

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: CS/CS/SB 532

INTRODUCER: Children, Families, and Elder Affairs Committee, Health Regulation Committee and Senator Altman

SUBJECT: Food Service Inspections

DATE: March 9, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Wilson	HR	Fav/CS
2.	Preston	Walsh	CF	Fav/CS
3.			HA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The committee substitute for the committee substitute requires the Department of Health (Department) to inspect certified domestic violence centers and group care facilities that are licensed by the Department of Children and Family Services (DCF) for compliance with food safety rules that apply to community-based residential facilities having five or fewer residents, regardless of the number of actual residents. The committee substitute for the committee substitute further provides that a certified domestic violence center that only provides food for its residents is not a food service establishment for purposes of regulation under s. 381.0072, F.S., related to food service protection.

This committee substitute for the committee substitute substantially amends the following sections of the Florida Statutes: ss. 381.006 and 381.0072.

II. Present Situation:

Domestic Violence Centers

Domestic violence centers are community-based agencies that provide services to adult victims of domestic violence and their children. Minimum services include temporary emergency shelter; information and referrals; safety planning, counseling and case management; a 24-hour emergency hotline; educational services for community awareness; assessment and appropriate referral of resident children; and training for law enforcement and other professionals.¹

Domestic violence centers are regulated under ch. 39, F.S., and rule chapter 65H-1, Florida Administrative Code (F.A.C.), by the Department of Children and Families (DCF). Rule 65H-1.012, F.A.C., provides the standards for certification of domestic violence centers. Only not-for-profit corporations that have been operating and providing domestic violence services for 18 consecutive months, including 12 months operating an emergency shelter, are eligible to apply for certification. Currently, there are 49 certified domestic violence centers in the state.² Certification is for one year.

Centers are required to meet county and municipal building code enforcement requirements, have an annual fire safety inspection, have an annual sanitation inspection through the county health department, and otherwise take precautionary measures to ensure the physical safety of residents.³

DCF conducts monitoring evaluations of certified domestic violence centers to ensure compliance with the minimum standards provided in rule chapter 65H-1, F.A.C., and s. 39.905, F.S. These evaluations occur annually, onsite or desktop, as determined by DCF. An evaluation may also occur in response to a complaint.⁴

Certified domestic violence centers throughout Florida generally house from 15 to 102 residents per building, and none house five or fewer residents.⁵

Group Care Facilities

Group care facilities licensed and monitored by DCF include any person, corporation, or agency, public or private, other than the child's parent or legal guardian, that provides staffed 24-hour care for children in facilities maintained for that purpose, regardless of whether operated for profit or whether a fee is charged. Such residential child-caring agencies include, but are not limited to, maternity homes, runaway shelters, group homes that are administered by an agency, emergency shelters that are not in private residences, and wilderness camps. Group care facilities do not include hospitals, boarding schools, summer or recreation camps, nursing homes, or facilities operated by a governmental agency for the training, treatment, or secure care of delinquent youth.⁶

¹ Department of Children and Family Services website found at: <<http://www.dcf.state.fl.us/domesticviolence/about.shtml>> (Last visited on January 14, 2010).

² Department of Health Bill Analysis, Economic Statement and Fiscal Note for SB 532, dated November 12, 2009, on file with the Senate Health Regulation Committee.

³ Rule 65H-1.015, F.A.C.

⁴ Rule 66H-1.017, F.A.C.

⁵ Ibid, 2.

⁶ s. 409.175(2)(j), F.S.

These types of placements are supposed to provide a living environment for children in their care that is as close to a normal family home as possible.

Department of Health

Section 20.43, F.S., creates the Department and requires it to plan and administer its public health programs through its county health departments. The Department, in carrying out the mission of public health, is to focus attention on identifying, assessing, and controlling the presence and spread of communicable diseases; on monitoring and regulating factors in the environment which may impair the public's health, with particular attention to preventing contamination of drinking water, the air people breathe, and the food people consume; and ensuring availability of and access to preventive and primary health care.

Food Services

The Department's rule chapter 64E-12, F.A.C., prescribes sanitary practices relating to community-based residential facilities, including domestic violence centers. Rule 64E-12.004, F.A.C., specifically addresses food service requirements using a risk-based tiered approach. Different minimal requirements apply for each tier based on facility type or the number of residents in care. There are three tiers of food service requirements in rule 64E-12.004, F.A.C. Tiers II and III, with resident populations in excess of 5 persons, reference some or all of the food hygiene standards adopted under rule chapter 64E-11, F.A.C., for food service establishments. The Department inspects domestic violence centers annually for compliance with food safety, sanitation, and health standards.

Tier I applies to adult family-care homes and other community residential facilities with a maximum capacity to house up to five residents and requires:

- Food used in the facility must be clean, wholesome, free from spoilage and safe for human consumption. Home-canned food may not be used;
- Food must be protected from dust, flies, rodents and other vermin, toxic materials, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding by sewage, overhead leakage and all other sources of contamination at all times during storage, food preparation, transportation both on and off premises, and service;
- Food storage equipment must be provided to keep all potentially hazardous foods at safe temperatures, 41°F or below or 140°F or above, except during necessary periods of preparation and service. Food storage units must have a visible and accurate (within plus or minus 3°) thermometer. Potentially hazardous food must not have been out of temperature more than 4 cumulative hours during the course of thawing, preparation, service, and cooling;
- At least one sink with hot and cold potable water under pressure must be in the food preparation area; and
- Food containers must be labeled with their contents and certain foods must be stored in accordance with date marking and disposition requirements.

Tier II applies to facilities with a maximum capacity to house from 6 to 10 residents and requires compliance with

- Tier I requirements;
- Criteria related to sources and the condition of food supplies in rule 64E-11.003, F.A.C.;

- Preparation criteria for foods that are to be served without further cooking, comminuted meat (such as hamburger), poultry, raw animal products, beef, and microwave cooking in rule 64E-11.004, F.A.C.;
- Cooling, thawing, and reheating procedures in rule 64E-11.004, F.A.C.;
- Detailed food storage criteria, including containers and storage locations in rule 64E-11.004, F.A.C.;
- Criteria for food display and serving, including handling of utensils in rule 64E-11.004, F.A.C.;
- Criteria concerning the use and storage of cleaning aids and other poisonous or toxic materials in rule 64E-11.004, F.A.C.;
- Criteria for personnel, including being free from communicable disease and adhering to provisions related to personal hygiene in rule 64E-11.005, F.A.C.;
- Specifications for floors, walls, and shelving;
- Providing a separate hand-washing sink area;
- Criteria for multi-use equipment and utensils; and
- Preventing live animals and pets from entering the kitchen or food preparation area.

Tier III applies to facilities with a maximum capacity of 11 or more residents and requires compliance with all regulatory standards relating to food service establishments. These include all requirements in Tier II, as well as additional food safety criteria set forth in rule chapter 64E-11, F.A.C., maintaining a food sanitation certificate at an annual fee of \$135, and quarterly inspections specifically addressing requirements related to food safety.

Facilities receiving or providing catered food must also meet applicable licensing and regulatory requirements.⁷

III. Effect of Proposed Changes:

The bill amends s. 381.006, F.S., to limit food service inspections of certified domestic violence centers and group care facilities licensed by DCF to compliance with standards for community-based residential facilities having five or fewer residents (Tier I requirements), regardless of the number of residents in the certified domestic violence center or group care facility. This provision only applies to domestic violence centers that are certified and monitored by DCF and group care facilities that are licensed and monitored by DCF.

The bill also amends s. 381.0072, F.S., to exempt from the definition of a food service establishment a domestic violence center that is certified and monitored by DCF, only provides food for its residents to prepare for themselves, and does not advertise food or drink for public consumption.

⁷ Rule 64E-12.004(4), F.A.C.

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

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Approximately 25⁸ of the 49 domestic violence centers pay \$135 annually for a food sanitation certificate, which will no longer be required. Additionally, the domestic violence centers will be required to comply with lesser regulatory standards and have fewer inspections related to food safety.⁹

C. Government Sector Impact:

The Department would lose an estimated \$3,375 annually in sanitation certificate fees but no longer incur approximately \$7,500 in expenses related to food sanitation inspections.¹⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁸ The other domestic violence centers were grandfathered in when the Tier III requirements went into effect.

⁹ Ibid, 2.

¹⁰ Ibid, 2.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Regulation Committee on January 19, 2010:

Eliminates the provision that a certified domestic violence center is not subject to any requirements that apply to food service establishments and limits the exemption of a certified domestic violence center from the definition of a food service establishment to a center that only provides food for its residents and does not advertise food or drink for public consumption.

CS/CS by Children, Families, and Elder Affairs on March 9, 2010:

Includes group care facilities licensed and monitored by DCF in the requirement related to inspections for compliance with food safety rules that apply to community-based residential facilities having five or fewer residents, regardless of the number of actual residents.

- B. **Amendments:**

None.