

By the Committees on Criminal and Civil Justice Appropriations;
Judiciary; and Children, Families, and Elder Affairs; and
Senators Wise and Gaetz

604-04844-10

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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; delegating
29 responsibility for certain costs and screening

604-04844-10

20101298c3

30 criminal history information; authorizing a supervised
31 visitation program to participate in the Volunteer and
32 Employee Criminal History System in order to obtain
33 criminal history information; providing immunity to
34 employers who provide information for purposes of a
35 background check; providing that certain persons
36 providing services at a supervised visitation or
37 monitored exchange program are presumed to act in good
38 faith and are immune from civil or criminal liability;
39 providing exceptions; creating s. 753.09, F.S.;;
40 providing that after a specified date only those
41 supervised visitation programs that adhere to the
42 state standards may receive state funding; providing
43 an effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

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47 Section 1. Section 753.06, Florida Statutes, is created to
48 read:

49 753.06 Standards.-

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

604-04844-10

20101298c3

59 (2) Each supervised visitation and exchange monitoring
60 program must affirm annually in a written agreement with the
61 court that they abide by the standards. If the program has a
62 contract with a child-placing agency, that contract must include
63 an affirmation that the program complies with the standards. A
64 copy of the agreement or contract must be made available to any
65 party upon request.

66 Section 2. Section 753.07, Florida Statutes, is created to
67 read:

68 753.07 Referrals.—

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

72 (a) For cases that are filed under chapter 61 or chapter
73 741 where the courts are the primary source of referrals, the
74 court shall direct referrals for supervised visitation or
75 exchange monitoring as follows:

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

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

604-04844-10

20101298c3

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

90 1. The agency having primary responsibility for the case
91 must ensure that each family is assessed for problems that could
92 present safety risks during parent-child contact. If risks are
93 present, agency staff shall consider referring the parties to a
94 local supervised visitation program that has affirmed in writing
95 that it adheres to the state standards if such a program exists
96 in the community.

97 2. If agency staff determine that there is no need for a
98 supervised visitation program, no such program exists, or the
99 existing program is unable to accept the referral for any
100 reason, the child protective investigator or case manager having
101 primary responsibility for the case may:

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

109 b. Designate a foster parent or relative to supervise the
110 parent-child visits in those cases that do not warrant the
111 supervision of the child protective investigator or case
112 manager. However, the designated foster parent or relative must
113 first be apprised that the case manager conducted a safety
114 assessment described in subparagraph 1., and must be provided
115 access to free training material on the foster parent's or
116 relative's role in supervised visitation. Such materials may be

604-04844-10

20101298c3

117 created by the clearinghouse using existing or new material, and
118 must be approved by the department. Such training may be
119 included in any preservice foster parent training done by the
120 agency.

121 3. If a program does not exist, or if the existing program
122 is unable to accept the referral and the child protective
123 investigator or case manager is unable to supervise the parent-
124 child contact or designate a foster parent or relative to
125 supervise the visits as described in subparagraph 2., the agency
126 having primary responsibility for the case may refer the case to
127 other qualified staff within that agency to supervise the
128 contact. However, before such staff may supervise any visits, he
129 or she must review or receive training on the online training
130 manual for supervised visitation programs and affirm in writing
131 to his or her own agency that he or she has received training
132 on, or has read and understands, the training manual and the
133 state standards.

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

143 (2) This section does not prohibit the court from allowing
144 a litigant's relatives or friends to supervise visits if the
145 court determines that such supervision is safe. However, such

604-04844-10

20101298c3

146 informal supervisors must be made aware of the free online
147 clearinghouse materials that they may voluntarily choose to
148 review. These materials must provide information that helps
149 educate the informal supervisors about the inherent risks and
150 complicated dynamics of supervised visitation.

151 (3) Supervised visitation and exchange monitoring programs
152 may alert the court in writing if there are problems with cases
153 referred and the court may set a hearing to address these
154 problems.

155 Section 3. Section 753.08, Florida Statutes, is created to
156 read:

157 753.08 Service providers; background checks; immunity.—

158 (1) Because of the special trust or responsibility placed
159 in volunteers and employees of supervised visitation and
160 supervised exchange monitoring programs, such program must
161 conduct a security background investigation before hiring an
162 employee or certifying a volunteer to serve. A security
163 background investigation shall include, but need not be limited
164 to, employment history checks, checks of references, local
165 criminal history records checks through local law enforcement
166 agencies, and statewide criminal history records checks through
167 the Department of Law Enforcement. Upon request, an employer
168 shall furnish a copy of the personnel record for the employee or
169 former employee who is the subject of a security background
170 investigation conducted pursuant to this section. The
171 information contained in the personnel record may include, but
172 need not be limited to, disciplinary matters and the reason why
173 the employee was terminated from employment. An employer who
174 releases a personnel record for purposes of a security

604-04844-10

20101298c3

175 background investigation is presumed to have acted in good faith
176 and is not liable for information contained in the record
177 without a showing that the employer maliciously falsified the
178 record. A security background investigation conducted pursuant
179 to this section shall ensure that a person is not hired as an
180 employee or certified as a volunteer if the person has an arrest
181 awaiting final disposition for, has been convicted of,
182 regardless of adjudication, has entered a plea of nolo
183 contendere or guilty to, or has been adjudicated delinquent and
184 the record has not been sealed or expunged for, any offense
185 prohibited under the provisions listed in s.435.04. All
186 employees hired or volunteers certified on or after July 1,
187 2010, must undergo a state and national criminal history record
188 check. The supervised visitation programs shall contract with
189 the Department of Children and Family Services, the court
190 administrator, or the clerk of court to conduct level 2
191 background checks pursuant to chapter 435. The cost for the
192 fingerprint processing may be borne by the supervised visitation
193 program or the person subject to the background check. The
194 department, court administrator, or clerk of court shall screen
195 the criminal history results to determine if an applicant meets
196 employment requirements, and is responsible for payment to the
197 Department of Law Enforcement by invoice to the Department of
198 Children and Family Services, the court administrator, or the
199 clerk of court or via payment from a credit card by the
200 applicant or a vendor on behalf of the applicant. If the
201 Department of Children and Family Services, court administrator,
202 or clerk of court is unable to conduct the background check, the
203 supervised visitation program may participate in the Volunteer

604-04844-10

20101298c3

204 and Employee Criminal History System, as authorized by the
205 National Child Protection Act of 1993 and s. 943.0542 to obtain
206 criminal history information. In analyzing and evaluating the
207 information obtained in the security background investigation,
208 the program must give particular emphasis to past activities
209 involving children, including, but not limited to, child-related
210 criminal offenses or child abuse. The program has sole
211 discretion in determining whether to hire or certify a person
212 based on his or her security background investigation.

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

220 Section 4. Section 753.09, Florida Statutes, is created to
221 read:

222 753.09 Funding.—On or after January 1, 2011, only a
223 supervised visitation program that has affirmed in a written
224 agreement with the court that it abides by and is in compliance
225 with the state standards provided under s. 753.06(1) may receive
226 state funding for visitation or exchange monitoring services.

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