



1           (1) SHORT TITLE.--This act may be cited as the  
2 "Keeping Children Safe Act."

3           (2) LEGISLATIVE FINDINGS AND INTENT.--

4           (a) The Legislature finds that for some children who  
5 are abused, abandoned, or neglected by a parent or other  
6 caregiver, abuse may include sexual abuse.

7           (b) The Legislature also finds that these same  
8 children are at risk of suffering from further harm during  
9 visitation or other contact.

10           (c) The Legislature further finds that visitation or  
11 other contact with the child may be used to influence the  
12 child's testimony.

13           (d) Therefore, it is the intent of the Legislature to  
14 protect children and reduce the risk of further harm to  
15 children who have been sexually abused or exploited by a  
16 parent or other caregiver by placing additional requirements  
17 on judicial determinations related to visitation and other  
18 contact.

19           (3) PROCEDURES TO PROTECT CHILD SAFETY DURING  
20 VISITATION AND OTHER CONTACT.--

21           (a) A rebuttable presumption of detriment to a child  
22 is created when a parent or caregiver:

23           1. Has been the subject of a report to the child abuse  
24 hotline alleging sexual abuse of any child as defined in s.  
25 39.01; or

26           2. Has been found guilty of, regardless of  
27 adjudication, or has entered a plea of guilty or nolo  
28 contendere to, charges under the following statutes, or  
29 substantially similar statutes of other jurisdictions:

30           a. Section 787.04, relating to removing minors from  
31 the state or concealing minors contrary to court order;

1           b. Section 794.011, relating to sexual battery;  
2           c. Section 798.02, relating to lewd and lascivious  
3 behavior;  
4           d. Chapter 800, relating to lewdness and indecent  
5 exposure;  
6           e. Section 826.04, relating to incest; or  
7           f. Chapter 827, relating to the abuse of children.  
8           3. Has been determined by a court to be a sexual  
9 predator as defined in s. 775.21 or received a substantially  
10 similar designation under the laws of another jurisdiction.  
11           (b) For purposes of this subsection, the term  
12 "substantially similar" has the same meaning as in s.  
13 39.806(1)(d)2.  
14           (4) HEARINGS ON VISITATION OR OTHER CONTACT.--A person  
15 who meets the criteria set forth in any category in subsection  
16 (3) may visit or have other contact with a child only after a  
17 hearing and an order by the court which allows the visitation  
18 or other contact. At such a hearing:  
19           (a) The court must appoint an attorney ad litem or a  
20 guardian ad litem if one has not already been appointed. Any  
21 attorney ad litem or guardian ad litem appointed must have  
22 special training on the dynamics of sexual abuse.  
23           (b) The court may receive any relevant and material  
24 evidence submitted, including written and oral reports to the  
25 extent of their probative value. These reports and evidence  
26 may be received by the court in its effort to determine the  
27 action to be taken with regard to the child and may be relied  
28 upon to the extent of their probative value, even though not  
29 competent in an adjudicatory hearing.  
30           (c) If the court finds the person proves by clear and  
31 convincing evidence that the safety, well-being, and physical,

1 mental, and emotional health of a child are not endangered by  
2 such visitation or contact, the presumption is rebutted and  
3 the court may allow visitation or other contact. The court  
4 shall enter a written order specifying any conditions it finds  
5 necessary to protect the child.

6 (d) If the court finds the person did not rebut the  
7 presumption established above, the court shall enter a written  
8 order prohibiting or restricting visitation or other contact  
9 with the child.

10 (5) CONDITIONS FOR VISITATION OR OTHER CONTACT.--Any  
11 visitation or other contact ordered under paragraph (4)(d)  
12 shall be:

13 (a) Supervised by a person who has previously received  
14 special training on the dynamics of children who have been  
15 sexually abused; or

16 (b) Shall be conducted in a supervised visitation  
17 program, provided that the program has an agreement with the  
18 court and a current affidavit of compliance on file with the  
19 chief judge of the circuit in which the program is located,  
20 affirming that the program has agreed to comply with the  
21 minimum standards contained in an administrative order issued  
22 by the Chief Justice of the Supreme Court on November 17,  
23 1999, and provided the program has a written agreement with  
24 the court and with the department as described in s. 753.05  
25 containing policies and guidelines specifically related to  
26 referrals involving child sexual abuse.

27 (6) ADDITIONAL CONSIDERATIONS RELATED TO VISITATION OR  
28 OTHER CONTACT.--

29 (a) If a party or participant, based on communication  
30 with the child or other first-hand knowledge, informs the  
31 court that a person is attempting to influence the testimony

1 of the child, the court shall immediately suspend visitation  
2 or other contact. The court shall then hold a hearing and  
3 determine whether it is in the best interests of the child to  
4 prohibit or restrict visitation or other contact.

5 (b) If a child is in therapy as a result of any of the  
6 allegations or convictions contained in paragraph (3)(a), and  
7 the child's therapist reports that the visitation or other  
8 contact is impeding the child's therapeutic progress, the  
9 court shall convene a hearing within 7 business days to review  
10 the terms, conditions, or appropriateness of continued  
11 visitation or other contact.

12 Section 2. Subsection (9) of section 39.402, Florida  
13 Statutes, is amended to read:

14 39.402 Placement in a shelter.--

15 (9) At any shelter hearing, the department shall  
16 provide to the court a recommendation for scheduled contact  
17 between the child and parents, if appropriate. The court shall  
18 determine visitation rights absent a clear and convincing  
19 showing that visitation is not in the best interest of the  
20 child. Any order for visitation or other contact must conform  
21 to the provisions of s. 39.0139. If visitation is ordered but  
22 will not commence within 72 hours of the shelter hearing, the  
23 department shall provide justification to the court.

24 Section 3. Subsection (6) of section 39.506, Florida  
25 Statutes, is amended to read:

26 39.506 Arraignment hearings.--

27 (6) At any arraignment hearing, if the child is in an  
28 out-of-home placement, the court shall order visitation rights  
29 absent a clear and convincing showing that visitation is not  
30 in the best interest of the child. Any order for visitation or  
31 other contact must conform to the provisions of s. 39.0139.

1           Section 4. Section 39.509, Florida Statutes, is  
2 amended to read:

3           39.509 Grandparents rights.--Notwithstanding any other  
4 provision of law, a maternal or paternal grandparent as well  
5 as a stepgrandparent is entitled to reasonable visitation with  
6 his or her grandchild who has been adjudicated a dependent  
7 child and taken from the physical custody of the parent unless  
8 the court finds that such visitation is not in the best  
9 interest of the child or that such visitation would interfere  
10 with the goals of the case plan. Reasonable visitation may be  
11 unsupervised and, where appropriate and feasible, may be  
12 frequent and continuing. Any order for visitation or other  
13 contact must conform to the provisions of s. 39.0139.

14           (1) Grandparent visitation may take place in the home  
15 of the grandparent unless there is a compelling reason for  
16 denying such a visitation. The department's caseworker shall  
17 arrange the visitation to which a grandparent is entitled  
18 pursuant to this section. The state shall not charge a fee  
19 for any costs associated with arranging the visitation.  
20 However, the grandparent shall pay for the child's cost of  
21 transportation when the visitation is to take place in the  
22 grandparent's home. The caseworker shall document the reasons  
23 for any decision to restrict a grandparent's visitation.

24           (2) A grandparent entitled to visitation pursuant to  
25 this section shall not be restricted from appropriate displays  
26 of affection to the child, such as appropriately hugging or  
27 kissing his or her grandchild. Gifts, cards, and letters from  
28 the grandparent and other family members shall not be denied  
29 to a child who has been adjudicated a dependent child.

30           (3) Any attempt by a grandparent to facilitate a  
31 meeting between the child who has been adjudicated a dependent

1 child and the child's parent or legal custodian, or any other  
2 person in violation of a court order shall automatically  
3 terminate future visitation rights of the grandparent.

4 (4) When the child has been returned to the physical  
5 custody of his or her parent, the visitation rights granted  
6 pursuant to this section shall terminate.

7 (5) The termination of parental rights does not affect  
8 the rights of grandparents unless the court finds that such  
9 visitation is not in the best interest of the child or that  
10 such visitation would interfere with the goals of permanency  
11 planning for the child.

12 (6) In determining whether grandparental visitation is  
13 not in the child's best interest, consideration may be given  
14 to the finding of guilt, regardless of adjudication, or entry  
15 or plea of guilty or nolo contendere to charges under the  
16 following statutes, or similar statutes of other  
17 jurisdictions: s. 787.04, relating to removing minors from the  
18 state or concealing minors contrary to court order; s.  
19 794.011, relating to sexual battery; s. 798.02, relating to  
20 lewd and lascivious behavior; chapter 800, relating to  
21 lewdness and indecent exposure; s. 826.04, relating to incest;  
22 or chapter 827, relating to the abuse of children.

23 Consideration may be given to the designation by a court as a  
24 sexual predator as defined in s. 775.21 or a substantially  
25 similar designation under the laws of another jurisdiction.

26 Consideration may also be given to a report of abuse,  
27 abandonment, or neglect under ss. 415.101-415.113 or this  
28 chapter and the outcome of the investigation concerning such  
29 report.

30 Section 5. Paragraph (d) of subsection (3) of section  
31 39.521, Florida Statutes, is amended to read:

1           39.521 Disposition hearings; powers of disposition.--  
2           (3) When any child is adjudicated by a court to be  
3 dependent, the court shall determine the appropriate placement  
4 for the child as follows:  
5           (d) If the child cannot be safely placed in a  
6 nonlicensed placement, the court shall commit the child to the  
7 temporary legal custody of the department. Such commitment  
8 invests in the department all rights and responsibilities of a  
9 legal custodian. The department shall not return any child to  
10 the physical care and custody of the person from whom the  
11 child was removed, except for court-approved visitation  
12 periods, without the approval of the court. Any order for  
13 visitation or other contact must conform to the provisions of  
14 s. 39.0139. The term of such commitment continues until  
15 terminated by the court or until the child reaches the age of  
16 18. After the child is committed to the temporary legal  
17 custody of the department, all further proceedings under this  
18 section are governed by this chapter.  
19  
20 Protective supervision continues until the court terminates it  
21 or until the child reaches the age of 18, whichever date is  
22 first. Protective supervision shall be terminated by the court  
23 whenever the court determines that permanency has been  
24 achieved for the child, whether with a parent, another  
25 relative, or a legal custodian, and that protective  
26 supervision is no longer needed. The termination of  
27 supervision may be with or without retaining jurisdiction, at  
28 the court's discretion, and shall in either case be considered  
29 a permanency option for the child. The order terminating  
30 supervision by the department shall set forth the powers of  
31 the custodian of the child and shall include the powers



1 ordinarily granted to a guardian of the person of a minor  
2 unless otherwise specified. Upon the court's termination of  
3 supervision by the department, no further judicial reviews are  
4 required, so long as permanency has been established for the  
5 child.

6 Section 6. Section 753.01, Florida Statutes, is  
7 created to read:

8 753.01 Definitions.--As used in this chapter, the  
9 term:

10 (1) "Clearinghouse on Supervised Visitation" or  
11 "clearinghouse" means the entity within the Institute for  
12 Family Violence Studies in the School of Social Work of the  
13 Florida State University which serves as a statewide resource  
14 on supervised visitation issues by providing technical  
15 assistance, training, and research.

16 (2) "Exchange monitoring" means supervision of  
17 movement of a child from the custodial to the noncustodial  
18 parent at the start of a visit and back to the custodial  
19 parent at the end of the visit.

20 (3) "Supervised visitation program" means a program  
21 created to offer structured contact between a parent or  
22 caregiver and one or more children in the presence of a third  
23 person responsible for observing and ensuring the safety of  
24 those involved. Supervised visitation programs may also  
25 include exchange monitoring of children who are participating  
26 in court-ordered visitation programs or exchange monitoring  
27 when there has been mutual consent between parties for the  
28 purposes of facilitating a visitation.

29 Section 7. Section 753.02, Florida Statutes, is  
30 created to read:

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1           753.02 Clearinghouse on Supervised Visitation.--The  
2 clearinghouse has the following responsibilities, subject to  
3 the availability of resources:

4           (1) To develop standards for supervised visitation  
5 programs in order to ensure both the quality of each program  
6 and the safety of children and families utilizing program  
7 services.

8           (2) To serve as a clearinghouse on resources and  
9 research of supervised visitation programs.

10           (3) To provide technical assistance and other support  
11 services to existing and emerging supervised visitation  
12 programs.

13           (4) To compile a directory of state-supervised  
14 visitation programs containing referral information.

15           (5) To formulate a newsletter for supervised  
16 visitation programs.

17           (6) To organize workshops and conferences that address  
18 issues and concerns of supervised visitation programs.

19           (7) To have the authority to apply for grants and  
20 accept private contributions.

21           (8) To compile data on the use of supervised  
22 visitation programs.

23           Section 8. Section 753.03, Florida Statutes, is  
24 created to read:

25           753.03 Standards for supervised visitation and  
26 supervised exchange services.--

27           (1) Within existing funds from the Department of  
28 Children and Family Services, the clearinghouse shall develop  
29 standards for supervised visitation programs in order to  
30 ensure the safety and quality of each program. Standards must  
31 be uniform for all the programs and must address the purpose,

1 policies, standards of practice, program content, security  
2 measures, qualifications of providers, training standards,  
3 credentials and background screening requirements of staff,  
4 information to be provided to the court, and data collection  
5 for supervised visitation programs.

6 (2) The clearinghouse shall use an advisory board to  
7 assist in developing the standards. The advisory board must  
8 include:

9 (a) Two members of the executive board of the state  
10 chapter of the Supervised Visitation Network, appointed by the  
11 president of the state chapter of the Supervised Visitation  
12 Network.

13 (b) A representative from the Office of the State  
14 Courts Administrator, appointed by the State Courts  
15 Administrator.

16 (c) A representative from the department, appointed by  
17 the Secretary of Children and Family Services.

18 (d) A representative from the Florida Coalition  
19 Against Domestic Violence, appointed by the executive director  
20 of the Florida Coalition Against Domestic Violence.

21 (e) A representative from a local law enforcement  
22 agency, appointed by the executive director of the Florida  
23 Sheriffs Association.

24 (f) A circuit court judge who presides over domestic  
25 violence proceedings, appointed by the Chief Justice of the  
26 Supreme Court.

27 (g) A circuit court judge who presides over dependency  
28 proceedings, appointed by the Chief Justice of the Supreme  
29 Court.

30 (h) Two representatives from a supervised visitation  
31 program, appointed by the director of the clearinghouse.

1           (i) A representative from the Commission on Marriage  
2 and Family Support Initiatives.

3           (j) A representative of the Statewide Guardian ad  
4 Lite Office, appointed by the executive director.

5           (3) The clearinghouse, with consultation from the  
6 advisory board, shall develop criteria and procedures for  
7 approving and rejecting certification applications and  
8 monitoring compliance with the certification of a supervised  
9 visitation program. The clearinghouse shall recommend the  
10 process for phasing in the implementation of the standards and  
11 certification procedures, criteria for distributing funds to  
12 eligible programs, and the state entity that should certify  
13 and monitor the supervised visitation programs.

14           (4) The clearinghouse shall submit a preliminary  
15 report containing its recommendations for the uniform  
16 standards by December 31, 2007, and a final report of all  
17 recommendations, including those related to the certification  
18 and monitoring developed to date by December 31, 2008, to the  
19 President of the Senate, the Speaker of the House of  
20 Representatives, and the Chief Justice of the Supreme Court.

21           Section 9. Section 753.04, Florida Statutes, is  
22 created to read:

23           753.04 Interim minimum standards for supervised  
24 visitation programs.--

25           (1) Until the standards for supervised visitation and  
26 supervised exchange services are developed pursuant to this  
27 chapter and a certification and monitoring process is fully  
28 implemented, each supervised visitation program must have an  
29 agreement with the court and comply with the "Minimum  
30 Standards for Supervised Visitation Programs Agreement"  
31 adopted by the Supreme Court on November 17, 1999. Under this

1 order, a supervised visitation program shall enter into an  
2 agreement with the circuit court or circuit courts within the  
3 geographic jurisdiction of the program attesting to the  
4 willingness of the program to comply with the Supreme Court's  
5 standards.

6 (2) Until the standards for supervised visitation and  
7 supervised exchange services are completed and a certification  
8 and monitoring process is fully implemented, a supervised  
9 visitation program may not receive grant funds for access and  
10 visitation under 42 U.S.C. s. 669b unless the program provides  
11 documentation to the state agency administering the grant  
12 verifying that the program has entered into an agreement with  
13 the circuit court as required under subsection (1). This  
14 subsection does not obligate the state agency administering  
15 the grant to certify a program's compliance with the Minimum  
16 Standards for Supervised Visitation Programs Agreement.

17 Section 10. Section 753.05, Florida Statutes, is  
18 created to read:

19 753.05 Referrals involving child sexual abuse.--

20 (1) Any supervised visitation program that wishes to  
21 accept referrals involving child sexual abuse must have an  
22 agreement with the court and a current affidavit of compliance  
23 on file with the chief judge of the circuit in which the  
24 program is located, affirming that the program has agreed to  
25 comply with the minimum standards contained in an  
26 administrative order issued by the Chief Justice of the  
27 Supreme Court on November 17, 1999, and provided the program  
28 has a written agreement with the court and with the department  
29 that contains policies and guidelines specifically related to  
30 child sexual abuse.

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1           (2) The agreement must include provisions for the  
2 following:

3           (a) Program staff who supervise visits or other  
4 contact must have specific training in child sexual abuse  
5 provided through the Clearinghouse on Supervised Visitation  
6 documented in personnel files;

7           (b) The program must have protocols for obtaining  
8 background material on the family prior to the initiation of  
9 services;

10           (c) The program must accept only those child sexual  
11 abuse referrals in which staff have the requisite background  
12 material, training, and security in place to safely monitor  
13 contact;

14           (d) The program must decline referrals of child sexual  
15 abuse cases when staff lack necessary training and education,  
16 when background material has not been received, or where lack  
17 of security may allow revictimization of the child; and

18           (e) The program must suspend visits in cases when the  
19 child appears to be traumatized by the visit or the individual  
20 visiting or having other contact engages in inappropriate  
21 behavior or violates program rules.

22           Section 11. Sections 753.001, 753.002, and 753.004,  
23 Florida Statutes, are repealed.

24           Section 12. This act shall take effect July 1, 2007.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
SB 20

The committee substitute differs from the underlying bill in that it:

- Clarifies that the Clearinghouse on Supervised Visitation is to recommend supervised visitation standards to the Legislature;
- Does not contain provisions pertaining to volunteer law enforcement officers assisting with supervised visitation programs;
- Does not contain provisions that provided for a dedicated funding source for supervised visitation programs; and
- Provides for the limitation of visitation of a child by a parent, caregiver, or grandparent who has been reported to the child abuse hotline or has been convicted of certain crimes involving minors.