

**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.)

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Prepared By: The Professional Staff of the Criminal Justice Committee

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BILL: SB 1446

INTRODUCER: Senator Detert

SUBJECT: Domestic Violence Fatality Review Teams

DATE: March 19, 2010

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	<b>Favorable</b>
2.	_____	_____	JU	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

Senate Bill 1446 provides that information and records acquired by the domestic violence fatality review teams (FRTs) are not subject to discovery or introduction into evidence in any criminal or administrative proceeding under certain circumstances.

The bill also provides that a person who has attended a meeting of the FRTs may not testify in criminal or administrative proceedings regarding certain records or information that was produced or presented by the team.

Finally, SB 1446 deletes the requirement that the Governor’s Task Force on Domestic Violence provide information and technical assistance to the FRTs. (The Governor’s Task Force on Domestic Violence was part of an Executive Order that expired on June 30, 2001.)

This bill substantially amends section 741.316 of the Florida Statutes.

**II. Present Situation:**

In Florida, domestic violence is defined as:

[A]ny assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.<sup>1</sup>

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<sup>1</sup> Section 741.28(2), F.S.

In 2008, the total number of domestic violence offenses reported in Florida was 113,123. Of the total, 194 offenses were classified as murder or manslaughter.<sup>2</sup>

Domestic Violence FRTs were first formed in Florida in the mid-1990's. These teams began as local initiatives supported with federal grant funds.<sup>3</sup> In 2000, the Legislature enacted s. 741.316, F.S., which allows organizations to establish FRTs at the local, regional, or state level. The teams, which are not funded by the state, work independently and may be composed of representatives from municipal, county, state and federal agencies, as well as individuals or organizations that are involved with, or affected by, a domestic violence fatality.<sup>4</sup> The goals of the FRTs are to review fatal and near-fatal incidents of domestic violence, related domestic violence matters, and suicides, and to identify changes in policy or procedure that may prevent future deaths.<sup>5</sup> There are currently 19 active FRTs in Florida.<sup>6</sup>

### **Public Records and Meeting Exemptions for Domestic Violence Fatality Review Teams**

Domestic Violence FRTs are immune from liability for “any act or proceeding undertaken or performed within the scope of the functions of the team” unless the act or proceeding was undertaken in bad faith.<sup>7</sup> Information gathered by FRTs is protected from discovery and introduction into evidence in civil or disciplinary proceedings. In addition, persons attending FRT meetings are prohibited from testifying in civil or disciplinary actions regarding records or information produced or presented at the meeting.<sup>8</sup>

However, these provisions do not apply to criminal or administrative proceedings. Because FRT members are not protected from criminal subpoenas, case reviews typically occur after the final disposition of the related criminal case. For this reason, fatality reviews are conducted years after the crimes occurred, which can result in the loss of key information and people.<sup>9</sup> In contrast, child abuse death review team members are protected from subpoenas in criminal cases as well as in civil proceedings.<sup>10</sup>

The Governor's Task Force on Domestic Violence (task force) was created to serve the public purpose of directing policies on reducing and eliminating domestic violence and domestic violence fatalities. The task force was required to produce an annual report including a summary of task force findings, other special areas of interest, and efforts of the local FRTs.<sup>11</sup> Before it

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<sup>2</sup> Florida Department of Law Enforcement (FDLE), Crime in Florida, 2008 Florida Uniform Crime Report (2009).

<sup>3</sup> FDLE, Florida Domestic Violence Fatality Review Team 2008 Annual Report, Executive Summary (2008).

<sup>4</sup> *Id.* See also, s. 741.316, F.S.

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

<sup>6</sup> As of June 19, 2009, there were active FRTs in the following counties: Alachua, Brevard, Broward, Columbia, Duval, Escambia, Highlands, Hillsborough, Lee, Manatee, Miami-Dade, Orange, Palm Beach, Pasco, Pinellas, Santa Rosa, Sarasota, Seminole and St. John's. Department of Children and Families, 2010 Analysis of SB 1446, on file with the committee.

<sup>7</sup> Section 741.316(4)(a), F.S.

<sup>8</sup> Section 741.316(5), F.S.

<sup>9</sup> Florida Senate, Committee on Children, Families, and Elder Affairs. Interim Report 2010-208. Open Government Sunset Review of Section 741.3165, F.S., Domestic Violence Fatality Review Teams. (September 2009).

<sup>10</sup> Section 383.402(14), F.S.

<sup>11</sup> The Governor's Task Force on Domestic Violence was created by Executive Order 93-269, and amended by Executive Orders 94-17, 94-256, 95-473, and 99-99, with the mission to end domestic violence. (Executive Order 00-226).

expired on June 30, 2001, the task force provided support and technical assistance to FRTs. Since its expiration, the task force has not been reauthorized.<sup>12</sup>

Domestic Violence FRTs are now assigned to the Department of Children and Families (department) for administrative purposes.<sup>13</sup> The department provides technical support to FRTs and, although not directed, has assumed the responsibility of supporting FRTs with the collection and reporting of data from their reviews.<sup>14</sup>

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

Senate Bill 1446 deletes the requirement that the Governor's Task Force on Domestic Violence provide information and technical assistance to local domestic violence fatality review teams (FRTs). (The Governor's task force was part of an Executive Order that expired on June 30, 2001.)

The bill provides that information and records acquired by the FRTs are not subject to discovery or introduction into evidence in any criminal or administrative proceeding in certain circumstances.

The bill provides that a person who has attended a meeting of the FRT may not testify in criminal or administrative proceedings regarding certain records or information that were produced or presented by the team.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

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<sup>12</sup> See Note 6 *supra*.

<sup>13</sup> Section 741.316(6), F.S.

<sup>14</sup> See Note 6, *supra*.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.