sets forth a new methodology for distributing the funds.

SB 716 provides a clear framework for DCF to operate and receive a stable funding amount for the domestic violence programs transferred from DCA. An effective date of July 1, 2002 is set forth in the bill.

#### **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:

While the bill provides a new method for distributing dollars in the Additional Court Cost Clearing Trust Fund, it does not alter the level of assessments or fees being imposed and deposited into the trust fund.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDLE reports that, with the correction in referencing the s. 318.21, F.S., funds, the effect of the new formula would be as follows:

|   | <b>FY 2000-2001 Funds:<br/>Current s. 938.01, F.S.,<br/>Distribution of Funds</b> | <b>FY 2001-2002 Funds:<br/>Proposed s. 938.01, F.S.,<br/>Distribution Formula</b> |
|---|---|---|
| FDLE Criminal Justice Standards and Training Trust Fund     | \$12,899,233  | \$12,906,647  |
| FDLE Operating Trust Fund for the Criminal Justice Programs | \$ 912,001  | \$ 883,824  |
| DCF for the Domestic Violence Programs                      | \$ 217,730  | \$ 238,492  |

The new formula reduces the percentage of funds distributed to the FDLE Operating Trust Fund for the criminal justice program from 8 percent to six and three-tenths percent, or an estimated \$38,000. However, FDLE reports this is of no consequence to the department since some portion of the designated funds for the criminal justice program had already been provided to DCF.

The Department of Children and Families reports that this bill will not have a negative fiscal impact on the department.

VI. Technical Deficiencies:

Section 938.01, F.S., as rewritten in this bill, omits reference to the funds collected pursuant to s. 318.21, F.S., which are disbursed through the Additional Court Cost Clearing Trust Fund. Without language stipulating the disbursement of the funds collected under s. 318. 21, F.S., approximately \$12 million in revenue would not be provided for distribution to FDLE.

**VII. Related Issues:**

None.

**VIII. Amendments:**

# 1 by Children and Families:

This amendment corrects the omission of the reference to the funds generated from s. 318.21, F.S., which provides the major portion of the Additional Court Cost Clearing Trust Fund.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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