

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

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

Prepared By: Health and Human Services Appropriations Committee

BILL: CS/SB 20

INTRODUCER: Judiciary Committee and Senators Lynn and Rich

SUBJECT: Supervised Visitation Programs

DATE: April 9, 2007

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Goltry</u>	<u>Jameson</u>	<u>CF</u>	<b>Fav/1 amendment</b>
2.	<u>Cibula</u>	<u>Maclure</u>	<u>JU</u>	<b>Fav/CS</b>
3.	<u>Hardy</u>	<u>Peters</u>	<u>HA</u>	<b>Favorable</b>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill limits visitation of a child by a parent, caregiver, or grandparent who has been reported to the child abuse hotline for sexual abuse of a child or has been convicted of certain crimes involving minors. The bill also directs the Clearinghouse on Supervised Visitation within Florida State University to recommend to the Legislature standards that will ensure the quality and safety of supervised visitation programs.

Until permanent standards are implemented, the bill requires supervised visitation programs to comply with the Minimum Standards for Supervised Visitation Programs Agreement by the Florida Supreme Court. Lastly, the bill requires supervised visitation programs working with referrals involving sexual abuse to have specially trained staff.

This bill creates the following sections of the Florida Statutes: 753.01, 753.02, 753.03, 753.04, and 753.05. This bill substantially amends the following sections of the Florida Statutes: 39.402, 39.506, 39.509, and 39.521. This bill also repeals the following sections of the Florida Statutes: 753.001, 753.002, and 753.004.

**II. Present Situation:**

Supervised visitation programs provide for “contact between a noncustodial parent and one or more children in the presence of a third person responsible for observing and ensuring the safety of those involved.”<sup>1</sup> Supervised visitation programs may also be used to supervise the

<sup>1</sup> Section 753.001(1), F.S.

“movement of a child from the custodial to the noncustodial parent at the start of the visit and back to the custodial parent at the end of the visit.”<sup>2</sup>

Supervised visitation:

programs were developed for cases in which a parent is accused of substance abuse, mental health issues, poor parenting, risk of parental abduction, or lack of a relationship with the child. In addition, the epidemic of domestic violence and concern for the safety of the victim and/or the children at visitation has resulted in the creation of supervised visitation programs for family violence cases.<sup>3</sup>

### **Clearinghouse on Supervised Visitation**

The Clearinghouse on Supervised Visitation (Clearinghouse) is located within the College of Social Work at Florida State University. The Clearinghouse was created “to provide statewide technical assistance on issues related to the delivery of supervised visitation services to providers, the judiciary, and Florida’s Department on Children and Families.”<sup>4</sup> Since 1996, the Clearinghouse created several:

technical assistance tools, including the 2003 manual *Child Sexual Abuse Referrals: A Curriculum for Supervised Visitation Providers* and the 2004 *Referrals to Supervised Visitation Programs: A Manual for Florida’s Judges*, a curriculum for which judges receive continuing judicial education credit. In addition to producing two comprehensive administrative guides, *A Toolkit on Monitored Exchange* and *A Toolkit for Collaboration Between Florida’s Colleges and Universities and Supervised Visitation Programs*, the Clearinghouse has provided on-site training around the United States and Canada . . .<sup>5</sup>

Additionally, the Clearinghouse maintains a database of statistical information on the use of supervised visitation throughout the state.<sup>6</sup>

### **Minimum Standards for Supervised Visitation**

On November 18, 1999, the Florida Supreme Court, by administrative order, adopted the Minimum Standards for Supervised Visitation Program Agreements.<sup>7</sup> The standards contained in the order provide that the chief judge of each judicial circuit has the responsibility for the

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<sup>2</sup> Section 753.001(2), F.S.

<sup>3</sup> WENDY P. CROOK, PH.D, ET AL., FLORIDA STATE UNIVERSITY, COLLEGE OF SOCIAL WORK, INSTITUTE FOR FAMILY VIOLENCE STUDIES, FLORIDA’S SUPERVISED VISITATION PROGRAMS: A REPORT FROM THE CLEARINGHOUSE ON SUPERVISED VISITATION 6 (January 2007).

<sup>4</sup> FLORIDA STATE UNIVERSITY, COLLEGE OF SOCIAL WORK, INSTITUTE FOR FAMILY VIOLENCE STUDIES, HISTORY OF THE CLEARINGHOUSE ON SUPERVISED VISITATION, <http://ilearning.ci.fsu.edu/familyvio/CHVH.php> (last visited February 27, 2007).

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

<sup>6</sup> CROOK, *supra* note 3, at 12.

<sup>7</sup> In Re: Supervised Visitation, Fla. Admin. Order (Nov. 18, 1999), available at <http://www.floridasupremecourt.org/clerk/adminorders/1999/sc99-59.pdf>. The Minimum Standards for Supervised Visitation Program Agreements referenced in the administrative order are available at [http://www.flcourts.org/gen\\_public/family/bin/svnstandard.pdf](http://www.flcourts.org/gen_public/family/bin/svnstandard.pdf).

oversight of court-ordered supervised visitation and for agreements with service providers who meet the minimum standards.<sup>8</sup> Among other matters, supervised visitation programs also must have comprehensive written operating policies and procedures, including:

- (1) types of services and manner in which they are provided;
- (2) case acceptance and discharge policies;
- (3) procedures for communication with the court, including how the program and the court will avoid impermissible ex parte communication;
- (4) procedures for providing reports to the court;
- (5) the visitation agreement;
- (6) payment of fees;
- (7) hours of operation that are accessible to use;
- (8) restrictions for transportation of children;
- (9) security measures and emergency protocol and/or procedures;
- (10) grievance procedures;
- (11) policies and procedures regarding release of information;
- (12) employment policies and policies governing the acceptance and discharge of volunteers, including: non-discrimination policies regarding the employee or volunteer's race, religion, gender, sexual orientation, national origin, age, disability, marital status; and policies that comply with the laws and regulations governing fair employment practices.<sup>9</sup>

### **Chapter 753, F.S., Family Visitation Network**

Chapter 753, F.S., contains three statutory sections on supervised visitation. Section 753.001, F.S., provides definitions. Section 753.002, creates the Family Visitation Network to provide resources and assistance for supervised visitation programs. That entity, however, has never existed.<sup>10</sup>

Section 753.004, F.S., was created to permit the facilities of county extension services to be used by supervised visitation programs.<sup>11</sup> Supervised visitation programs, however, no longer use these facilities.<sup>12</sup>

### **Funding for Supervised Visitation Programs**

The Clearinghouse reports that common sources of funding for supervised visitation programs include funding from the Department of Children and Families, client fees, and county funds.<sup>13</sup>

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<sup>8</sup> *Id.* at § I.E.

<sup>9</sup> *Id.* at § II.C.

<sup>10</sup> INTERVIEW WITH KAREN OEHME, PROGRAM DIRECTOR, FLORIDA STATE UNIVERSITY COLLEGE OF SOCIAL WORK, IN TALLAHASSEE, FLA. (MAR. 14, 2007).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> CROOK, *supra* note 3, at 7.

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

This bill limits visitation of a child by a parent, caregiver, or grandparent who has been reported to the child abuse hotline for sexual abuse of a child or has been convicted of certain crimes involving minors. The bill also provides for interim standards and a process to develop permanent standards for supervised visitation programs.

#### **Visitation**

The bill creates a rebuttable presumption that visitation with a parent or caregiver will be detrimental to the child if the parent or caregiver has been reported to the child abuse hotline for sexual abuse of a child or has been convicted of certain crimes involving children. If the presumption is not rebutted, visitation must be prohibited or allowed only through a supervised visitation program.

Although the rebuttable presumption is codified in ch. 39, F.S., which involves dependency, the rebuttable presumption does not contain any express provision limiting its application to visitation with dependent children. As such, the rebuttable presumption may apply to typical custody disputes in connection with a divorce.

The bill also permits a court to suspend visitation or other contact with a person who attempts to influence the testimony of a child. Moreover, the bill requires a court to convene a hearing within seven business days to evaluate a report from a therapist that visitation is impeding a child's therapeutic progress.

#### **Clearinghouse on Supervised Visitation**

The bill appears to codify many of the existing functions of the Clearinghouse on Supervised Visitation (Clearinghouse). In addition to its existing functions, the bill directs the Clearinghouse to develop uniform standards to ensure the safety and quality of supervised visitation programs. The Clearinghouse also must develop a process by which supervised visitation programs may be licensed and regulated by a state agency. The recommendations of the Clearinghouse must be contained in a final report to the Legislature by December 31, 2008.

#### **Interim Standards for Supervised Visitation Programs**

Until permanent standards for supervised visitation are implemented, the bill requires supervised visitation programs to comply with the Minimum Standards for Supervised Visitation Programs Agreement by the Florida Supreme Court.

Section 9 of the bill provides that supervised visitation programs that are not in compliance with the minimum standards may not receive certain federal grants for visitation programs. Section 9 also contains two references to the "state agency administering the grant." The Legislature may wish to amend the bill to insert the name of the state agency that is currently administering the grant, which is the Department of Children and Families.

### **Supervised Visitation Involving Sexual Abuse**

A supervised visitation program that accepts referrals involving sexual abuse must satisfy the Minimum Standards for Supervised Visitation Programs Agreement and several additional requirements. As such, these supervised visitation programs must have specially trained staff and have protocols for obtaining background material on client families before the initiation of services. The bill also directs the supervised visitation program to suspend visits if the child appears traumatized or if the visitor engages in inappropriate behavior.

### **Repealed Sections**

This bill repeals all of the existing sections in ch. 753, F.S. The definitions of “supervised visitation program” and “exchange monitoring” in s. 753.001, F.S., are replaced with updated definitions, and a new definition is added for “Clearinghouse on Supervised Visitation.” The “Florida Family Visitation Network” as set forth s. 753.002, F.S., is replaced with “Clearinghouse on Supervised Visitation” and its responsibilities are expanded to include developing quality and safety standards and formulating newsletters for supervised visitation programs.

### **Effective Date**

The bill takes effect on July 1, 2007.

## **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:**

None.

### **B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The development of supervised visitation standards mandated in this bill will not require any additional state or federal resources. The work will be performed by the Clearinghouse on Supervised Visitation within available funding.

**VI. Technical Deficiencies:**

The bill contains references to the “‘Minimum Standards for Supervised Visitation Programs Agreement’ adopted by the Supreme Court on November 17, 1999.” Those standards, however, were adopted on November 18. The Legislature may wish to revise the references to the date of the adoption of the standards accordingly. Also, the title of the document setting forth the Supreme Court standards uses the plural form of the word “Program” and the singular form of the word “Agreement.”

**VII. Related Issues:**

Section 9 of the bill contains two references to the “state agency administering the grant.” The Legislature may wish to amend the bill to insert the name of the state agency that is currently administering the grant, which is the Department of Children and Families.

## **VIII. Summary of Amendments:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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