

A bill to be entitled

An act relating to child visitation; providing a short title; providing legislative intent; creating s. 39.0139, F.S.; requiring restrictions on visitation or contact by specified persons; creating a presumption; providing for hearing; providing conditions for visitation or contact during the pendency of hearing; amending ss. 39.402, 39.506, 39.509, and 39.521, F.S.; subjecting specified visitation orders to s. 39.0139, F.S.; amending s. 753.001, F.S.; deleting an obsolete provision; amending s. 753.002, F.S.; requiring development of specified safety standards for supervised visitation programs; deleting an obsolete provision; amending s. 753.004, F.S.; requiring supervised visitation programs to comply with specified safety standards; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Keeping Children Safe Act of 2007."

Section 2. Legislative intent.--It is the public policy of this state that children are to be kept safe when in the temporary or permanent custody of the Department of Children and Family Services or its contractors. An increasing portion of the allegations that bring children to the attention of child protection investigators involves sexual abuse of a child as defined in s. 39.01, Florida Statutes. This state has a substantial public interest in the protection of vulnerable

HB 77

2007

29 children, including children who may be especially traumatized
30 by contact with any alleged perpetrator of sexual abuse or
31 related criminal conduct. In furtherance of that interest and
32 protection of the children impacted, the state must regulate the
33 contact of the child with persons who might seek to shape or
34 influence testimony in matters relating to child sexual abuse or
35 criminal conduct involving, allowing, or encouraging any sexual
36 act against a child or exploitation of a child, including
37 involvement of the child in human trafficking.

38 Section 3. Section 39.0139, Florida Statutes, is created
39 to read:

40 39.0139 Visitation restrictions when a child's safety or
41 welfare cannot otherwise be adequately guaranteed.--

42 (1) This section applies to a parent, stepparent,
43 grandparent, stepgrandparent, relative, or caregiver in all
44 proceedings governed by this chapter.

45 (2) A presumption that visitation or contact is contrary
46 to the best interest of the child is created when a parent,
47 stepparent, grandparent, stepgrandparent, relative, or
48 caregiver:

49 (a) Is alleged in a proceeding under this chapter to have
50 committed or has been found in such a proceeding to have
51 committed sexual abuse of a child. If the parent, stepparent,
52 grandparent, stepgrandparent, relative, or caregiver has been
53 alleged to have committed sexual abuse of a child, he or she may
54 seek review of the propriety of the allegation pursuant to the
55 provisions of this chapter;

HB 77

2007

56 (b) Has been designated a sexual predator under s. 775.21
57 or has received a comparable designation under the laws of
58 another jurisdiction;

59 (c) Has been convicted of a sexual battery that
60 constitutes a capital, life, or first degree felony violation of
61 s. 794.011;

62 (d) Has been alleged to have subjected the child or a
63 sibling of the child to sexual abuse of a child as defined in s.
64 39.01 or a sexual battery; or

65 (e) Has been convicted of an offense in another
66 jurisdiction that is substantially similar to an offense listed
67 in this subsection. For purposes of this subsection, the term
68 "substantially similar" has the same meaning as in s.
69 39.806(1)(d)2.

70 (3)(a) Visitation or other contact with a person to whom
71 the presumption in subsection (2) applies shall be permitted
72 only after a hearing and upon a court order. The court shall use
73 heightened scrutiny as the allegations subject to this
74 regulation presumptively place a child at risk of harm.

75 (b) In such a hearing, an attorney ad litem or a guardian
76 ad litem with special training shall be appointed to represent
77 the child.

78 (c)1. During the course of proceedings under this
79 subsection, a court shall not allow the child to have visitation
80 or contact with a person subject to the presumption in
81 subsection (2) unless the visitation or contact is conducted in
82 a supervised visitation program conforming to:

83 a. The "Minimum Standards for Supervised Visitation
 84 Program Agreement" as adopted by the Supreme Court on November
 85 18, 1999;

86 b. Standards that may be adopted under chapter 753; or

87 c. Other conditions that the court, in express findings,
 88 determines will ensure the safety of the child at all times.

89 2. In all occurrences of supervised visitation under this
 90 paragraph, a person supervising the visitation shall receive or
 91 have previously received training on supervising visitation
 92 between a victim and alleged perpetrator of sexual abuse.

93 Section 4. Subsection (9) of section 39.402, Florida
 94 Statutes, is amended to read:

95 39.402 Placement in a shelter.--

96 (9) At any shelter hearing, the department shall provide
 97 to the court a recommendation for scheduled contact between the
 98 child and parents, if appropriate. The court shall determine
 99 visitation rights absent a clear and convincing showing that
 100 visitation is not in the best interest of the child. If
 101 visitation is ordered but will not commence within 72 hours
 102 after ~~of~~ the shelter hearing, the department shall provide
 103 justification to the court. All orders of visitation are subject
 104 to s. 39.0139.

105 Section 5. Subsection (6) of section 39.506, Florida
 106 Statutes, is amended to read:

107 39.506 Arraignment hearings.--

108 (6) At any arraignment hearing, if the child is in an out-
 109 of-home placement, the court shall order visitation rights
 110 absent a clear and convincing showing that visitation is not in

HB 77

2007

111 the best interest of the child. All orders of visitation are
112 subject to s. 39.0139.

113 Section 6. Section 39.509, Florida Statutes, is amended to
114 read:

115 39.509 Grandparents rights.--Notwithstanding any other
116 provision of law, a maternal or paternal grandparent as well as
117 a stepgrandparent is entitled to reasonable visitation with his
118 or her grandchild who has been adjudicated a dependent child and
119 taken from the physical custody of the parent unless the court
120 finds that such visitation is not in the best interest of the
121 child or that such visitation would interfere with the goals of
122 the case plan. Reasonable visitation may be unsupervised and,
123 where appropriate and feasible, may be frequent and continuing.
124 All orders of visitation are subject to s. 39.0139.

125 (1) Grandparent visitation may take place in the home of
126 the grandparent unless there is a compelling reason for denying
127 such a visitation. The department's caseworker shall arrange the
128 visitation to which a grandparent is entitled pursuant to this
129 section. The state shall not charge a fee for any costs
130 associated with arranging the visitation. However, the
131 grandparent shall pay for the child's cost of transportation
132 when the visitation is to take place in the grandparent's home.
133 The caseworker shall document the reasons for any decision to
134 restrict a grandparent's visitation.

135 (2) A grandparent entitled to visitation pursuant to this
136 section shall not be restricted from appropriate displays of
137 affection to the child, such as appropriately hugging or kissing
138 his or her grandchild. Gifts, cards, and letters from the

HB 77

2007

139 grandparent and other family members shall not be denied to a
140 child who has been adjudicated a dependent child.

141 (3) Any attempt by a grandparent to facilitate a meeting
142 between the child who has been adjudicated a dependent child and
143 the child's parent or legal custodian, or any other person in
144 violation of a court order shall automatically terminate future
145 visitation rights of the grandparent.

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

149 (5) The termination of parental rights does not affect the
150 rights of grandparents unless the court finds that such
151 visitation is not in the best interest of the child or that such
152 visitation would interfere with the goals of permanency planning
153 for the child.

154 (6) In determining whether grandparental visitation is not
155 in the child's best interest, consideration may be given to the
156 finding of guilt, regardless of adjudication, or entry or plea
157 of guilty or nolo contendere to charges under the following
158 statutes, or similar statutes of other jurisdictions: s. 787.04,
159 relating to removing minors from the state or concealing minors
160 contrary to court order; s. 794.011, relating to sexual battery;
161 s. 798.02, relating to lewd and lascivious behavior; chapter
162 800, relating to lewdness and indecent exposure; or chapter 827,
163 relating to the abuse of children. Consideration may also be
164 given to a report of abuse, abandonment, or neglect under ss.
165 415.101-415.113 or this chapter and the outcome of the
166 investigation concerning such report.

167 Section 7. Paragraph (d) of subsection (3) of section
 168 39.521, Florida Statutes, is amended to read:

169 39.521 Disposition hearings; powers of disposition.--

170 (3) When any child is adjudicated by a court to be
 171 dependent, the court shall determine the appropriate placement
 172 for the child as follows:

173 (d) If the child cannot be safely placed in a nonlicensed
 174 placement, the court shall commit the child to the temporary
 175 legal custody of the department. Such commitment invests in the
 176 department all rights and responsibilities of a legal custodian.
 177 The department shall not return any child to the physical care
 178 and custody of the person from whom the child was removed,
 179 except for court-approved visitation periods, without the
 180 approval of the court. The term of such commitment continues
 181 until terminated by the court or until the child reaches the age
 182 of 18. After the child is committed to the temporary legal
 183 custody of the department, all further proceedings under this
 184 section are governed by this chapter. All orders of visitation
 185 are subject to s. 39.0139.

186
 187 Protective supervision continues until the court terminates it
 188 or until the child reaches the age of 18, whichever date is
 189 first. Protective supervision shall be terminated by the court
 190 whenever the court determines that permanency has been achieved
 191 for the child, whether with a parent, another relative, or a
 192 legal custodian, and that protective supervision is no longer
 193 needed. The termination of supervision may be with or without
 194 retaining jurisdiction, at the court's discretion, and shall in

HB 77

2007

195 either case be considered a permanency option for the child. The
 196 order terminating supervision by the department shall set forth
 197 the powers of the custodian of the child and shall include the
 198 powers ordinarily granted to a guardian of the person of a minor
 199 unless otherwise specified. Upon the court's termination of
 200 supervision by the department, no further judicial reviews are
 201 required, so long as permanency has been established for the
 202 child.

203 Section 8. Section 753.001, Florida Statutes, is amended
 204 to read:

205 753.001 Definitions.--As used in ss. 753.001-753.004:

206 (1) A "supervised visitation program" exists where there
 207 is contact between a noncustodial parent and one or more
 208 children in the presence of a third person responsible for
 209 observing and ensuring the safety of those involved. Supervised
 210 visitation programs may also include exchange monitoring of
 211 children who are participating in court-ordered visitation
 212 programs or exchange monitoring where there has been mutual
 213 consent between parties for the purposes of facilitating a
 214 visitation.

215 (2) "Exchange monitoring" means supervision of movement of
 216 a child from the custodial to the noncustodial parent at the
 217 start of the visit and back to the custodial parent at the end
 218 of the visit.

219

220 ~~This section shall take effect July 1, 1996.~~

221 Section 9. Section 753.002, Florida Statutes, is amended
 222 to read:

HB 77

2007

223 753.002 Florida Family Visitation Network.--There is
 224 hereby created the Florida Family Visitation Network, which
 225 shall have the following responsibilities subject to the
 226 availability of resources:

227 (1) To serve as a clearinghouse on resources and research
 228 of supervised visitation programs.

229 (2) To provide technical assistance and other support
 230 services to existing and emerging supervised visitation
 231 programs.

232 (3) To compile a directory of state-supervised visitation
 233 programs containing referral information.

234 (4) To formulate a newsletter for supervised visitation
 235 programs.

236 (5) To organize workshops and conferences which address
 237 issues and concerns of supervised visitation programs.

238 (6) To have the authority to apply for grants and accept
 239 private contributions.

240 (7) To compile data on the use of supervised visitation
 241 programs.

242 (8) To develop standards for supervised visitation
 243 programs in order to ensure the safety of children in each
 244 program. These standards shall include a requirement for good
 245 moral character of program staff based upon screening using the
 246 level 2 standards for screening under s. 435.04.

247
 248 ~~This section shall take effect July 1, 1996.~~

249 Section 10. Subsection (4) is added to section 753.004,
 250 Florida Statutes, to read:

HB 77

2007

251 753.004 Supervised visitation projects.--Within its
252 existing resources, the Institute of Food and Agricultural
253 Sciences of the University of Florida may establish supervised
254 visitation projects in communities throughout the state.

255 (4) A supervised visitation project must comply with the
256 safety standards developed under s. 753.002.

257 Section 11. This act shall take effect July 1, 2007.