

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: CS/SB 498

SPONSOR: Committee on Children and Families and Senator Lynn

SUBJECT: Children’s Visitation Programs

DATE: April 19, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dowds	Whiddon	CF	Fav/CS
2.			ED	Withdrawn
3.	Brown	Lang	JU	Fav
4.			CJ	
5.			AHS	
6.			AP	

I. Summary:

This bill repeals the sections contained in ch. 753, F.S., regarding the Family Visitation Network. It replaces these repealed sections with new sections that set forth elements for providing safety and quality services in supervised visitation programs, including the development of standards for certification and monitoring, development and provision of training, and collection of data on services provided, to be implemented to the extent that funding permits. Supervised visitation programs are required by the bill to meet guidelines adopted by the courts. The fee for the issuance of a certification of a birth record is increased by \$1.00 to provide funds to enhance security at the supervised visitation programs. The bill also provides new mechanisms for facilitating volunteerism of law enforcement officers at supervised visitation programs through various incentives.

Liability and Workers’ Compensation

The bill provides that the community-based programs are “responsible” for the acts or omissions of the volunteer law enforcement officer. However, for purposes of workers’ compensation, law enforcement officer volunteers are considered as acting within the course of employment.

This bill repeals sections 753.001, 753.002, and 753.004, of the Florida Statutes and creates sections 753.01, 753.02, 753.03, 753.04, 753.05, 753.06, 753.07, 753.08, 753.09, 753.10, and 943.254, of the Florida Statutes. The bill also substantially amends sections 382.0255 and 943.135, of the Florida Statutes.

II. Present Situation:

Family Courts and Safety

For many families before the court in cases of divorce, custody, domestic violence injunctions, or child abuse, there is often a known or alleged risk of physical or sexual abuse to the child or even a risk of abduction. In determining visitation, family courts are constantly faced with the dilemma of balancing child safety with maintaining the parent-child relationship. Supervised visitation provides the courts and families with an option to continue the parent-child contact while minimizing the risk of further abuse to the child or to the spouse or other family member when domestic violence is involved.

A supervised visitation program provides the opportunity for contact between a noncustodial parent and a child in the presence of a third party responsible for observing and ensuring the safety of those involved (s. 753.001(1), F.S.). Supervised exchange services may also be offered which monitor the exchange of a child from one parent to the other at the beginning and end of the visitation period. Supervised visitation programs provide the facilities, resources, and administrative services required to offer a safe and structured setting for supervised visitation and exchange. A court order usually dictates the requirements for the visit or exchange supervision.

The Family Visitation Network

In 1996, the Legislature created ch. 753, F.S., the Family Visitation Network (ch. 96-402, L.O.F.). This chapter was created as supervised visitation programs were evolving and provided a definition for “supervised visitation program,” created the Florida Family Visitation Network to provide formal communication among existing and emerging programs, and provided a linkage to other resources for new community supervised visitation programs. Since 1997, the number of supervised visitation programs in Florida has grown from 15 to 43 programs (operating 50 supervised visitation sites) which in 2002 supervised over 40,000 visits.¹ These supervised visitation programs obtain funding to support their services from a variety of sources, including Access and Visitation Grants from the Department of Children and Families, Victims of Crime Act (VOCA) funds through the Office of the Attorney General (which are no longer available), local government funds, the United Way, Junior League, and small private foundations. In addition, four of the forty-two supervised visitation programs receive federal funds from the Department of Justice, Office of Violence Against Women.²

Supervised Visitation and Sources for Support

With the steady increase in the number and use of supervised visitation programs, there is a growing need for assurances that programs will provide for a safe contact between the noncustodial parent and the child. In 1999, the Chief Justice of the Supreme Court adopted minimum guidelines for supervised visitation programs which are used by the court. However, in some circuit court jurisdictions, agreements which stipulate the supervised visitation programs’ agreement to comply with the guidelines are still not in place.³ Further, there are no standards by which to assess program quality and only limited tracking of services is provided.

The volatile nature of the relationship between the family members that created the need for supervised visitation programs has made security at the programs a critical concern. Incidents

¹ Oehme, Karen and Maxwell, Sharon, *Florida’s Supervised Visitation Programs: The Next Phase*, The Florida Bar Journal, January 2004, p. 44 and conversation with Karen Oehme.

² Oehme, *Supra*, p. 47.

³ Oehme, *Supra*, p. 44.

that have raised safety concerns at supervised visitation programs in this state include threats or actual acts of physical aggression toward staff or custodial parents, incidents where the noncustodial parent is openly intoxicated or under the influence of illegal drugs, and incidents where the noncustodial parent arrives at the program exhibiting delusional behavior or even hallucinating.⁴ In some areas of the state, law enforcement officers have provided security services for supervised visitation program through either volunteer service or paid employment. However, it has been reported that supervised visitation programs often do not have adequate resources.

Section 382.0255, F.S., sets forth fees or fee ranges to be charged for various forms of birth and death certificates. Specific fees to be charged are to be established in rule and, currently, the state office of the Department of Health charges \$9.00 for a certification of a birth record. Certifications of a birth record obtained through county health departments range from \$9.00 to \$15.50. While most of the fees charged are retained by the Department of Health or the county health department, s. 382.0255, F.S., provides for portions of these fees to be used for other purposes. Specifically, s. 382.0255(1)(i), F.S., provides that fees in excess of the expenses of the \$25.00 for the commemorative certificate of birth or marriage be used by the Regional Perinatal Intensive Care Center Program to prevent child abuse and neglect, and for the Improved Pregnancy Outcome Program. Section 382.0255(2), F.S., requires that \$1.50 of the fee charged for each request for a certification of the birth record be transferred to the Child Welfare Training Trust Fund.

III. Effect of Proposed Changes:

This bill repeals language providing for the Family Visitation Network. It replaces the Network with new authority that sets forth elements providing for safety and quality services in supervised visitation programs, including the development of standards for certification and monitoring, development and provision of training, and collection of data on services provided, to be implemented to the extent that funding permits. Supervised visitation programs are required by the bill to meet guidelines adopted by the courts. The fee for the issuance of a certification of a birth record is increased by \$1.00 to provide funds to enhance security at the supervised visitation programs.

Specifically, legislative findings and intent to provide for uniform standards, security, training, and certification for supervised visitation programs, subject to available funding, are articulated. The bill requires comprehensive standards to be developed to provide a uniform set of guidelines that will be used by supervised visitation programs and form the basis for certification of such programs. A process for certifying and monitoring compliance of supervised visitation programs with the comprehensive standards is to be phased in based on availability of funds. Certification, once fully implemented, will be required for receipt of both state or federal funds and referrals from the court. Prior to the development of comprehensive standards and implementation of a certification process, the bill requires that supervised visitation programs meet the minimum standards adopted by the courts and prohibits a supervised visitation program from receiving federal access and visitation grant funds unless documentation is provided that the program has

⁴ Oehme, *Supra*, p. 45.

entered into agreement as required by the court. The bill encourages supervised visitation programs to develop community partnerships to strengthen the services provided.

The Clearinghouse on Supervised Visitation at the Institute for Family Violence at Florida State University is charged with the following:

- Developing training materials for supervised visitation programs, offering training to staff, tracking training compliance, and fully implementing and maintaining a mechanism for collecting data on supervised visitation services, to the extent the available funding permits.
- Developing standards for supervised visitation programs, criteria for approving and rejecting certification of a program, a process for phasing in the standards and certification process, and a recommendation for the state entity that should be charged with certifying and monitoring supervised visitation programs.
- Implementing an advisory board to assist in developing standards and recommendations, with a preliminary report to be submitted to the Legislature and the Chief Justice of the Supreme Court by December 31, 2004, and a final report to be submitted by December 31, 2005.

The bill also provides new mechanisms for facilitating volunteerism of law enforcement officers at supervised visitation programs. This bill authorizes the use of volunteer time at programs that serve children and families at risk of abuse to meet continuing education requirements, as well as the administration of voluntary security services for off-duty officers at these programs.

A fee is added for certifications of birth records issued by the Department of Health state office. The funds collected are to be transferred to the Department of Children and Families on a yearly basis and distributed to DCF to assist supervised visitation programs meet the security standards to be developed pursuant to this bill. The availability and use of the funds are reiterated in ch. 753, F.S., with a directive for criteria for the provision of the funds to be recommended by the advisory board.

Supervised visitation programs are encouraged to collaborate with law enforcement agencies to facilitate volunteerism of law enforcement officers at their programs using the newly created provisions in this bill. Section 943.135, F.S., requires that all law enforcement officers receive a minimum of 40 hours of training or education every four years as a condition of continued employment. The training must be approved by the Criminal Justice Standards and Training Commission within the Florida Department of Law Enforcement. This bill requires that the commission permit law enforcement agencies to allow officers to meet up to 3 hours of the 40 hours of required continuing education or training by volunteering at a community-based, not-for-profit organization that serves children and families who have experienced or are at risk for child abuse or domestic violence, including, but not limited to, a supervised visitation program. Section 943.254, F.S., is created to authorize law enforcement agencies to administer volunteer security services for officers during off-duty hours at community-based, not-for-profit programs that serve children or families who have experienced or are at risk for child abuse or domestic violence and where there is a potential danger to staff or clients, including, but not limited to, a supervised visitation program. The bill provides that the community-based programs are responsible for the acts or omissions of the law enforcement officer. However, for purposes of

workers' compensation, law enforcement officer volunteers are considered as acting within the course of employment. This bill stipulates that law enforcement officers volunteering pursuant to this section are exempt from licensing requirements for security and investigating services in ch. 493, F.S.

The bill provides for an effective date of July 1, 2004.

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:

The bill imposes an additional \$1.00 fee for a certification of the birth record issued through the Department of Health state office. This will increase the total current charge from \$9.00 to \$10.00. In comparison, four county health departments currently charge \$9.00 for a certification of the birth record and the remaining county health departments charge between \$10.00 and \$15.50.

B. Private Sector Impact:

While the Supreme Court had already required supervised visitation programs to meet the minimum standards adopted by the court, not all supervised visitation programs have entered into agreement to meet these standards. The number of supervised visitation programs which have not entered into an agreement is not known. The statutory provision reinforces the court's directive and facilitates compliance, thus, strengthening the requirement for programs to meet these standards.

The Clearinghouse on Supervised Visitation at Florida State University has agreed to convene the advisory committee and develop the requested recommendations within their existing revenues. The existing revenue is a small grant through the Department of Children and Families, without which the Clearinghouse could not perform the identified function.

The fee increase on the certification of the birth record provided for by this bill will increase the costs persons will be required to pay by \$1.00 when requesting a certification.

C. Government Sector Impact:

The Department of Children and Families reports there will be no fiscal impact with this bill as originally filed. The department noted that this legislation would have a positive impact on the department in that there will be statewide uniformity for supervised visitation programs and practice standards.

The collection of the additional \$1.00 on the certification of the birth record and the distribution of funds to the supervised visitation programs may have an associated cost. Neither the Department of Children and Families nor the Department of Health have had an opportunity to determine the fiscal impact.

The Office of the State Court Administrator does not identify a fiscal impact to the courts. However, their analysis did not take into account any possible effects from the pending implementation of Article V, Revision VII.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.