

By the Committees on Judiciary; and Children, Families, and Elder Affairs; and Senators Wise and Gaetz

590-03778-10

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1                                   A bill to be entitled  
2           An act relating to supervised visitation and exchange  
3           monitoring programs; creating s. 753.06, F.S.;  
4           adopting state standards for supervised visitation and  
5           exchange monitoring programs; providing for  
6           modification; requiring the standards to be published  
7           on the website of the Clearinghouse on Supervised  
8           Visitation; requiring each program to annually affirm  
9           compliance with the standards to the court; creating  
10          s. 753.07, F.S.; providing factors for the court or  
11          child-placing agency to consider when referring cases  
12          for supervised visitation or exchange monitoring;  
13          specifying training requirements for persons referring  
14          to or providing such services; authorizing supervised  
15          visitation programs to alert the court to problems  
16          with referred cases; creating s. 753.08, F.S.;  
17          authorizing supervised visitation or monitored  
18          exchange programs to conduct security background  
19          checks of employees and volunteers and criminal  
20          records checks through the Department of Law  
21          Enforcement; providing standards for such background  
22          checks; requiring that an employer furnish a copy of  
23          the personnel record for the employee or former  
24          employee upon request; requiring that such personnel  
25          record contain certain information; requiring that all  
26          applicants hired or certified by a program after a  
27          specified date undergo a level 2 background screening  
28          before being hired or certified; providing immunity to  
29          employers who provide information for purposes of a

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30 background check; providing that certain persons  
31 providing services at a supervised visitation or  
32 monitored exchange program are presumed to act in good  
33 faith and are immune from civil or criminal liability;  
34 providing exceptions; creating s. 753.09, F.S.;

35 providing that after a specified date only those  
36 supervised visitation programs that adhere to the  
37 state standards may receive state funding; providing  
38 an effective date.

39  
40 Be It Enacted by the Legislature of the State of Florida:

41  
42 Section 1. Section 753.06, Florida Statutes, is created to  
43 read:

44 753.06 Standards.-

45 (1) The standards announced in the final report submitted  
46 to the Legislature pursuant to s. 753.03(4) shall be the basis  
47 for the state's standards for supervised visitation and exchange  
48 monitoring programs, and may be modified only by the advisory  
49 board created under s. 753.03(2) after reasonable notice to the  
50 programs, but not more often than annually. The clearinghouse  
51 shall publish the standards, as modified, on its website. The  
52 published standards shall be regarded as the state standards for  
53 supervised visitation and exchange monitoring programs.

54 (2) Each supervised visitation and exchange monitoring  
55 program must affirm annually in a written agreement with the  
56 court that they abide by the standards. If the program has a  
57 contract with a child-placing agency, that contract must include  
58 an affirmation that the program complies with the standards. A

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59 copy of the agreement or contract must be made available to any  
60 party upon request.

61 Section 2. Section 753.07, Florida Statutes, is created to  
62 read:

63 753.07 Referrals.-

64 (1) Courts and referring child-placing agencies must adhere  
65 to the following priorities when determining where to refer  
66 cases for supervised visitation or exchange monitoring:

67 (a) For cases that are filed under chapter 61 or chapter  
68 741 where the courts are the primary source of referrals, the  
69 court shall direct referrals for supervised visitation or  
70 exchange monitoring as follows:

71 1. The order shall refer the parties to a supervised  
72 visitation or exchange monitoring program that has a written  
73 agreement with the court as provided in s. 753.06(2) if such a  
74 program exists in the community.

75 2. If a program does not exist, or if the existing program  
76 is not able to accept the referral for any reason, the court may  
77 refer the case to a local mental health professional. Such  
78 professionals are not required to abide by the state standards  
79 established in s. 753.06(1); however, such professionals must  
80 affirm to the court in writing that they have completed the  
81 clearinghouse's free, online supervised visitation training  
82 program and have read and understood the state standards.

83 (b) In cases governed by chapter 39, the referring child-  
84 placing agency must adhere to the following:

85 1. The agency having primary responsibility for the case  
86 must ensure that each family is assessed for problems that could  
87 present safety risks during parent-child contact. If risks are

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88 present, agency staff shall consider referring the parties to a  
89 local supervised visitation program that has affirmed in writing  
90 that it adheres to the state standards if such a program exists  
91 in the community.

92 2. If agency staff determine that there is no need for a  
93 supervised visitation program, no such program exists, or the  
94 existing program is unable to accept the referral for any  
95 reason, the child protective investigator or case manager having  
96 primary responsibility for the case may:

97 a. Supervise the parent-child contact him or herself.  
98 However, before a child protective investigator or case manager  
99 may supervise visits, he or she must review or receive training  
100 on the online training manual for the state's supervised  
101 visitation programs and affirm in writing to his or her own  
102 agency that he or she has received training on, or read and  
103 understands, the state standards.

104 b. Designate a foster parent or relative to supervise the  
105 parent-child visits in those cases that do not warrant the  
106 supervision of the child protective investigator or case  
107 manager. However, the designated foster parent or relative must  
108 first be apprised that the case manager conducted a safety  
109 assessment described in subparagraph 1., and must be provided  
110 access to free training material on the foster parent's or  
111 relative's role in supervised visitation. Such materials may be  
112 created by the clearinghouse using existing or new material, and  
113 must be approved by the department. Such training may be  
114 included in any preservice foster parent training done by the  
115 agency.

116 3. If a program does not exist, or if the existing program

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117 is unable to accept the referral and the child protective  
118 investigator or case manager is unable to supervise the parent-  
119 child contact or designate a foster parent or relative to  
120 supervise the visits as described in subparagraph 2., the agency  
121 having primary responsibility for the case may refer the case to  
122 other qualified staff within that agency to supervise the  
123 contact. However, before such staff may supervise any visits, he  
124 or she must review or receive training on the online training  
125 manual for supervised visitation programs and affirm in writing  
126 to his or her own agency that he or she has received training  
127 on, or has read and understands, the training manual and the  
128 state standards.

129 4. The agency that has primary responsibility for the case  
130 may not refer the case to a subcontractor or other agency to  
131 perform the supervised visitation unless that subcontractor's or  
132 other agency's child protective investigators or case managers  
133 who supervise onsite or offsite visits have reviewed or received  
134 training on the clearinghouse's online training manual for  
135 supervised visitation programs and affirm to their own agency  
136 that they have received training on, or have read and  
137 understand, the training manual and the state standards.

138 (2) This section does not prohibit the court from allowing  
139 a litigant's relatives or friends to supervise visits if the  
140 court determines that such supervision is safe. However, such  
141 informal supervisors must be made aware of the free online  
142 clearinghouse materials that they may voluntarily choose to  
143 review. These materials must provide information that helps  
144 educate the informal supervisors about the inherent risks and  
145 complicated dynamics of supervised visitation.

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146 (3) Supervised visitation and exchange monitoring programs  
147 may alert the court in writing if there are problems with cases  
148 referred and the court may set a hearing to address these  
149 problems.

150 Section 3. Section 753.08, Florida Statutes, is created to  
151 read:

152 753.08 Service providers; background checks; immunity.-

153 (1) Because of the special trust or responsibility placed  
154 in volunteers and employees of supervised visitation and  
155 supervised exchange programs, such program must conduct a  
156 security background investigation before hiring an employee or  
157 certifying a volunteer to serve. A security background  
158 investigation shall include, but need not be limited to,  
159 employment history checks, checks of references, local criminal  
160 history records checks through local law enforcement agencies,  
161 and statewide criminal history records checks through the  
162 Department of Law Enforcement. Upon request, an employer shall  
163 furnish a copy of the personnel record for the employee or  
164 former employee who is the subject of a security background  
165 investigation conducted pursuant to this section. The  
166 information contained in the personnel record may include, but  
167 need not be limited to, disciplinary matters and the reason why  
168 the employee was terminated from employment. An employer who  
169 releases a personnel record for purposes of a security  
170 background investigation is presumed to have acted in good faith  
171 and is not liable for information contained in the record  
172 without a showing that the employer maliciously falsified the  
173 record. A security background investigation conducted pursuant  
174 to this section shall ensure that a person is not hired as an

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175 employee or certified as a volunteer if the person has an arrest  
176 awaiting final disposition for, has been convicted of,  
177 regardless of adjudication, has entered a plea of nolo  
178 contendere or guilty to, or has been adjudicated delinquent and  
179 the record has not been sealed or expunged for, any offense  
180 prohibited under the provisions listed in s. 435.04. All  
181 applicants hired or certified on or after July 1, 2010, must  
182 undergo a level 2 background screening pursuant to chapter 435  
183 before being hired or certified. In analyzing and evaluating the  
184 information obtained in the security background investigation,  
185 the program must give particular emphasis to past activities  
186 involving children, including, but not limited to, child-related  
187 criminal offenses or child abuse. The program has sole  
188 discretion in determining whether to hire or certify a person  
189 based on his or her security background investigation.

190 (2) Any person who is providing services at a supervised  
191 visitation or exchange monitoring program who has affirmed to  
192 the court in writing that he or she abides by the state  
193 standards described in s. 753.06 is presumed, prima facie, to be  
194 acting in good faith and is immune from any liability, civil or  
195 criminal, which otherwise might be incurred or imposed with  
196 regard to the provision of such services.

197 Section 4. Section 753.09, Florida Statutes, is created to  
198 read:

199 753.09 Funding.—On or after January 1, 2011, only a  
200 supervised visitation program that has affirmed in a written  
201 agreement with the court that it abides by and is in compliance  
202 with the state standards provided under s. 753.06(1) may receive  
203 state funding for visitation or exchange monitoring services.

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Section 5. This act shall take effect October 1, 2010.