

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/SB 1298

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Wise

SUBJECT: Supervised Visitation

DATE: March 9, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Walsh	CF	Fav/CS
2.			JU	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill makes changes to the provisions of ch. 753, F.S., relating to supervised visitation. A hierarchy for referring cases for supervised visitation or exchange monitoring is created for both non-dependency cases, where the courts are the primary source of referrals, and dependency cases, where referrals are made by child-placing agencies.

The bill also provides for standards for programs and requires that programs affirm annually in a written agreement with court that they abide by those standards; provides that programs that have accepted referrals may petition the court in writing when there is a problem with a case; assumes persons providing services at a supervised visitation or exchange monitoring program are acting in good faith and are immune from liability; and provides that after January 1, 2011, only programs that have written agreements with the court may receive state funding.

This bill creates ss.753.06, 753.07, 753.08, and 753.09, F.S.

II. Present Situation:

Supervised visitation programs provide an opportunity for nonresidential parents to maintain contact with their children in safe and neutral settings. Use of a caseworker, relative, or other third party to oversee such contact has long been recognized as essential in child maltreatment cases in which the child has been removed from the home. Other purposes of supervised visitation include:

- To prevent child abuse;
- To reduce the potential for harm to victims of domestic violence and their children;
- To facilitate appropriate child/parent interaction during supervised contact;
- To help build safe and healthy relationships between parents and children;
- To provide written factual information to the court relating to supervised contact, where appropriate;
- To reduce the risk of parental kidnapping;
- To assist parents with juvenile dependency case plan compliance; and
- To facilitate reunification, where appropriate.¹

The first supervised visitation program in Florida opened in 1993.² By 1996, there were 15 programs in the state, and by 2004, over 60 programs had been established. Currently, every judicial circuit in the state has at least one supervised visitation program.³

The Clearinghouse on Supervised Visitation (clearinghouse)⁴ was created in 1996 through an appropriation from the Office of the State of Courts Administrator (OSCA) to provide statewide technical assistance on issues related to the delivery of supervised visitation services to providers, the judiciary, and the Department of Children and Family Services (DCF or department). Since 1996, the clearinghouse has received contracts on an annual basis from the department to continue this provision of technical assistance.⁵ Chapter 753, F.S., relating to supervised visitation, was created in 1996.⁶

The Florida Supreme Court's Family Court Steering Committee began developing a skeletal set of standards for supervised visitation programs in 1998. In an attempt to create uniformity relating to staff training, terminology, and basic practice norms, the committee presented standards to then Chief Justice Harding. Justice Harding endorsed the minimum standards and crafted an administrative order in 1999 mandating that chief judges of each circuit enter into an

¹ Clearinghouse on Supervised Visitation, Institute for Family Violence Studies, School of Social Work, Florida State University. Available at: <http://familyvio.csw.fsu.edu/CHVPG.php>. (Last visited March 4, 2010.)

² The Family Nurturing Center of Jacksonville.

³ Clearinghouse on Supervised Visitation, Institute for Family Violence Studies, School of Social Work, Florida State University. *Report to the Florida Legislature, Recommendations of the Supervised Visitation Standards Committee*. Available at: <http://familyvio.csw.fsu.edu/phpBB3/viewtopic.php?f=14&t=79>. (Last visited March 5, 2010).

⁴ The Clearinghouse on Supervised Visitation is housed within the Institute for Family Violence Studies in the School of Social Work of the Florida State University, and serves as a statewide resource on supervised visitation issues by providing technical assistance, training, and research.

⁵ Clearinghouse on Supervised Visitation, Institute for Family Violence Studies, School of Social Work, Florida State University. Available at: <http://familyvio.csw.fsu.edu/CHVPG.php>. (Last visited March 4, 2010.)

⁶ Ch. 96-402, L.O.F.

agreement with local programs to which trial judges referred cases that agreed to comply with the standards.⁷

In 2007, the Florida Legislature created s.753.03 F.S. to authorize the clearinghouse to develop new standards for Florida supervised visitation programs to ensure the safety and quality of each program.⁸ The clearinghouse was also required to recommend process for phasing in the implementation of the standards and certification procedures, to develop the criteria for distributing funds to eligible programs, and to determine the most appropriate state entity to certify and monitor supervised visitation programs.⁹ A final report containing the recommendations of the clearinghouse was received by the legislature in December 2008.¹⁰

Until standards for supervised visitation programs are developed and a certification and monitoring process is fully implemented, each supervised visitation program must have an agreement with the court and comply with the Minimum Standards for Supervised Visitation Programs Agreement adopted by the Supreme Court on November 17, 1999.¹¹

III. Effect of Proposed Changes:

The bill provides that the standards contained in the final report submitted to the legislature as required by s. 753.03(4), F.S., shall be the basis for state standards for supervised visitation and exchange monitoring programs and may be modified only as specified.

The bill also implements four of the ten recommendations contained in the final report to the legislature from the clearinghouse:

- Ch. 753, F.S. is amended to allow programs to alert the court in writing when there are problems with case referrals and to allow the court to set a hearing to address these problems. Programs regularly report that they have difficulty accessing the court to report problems related to the supervised visitation process, including:
 - Children’s unwillingness to participate in visits;
 - Parental substance abuse;
 - Parental mental illness issues interfering with visits;
 - Parental misconduct on-site;
 - Parental misconduct off-site reported to visitation staff, including but not limited to parental arrests, additional litigation in family/dependency/criminal court, and violations of probation, stalking, and threats; and

⁷ Clearinghouse on Supervised Visitation, Institute for Family Violence Studies, School of Social Work, Florida State University. *Florida’s Supervised Visitation Programs: A Report from the Clearinghouse on Supervised Visitation*. January 2007. The minimum standards can be found at: http://www.flcourts.org/gen_public/family/bin/svnstandard.pdf. (Last visited March 6, 2010).

⁸ Ch. 2007-109, L.O.F.

⁹ *Id.*

¹⁰ Clearinghouse on Supervised Visitation, Institute for Family Violence Studies, School of Social Work, Florida State University. *Report to the Florida Legislature, Recommendations of the Supervised Visitation Standards Committee*. Available at: <http://familyvio.csw.fsu.edu/phpBB3/viewtopic.php?f=14&t=79>. (Last visited March 5, 2010).

¹¹ Ch. 2007-109, L.O.F. The minimum standards can be found at: http://www.flcourts.org/gen_public/family/bin/svnstandard.pdf. (Last visited March 6, 2010).

- Parental noncompliance with program rules, including no-shows and cancellations without cause.
- Courts and child-placing agencies are required to adhere to a recommended hierarchy when referring cases to supervised visitation in both dependency and non-dependency cases.
- Ch. 753, F.S., is amended to provide a presumption of good faith and immunity from liability for those providing services at visitation and monitored exchange programs. This is similar to the immunity provisions that currently protect Guardians ad Litem.¹²
- The bill restricts funding so that only programs with written agreements with the court that they abide by the standards are eligible for state funding after January 1, 2011.¹³

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.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of State Courts Administrator reported that the bill will have minimal impact on the judiciary and court staff.

DCF has not finalized an analysis for the bill.

¹² s. 39.822(1), F.S.

¹³ *Id.*

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.)

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

Makes substantial changes to ch. 753, relating to supervised visitation programs, including:

- Provides for standards for supervised visitation and exchange monitoring programs and requires programs to affirm annually in a written agreement with the court that they abide by those standards;
- Retains the referral hierarchy for both cases that are referred to programs by the court and cases that are referred by child-placing agencies, but references programs that “have an agreement with court” rather than “certified” programs;
- Clarifies that foster parents and relatives may be used to supervise parent-child visits;
- Requires that individuals who are agency staff and who supervise parent-child visits must receive training from the clearinghouse’s free online training program and affirm to his or her agency that he or she has completed the training and understands the state standards for visitation or exchange monitoring;
- Requires that an individual who is a relative or friend and who supervise parent-child visits must be made aware of the training from the clearinghouse’s free online training program which he or she may voluntarily choose to review;
- Provides immunity from liability to all persons providing services at programs that have affirmed to the court that they abide by state standards; and
- After January 1, 2011, restricts state funding to only those programs that have written agreements with the court.

B. Amendments:

None.